

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilman Kelly M. Miller; Councilman R. Carl Mumpower; Councilman Brownie W. Newman (arrived at 5:20 p.m.); Councilman William A. Russell Jr.; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Bureson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Davis gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING AUGUST 30, 2009, AS "PEDIATRIC BRAIN TUMOR FOUNDATION'S RIDE FOR KIDS DAY"

Mayor Bellamy read the proclamation proclaiming August 30, 2009, as "Pediatric Brain Tumor Foundation's Ride for Kids Day" in the City of Asheville. She presented the proclamation to Mr. Mike Burk, who briefed City Council on some activities taking place during the day and thanked City Council for their support.

B. PROCLAMATION PROCLAIMING SEPTEMBER 2009, AS "ADULT LITERACY AWARENESS MONTH"

Vice-Mayor Davis read the proclamation proclaiming September 2009, as "Adult Literacy Awareness Month" in the City of Asheville. He presented the proclamation to Ms. Amanda Edwards, Executive Director of the Literacy Council of Buncombe County, who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING SEPTEMBER 1, 2009, AS "ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE DAY"

Mayor Bellamy read the proclamation proclaiming September 1, 2009, as "Asheville-Buncombe Technical Community College Day" in the City of Asheville. She presented the proclamation to Mr. Richard Mauney, Interim President of A-B Technical Community College, who briefed City Council on some activities taking place during the day and the partnership with the City of Asheville.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 11, 2009

B. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 8, 2009, FOR SPECIFIC RECOMMENDATIONS FOR THE DISTRIBUTION OF HOMELESSNESS PREVENTION AND RAPID REHOUSING PROGRAM GRANT FUNDS

Summary: The consideration of a motion setting a public hearing on September 8, 2009, for specific recommendations for the distribution of Homelessness Prevention and Rapid Re-Housing Program (HPRP) grant funds.

The City of Asheville was approved by the US Dept. of HUD to receive \$509,460 in Homelessness Prevention and Rapid Re-Housing Program (HPRP) funds. The Action Plan approved by HUD detailed the process by which the City would distribute those funds. The process described below, and the public hearing requested, are included in the approved Action Plan.

On August 13, 2009, the City received applications for the use of those funds. Staff will review the applications, and provide their review to the Homeless Initiative Advisory Committee on August 25, and to the Housing and Community Development Committee on August 26. The HCD will consider the Advisory Committee recommendation and staff review, and make their recommendation to City Council for the specific distribution of those funds for program implementation.

Funds must 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.

This action complies with the City Council Strategic Operating Plan in that this hearing is part of the process that will enable funds to be directed to prevention and rapid re-housing, strategies that have been proven nationally to reduce homelessness.

Pros:

- The public hearing is a necessary element of the HPRP plan and program.
- The public hearing contributes to the public transparency of Asheville City government.

Con:

- None noted.

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 annually in public funds to pay for someone who is experiencing chronic homelessness. The project increases the likelihood that households will obtain or maintain housing as well as employment, education, and community relationships.

Staff recommends setting the public hearing for September 8, 2009, for specific recommendations for the distribution of Homelessness Prevention and Rapid Re-Housing Program (HPRP) grant funds.

C. RESOLUTION NO. 09-181 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH C AND C BUSINESS INC. TO PROVIDE CUSTODIAL SERVICES AND SUPPLIES FOR NINE MUNICIPAL BUILDINGS

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with C and C Business, Inc. to provide custodial services and supplies for nine municipal buildings.

This service contract with C and C Business, located in Sherrills Ford, North Carolina, is in the second year of a three year renewal period that began in 2008. The service contract is for custodial cleaning and supplies for nine municipal buildings (Public Works, Fleet, Hunt Hill Purchasing and Central Stores, Economic Development, Municipal Building and four Asheville Police Department Resource Centers: West, North, East and Skyland). The total contract amount is \$68,805.90 and it is renewable annually with a CPI adjustment.

This action complies with the City Council Strategic Operating Plan in that it supports and enhances basic city services and is part of the public facilities maintenance program to make facility improvements. It is also a green focus area by utilizing green cleaning supplies and equipment which meets Green Seal Standard's and paper products as well as garbage bags that meet the U.S. Environmental Protection Agency's guidelines for post consumer recycled products.

Pros:

- Provide custodial services and cleaning supplies for nine municipal buildings.
- Utilize environmentally friendly cleaning supplies and equipment.

Con:

- None

The fiscal impact is \$68,805.90 for contracted custodial services is budgeted in the City's Fiscal Year 2009-10 operating budget for public facilities.

City staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a contract with C and C Business, Inc. to provide custodial services and supplies for nine municipal buildings in the amount of \$68,805.90.

RESOLUTION BOOK NO. 32 – PAGE 187

D. RESOLUTION NO. 09-182 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH OTIS ELEVATOR TO PROVIDE ELEVATOR MAINTENANCE AND REPAIR FOR THREE MUNICIPAL BUILDINGS

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Otis Elevator to provide elevator maintenance and repair services for three municipal buildings.

The service contract with Otis Elevator, located at 203 Elk Park Drive in Asheville, is in the second year of a five year renewal period that began in 2007. The service contract is a predictive, preventative maintenance system for the elevators at City Hall, Municipal Building and Stephens Lee Recreation Center. The total contract amount is \$68,683.56 and it is renewable annually with a CPI adjustment.

This action complies with the City Council Strategic Operating Plan in that it supports and enhances basic city services and is part of the public facilities maintenance program to make facility improvements.

Pros:

- Provide a contract to maintain elevators at City Hall, Municipal Building and Stephens Lee Recreation Center.
- Fulfill commitment to maintain existing infrastructure to prevent failure through preventive maintenance and avoid costly repairs.

Cons:

- Maintenance cost to the elevators in City Hall will continue to increase due to the age of the elevators thereby increase the cost of the annual service contract.
- Some repair costs may still be incurred that are not covered by the service contract.

The fiscal impact is \$68,683.56 for contracted elevator services is budgeted in the City's Fiscal Year 2009-10 operating budget for facilities maintenance.

City staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a contract with Otis Elevator to provide elevator maintenance and repair services for three municipal buildings in the amount of \$68,683.56.

RESOLUTION BOOK NO. 32 – PAGE 188

E. RESOLUTION NO. 09-183 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NATIONAL TRANSPORTATION COMMUNITY AWARENESS AND EMERGENCY RESPONSE FOR A GRANT FOR A HAZARDOUS MATERIAL COMMODITY FLOW STUDY

ORDINANCE NO. 3775 - BUDGET AMENDMENT TO ACCEPT A NON-MATCHING GRANT FROM THE NATIONAL TRANSPORTATION COMMUNITY AWARENESS AND EMERGENCY RESPONSE FOR A HAZARDOUS MATERIAL COMMODITY FLOW STUDY

Summary: The consideration of a resolution authorizing the City Manager to accept a non-matching grant in the amount of \$500 from the National Transportation Community Awareness and Emergency Response (TRANSCAER) Task Group for a Hazardous Material Commodity Flow Study to be conducted in the Fall of 2009; and the associated budget amendment, in the amount of \$500.

The National TRANSCAER has made funds available to help offset operational expenses when conducting flow studies that determine the amount of hazardous materials traveling through a community.

The Asheville Fire Department has an obvious interest in knowing what commodities are being transported to, and through, our area. At the completion of the commodity flow study, we will receive detailed analysis of what these commodities are. This will allow us to plan and prepare for more specific hazard responses through training and education based on known hazards being transported on our highway systems.

The grant is a non-matching grant.

This action complies with the Strategic Operating Plan by better preparing the Hazardous Materials Team to assist in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pros:

- The National TRANSCAER will provide \$500.00 in non-matching funds for the purpose of a Commodity Flow Study for Asheville and Western North Carolina to provide actual data on what hazards are transported through our city and region.
- Firefighter and citizen safety will be enhanced.

Con:

- There are no con's identified for this grant.

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

City staff recommends that City Council accept the non-matching grant from the National TRANSCAER, to enhance the fire department's capabilities to protect Asheville and Western North Carolina, and the associated budget amendment.

RESOLUTION BOOK NO. 32 – PAGE 189

ORDINANCE BOOK NO. 25 – PAGE 386

F. RESOLUTION NO. 09-184 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AUTOMATIC AID SERVICE CONTRACT WITH REEMS CREEK FIRE DEPARTMENT

Summary: The consideration of a resolution authorizing the Mayor to sign an automatic aid service agreement in the amount of \$75,700 with the Reems Creek Fire Department for response

City Council approved in the Fiscal Year 2009-10 adopted budget funding to continue an automatic aid service agreement with the Reems Creek Fire and Rescue Department. This agreement has been in place since 2007 and provides for automatic response by the Reems Creek Fire and Rescue Department to emergency incidents to locations in the Beaverdam Valley that benefit the City of Asheville. This service agreement provides for a stronger standard of cover in this area.

Reems Creek receives funds through our automatic mutual aid agreement to fund two firefighter positions at their Beaverdam station. With our standard of cover in the Beaverdam Valley at 20%, this is a less expensive option than building and manning a new station in that area.

This action complies with the Strategic Operating Plan by allowing for a stronger standard of cover in the Beaverdam Valley; and will assist in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pro:

- A strong fire and rescue presence will be maintained in North Asheville through automatic aid response.

Con:

- There is a financial impact of \$75,700.

The fiscal impact is \$75,700 which has been budgeted in the Fiscal Year 2009-10 adopted budget.

- Staff recommends that City Council adopt a resolution authorizing the Mayor to sign an automatic aid agreement in the amount of \$75,700 with the Reems Creek Fire Department.

RESOLUTION BOOK NO. 32 – PAGE 190

G. RESOLUTION NO. 09-185 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AUTOMATIC AID SERVICE AGREEMENT WITH THE SKYLAND FIRE AND RESCUE DEPARTMENT

Summary: The consideration of a resolution authorizing the Mayor to sign an automatic aid service agreement in the amount of \$53,045 with the Skyland Fire and Rescue Department.

City Council approved in the Fiscal Year 2009-10 adopted budget funding to continue an automatic aid service agreement with the Skyland Fire and Rescue Department. This agreement has been in place since 2007 and provides for automatic response by the Skyland Fire and Rescue Department to emergency incidents to locations that benefit the City of Asheville. The Asheville and Skyland Fire and Rescue Department's co-locate at a facility on Miller Road. This service agreement places all of the responsibility for the maintenance of the Miller Road facility for normal and routine maintenance operations with the Skyland Fire and Rescue Department.

Asheville Fire Department is co-located with Skyland Fire and Rescue at 9 Miller Road. In 2007 a contract was developed to compensate them for our share of maintaining the actual facility, including electricity, maintenance etc. That amount was set at \$50,000 annually with increases based on the annual CIP. Previous to this contract we were obligated to pay half of these costs as they occurred. We had no real oversight as to what these expenses would be from year to year so the amount was annualized based on historical costs. There is a small portion of the automatic aid agreement that is to compensate Skyland Fire and Rescue for them to cover the south end of the airport which is outside of our 5 mile maximum allowed by the Department of Insurance.

This action complies with the Strategic Operating Plan by allowing for a co-located emergency services facility in South Asheville; and will assist in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pros:

- A strong fire and rescue presence will be maintained in South Asheville through automatic aid response.
- Maintenance operations of the Miller Rd. facility will be the responsibility of the Skyland Fire and Rescue Department, allowing for continuity of operations out of that station.

Con:

- There is a financial impact of \$53,045.

The fiscal impact is \$53,045 which has been budgeted in the Fiscal Year 2009-10 adopted budget.

- Staff recommends that City Council adopt a resolution authorizing the Mayor to sign an automatic aid agreement in the amount of \$53,045 with the Skyland Fire and Rescue Department.

RESOLUTION BOOK NO. 32 – PAGE 191

H. RESOLUTION NO. 09-186 - RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

Summary: The terms of Steve Cochran, Cheryl McMurry, Kim MacQueen and Scott Dedman expired on August 22, 2009.

On August 11, 2009, it was the consensus of Council to reappoint Mr. Cochran, Ms. McMurry, Ms. MacQueen and Mr. Dedman to each serve an additional three-year term respectively, terms to expire August 22, 2012, or until their successors have been appointed.

RESOLUTION BOOK NO. 32 – PAGE 192

I. RESOLUTION NO. 09-187 - RESOLUTION AUTHORIZING THE CITY TO REIMBURSE ITSELF FROM LEASE PURCHASE PROCEEDS FOR CAPITAL EXPENDITURES INCURRED RELATED TO THE ACQUISITION OF VEHICLES AND EQUIPMENT

Summary: The consideration of a resolution authorizing the City to reimburse itself from lease purchase proceeds for capital expenditures incurred related to the acquisition of vehicles and equipment.

The current capital improvement program (CIP) includes \$1,790,400 previously appropriated by City Council to finance the acquisition of emergency response vehicles (i.e. fire trucks). The vehicles and equipment were budgeted to be funded with proceeds from a lease-purchase financing contract.

Based on varying delivery dates, the City will receive some of the vehicles and equipment prior to the actual execution of the lease-purchase financing contract. As such, expenditures for these vehicles and equipment will initially be paid for with general fund cash. The attached resolution allows the City to reimburse itself for initial vehicle and equipment expenditures incurred and paid 60 days prior to the adoption of this resolution.

With approval of this resolution, the City intends to reimburse its initial vehicle expenditures from a portion of the proceeds to be received from a fully executed lease-purchase contract.

City staff recommends City Council adopt a resolution authorizing the City to reimburse itself from lease purchase proceeds for capital expenditures incurred related to the acquisition of vehicles and equipment.

RESOLUTION BOOK NO. 32 – PAGE 193

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

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

Councilwoman Cape moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Miller and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. ECONOMIC STIMULUS PACKAGE UPDATE

RESOLUTION NO. 09-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENTS WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE IMPLEMENTATION OF TWO TRANSPORTATION PROJECTS KNOWN AS ASHEVILLE SIDEWALK GAP PROJECT AND THE KIMBERLY AVENUE RESURFACING PROJECT

ORDINANCE NO. 3776 – BUDGET AMENDMENT FOR SIX TRANSPORTATION PROJECTS KNOWN AS COXE AVENUE BICYCLE IMPROVEMENTS, DOWNTOWN AND GATEWAY STREETSCAPES, FAIRVIEW ROAD PEDESTRIAN ENHANCEMENTS, SOUTH SLOPE BICYCLE LANES, ASHEVILLE SIDEWALK GAPS AND KIMBERLY AVENUE RESURFACING

ORDINANCE NO. 3777 – BUDGET AMENDMENT TO RECEIVE TRANSIT CAPITAL FUNDS FOR FIVE DIESEL BUSES AND SHELTERS, AND PASS THROUGH FUNDS FOR TWO CNG BUSES AND ONE CNG VAN FOR HENDERSON COUNTY

RESOLUTION NO. 09-189 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MCGILL ASSOCIATES TO PROVIDE CONTRACT MANAGEMENT FOR DINGLE CREEK WATERSHED IMPROVEMENTS

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

As part of City staff's recurring ARRA update to Asheville City Council, staff is seeking Council consideration of four (4) items for approval:

- Resolution authorizing the City Manager to enter into agreements with the N.C. Dept. of Transportation for the implementation of two transportation projects known as Asheville Sidewalk Gap project and the Kimberly Avenue Resurfacing Project.
- Budget amendment, in the amount of \$3,095,235, in the Grant Fund and an amendment of \$366,812 in the General Fund, for six

transportation projects known as Coxe Avenue bicycle improvements; downtown and gateway streetscapes; Fairview Road pedestrian enhancements; south slope bicycle lanes; Asheville sidewalk gaps; and Kimberly Avenue resurfacing.

- Budget amendment, in the amount of \$2,590,439, to receive Transit Capital funds for five diesel buses and shelters; and pass through funds for two CNG buses and one CNG van for Henderson County.
- Resolution authorizing the City Manager to enter into an agreement with McGill Associates to provide contract management for Dingle Creek Watershed Improvements.

MPO Urbanized Area Transportation Funding Resolution

The resolution authorizes the City Manager to execute the municipal agreements for the remaining two projects selected by the Metropolitan Planning Organization (MPO) for potential ARRA surface transportation program - directly attributable (STP-DA) funding. These projects are known as TIP No. U-5186, Asheville Sidewalk Gaps, which includes gaps I and II and Hilliard Avenue sidewalk; and TIP No. U-5187, Kimberly Avenue resurfacing.

When the MPO selected projects for the ARRA STP-DA funds, they added a 20% contingency to each project funded, and selected about \$2 million more in projects than they had funding for, in case any projects dropped out or came in under budget. The sidewalk gaps and Kimberly Avenue projects fell into the category of selected but not fully funded. There is approximately \$530,000 in ARRA funding programmed to the sidewalk projects at this time, leaving an unfunded balance of \$1.8 million. There is a reasonable expectation that projects funded with the ARRA STP-DA funds will not use all of the funds programmed to each project, and so those unspent ARRA funds will be available to fund a larger percentage of these projects.

In order to complete the municipal agreements for these projects in time to be eligible for the available ARRA funding, another funding source for the currently unfunded balance of the projects must be identified. With City Council and MPO approval, the opportunity is available to use STP-DA funding funds scheduled to come to the city from the MPO for sidewalk construction in Asheville in fiscal years 2014 through 2016 to cover any unfunded balance on these projects so that they can be constructed now. Any regular STP-DA funds used will require a 20% city match.

This matter went before the Finance Committee on August 11th, and the committee directed staff to proceed with seeking full council approval to move forward on the sidewalk gaps and Kimberly Avenue using STP-DA funds. The committee was aware that if ARRA funding is not available then the City will be required to have a 20% match for the portion of the project that is funded with the regular STP-DA funds.

Pros:

- Improves Asheville's transportation facilities for all users
- Implements projects in the City's adopted pedestrian and bicycle plans
- Provides approximately \$2.4 million dollars in long term investment in the City's infrastructure

Cons:

- The city will be responsible for future maintenance of the projects
- The city may be responsible for up to \$366,812 in local match
- Any regular STP-DA funds spent on these projects will reduce the \$6.2 million allocated to the Hendersonville Road and New Leicester Highway projects in FYs 2014-2016

Budget Amendment

The budget amendments for six projects reflect the revenue and expenditures associated with the four ARRA STP-DA agreements authorized at the August 11th council meeting, and the two agreements presented tonight.

Pro:

- Provides authority to receive and spend the grant funds.

Con:

- The city may be responsible for up to \$366,812 in local match.

Update on Sidewalk Gaps Project

At Council direction, staff worked with the MPO to remove the Chunns Cove Road and Piney Mountain Road sidewalks from the project list, and replaced it with a segment of Hendersonville Road from West Chapel Road to Forest Street. With this revision, the sidewalk proposal contains the following projects.

Street	Approximate linear feet	Cost Estimate
Hendersonville Road	2,600	\$200,000
Depot Street	600	\$90,000
Hilliard Street	1,200	\$360,000
Short Michigan Avenue	1,350	\$270,000

Choctaw	1,400	\$350,000
Linden Street	1,100	\$165,000
Evelyn Place	130	\$32,500
Total	8,380	<u>\$1,467,500.00</u>

Staff recommends City Council adopt the resolution authorizing the City Manager to execute municipal agreements between the N.C. Dept. of Transportation and the City of Asheville for the following projects: Asheville Sidewalk Gaps and Kimberly Avenue Resurfacing; and the associated budget amendment for the four ARRA STP-DA agreements authorized at the August 11th Council meeting, and the two projects presented tonight.

At this time, 5:20 p.m., Councilman Newman arrived at the meeting.

Transit Capital

The budget amendment, in the amount of \$2,590,439, is to purchase five diesel buses and 10 shelters for the City of Asheville; and two CNG buses and one CNG van for Henderson County.

The City of Asheville was awarded \$2,590,439 under the economic stimulus funding, as published in the Federal Register Volume 74, No. 42, page 9675 on March 5, 2009.

The city is intending to use these funds to purchase five (5) 35 foot diesel buses through State contract No. 556a that expires in October 2011. Production is estimated to take 12 months after the buses are ordered. In addition ten (10) shelters will be installed along the main transit corridors; completion of this project is expected by July 2010.

The City was reclassified as Urbanized Area, as part of the 2000 Census; due to the reclassification Henderson County's Apple Country became part of the transit systems in the Metropolitan Area. As such the City and the County share the federal allocation. The County will receive \$585,841 of the total allocation. The City and the County have signed a Sub-recipient Agreement in which it is specified how the funds are disbursed as well as the oversight of these funds. The City is responsible to Federal Transit Authority (FTA) for use of these funds and owns all the capital items Henderson County will purchase with this allocation. As part of the sub-recipient agreement, the City will acquire two small CNG buses and one CNG van and will lease the vehicles to Henderson County.

This action complies with a goal included in City Council's Strategic Operating Plan, which states that the city will proactively leveraging funding from the Federal Government and other funding sources for transportation improvements.

No fiscal impact has been identified for this project. The Federal Transit Administration will fund 100% of the project.

Pros:

- Access to FTA funds will allow replacement of five buses, which will result 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.

Staff recommends approval of a budget amendment, in the amount of \$2,590,439, to accept funds for Transit Capital funds awarded through ARRA.

Dingle Creek Stormwater Improvements

The City of Asheville, through a previous grant with the Clean Water Management Trust Fund, developed a stormwater master plan for the Dingle Creek Watershed. This master plan indicated that stormwater runoff has increased due to the largely developed urban watershed. In addition, the study showed an increase in pollutant concentrations in this area. Dingle Creek is not currently listed on the N.C. Dept. of Water Quality (NCDWQ) Draft 303 (d) Listing of Impaired Waters like its receiving water, the French Broad River, but impairments are eminent if the urban runoff is not properly managed.

On August 1, 2006, the City of Asheville entered into an agreement with the Clean Water Management Trust Fund (CWMTF) to perform the work necessary for the design of this specific stormwater restoration project. McGill Associates performed the work necessary to complete the initial design of this project.

On September 15, 2008, the CWMTF approved the City of Asheville's grant application for the construction of the Dingle Creek stormwater wetland and stream enhancement project for a total project amount of \$442,000. This grant included funding from the CWMTF in the amount of \$335,000 and a cash match from the City of Asheville in the amount of \$66,000, along with a property value match for the stormwater wetland in the amount of \$30,000 and in-kind services match by the City of Asheville in the amount of \$11,000. The City of Asheville later received notice that this funding was being held.

The City had the opportunity to apply for and was granted funding through the American Recovery and Reinvestment Act (ARRA)

for the implementation of this project. This would be a 50% grant with a 50% loan requirement, in which the CWMTF has agreed to cover the cost of the loan through their grant funding.

On July 17, 2009, NCDENR approved the American Recovery and Reinvestment Act application for the Dingle Creek project in the amount of \$454,500. This awarded grant included funding in the amount of \$336,000 for construction, \$33,600 for contingencies, \$80,400 for project administration and \$4,500 for the loan closing fee.

Under this contract, McGill Associates will perform the project administration which will include completing a no rise analysis, contract administration for this project and McGill Associates will complete the necessary documentation required for this project. The actual construction contract will follow at a later date.

The primary goals of the project are to (1) reduce the pollutants through the installation of a stormwater wetland and (2) provide additional storage in the area of the wetland for water quality storm event. This project will also provide a much needed stream bank restoration along this reach of Dingle Creek.

Successful implementation of this project will accomplish the following objectives:

1. Protect and enhance water quality of the French Broad River Basin by reducing typical urban runoff pollutants that are released into Dingle Creek and provided flood prevention by implementing the stormwater wetland.
2. Protect and enhance water quality of the French Broad River Basin by reducing erosion of Dingle Creek by implementing stream bank restoration/stabilization along this reach of Dingle Creek.
3. Protect and enhance wildlife habitat of the French Broad River Basin by implementing habitat enhancement through the installation of the stormwater wetland and stream enhancement measures.
4. Protect and enhance water quality of the French Broad River Basin by implementing one step of a focused watershed approach.

Pros:

- Approval of this action will allow the City to move forward with a portion of the Dingle Creek Master Plan
- The project is funded totally, from both ARRA and the CWMTF
- This project will provide both water quality and flood reduction benefits.

Con:

- Coordinating both of these funding sources will be time consuming.

The funds to be expended have been provided by the State through both ARRA and the CWMTF. City staff will provide project management oversight. The contract administration portion of this project will be funded through ARRA.

City staff recommends City Council adopt a resolution authorizing the City Manager to negotiate and then execute a contract with McGill Associates for the Services described in a contractual Scope of Work for an amount of \$80,400. Services will include the preparation of a no impact flood study and also for the contract administration of the above subject project.

Assistant Director of Transportation & Engineering Ken Putnam responded to Councilwoman Cape's question regarding the process the City uses to prioritize items for street resurfacing.

When Councilwoman Cape questioned the 12 month waiting period for a new bus, Director of Transportation & Engineering Cathy Ball explained that buses are not pre-made and they don't start the production line until after the order is received. She said that we will order the fareboxes separately and have them installed when the new buses come in.

In response to Councilman Mumpower, Ms. Ball said that these buses are the new diesel buses that are least expensive.

Councilman Mumpower felt that most of this money is for routine surface maintenance rather than significant infrastructure improvements. He was concerned (1) that we are using borrowed money that our children and grandchildren will have to pay back; and (2) that these jobs create very few jobs, but create additional debt.

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

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

Councilman Miller moved for the adoption of Resolution No. 09-188. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 32 – PAGE 194

Councilwoman Cape moved for the adoption of Ordinance No.3776. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 388

Councilman Newman for the adoption of Ordinance No. 3777. This motion was seconded by Councilwoman Cape and carried unanimously.

ORDINANCE BOOK NO 25 – PAGE 391

Councilwoman Cape moved for the adoption of Resolution No. 09-189. This motion was seconded by Councilman Miller and carried on a 6-1 vote, with Councilman Mumpower voting “no.”

RESOLUTION BOOK NO. 32 – PAGE 195

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE DESIGNATING THE PROPERTY KNOWN AS THE SPINNING WHEEL ON 1096 HENDERSONVILLE ROAD AS A LOCAL HISTORIC LANDMARK

ORDINANCE NO. 3778 - ORDINANCE TO DESIGNATE THE PROPERTY KNOWN AS THE SPINNING WHEEL ON 1096 HENDERSONVILLE ROAD AS A LOCAL HISTORIC LANDMARK

Mayor Bellamy opened the public hearing at 5:36 p.m.

Ms. Cristin Moody, Development Review Specialist, said that this is the consideration of an ordinance to designate the property known as the Spinning Wheel, located at 1096 Hendersonville Road, as a local historic landmark. This public hearing was advertised on August 14 and 21, 2009.

The Spinning Wheel, with a period of significance from 1939-1948 is significant for its association with two people important to Asheville’s development in the early 20th century. First, Clementine Douglas, the original owner, was a leading figure in the Handicraft Revival Movement during that time. Ms. Douglas was not only instrumental in preserving the traditions of mountain handicrafts, but she also brought national recognition and prominence to Asheville as one of the principal centers for the movement. At the Spinning Wheel, she taught crafts and provided workspace as well as a venue for local artisans to sell their wares. In addition, she was a founding member of the Southern Highland Craft Guild, which continues to flourish today.

The Spinning Wheel is significant also due to its association with prominent Asheville architect William Waldo Dodge, Jr. Built in 1939, his original design is a one-story T-shaped retail building that incorporated a 19th century, side-gabled log dwelling that was salvaged from North Buncombe County and rebuilt at the site. Attached to the log structure on the north side is a “dog-trot” connector leading to a board-and-batten sided wing with a front gable, known as the “loom room.”

The reclaimed 19th century log structure is architecturally significant as a rare, well-preserved example of a vernacular style prevalent in the region during the early years of settlement. Its significant features include hand hewn logs, half-dovetail corner joints, a massive exterior fieldstone chimney and vertical plank doors with wrought iron strap hinges. The original Spinning Wheel building as a whole has not been significantly altered in nearly 70 years and retains a very high degree of integrity.

The only modification to the original 1939 design was the addition of a concrete block room on the east end of the “loom room” in the early 1940s. Although not part of the original Dodge design, this room falls within the period of significance and represents a phase of the Spinning Wheel’s development. During World War II, when the business depended heavily on mail orders, this room was built and used to process the orders for shipping. It is a small, inconspicuous addition that did not alter the integrity of the original design.

The ordinance designates the Spinning Wheel as a local historic landmark. The designation includes .95 acres, which is all of the property originally associated with the structure, and the entire exterior and interior of the building.

The applicant has indicated that increasing development along Hendersonville Road threatens the preservation of this historic structure. Furthermore, recent appraisals suggest that the highest and best use of the property would be to raze the building.

When a property is designated as a local historic landmark, restrictions are placed on the property, and any modification to the land or structure must receive a Certificate of Appropriateness from the Historic Resources Commission of Asheville and Buncombe County. All improvements must follow the Secretary of the Interior’s Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings. It is important that properties of local significance are preserved and protected for cultural, historic, and economic reasons and for the benefit of future generations.

Designation of this site as a local historic landmark makes the property owner eligible for a 50% reduction in local property taxes. Currently the tax appraisal for the property included in the proposed designation is \$421,200. If the property is designated as a local landmark the potential tax savings for the property owner, including city, county and school taxes, would be \$2,306.07 per year.

Pros:

- A significant property will be recognized for its contribution both architecturally and culturally to the history of the area and will be protected from inappropriate alterations.

- The property is surrounded by residential parcels to the North, East and South. Designating it would provide a stable buffer for these properties from commercial development along Hendersonville Road.
- The tax deferral will assist the landowner with maintenance of the historic property.

Con:

- The tax deferral will reduce revenue to the city and county.

Based upon the foregoing, the Historic Resources Commission recommends that the Asheville City Council adopt an ordinance designating Spinning Wheel, as a local historic landmark. Staff concurs with the recommendation of the HRC for this designation.

Ms. Clementine Douglas explained why she support the local historic designation and asked for Council's support of adoption of the ordinance. He felt this special tax break and that there is no guarantee of permanent preservation, but only guarantee of a permanent tax break.

Mayor Bellamy closed the public hearing at 5:41 p.m.

Councilman Mumpower did not feel that historic buildings are vulnerable as prior years and could not be supportive of this proposal.

Councilwoman Cape was supportive of helping to maintain some of our jewels in the community.

In response to Councilman Newman, Historic Resources Director Stacy Merten said that landmarking the property does not prevent it from demolition, but it does give the HRC a period of 365 days to delay the demolition. That give staff time to work with the property owner to relocate or sell the property to someone else. She said that once this designation is given and a future property owner wants to do something different with the property, the HRC must approve that change first. If approved by the HRC, the property would lose the designation and the property owner would have to pay the taxes back for up to 3 years, per the state regulation.

Councilman Newman would felt the incentive for designation would "stick better" if it was a pay-back period of 5-10 years.

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

Councilman Newman moved for the adoption of Ordinance No. 3778. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE 393

B. PUBLIC HEARING TO CONSIDER AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE A SEPARATION REQUIREMENT FOR FAMILY CARE HOMES

Mayor Bellamy said that this matter was originally placed on the August 11, 2009, City Council agenda; however, it was continued to this date in order for City staff to notify interested parties. Since that time, however, City staff asked this item be removed from Council consideration entirely. Staff will revise the ordinance further and take back to Planning & Zoning Commission, prior to City Council.

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 09-190 - RESOLUTION AUTHORIZING THE CITY MANAGER TO TERMINATE A N.C. PARKS & RECREATION TRUST FUND GRANT AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR THE REID CENTER RENOVATION PROJECT AND TO REAPPLY FOR PROJECT FUNDING IN JANUARY OF 2010

Parks & Recreation Director Roderick Simmons said that this is the consideration of a resolution authorizing the City Manager to terminate a N.C. Parks & Recreation Trust Fund (PARTF) grant agreement with the N.C. Dept. of Environment and Natural Resources (DENR) for the Reid Center Renovation project, PARTF # 2006-476/DENR # P07033, and to reapply for project funding in January of 2010.

The City applied for and received a \$500,000 PARTF grant in 2006 to support the renovation of the Reid Center. The grant period ends September 30, 2009. The City recently requested an extension to the grant period.

DENR has reviewed the City's request, the timeline for the project and the City's progress to date. While DENR understands that the City has encountered unexpected cost increases and delays with the project, DENR feels that there has not been sufficient progress on the project to allow a time extension and amendment. In addition, the proposed change in scope, from a renovation to new construction at a new location, differs significantly from the project approved by the PARTF Authority in 2006.

The requests for PARTF funds from across the state are far greater than the funds available to meet those requests. In 2006,

local governments submitted requests for more than \$9 million in PARTF funding that could not be addressed due to lack of funds. In 2009, the local governments in North Carolina have requested more that \$25 million in PARTF funding. Therefore, DENR encourages the City of Asheville to consider withdrawing this project and reapply for the January 2010 funding cycle.

Project History Timeline

For the past several years, the City of Asheville has been planning the redevelopment of the WC Reid Community Center which was initially funded in part via a PARTF grant. The current municipal community center is located on the site that fronts Livingston Street which is southwest from downtown Asheville. The existing facility has served the community first as an elementary school and then as a community center for over 80 years with modest improvements to enhance its basic services. For the facility to evolve into a more focused multi-disciplinary program, the building and grounds require substantial building code, functional and aesthetic improvements.

The Parks, Recreation and Cultural Arts staff began to develop a renovation plan for the Reid Center in January 2006 that included extensive community input and focus group sessions with various users of the facility. The final plan was estimated to cost approximately \$8,000,000 to construct. This proved to be too costly as fundraising limitations were reassessed.

Thereafter the staff and the consultant explored the possibility to either renovate only a portion of the existing building or demolish the existing facility and construct a new center on the existing site. The costs for either scenario still proved to be costly at an estimated \$4,000,000 especially in light of the challenge to raise additional funds in the recent nationwide, economic downturn. In addition the potential programming and effective impact of the new center was not being realized in this location.

Staff decided to pursue another option. The project budget was reduced to approximately \$2,000,000 which is the funds that are currently available. Also a nearby site which is just one block west of the current WC Reid Community Center, Livingston Street Park, was considered as the optimum location for the center.

The budget available now for construction of a first phase is \$1,500,000. The Parks, Recreation and Cultural Arts staff will work with the architect on design modifications to bring phase one within the available funds.

Pro:

- Withdrawing from the agreement allows the City to reapply for the next PARTF funding cycle for the project.

Con:

- The three-year PARTF contract is scheduled to end on September 30, 2009. If the City does not withdraw from the agreement it may negatively impact the City's ability to secure a future PARTF grant with DENR in the near term.

If the City withdraws from the grant agreement, there will be no fiscal impact to the City's budget.

City staff recommends City Council to authorize the City Manager to withdraw from the North Carolina Parks and Recreation Trust Fund grant for Reid Center Renovation Project (#2006-476, DENR PO7033) for \$500,000, and give authorization to reapply for a PARTF grant funding in January 2010 for construction of the Community Center.

Councilman Newman moved for the adoption of Resolution No. 09-190. This motion was seconded by Vice-Mayor Davis.

Councilman Mumpower felt that in today's economic climate and the loss of \$500,000 of the existing budget, he felt City Council should re-consider the project. He understood the importance of the Reid Center, but felt a dramatic restoration is not realistic, but supported cosmetic efforts.

Mayor Bellamy was disappointed that the City is in this position. She said that out of the \$1.5 Million of the existing budget, approximately \$1 Million came from the community through partnerships and foundations. Her concern is a new Council might not see this as a priority. She supported the Reid Center being redeveloped on their existing site. She felt there was a lot of opportunities of partnerships, e.g., UNC-Asheville, A-B Technical Community College. She could not support the motion because she felt we have enough documentation to begin to get recovery dollars as it create jobs, will be energy efficient, and the capability of hiring local people. This is a City facility and we need to take care of it. She felt strongly that the Reid Center is a safe haven for our children. She's fearful this project will not get completed.

Mayor Bellamy was supportive of the project when we had \$2 Million in hand to move forward with the project. However, she felt Council should have been made aware of the timing of this grant when they approved moving forward with the contract for construction drawings a couple of months ago. If this project is re-considered, she wanted to make sure that staff checks with the other funders to make sure they are on board with the new direction.

In response to Councilman Russell, Mr. Simmons said that we will put the project out for bid and come back to Council with a project. If our budget is \$1.5 Million, we would award a contract for \$1.5 Million to construct the new center. We are looking at the design now to bring the project into the scope of funding that we have. In January, 2010, we will look at anything we could not complete in Phase I (with the \$1.5 Million) and include them in Phase II (to be included in the new grant application in January 2010).

Councilman Newman felt that if the majority of Council is not fundamentally supportive of this project, Council should schedule

discussion about re-considering the project soon. Once that decision is made, Council needs to be committed to it.

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

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

Councilman Newman moved for the adoption of Resolution No. 09-190. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Mayor Bellamy voting "no."

RESOLUTION BOOK NO. 32 – PAGE 196

Councilman Mumpower moved that Mayor Bellamy schedule, as soon as possible, the issue of reconsideration of the current Reid Center project and that staff be instructed to provide information on options to include the recommendation today and other opportunities including the incrementally and cosmetic restoration of the existing Reid Center. This motion was seconded by Councilman Newman.

In response to Vice-Mayor Davis, City Manager Jackson said that the policy objective at this point is to construct an approximately \$2 Million Phase I project. The City has an architect engaged to develop those construction drawings. If Council's commitment is to the policy decision and they would like to see that through, he suggested the architect be called upon to (1) give Council an estimate on what is feasibility to see that Phase I project; (2) what they anticipate in terms of bid responses; and (3) their recommendation on whether or not this Phase I concept is feasible with a \$1.5 Million budget or if additional funds are needed at this time or the project should be deferred to a later date. The architect could also advise Council on whether or not it would be reasonable to proceed in this market place to have a base bid and options, so Council could consider the scope of Phase I, depending upon those responses to those bids. He felt that would benefit from that kind of professional advice if Council's policy goal has not changed.

Vice-Mayor Davis said there are some very special things (e.g., greenhouses) planned for the Reid Center, but if the people who have donated dollars do not support those things we should know it now. He felt it was important to hear from our architect and see realistically where we need to go. He would like to see the conceptual drawings of the gym and see the programming for a \$2 Million building.

Mayor Bellamy asked staff to check with all our major funders to make sure they support the new location. She wanted to be committed to completing the project because the funds were raised several years ago and there is not a lot of belief in the community that the project will be completed.

Councilwoman Cape said that a lot of work has been done on this project over the years and Council made an educated choice on this project. She did not support opening this up and starting all over again. We might have to modify the plans and/or policy direction in place, but didn't want to see the Reid Center turning into another Civic Center that doesn't ever get finished.

Councilman Newman withdrew his second. He felt we are committed now to doing this project. The only thing that will stop us if we fall into indecision.

In response to Councilwoman Cape, Mr. Simmons said that the \$500,000 PARTF is a competitive grant process and the City will reapply in January 2010. DENR didn't say that this wasn't a worthwhile project, but the timing for the grant was running out. He previously told Council he would come back to them with a project with the money they had in hand designed for that \$2 Million. Until we put it out for bid, we don't know the ultimate project amount. His goal was to design a project with the money that we had because that was our budget. The goal of this project was to get it done by December because that is when the other grantors said that we need to have construction started. That is the reason staff came to get Council approval a couple of months ago to get approval for the construction drawings.

In response to Councilwoman Cape, Mr. Simmons said that a couple of private grantors are working with the City, but December is our cut-off date and if we don't show significant progress on the project by then we are in jeopardy of losing other funding. She supported bringing this forward to Council with the architect.

Mr. Simmons said that staff has stayed in contact with the funders and have been giving them periodic updates. He said that he would be happy to get some statement from the funders about where they are in relationship to this project.

Councilman Russell seconded the motion made by Councilman Mumpower.

In response to Councilman Mumpower, City Attorney Oast said that in almost every contract there are provisions to withdraw or terminate, but he could not be specific unless he looked at the particular contract.

Councilman Miller seems it would be customary for staff to come back to Council with what a plan looks like with 25% less funding and for staff to get the donor's affirmations of that plan.

City Manager Jackson said that staff will provide Council with the status of the design work and the architect's impression given the status of the overall budget.

Mr. George McDowell questioned how much we have paid the architect in billable hours and felt the architect for this project should have been present at this meeting.

City Manager Jackson said that he felt the original motion of reconsideration is laying out to Council options for aborting and taking a different policy direction. If that is the motion then the staff presentation would be to review the terms for termination with the architect. He felt the direction of Council is to reconsider policy direction by updating Council on how the project is proceeding on schedule and laying out a plan with the pros and cons of staying on that course.

Councilman Russell withdrew his second as he preferred to reconsider policy direction by updating Council on how the project is proceeding on schedule and laying out a plan with the pros and cons of staying on that course.

As there was no second to Councilman Mumpower's motion, the motion died.

It was the consensus of Council to ask Mayor Bellamy to place the W.C. Reid Center project on an upcoming agenda. Mayor Bellamy noted that she would place this on the September 8, 2009, City Council agenda.

B. DISCUSSION OF OPEN AIR DRUG MARKETS

Councilman Mumpower said that the City of Asheville in its commitment to eliminate our open air drug markets in public housing and other vulnerable neighborhoods.

He said it's important because (1) Hard drugs account for much of our crime; (2) Drug thugs/users bring violence and corruption; (3) None of us deserve to live more safely than others; (4) Too many children and elderly struggle in harms way; (5) He agrees with those who suggest our success rate in treating hard drug addicts is under 10%; (6) Active open air drug markets become recruiting centers for new generations of dealers, users, and enablers; and (7) It is his belief that allowing open air drug markets in public housing is a form of institutional child abuse.

We are failing because (1) Everyone is blaming everyone else – *"I can't do my job because so-in-so is not doing theirs,"* (2) As long as the problem stays mostly in our poor and black neighborhoods, most people seem willing to accept the reality. I believe this is the worst form of racism – the hidden kind; and (3) We do not match the enthusiasm, persistency, and creativity of the drug dealers and users.

He felt City Council deserves a C Grade for Our Performance: (1) Over time the majority has committed to eliminating our open air drug market, a strong drug intervention program, and public safety as a major priority; and (2) We are passive and politically correct with our state legislators regarding our under funded, staffed, and supported state criminal justice system – that dysfunction creates career criminals and places our police at risk with those who mock this system.

He felt the City and Police Administration deserve a C+ grade for their performance: (1) Our police do not match the creativity, persistency, and enthusiasm of our open air drug dealers – fireman offer a model - they stay on a fire until the coals are extinguished and a restart is unlikely; (2) Drug and prostitution enforcement are primarily directed to suppliers (dealers and prostitutes) over users – we will not win without addressing demand; (3) Our patrol officers are rarely on foot in public housing and have limited relationships with residents - both are keys to success in these environments; (4) Our police are persistently placed in harm's way by repeat offenders who are overlooked, coddled, etc. by an underfunded, overwhelmed, and dysfunctional court system; and (5) Our police are marginally supported - more often demonized - by the black community.

Community leaders deserve a D grade: (1) Very few are involved in fighting drug crime; (2) We have ministers and community activists who habitually disparage the police, but avoid the responsibility of holding officers accountable in responsible fashion or supporting their efforts; and (3) We have black leaders who publically discourage "snitching" and feed a "us against them" cultural mindset that enables drug crime to thrive at the primary expense of the black community.

The Court System deserves an F grade: (1) Our state judicial system is underfunded, understaffed, and under resourced at every level; (2) Timely justice is nonexistent – cultivates career criminals; (3) 98% of cases are plea bargained; (4) Jail space and alternative sentencing options do not remotely meet the needs; and (5) The only real beneficiaries of the NC judicial system are the attorney's making \$200+ an hour on the inefficiency.

The Public Housing Administration deserves a B- grade: (1) Rule enforcement is improving but inconsistent; (2) Open air drug markets exist in almost all of our 10 developments but managers are fighting back; (3) Management is not backing down to pressures from those who enable or rationalize misbehaviors; and (4) Public housing continues to perpetuate a culture of multi-generational dependency – people make poor pets.

The Faith Based Community deserves a D grade: (1) Few churches are involved in public housing beyond a Sunday morning bus service; (2) The power of the church is evident – their voice in confronting the drug culture is silent; and (3) We have ministers in black churches who routinely attack the police and "snitching" while drug activity occurs in proximity to their church.

The Public at Large deserves a D grade: (1) Most do not care unless things affect them directly; (2) Most accept that crime is a routine part of life in public housing and ignore harms to children and elderly; (3) People who receive direct or indirect pay-offs from drug trade continue to support and enable that trade; and (4) The black community (greatest victims of crime) remain largely passive to the

cultural destruction that occurs from drug trade – especially to young black men and women routinely recruited/funded as dealers for Mexican distributors and white users.

So What Do We Do? (1) Treatment, education, and social change are of limited value without good courts and enthusiastic enforcement; (2) We cannot rely on treatment to salvage people – we must fight to keep them from being recruited by unimpaired open air drug markets; and (3) Above all – we must address the weakest link of the chain – our dysfunctional court system.

He recommended a pilot program “Asheville Safe” by (1) A NC pilot program that creates a model of state judicial reform in Asheville and Buncombe County - bring us into the 21st century and return to our historical place as one of the best judicial systems in the country; and (2) Work with the Governor, our state representatives, the NC Department of Crime Control and Criminal Justice, and other vested organized bodies to establish Asheville and Buncombe County as the sites for judicial reform trials.

Emphasis to be on the following and more (1) Timely action on all drug cases (60 days?); (2) Emphasis on alternative sentencing options over jail time; (3) Generation of resources at all levels (admin, space, probation, staffing, technology, etc) adequate to timely judicial action; (4) Increase bench flexibility on consequence and sentencing; (5) Strengthen interagency cooperation on judicial continuum - borrow from prior state level studies pointing the way to success; (6) Expand drug court capacities to a level that provides full access for all drug crime related defendants; (7) Fix broken parts wherever they may be (an example would be how long it takes to get drug testing results back from SBI lab); (8) Expand our efforts to educate the public on the importance of funding and supporting solid judicial reform immediately; (9) Devote \$1,000,000 per year from the city budget/reserve fund for the next 3 years in cooperative partnership with the county and state as a part of this pilot initiative; and (10) Develop a local judicial reform action committee.

The mission of **Asheville Safe!** will be to explore, model, and perfect judicial reform in a manner that will lead the way toward making **North Carolina Safe!** Asheville can lead the way.

We start by (1) Persistently and publically acknowledge the harms of our open air drug markets; (2) Illuminate and confront the causes; (3) Actively reach out to those responsible at every level – track our success or failure; and (4) Refuse to back away or pretend it's OK.

He said that when you look at the parade of death, crime, and corruption that continue to occur from hard drug activity in Asheville, it is clear that this is a highly destructive form of **urban terrorism** that continues to our collective shame.

He said that he would work with any to achieve the goal but not be passive to continue the open air drug market in Asheville.

In response to Councilwoman Cape, Councilman Mumpower said felt that we should form a committee that is devoted to holding all the pieces of the chain accountable and measuring our progress (City Council; City and Police Administration; community leaders; court system; public housing administration; faith based community; and the public at large). The weakest link is the judicial system as they are underfunded and under resourced. He proposed we form a committee and approach the court system and others to create a pilot project in Buncombe County as we are chasing the symptoms instead of the core issue. He would be willing to see the City invest money upfront to tackle the foundation issues instead of investing more money chasing the symptoms. He suggested we partner with others to illuminate the court system problems and find solutions.

Councilwoman Cape was concerned about the City's ability to step into the realm of the court system. The City just created a nuisance court and maybe this is just another step in that direction. She was also concerned over the \$1 Million for 3 years

In response to Councilwoman Cape, City Attorney Oast said he felt the focus of our efforts should be on what the Council can control, like increase police patrols and enforcement efforts on drug enforcement. Council can lobby the legislators (and they do that on a yearly basis) to increase funding for the general court system. He felt Council could step up those lobbying efforts.

Councilwoman Cape would be supportive of looking at a community discussion around this issue, as we've looked into other issues.

Councilman Mumpower said that he would be happy to have Council refer this issue back to the Public Safety Committee for further review.

Councilman Newman noted that even though we don't have direct control over the judicial system, we did put together a nuisance court and that is a significant step. If the nuisance court effort is successful, perhaps we could scale it up. He supported this going back to the Public Safety Committee to see how we can build on the ideas.

Councilman Russell liked a judicial reform action committee maybe created at the Public Safety Committee level. He felt many more details needed to be worked out before the City puts money into it.

Councilman Miller supported this going back to the Public Safety Committee with perhaps the Housing Authority Executive Director and the Police Chief providing their input.

When he asked if Councilman Mumpower would be willing to accept stimulus dollars for the effort, Councilman Mumpower replied that he would not.

Vice-Mayor Davis noted that 37% of our payroll budget is for the Police Department, showing that Council is committed to public safety. We have made a step with the nuisance court and would support looking at a direction to gain some attention with the court system. He supported referring this back to the Public Safety Committee.

Mayor Bellamy felt Councilman Mumpower should have focused on factual information and not conjecture in some of the statements made about the black community as a whole. She apologized to members of the community who heard the presentation who were offended, as she was. She felt an apology was in order. She said that if we want to focus on issues and partnership, we need to look at the fact that during the last few years Council has steadily increased funding for public safety in our community, not only for police. With her lobbying and the help of Senator Nesbitt, the State has been responsive in that our community has received additional District Attorneys and an additional judicial judge. There is a N.C. Metropolitan Mayor's Coalition retreat at the end of August at which time they will discuss this issue on a state-wide basis. They will then provide input to the already established committee formed by the Governor to look at our judicial system and how it can be re-vamped. She felt it was important to have factual data while working with other elected officials to create a committee of not just Council, but community members and personnel from the District Attorney's Office. She supported referring this to the Public Safety Committee.

Councilwoman Cape said that while she supported Councilman Mumpower's passion, she did not support the spirit of judging of the community.

Councilman Mumpower felt that the nuisance court is a model of success and he felt we can pull this off as it's just on a larger scale. In terms of facts, he is rarely careless, never intentionally so, and he tries to learn from experience. He felt that it appears that he has offended some people, but his goal was to offend everyone who listened because we all have something to be ashamed of and he makes no apologies. He was pleased this will be put in the hands of the Public Safety Committee and would be happy to participate with the Committee if they wish.

VI. NEW BUSINESS:

A. RESOLUTION NO. 09-191- RESOLUTION AUTHORIZING THE MAYOR TO SIGN AMENDMENT 1 TO THE BLACK MOUNTAIN WHOLESALE WATER PURCHASE AGREEMENT

Water Resources Director Steve Shoaf said that this is the consideration of a resolution authorizing the Mayor to sign Amendment I to the Wholesale Water Purchase Agreement between the City of Asheville and the Town of Black Mountain.

The Town of Black Mountain is one of four City of Asheville wholesale water customers. They are charged a capacity commitment fee of \$184.00 per 10,000 gallons. The current wholesale water agreement specifies a capacity commitment of 200,000 gallons for Black Mountain. Due to leaks and drought, their capacity needs escalated to 232,000 gallons for a period of time. Since that time, Black Mountain has fixed the leaks thereby reducing their water consumption to within the originally agreed upon 200,000 gallons per day as specified in the Agreement dated February 14, 2006.

In the agreement, there are provisions to increase Black Mountain's capacity commitment, but not to reduce it. Therefore, after inquiry from the Town of Black Mountain, the Water Resources Director has proposed Amendment I that will add a paragraph to allow them to reduce their capacity commitment via formal request. The charge of \$184.00 per 10,000 gallons will remain the same.

In addition, another paragraph has been added in the Amendment to update the contact information for the City and the Town.

This project is part of City Council's strategic plans to work cooperatively with a local government agency to implement practical water system management.

Pro:

- Allowing Black Mountain to reduce their capacity commitment will encourage water conservation.

Con:

- None noted.

The adoption of Amendment I will result in an approximate \$600 reduction in revenue from Black Mountain. This revenue reduction will not require any budget transfers.

City staff recommends that City Council authorize the Mayor to sign Amendment I to the Wholesale Water Purchase Agreement between the City of Asheville and the Town of Black Mountain.

There was a brief discussion, initiated by Councilman Newman, about if the City can adjust the rates of wholesale customers like we do others.

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

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

Councilman Mumpower moved for the adoption of Resolution No. 09-191. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 197

B. DISCUSSION OF EARLY VOTING LOCATIONS

Mayor Bellamy said that there has been a request from several members of the community to consider additional locations for early voting. She provided Council with the following information: (1) Citizens always have the opportunity to vote 2.5 weeks early at the College Street office; (2) There are 37 normal polling places for City Council elections – during the primary and general elections; (3) The City must notify the Board of Elections 30-45 before the election they would like to have more remote sites, in order for them to submit a plan of implementation to the State Board of Elections for approval; (4) City can tell the Board of Elections what location they would like to have a remote site and the Board of Elections will then have to find a suitable site in that area; and (5) Remote sites can be open anywhere from 1 week early to 2.5 weeks early. For 1 week early, the remote site is \$11-15,000, per site per election. For 2.5 weeks early, the remote site is \$17-20,000, per site per election.

For instance: (1) If you have 1 additional remote site (2.5 weeks early), for both the primary and general election, the price would be approximately \$34-40,000; If you have 1 additional remote site (1 week early), for both the primary and general election, the price would be approximately \$22-30,000; If you have 1 additional remote site (2.5 weeks early) for only the primary, the price would be \$17-20,000; or If you have 1 additional remote site (1 week early) for only the general election, the price would be approximately \$11-15,000; and (2) If you have 2 additional remote sites (2.5 weeks early), for both the primary and general election, the price would be approximately \$68-80,000; If you have 2 additional remote sites (1 week early), for both the primary and general election, the price would be approximately \$44-60,000; If you have 2 additional remote sites (2.5 weeks early) for only the primary, the price would be \$34-40,000; or If you have 2 additional remote sites (1 week early) for only the general election, the price would be approximately \$22-30,000.

In response to Councilwoman Cape, City Manager Jackson said that the City has budgeted \$160,000 for the current system of elections. If Council chooses to add additional early voting locations, those funds would come out of Fund Balance.

Councilman Mumpower felt there was a conflict of interest for an announced candidate to vote on an issue that has potential to affect their election one way or another. He therefore moved to recuse himself from participating in this matter.

City Attorney Oast said that voting on this issue is not a disqualifying conflict.

The motion made by Councilman Mumpower died for lack of a second.

Vice-Mayor Davis supported early voting, but due to the difficult economy, the City's budget, and the fairly small turnouts for municipal elections, he could not support adding early voting locations at this time.

Councilman Russell questioned how locations would be chosen. He felt it was a good idea, but not at this time.

Councilman Miller supported this idea and suggested as much promotion as possible be done to let people know of the early voting locations.

Councilwoman Cape was very supportive of getting voting in the hands of the people, but felt we should have a citizen engagement process first and then in two years budget for the additional costs and begin making people aware of the additional sites.

The following individuals spoke in support of additional voting locations:

Mr. Charles Carter
Ms. Michelle Pace Wood
Mr. Isaac Coleman
Mr. Fred English
Mr. George McDowell

Councilman Newman moved that the City of Asheville give instructions to the Buncombe County Board of Elections to provide 4 additional early voting sites (North, South, East and West, preferably at the libraries) for one week early for the general election on November 3, 2009. This motion was seconded by Councilman Miller.

Councilwoman Cape noted the 4 additional early voting locations would be approximately \$60,000.

In response to Councilman Miller, Mr. Carter said that the Board of Elections is charged with promoting the locations.

Councilman Newman was persuaded that early voting has become the norm in terms of voting. He would love to have more early voting locations, but it's financially prohibitive.

Councilman Mumpower felt it is a moral conflict of interest for him to participate in this matter and would not support the motion.

After 20 minutes of debate, Councilman Newman moved to call the question. This motion was seconded by Councilman Miller and carried on a 5-2 vote, with Councilwoman Cape and Councilman Mumpower voting "no."

The motion made by Councilman Newman and seconded by Councilman Miller carried on a 4-3 vote, with Vice-Mayor Davis, Councilman Mumpower and Councilman Russell voting "no."

At Mayor Bellamy's suggestion, it was the consensus of Council to have Mayor Bellamy write a letter to other municipalities in Buncombe County who have an election this year and ask them for a small contribution to the early voting locations. Even though their constituents would have to drive into Asheville, they would have the opportunity to vote early.

Mayor Bellamy instructed City staff to place a budget amendment on the September 8, 2009, Consent agenda for this issue.

C. DISCUSSION OF "ADOPT AN ISLAND" PROPOSAL

Councilman Mumpower said that we have traffic islands throughout the city (especially in neighborhoods) that are neglected and otherwise poorly maintained. We have limited staff resources to address the maintenance needs in a consistent manner.

His proposal would be to establish a program using engaged volunteers who agree to maintain a respective island for a one to three year period.

His suggested methods include (1) Recruit individuals, clubs, neighborhoods, or organizations; (2) Provide loose guidelines for appropriate landscaping and/or maintenance; (3) Provide an annual "Fantasy Island" award for the best kept/most attractive traffic island; (4) Provide small signage to identify those who adopt an island; and (5) Freed up staff time to be devoted to those islands without a volunteer caretaker.

Models include: (1) The "Adopt a Highway" program offers us a local model; (2) We have volunteer groups who provide more random forms of beautification and maintenance services to public areas throughout the city – including traffic islands; (3) Salem, Massachusetts, offers a more specific model; and (4) Cincinnati provides still another.

Councilman Mumpower read a letter from Robert and Patricia Dockery, Co-Chairs of Island Committee Upper Malvern Hills Neighborhood Coalition, who "would like to be the first to request an island. Specifically the island on the corner of Patton, Haywood and Ormond Avenues. We have been looking for a way to improve the appearance of that entrance into West Asheville. Concerning safety concerns, it was suggested we gardeners do our work in off heavy traffic times, wear orange traffic vests, and work only ON the island. This we can comply with."

Councilman Mumpower moved to request staff review potentials for an adopt an island program and initiate action to that affect. This motion was seconded by Councilwoman Cape.

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

Councilwoman Cape liked engaging the community and recognizing the City needs their participation. She suggested an adopt a sidewalk program downtown.

Councilman Mumpower moved to amend his motion to include staff also look at potentials for an adopt a sidewalk program. Councilwoman Cape accepted that amendment.

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

Mayor Bellamy noted that since this has been directed to City staff, it will be coming back to City Council.

D. RESOLUTION NO. 09-192 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Davis said that the terms of Wind Peter Motika and Adam Pittman, as members on the Recreation Board, expired on June 30, 2009. They were not interested in reappointment.

On July 14, 2009, it was the consensus of Council to interview David Mosrie, Wayne Wheeler, Mary Ann West and Nelson Sobel. Mr. Wheeler was unable to attend the interview.

After Council spoke highly of the candidates, David Mosrie received no votes, Wayne Wheeler received 4 votes, Mary Ann West received 7 votes and Nelson Sobel received 3 votes. Therefore, Mary Ann West and Wayne Wheeler were appointed as members of the Recreation Board to each serve three-year terms respectively, terms to expire June 30, 2012, or until their successors have been appointed.

E. RESOLUTION NO. 09-193 - RESOLUTION APPOINTING A MEMBER TO THE TRANSIT COMMISSION

Vice-Mayor Davis said that the term of Ryan Pickens expires on December 31, 2009.

On August 11, 2009, it was the consensus of Council to interview Tom Tomlin, Georgia M. Shannon and Rachael Bliss.

After Council spoke highly of the candidates, Tom Tomlin received 5 votes, Georgia M. Shannon received no votes and Rachael Bliss received 1 vote. Therefore, Mr. Tomlin was appointed as a member of the Transit Commission to serve an unexpired term until December 31, 2009, and then a full three-year term, term to expire December, 31, 2012, or until his successor has been appointed.

RESOLUTION BOOK NO. 32 – PAGE 200

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mayor Bellamy noted that Council has had the topic of "Other Business" on the agendas, however, that has been deleted as that is not listed in Council's rules as an official agenda topic. The topic of informal discussion and public comment is on the agenda for light items. Any weighted or policy recommendations are to be scheduled.

Councilwoman Cape and Councilman Russell reminded the public that school started and to please obey the school zone rules, in addition to encouraging carpooling, walking and riding bikes where safe.

In response to Mayor Bellamy, City Manager Jackson said that he would provide Council with details on what the Police Department has in place for enforcement of laws regarding bus stops.

Mayor Bellamy encouraged the public to attend the Goombay Festival.

When Mr. Fred English expressed concern over the lack of enforcement of bicycle laws, Mayor Bellamy suggested the Public Safety Committee review that issue.

Councilman Mumpower discussed with Council the issue of agenda protocols. He felt this is a body of elected officials and not a game of Mother May I. In the past few months he has had repeated difficulty raising agenda issues. Going forward, unless the Mayor would like to talk with him about an alternative method, he will present the issues, but if they go into that black hole, or laid aside, he will reserve the right to come to Council and raise the issues before the full Council. The majority of Council can decide to deal or not deal with the issues as they wish. His job is to raise issues as enthusiastically and as passionately as he can. With that in mind, he has a list of the following things he would like to see addressed: a graffiti vandal "cloud of shame" proposal; action to address excessive late charges for stormwater runoff fees; availability of on-line sexual services in Asheville and enforcement potentials; exploring the 24/7 climate control system potentials and energy saving performance contracting potentials for the City of Asheville; and City government following our flag protocol. He then provided Council with information on the proper protocols for the flag. He would like to see the City of Asheville model what we are asking other people to do.

In Mayor Bellamy's defense, she provided Council with a timeline on actions requested by Councilman Mumpower.

Claims

The following claims were received by the City of Asheville during the period of July 2, 2009 – August 6, 2009: PSNC (Water), Brittany Bedgood (Parks & Recreation), Barb Hoski (Sanitation), Brandon Phillips (Police), Ruth Pitts (Streets), Ann Forbes (Water) and Charter Communications (Water).

The following claims were received by the City of Asheville during the period of August 7, 2009 – August 13, 2009: David Hirschman (Water), Dominik Downs (Transit), Celeste Adams (Water), Stella Longshore (Transit), Progress Energy (Water), Progress Energy (Water), and AT&T (Water).

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

Closed Session

At 8:09 p.m., Councilman Miller moved to go into closed session for the following reasons: (1) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property by purchase, option, exchange or lease. The location of the property is on the northwest corner of Riverside Drive and Lyman Street, and the City-owned parking lot on Brick Street. The statutory authorization is contained in G.S. 143-318.11(a)(5); (2) to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Newman and carried unanimously.

At 8:22 p.m., Councilman Newman moved to come out of closed session. This motion was seconded by Councilman Russell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 8:22 p.m.

CITY CLERK

MAYOR