

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

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

INVOCATION

Mayor Bellamy gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JANUARY 14-18, 2010, AS “DR. MARTIN LUTHER KING JR. WEEKEND”

Mayor Bellamy read the proclamation proclaiming January 14-18, 2010, as "Dr. Martin Luther King Jr. Weekend" in the City of Asheville. She presented the proclamation to Ms. Oralene Simmons who briefed City Council on some activities taking place during the weekend and Council's continued support.

II. CONSENT AGENDA:

At the request of Mayor Bellamy Consent Agenda “D” was added.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 15, 2009

B. ORDINANCE NO. 3819 - BUDGET AMENDMENT TO THE POLICE/PATROL DIVISION'S SPECIAL PURPOSE FUND

Summary: The consideration of a budget amendment, in the amount of \$1,000, from a Court-ordered action, to the Police/Patrol Division's Special Purpose Fund for the purpose of investigative costs.

- Asheville Police Department vice officers conducted an investigation into a gambling operation in March 2009. US currency was seized during the investigation. The case was heard before the Honorable Buncombe County District Court Judge Calvin Hill. Judge Hill signed an Order that \$1,000 cash of the amount seized during the execution of a search warrant to be turned over to the Asheville Police Department Patrol Division's special purpose fund.

This action conforms to the City Council's Strategic Operating Plan under Safe - Asheville will be one of the safest and most secure communities when compared to similar cities - Partner to launch a nuisance court to achieve more efficient and effective prosecution of offenses that impact the quality of life.

Pro: Revenue will be used in the course of special investigations which include surveillance, undercover operations, and investigative cost.

Con: None noted

This will have a positive impact on the Police Budget by increasing the Special Purpose Funds used to conduct special operations. There will not be any further costs to the City of Asheville as a result of accepting these funds.

City staff recommends City Council adopt the budget amendment, in the amount of \$1,000, to the Police/Patrol Special funds.

C. RESOLUTION NO. 10-1 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A SERVICE AGREEMENT WITH HERSEY METERS CO. LLC FOR THE FIVE YEAR AUTOMATED METER READING PROJECT

Water Resources Director Steve Shoaf said that this is the consideration of a resolution authorizing the City Manager to sign a service agreement with Hersey Meters Co., LLC, for the five-year Automated Meter Reading (AMR) Project contingent upon City Council approval of funding for the remaining four (4) fiscal years for the purchase and installation of approximately 52,000 AMR Devices to complete installation throughout the water system.

In Fiscal Year 2002, the Water Resources Department installed approximately 500 AMR Devices as part of a pilot program. In Fiscal Year 2005, the program was expanded to include 3,000 additional AMR Devices, which were installed by department staff. In Fiscal Year 2006, a requirement was made as part of the Engineering Standard Detail and Specifications that each new water meter installed shall have an automated meter reading unit installed as well. To date, a total of approximately 3,800 devices have been installed throughout the water system. These devices were installed at locations that are very difficult to access and that pose a safety threat to Meter Reading employees. The installation of automated meter reading devices at these locations eliminated serious safety hazards. In addition, the pilot program has proven to be very cost effective by reducing the time to read these AMR meter locations by 85%.

In July 2009, the City issued a Request for Proposals on the Automated Radio Frequency Meter Reading System for the Water Resources Department. On August 17, 2009, proposals were received from the four (4) following companies:

1. Hersey Meters Co., LLC
2. Metron-Farnier, LLC
3. Neptune Technology Group, Inc., and
4. Vanguard Utility Service, Inc

A review team, comprised of staff from multiple City departments, including Finance (Purchasing) and Information Technology, reviewed these proposals and selected Hersey Meters Co., LLC, located in Cleveland, North Carolina, as the lowest responsible bidder at a total project bid of \$6,666,625.86.

This project complies with the City Council's strategic plan to improve city infrastructure. It will leverage technology to allow for more efficient and effective operation of Meter Services within Water Resources.

Pros:

- Significantly reduce meter reading time, which will reduce future personnel needs for meter reading. This will allow existing employees to address other needs.
- Reduce the safety hazards of reading meters at locations that are difficult to access.
- Improve customer service by reducing meter reading errors, and by identifying meter performance and leak issues in a timely manner.
- Reduce the unit cost of meter reading devices by purchasing them in bulk.

Cons:

- Initial project capital cost is significant.
- Training to utilize the new equipment will be necessary.

The total five-year cost to purchase 52,000 AMR devices is conservatively estimated at \$7.0 million. Of that amount, the initial capital investment cost of \$2.8 million for the AMR program is currently funded in the Fiscal Year 2010 Water Capital Improvement fund, leaving a remaining capital investment of up to \$4.2 million to be funded over the next four years. The Water Department's Fiscal Year 2011 through 2014 budget and financial plans assume pay-as-you go contributions of up to \$1.1 million per year from the Water Operating Fund to the Water Capital Improvement Fund to cover this remaining \$4.2 million capital investment in the AMR program. This budget and financial plan is dependent upon the availability of funds and normal rate adjustments. The impact to Meter Services staffing will be the reduction of time required to read meters, thus allowing staff time for other functions (testing, repairs). The reduced time required to read meters may allow a change from bimonthly reading and billing to a monthly reading and billing which would make bills more affordable to customers and improve the City's Water Resources cash flow.

City staff recommends City Council authorize the City Manager to sign a service agreement with Hersey Meters Co., LLC,

for the five-year Automated Meter Reading (AMR) Project. The agreement will recognize the funds available for this year and include a provision for extension of the contract as additional funding is available. This is contingent upon City Council approval of funding for the remaining four (4) fiscal years for the purchase and installation of the remainder of the approximately 52,000 AMR Devices to complete installation throughout the water system.

RESOLUTION BOOK NO. 32 – PAGE 308

D. RESOLUTION NO. 10-2 – RESOLUTION AMENDING THE 2010 CITY COUNCIL MEETING SCHEDULE

Summary: Due to time constraints at the City Council annual retreat on January 8-9, it was necessary to schedule a City Council worksession on Tuesday, January 19, 2010, at 5:00 p.m. in the First Floor Conference Room, City Hall, 70 Court Plaza, Asheville, N.C., to discuss strategic partnerships with other governmental, private and non-profit entities.

RESOLUTION BOOK NO. 32 – PAGE 310

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 copies 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 Councilman Davis and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. H1N1 PREPAREDNESS FOR COMMUNITY REPORT

Ms. Gibby Harris, Buncombe County Health Director, briefly updated Council on the H1N1 flu and urged the public to continue to get the vaccine.

B. PRESENTATION OF THE FISCAL YEAR 2009 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Chief Financial Officer Ben Durant said that at the conclusion of each fiscal year, an annual audit of the city's financial statements is conducted. The purpose of the audit is to obtain reasonable assurance that basic financial statements are free of material misstatement; to examine evidence supporting the amounts and disclosures in the financial statements; and to assess accounting principles used and the overall presentation of the financial statement.

Mr. Brian Broom, Director of Dixon Hughes, PLLC, summarily reviewed with Council the annual audit. He said that the following is the audit and financial statement summary: "Our report for the 2009 audit expresses an unqualified opinion on the fair presentation of the basic financial statements in all material respects, in conformity with accounting principles generally accepted in the United States of America. Our report can be found on Page 1 of the Comprehensive Annual Financial Report (CAFR). Our reports on compliance and internal control, in accordance with Government Auditing Standards, OMB Circular A-133, and the State Single Audit Implementation Act, disclosed no material weaknesses in internal controls or instances of non-compliance in the administration of federal awards programs. Our compliance reports and a summary of the results can be found in the Compliance Section of the CAFR. Also, we noted some areas for improvement in the City's accounting function that we have communicated to management in a separate letter dated November 12, 2009.

Mayor Bellamy thanked Mr. Broom for the thorough audit and Mr. Durant and his staff for their work associated with compiling the CAFR. She was pleased to see that the City is complying with all requirements and that the audit revealed no material weaknesses or instances of non-compliance in the administration of federal and state grant programs.

C. AFTER ACTION STORM BRIEFING

Assistant City Manager Jeff Richardson said that Asheville and the surrounding areas recently experienced a major winter storm lasting from December 18 – 22, 2009. He provided Council with information related to the key decisions taken to prepare and manage emergency operations during this time. He also provided information relative to preparation, snow removal and public safety. At this time we are pursuing FEMA reimbursement of \$525,342 and would suggest a policy review of the sidewalk maintenance ordinance.

The information compiled in this presentation is to update City Council on key decisions taken to address the December 2009 winter storm. No action is necessary at this time.

Mayor Bellamy and Council members expressed their appreciation of City staff's and other agencies efforts and communication during the storm.

D. ECONOMIC STIMULUS PACKAGE UPDATE

ORDINANCE NO. 3820 - BUDGET AMENDMENT TO ACCEPT ENTITLEMENT FUNDS FROM THE DEPT. OF ENERGY FOR THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM

American Recovery & Reinvestment Project Manager Brenda Mills said that as part of City staff's recurring American Recovery & Reinvestment (ARRA) update to Asheville City Council, staff is seeking Council consideration of the following:

1. Energy Efficiency and Conservation Block Grant (EECBG)

Staff is seeking approval of a budget amendment in the amount of \$804,700 to accept entitlement funds from the Department of Energy for the Energy Efficiency and Conservation Block Grant (EECBG) program.

2. Update for Other ARRA Funding

Energy Efficiency and Conservation Block Grant

The EECBG program through the Federal Department of Energy (DOE) is funded for the first time through the American Recovery and Reinvestment Act (ARRA). The City of Asheville has been allocated \$804,700 of entitlement funds through this program. The funds must be committed within 18 months of receipt of award and expended within 36 months. The primary requirements for use of this funding include: job creation, energy reduction, renewable energy production, carbon emissions reduction, and partnership creation. Through the evaluation of the Sustainability Management Plan the over arching objectives for Asheville's use of this funding were established in an Energy Efficiency and Conservation Strategy (EECS) which was approved by DOE in September 2009. These goals are as follows:

- Reduce energy consumption through energy efficiency
- Increase renewable energy usage
- Increase voluntary energy conservation efforts
- Reduce vehicle miles traveled
- Incorporate sustainability into the City's decision making process
- Incorporate sustainability into City communications and outreach efforts
- Reduce solid waste disposed at landfills

In June 2009 City Council approved the following projects:

Funding Category	Program Description	Project Funding	% of total allocation
\$254,700	Internal Sustainability Programs		
	Solar thermal for Fire Station 6	\$17,000	2.1%
	Building Inspector and Building Maintenance Energy Efficiency Training	\$35,000	4.3%
	Sustainability Outreach Specialist (2 yrs)	\$47,700	6.6%
	Civic Center Banquet Hall HVAC Replacement	\$88,000	10.9%
	Fire Station 8 weatherization and solar thermal	\$67,000	8.3%
\$220,000	Internal Energy Revolving Fund		
	IT Server Downsizing	\$100,000	12.1%
	City Hall Lighting Retrofit	\$120,000	14.6%
\$250,000	Competitive grants for community projects	\$250,000	31.1%
\$ 80,000	Grant administration	\$80,000	10%
\$804,700	TOTALS		100%

Pros:

- Reduce municipal energy spending

- Reduce municipal carbon footprint
- Support job creation in the local energy sector

Con:

- Implementing the programs within the grant require staff time, however the actual administration costs of the grant are covered through the \$80,407 grant administration allowance

The grant will cover 100% of the costs, so there is no impact on the City's current General Fund budget. The installation of energy reduction measures will lower future costs, but the exact impact cannot currently be quantified.

City staff recommends City Council adopt the budget amendment in the amount of \$804,700.

Update on Other ARRA Funding

As a part of the American Recovery and Reinvestment Act which was signed into law on February 17, 2009, the City of Asheville has received to date \$7,597,242 in entitlements and \$1,494,500 in grant funding. The following information is a short breakdown of the funding and where we are in the process of contracting and granting funds:

CDBG-R - \$332,942 - This funding is currently in the implementation phase. This funding was provided to Mountain Housing Opportunities for Tier II Emergency Home Repair (\$75,000), Weed and Seed Weatherization Program (\$75,000), Mountain BizCapital (\$26,000), the City of Asheville (\$123,648) for sidewalks to serve a lower income neighborhood in the city and the remaining funding of \$33,294 for allowable administrative costs (10%).

Edward J. Byrne Justice Assistance Grant (JAG) - \$265,466 - This project is in the bidding process to be opened on January 14, 2010. With time to review the request for proposals, we hope to bring to Council's next regular meeting for award of contract.

Homeless Prevention & Rapid Re-housing Program (HPRP) - \$509,460 - Contract executed with the HPRP Team which includes ABCCM, Eblen Charities, WNCAP, United Way's 2-1-1 and Pisgah Legal Services which began October of last year. Clients are being served and staying in housing.

Transit Capital - \$2,590,439 - Funding is being used by the City of Asheville to purchase 5 diesel buses and ten (10) shelters. 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 who received a portion of this funding. These items were purchased in the fall of 2009 and currently awaiting delivery.

NC DOT Surface Transportation (STP-DA) - \$3,094,235 - Four contracts have been let for this funding which were executed by December 31, 2009 which included the Downtown Streetscapes (\$79,006.00), Fairview Road Signal Upgrades (\$58,678.95), Sidewalk Gaps (\$436,920.00) and Coxe Avenue Resurfacing and Restriping (\$214,208.70). We were able to do the Kimberly Avenue Project because the initial bidding was under the estimated costs. This project was let on December 31, 2009, and will be brought to City Council on January 26, 2010, for approval of contract award.

Drinking Water State Revolving Fund (NCDENR) - \$510,000 - Funding will be used for the North Fork Water Treatment Plant Pumping System Improvements. Contract approved by NCDENR and final documents signed in December to proceed with contracting.

Clean Water State Revolving Fund (NCDENR) - \$454,500 - Funding will be used for the Dingle Creek Stormwater Improvements (\$166,495) which was approved by City Council for award on December 15, 2009. Contract must be approved by NCDENR to proceed with contracting.

Mobile Source Emissions Reduction Grant (NCDEER) - \$30,000 - Council approved this funding budget amendment on December 15, 2009. These funds from the NC Diesel Emissions- Economic Recovery (NC DEER) will support the purchase of 5% biodiesel (B5) fuel for the municipal fleet for one year.

Clean Cities: Carolina Blue Skies & Green Jobs Initiative - \$749,015 - This funding will provide the incremental cost of purchasing 11 new CNG pick up trucks, retrofit to convert 11 existing to CNG and upgrade the CNG station. The funding applied for as a sub-grantee with Triangle J Communities (Raleigh, NC) through the Land of Sky Regional Council was \$749,015. The funding has been reduced and we are still awaiting word of the final number (estimate \$500,000).

In response to Councilman Davis, Energy Coordinator Maggie Ullman explained the details on the competitive grant for

community projects process.

Vice-Mayor Newman outlined some questions and concerns from the Housing & Community Development Committee, noting the large amount of staff time and energy to spend on a one-time grants program.

Mayor Bellamy said that the goal in the future is for the Federal Department of Energy to add funds annually as they do with Community Development Block Grant Funds.

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

Councilman Bothwell moved for the adoption of Ordinance No. 3820. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE 17

IV. PUBLIC HEARINGS:

- A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL USE PERMIT FOR THE GLEN ROCK MIXED USE DEVELOPMENT (FORMERLY IDENTIFIED AS DEPOT AND RALPH STREETS) LOCATED AT 362, 372 AND 403 DEPOT STREET, IN ORDER TO AMEND THE MIX OF USES PROPOSED IN PHASE III OF THE PROJECT AND TO REVISE THE APPROVED LANDSCAPE PLAN**

ORDINANCE NO. 3821 - ORDINANCE AMENDING THE CONDITIONAL USE PERMIT FOR THE GLEN ROCK MIXED USE DEVELOPMENT (FORMERLY IDENTIFIED AS DEPOT AND RALPH STREETS) LOCATED AT 362, 372 AND 403 DEPOT STREET, IN ORDER TO AMEND THE MIX OF USES PROPOSED IN PHASE III OF THE PROJECT AND TO REVISE THE APPROVED LANDSCAPE PLAN

At the request of Vice-Mayor Newman, Councilman Davis moved to excuse Vice-Mayor Newman from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Russell and carried unanimously. At this time, Vice-Mayor Newman left the Council Chamber.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing. Mayor Bellamy disclosed that she was employed by Mountain Housing Opportunities during the approval of the first and second phases of this project and that she has no pre-judgment and will make her decision based solely on what is before Council at this hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

City Attorney Oast said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 5:59 p.m.

Urban Planner Julia Cogburn submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Cogburn said that this is the consideration of an ordinance to amend the conditional use permit for the Glen Rock mixed use development (formerly identified as Depot and Ralph Streets) located at 362, 372 and 403 Depot Street in order to amend the mix of uses proposed in Phase III of the project and to revise the approved landscape plan.

Ms. Cogburn said that the project site (2.11 acres total) is located within the City Limits between Ralph and Depot Streets

at the intersection with Bartlett Street (Attachment to City Exhibit 3 – Aerial Map) . The property was conditionally rezoned from CI (Commercial Industrial) to UP CUZ (Urban Place Conditional Use Zoning) in 2005 by the Asheville City Council. At that time, a Conditional Use Permit was also approved for the project. The Conditional Use Permit (CUP) was necessitated due to the size of the project (Level III). The original CUP approved the rehabilitation of the Corner Market building for retail/gallery, office/studio, or light industrial use. It also established approval for the construction of a new building with a 46,800 square foot footprint with a mix of retail/gallery, office/studio, and community and residential development; and renovation of the Glen Rock Hotel for mixed uses with residential units on the upper floors. At that time eighty-five (85) dwelling units were proposed for the new building which would house structured parking and 31,009 square feet for other uses. An approved uses list was incorporated in the approval.

Since 2005, the project has been developing in four phases. Phase I is complete, Phase IIA is under construction, Phase 2B has not yet begun, and Phase III is the primary subject of this report. (City Exhibit 4 – Site Plan)

Parking for the Glen Rock project, originally proposed to be provided all internally and on-street, is now proposed to be provided in a gravel lot on the site, on-street, and in a free-standing lot across Depot Street as a cost saving measure. The change to allow use of this lot, not part of the CUP, was approved under separate Level I project review in early 2009.

Phase I involved the conversion of the Old Corner Market Building at 362 Depot Street. It has been completed and is now occupied.

Phase II was to include approximately 46,800 square feet of mixed-use (retail/gallery/ office/studio/community) space, 85 dwelling units, and structured parking. In 2008, staff approved a modification of this phase reducing its size (overall square feet and number of dwelling units) and eliminating the structured parking facility. Proposals to reduce the size of a project have not generally been brought to the Council for review.

Phase IIA, currently under construction, involves the construction of a new building containing 124,726 square feet of gross floor area (17,002 for various permitted uses and 60 dwelling units). All dwelling units will meet the City's affordable housing standards.

Phase II B is not moving forward for now. If developed, it is to include up to an additional twenty-five (25) dwelling units and up to an additional 17,707 square feet of other approved uses in addition to the Phase IIA structure. The site for that addition is, however, being used for twenty (20) parking spaces serving the project (as noted above). Due to that change, any proposal to move forward on Phase II B would need to consider how it would affect parking for the entire site since both that parking area and the structured parking area not available for the project.

Phase III of the project involves the renovation of the old Glen Rock Hotel building, which was proposed to be converted into retail and community space on the first floor and twenty-five (25) dwelling units on the upper floors. This phase is the subject of this request. While originally proposed primarily for residential purposes, the developers now seek greater flexibility of uses following the renovation of the structure. The approximately 30,000 square feet in the building are presently being designed for office and community space. However, the proposed CUP amendment would allow this building in the future to be used for any of the proposed uses on the previously approved list (including residential use). If approved, Level II review by the Technical Review Committee would be required for a change of use, but no additional amendment to the CUP would be needed.

Cumulatively, the change approved and requested for this project reduce the number of residential units from one hundred and ten (110) units to a currently proposed sixty (60) units and the parking from one hundred eighty-four (184) spaces to the currently proposed one hundred nineteen (119) spaces.

Project Landscaping - The concept plan approved in 2005 for the Glen Rock showed street trees on both sides of Depot, Bartlett, and Ralph Streets and on both sides of Else Alley. MHO is requesting modification to that approved concept plan. First, the trees on Bartlett, Ralph and Else Alley were shown as alternative compliance in lieu of buffer that could not be provided due to site constraints. Buffer is no longer needed under the City's new landscaping ordinance approved in 2007. Next, there are significant utility conflicts on and off the site which prohibit planting all trees as originally proposed. (City Exhibit 5 – Site Plan)

Because of these constraints, MHO is requesting an amendment to allow modification of their landscape plan as follows:

- Reducing the number of street trees on the MHO property along Ralph by one. Bulbouts with groundcover will be placed on both sides of the street.
- Street trees along Bartlett and Depot Streets – Due to utility conflicts MHO will place shrubs and groundcover in bulbouts and evergreen trees (some in planters) along with shrub border at arcade wall along these streets.
- In lieu of meeting the technical standards of the ordinance regarding landscaping, a request to instead add additional plantings throughout the site in courtyards, islands, along walkways and along the building façade.

On December 21, 2009, these proposed amendments were reviewed by the City's Technical Review Committee. The committee approved these changes with the conditions.

City Council must take formal action as set forth in section 7-9-9(c)(4) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case (UDO 7-16-2(c)).

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposed project has been reviewed by City staff and previously by the Asheville City Council and appears to meet all public health and safety related requirements once the conditions enumerated by the Technical Review Committee are met. The project must meet the technical standards set forth in the UDO, the City Standards and Specifications Manual, the North Carolina Building Code and other applicable laws and standards that protect the public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The applicant is incorporating the gradual slope of the property in the design of the proposed new mixed-use building. The developer is incorporating the channeled Town Branch Creek into the project and is proposing a clean up of the area surrounding the creek and the creation of a public amenity along the creek.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The Glen Rock development is being developed in a once vibrant area of Asheville that has experienced neglect in recent years. The design of the project is meant to bring vitality back to the area by bringing in a mix of uses at a significant density and by including a number of amenities to enhance the livability of the entire area. Significant vegetation is proposed to further enhance the beautification of the property that will be brought about as a result of this project.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The Glen Rock hotel building will basically be used in its current configuration on the property. The Urban Place District is envisioned for further application in this area and other locations along the urban riverfront to encourage redevelopment of the same scale and density as is seen in the Glen Rock and the Wilma Dykeman Plan envisions precisely this scale of development.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The *Asheville City Development Plan 2025* calls for the promotion of adaptive reuse of vacant and underutilized structures and encourages the construction of affordable housing throughout the community. The City's smart growth initiative, contained in the comprehensive plan, encourages mixed use developments and compatible, higher density commercial and residential development.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

Development on the site will require final technical approval from all applicable departments including representatives of the Water Resources, MSD, Engineering, Fire and Building Safety Departments. While transit does not currently service the location, the developer is examining the issue of providing transit services with the City's transit services staff.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The City's Traffic Engineer has reviewed the proposal and has determined that there are no traffic issues created by this project nor is a traffic impact analysis warranted.

Pros:

- The Glen Rock renovation is the final phase of a development proposed in an area that has been neglected over recent years. It is believed that this development will bring renewed interest in development to this area and vitality that will help to further enhance the livability of the area.
- The project supports numerous goals and strategies outlined in the City's 2025 plan as it relates to affordable housing, infill development, rehabilitation, and smart growth.
- Several amenities (e.g., creek enhancement, pedestrian facilities) are incorporated in the design of this project.

Cons:

- The reduction in parking provisions allowed in the Urban Place District may present some parking issues in the area. However, the developer meets the Urban Place parking requirements and is promoting multimodal transportation at the site.

City staff strongly supports these amendments to a project which it is felt will jumpstart the implementation of the Wilma Dykeman Plan, adaptively reuse an older structure having significant architectural and historic character, and establish a strong residential presence in this underdeveloped area of our City.

Ms. Cindy Weeks, representing Mountain Housing Opportunities, briefed Council of the Glen Rock Depot project. She explained the prior phases and said that they have scaled the project back due to the economy, but are still building the 60 affordable rental apartments as part of the new building. Using photographs, she showed some of the progress to date (Applicant Exhibit 1). The new building at 372 Depot Street, which is a 90,000 square foot building housing 60 affordable apartments and 9,000 square feet of commercial space, is 40% complete. This building will increase the value of that property by about \$6 Million dollars. At the same time as the economic forces were taking place, construction costs decreased so they invested in green and sustainable features in the new building. The new building will be LEED certified and all apartments will have solar thermal heat. She then explained the financing for the renovations of the Glen Rock Hotel and how they hoped to complete it as a historic tax credit project which will bring about \$1 Million in equity to the project. She urged Council to approve the amendment to the conditional use permit.

After hearing no rebuttal, Mayor Bellamy closed the public hearing at 6:13 p.m.

Councilwoman Manheimer appreciated the efforts of Mountain Housing Opportunities. She felt that we are beginning to see in the new economy more creative solutions for financing these kinds of projects and that we can't depend solely on private developers to do affordable projects.

Based on findings of fact as stated by staff, Councilwoman Manheimer moved for the adoption of Ordinance No. 3821 to approve the conditional use permit to the Glen Rock project. This motion was seconded by Councilman Smith and carried unanimously (with Vice-Mayor Newman being excused).

At this time, Vice-Mayor Newman re-entered the Council Chamber.

ORDINANCE BOOK NO. 26 – PAGE 19

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE PROJECT IDENTIFIED AS MISSION OUTPATIENT CANCER CENTER LOCATED ON HAMILTON STREET

ORDINANCE NO. 3822 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE PROJECT IDENTIFIED AS MISSION OUTPATIENT CANCER CENTER LOCATED ON HAMILTON STREET

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

City Attorney Oast said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory

opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 6:17 p.m.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that this is the consideration of the issuance of a conditional use permit for the project identified as Mission Outpatient Cancer Center located on Hamilton Street for a 229,521 square foot medical building and parking deck, with a request to reduce the required number of parking spaces.

The applicant is requesting review of site plans for the construction of an outpatient cancer center (medical building) and associated parking deck. This project is considered a Level III review pursuant to Section 7-5-9(a) of the UDO which designates review for institutional developments with a gross floor area of more than 100,000 square feet. Level III projects are reviewed as Conditional Use Permits in the Institutional District.

The project site consists of four parcels with a combined area of 3.02 acres (according to submitted site plans) with frontage on McDowell and Hamilton Streets, in between Brooklet Street and Victoria Road. The area is zoned Institutional and is developed primarily with hospital-related uses (Attachments to City Exhibit 3 – Aerial and Location Maps)

The applicant is proposing to construct a new medical building and associated parking structure on the site. The building is proposed to be used as an outpatient cancer center and will be 118,821 square feet and 6 stories tall (approximately 112' feet in height to the top of the highest architectural element at the tallest point of the structure). The associated parking structure is 110,700 square feet and 2 stories tall (approximately 52' feet in height at the tallest point of the structure) for a combined total square footage of 229,521 square feet. The site slopes approximately 30 feet from east (Private Drive) to west (McDowell Street), which results in a variety of height calculations depending on the façade elevation (Attachments to City Exhibit 3 – Site Plans).

The infrastructure shown on submitted site plans as existing is part of a conditionally approved major subdivision (BP # 09-4835) and a proposed road closure, but is not currently in place. Access to the site is proposed from "Private Drive" which is currently Hamilton Street. Plans propose five curb cuts off of "Private Drive" – three for access into the parking structure (to the north of the site), one for trash dumpster access and one for a patient drop-off / pick-up location (at the southernmost end of the project site).

The 2-story parking structure accommodates a total of 348 spaces (projected 147 spaces for staff and 201 spaces for patient use). Five percent of the total number of parking spaces has been designated for bicycle parking. There are sidewalks shown on the McDowell Street, Private Drive and Hospital Drive frontages.

Landscaping required for this project includes building impact landscaping, street trees, street buffer and parking deck screening. Five percent of the lot area is required to be set aside for urban-style open space amenities (0.15 acres). The plans indicate more than the required amount of open space. There are a number of retaining walls on the site – two of which appear to trigger compliance with the retaining wall screening and landscaping requirements. Detailed landscaping review will be completed during the Final TRC process.

The UDO bases parking requirements for medical uses on the footprint of the building. In this case, a range of 475-594 parking spaces are required. The applicant has studied this specific use for the site and has found that a total of 348 spaces are needed (based upon 147 spaces for staff and 201 spaces for patient use). Because the building and use is a component of the overall Mission-St. Joseph's Hospital Campus, staff feels that any overflow parking needs can be adequately addressed through shared parking at existing surface lots and parking structures in the immediate vicinity.

This project was approved with conditions by the Technical Review Committee on November 2, 2009. There was no public comment and as of the writing of this report, no communication has been received regarding this proposal.

The Planning & Zoning Commission reviewed this proposal at their meeting on December 2, 2009. The project received unanimous support (4-0; 2 members recused). There was no public comment. Commissioners discussed how the separate infrastructure improvements address alternative transportation such as bus routes, bicycles and pedestrians. The applicant provided information from the TRC-Major Subdivision review and approval, such as sidewalks and sidewalk connections throughout the project area, provisions for bike lanes and an easement for a future transit stop. There was some discussion about how this project would fit into the closest greenway (sidewalk connections along Hamilton Street/Private Drive north to the Choctaw

greenway).

City Council must take formal action as set forth in Section 7-5-5(e)(3) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case pursuant to Section 7-16-2(c). Staff's review indicates that all seven standards are met as proposed in the site plan.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The project will meet State building code requirements and will be reviewed in detail by the Technical Review Committee to ensure compliance with safety requirements.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The proposed use and development of the land is compatible with the natural and topographic features on the site. There is a change in grade of approximately 30 feet from east to west and the design of the structure and parking garage accommodates this shift including a partial floor on the lower side. There are several retaining walls on the site, primarily located at the southwestern corner of the parcel. These walls will comply with screening standards found in the UDO.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The parcels in the area surrounding this site are largely owned and operated by the Mission Health System for the hospital and medical offices or other similar, supporting uses. All parcels in the immediate area are also zoned Institutional. This general location has been established as a medical hub for some time. The Outpatient Cancer Center is expected to be a complimentary use and should not injure the value of adjoining or abutting properties.

Although not a part of this application, the owners of several properties in the immediate area have raised concerns about the impact of TRC-approved roadway improvements on the value of their properties. Those property owners are, however, meeting with representatives of Mission Health Systems and City staff and there is good progress toward an agreement, while not yet a final solution.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The new Outpatient Cancer Center is proposed at 6 stories in height, which is similar to other structures in the immediate area and while there are some lower buildings nearby, this development is proposed in a design similar to other buildings and structures on the Health Systems campus. There will be significant vegetation on the site with trees, shrubs and both green open space as well as a hardscaped open space area along Hospital Drive, reducing the coverage of structures on the lot. This site is an appropriate location for a medical use and this development is compatible with the scale, bulk, coverage and character of the area in which it is located.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The Asheville City Development Plan 2025 refers to the Sustainable Economic Development Strategic Plan, which notes that the top strength of the City is "availability of adequate health care." Furthermore, Goal IV in the Land Use & Transportation section recommends that "the City should enhance its role as western North Carolina's regional medical and education center," with the specific strategy of working with Mission-St. Joseph's Health System in the implementation of their Master Facilities Strategic Plan. This proposal enhances and expands the region's access to medical services and furthers the goals of the Hospital's master planning efforts.

Additionally, this project is proposed to be LEED certified, which aligns with Smart Growth policies recommended in the Plan.

Although not specifically linked to this approval, the associated roadway improvements in the immediate area that make this project feasible directly support goals in the transportation section of the Plan that seek to make infrastructure improvements that will support economic development and community needs. The Plan does recognize all modes of transportation, including cars, transit, bikes and pedestrians – this proposal is proximate to four transit routes and sidewalks are included on all street frontages. The Bicycle Master Plan does recommend bike lanes along Victoria Road, which has been noted in the TRC Staff Report and was discussed by the Greenways Commission during their evaluation of associated roadway closures.

This proposal works to achieve City Council's goals on being green by seeking LEED certification on the facility and on sustainability by the commitment to infrastructure with the related roadway improvements. Although not a part of this Level 3 review, the project is linked with improvements to Victoria Road and the creation of Hospital Drive, which will provide a link between Biltmore Avenue and McDowell Street, easing and improving traffic issues and congestion between the Health System campus, A-B Tech and Asheville High School.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

This proposed development is located near major road facilities and interstate connections as well as proximate to several transit lines (Rtes. 4, 8, 6 & 12). In addition, the project has been reviewed by the Technical Review Committee who found that existing infrastructure appears adequate and preliminary review has not revealed any problems for future service to the development.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The proposed project has been reviewed by the City's Traffic Engineer. Based on the proposed street infrastructure improvements that were approved by TRC as a part of a separate Major Subdivision review, this development is not expected to cause undue traffic congestion and/or create a traffic hazard. This development was included in a traffic impact study that identified the need for the proposed street infrastructure improvements.

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

Pros:

- The proposal satisfies a key goal in the comprehensive plan which seeks to advance and maintain a top strength of the City – the availability of health care.
- The applicant will be seeking LEED certification, meeting key “green building” goals of the City.
- Parking for the project is proposed in a structured deck, thereby reducing the impervious area that a surface lot would consume.
- Related infrastructure improvements will create and enhance connectivity between Biltmore Avenue and McDowell Street.

Con:

- The applicant is seeking a modification for a reduction in parking based on the specific use – the parking provided does not satisfy the requirements of the UDO.

Staff recommends approval of the Level 3 development proposal for a new outpatient cancer center and associated parking structure as proposed, including support for the parking requirement modification.

Mr. True Morse, Director of Facility Planning at Mission Hospital, reviewed with Council a PowerPoint (Applicant Exhibit 1) and provided Council with the vision statement of the Cancer Center - “to create a regionally integrated and economically viable comprehensive Cancer Center of Excellence to reduce risk of cancer and improve cancer survival for citizens in WNC.” Using pictures he showed the Mission Campus now, showing Victoria Road; the Mission Campus in the future with Hospital Drive; and the Cancer Center site plan. He urged Council to adopt the conditional use permit for this very important project.

Ms. Karen Grogan, Administrative Director of Cancer Services at Mission Hospital, explained the physical structure of (1) 118,000 square foot building - \$59 Million Cancer Center, deck and equipment; (2) dedicated parking deck of 348 spaces (a) high mileage vehicles/bicycles; and (b) parking space variance; (3) five stories – top floor unfinished – flexible space; (4) Mission Hospital's first LEED certified building (a) dedicated recycling/14% energy efficiency; (5) location on McDowell side of Mission Campus; and (6) Victoria Road redesign (a) Hospital Drive will be 5 lanes/easy access to Center. She explained the Cancer Center facility building and stacking. The need for Cancer Center of Excellence (1) must prepare for expected growth in outpatient volume; (2) improve cancer survival and reduce risk; (3) consolidate outpatient services for access and efficiencies; (4) stop outward migration for services provided in WNC – Spares families from traveling for treatment; (5) space to house cutting edge technology; (6) expand clinical cancer research; (7) offer multi-disciplinary disease clinics; (8) expand pediatric and adolescent oncology services and space; (9) incorporate integrative therapies with traditional cancer treatment; and (10) align a National Cancer Institute site. She explained the benefits of a formal affiliation with UNC-Chapel Hill (1) expanded access to clinical trials and research; (2) enhanced telemedicine capabilities; (3) expansion of Mission's patient navigator program; (4) hire oncology medical director with faculty appointment at UNC; and (5) access to survivorship programs. She requested approval of the proposed Cancer Center facility and adjoining deck, with parking space variance, to be located on Hospital Drive.

The following individuals spoke in support of the conditional use permit:

Mr. Fred English (who requested an item in the Center be named in memory of his daughter-in-law Marcy Rogers Stamey who worked at Mission Hospital)
Mr. John Locke, Mission Health Care Foundation, on behalf of Vice-Chair
Dr. Eric Kuehn, Oncologist at Mission Hospitals
Dr. Orren Beaty, Pediatric Oncologist in Asheville, N.C.

After rebuttal, Mayor Bellamy closed the public hearing at 6:39 p.m.

Based on findings of fact as stated by staff, Councilman Russell moved to adopt Ordinance No. 3822, approving the Conditional Use Permit for the proposed master plan for the Mission Outpatient Cancer Center including the parking requirement modification subject to the conditions recommended by City staff and the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (5) This project will undergo final review by these TRC prior to issuance of any required permits. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 26 - PAGE

C. PUBLIC HEARINGS REGARDING THE STORMWATER AND EROSION CONTROL ORDINANCE

Councilman Russell moved to table the stormwater and erosion control ordinances pending review by the City Council Planning & Economic Development Committee, as Council had additional questions about the ordinances that staff had not previously answered. This motion was seconded by Councilwoman Manheimer and carried unanimously.

When Mayor Bellamy asked for comments on the motion (prior to it being adopted), no one spoke.

V. UNFINISHED BUSINESS:

A. DISCUSSION OF VARIOUS STRATEGIES PROPOSED IN THE DOWNTOWN MASTER PLAN RELATED TO PROJECT REVIEW PROCESSES

Planning & Development Director Judy Daniel said that this is the first portion of the conceptual overview of the Downtown Master Plan. She gave a brief overview of the process which started last spring. The committees that are looking at the Unified Development Ordinance (UDO) changes are reviewing the elements segment by segment. The first segment is this process steps. She explained that once the Downtown Commission subcommittee has looked at it, it goes to the Planning & Zoning Commission and normally they would go before the City Council Planning & Economic Development Committee (PED); however, the PED Committee did not meet in November or December of 2009. They then moved the process steps forward to City Council review, since this is only a conceptual overview and no action is a part of this. This will come back to Council as a complete package.

Mayor Bellamy asked that in the future all items go before the PED Committee prior to coming before the full Council.

Urban Planner Julia Cogburn said that this is consideration of various strategies proposed in the Downtown Master Plan related to project review processes.

Earlier this year, Asheville City Council adopted in concept the Downtown Master Plan, following almost a year of public forums and meetings. At the time of adoption, Council directed staff to begin looking at the implementation of the various elements contained in the plan. Five subcommittees have been established by the Downtown Commission (DTC) to work on this implementation. One of these subcommittees, the Downtown Master Plan Urban Design Subcommittee (UDS), is charged with reviewing the elements of the Master Plan that will result in amendments to the Design Guidelines for Downtown and amendments to the Unified Development Ordinance (UDO).

The UDS began its work by looking at the review process recommendations in the plan. Strategy 6 of the plan calls for making downtown project review "transparent, predictable, and inclusive of community input." Staff identified eleven action steps contained in the plan that target this goal for project review. These eleven action steps are noted on a matrix included with this report. The matrix notes the element, describes current practice on each issue, lists any current UDO reference(s), suggests a

UDO amendment to enact the change, provides staff commentary as appropriate, and details the recommendations/comments of the Urban Design Subcommittee and the Downtown Commission on each issue. The matrix also contains suggestions on variance and appeals processes which were not clarified in the Downtown Master Plan.

The proposals for change summarized in the matrix were reviewed by the DTC on November 13, 2009. While there was general acceptance of most of the Committee recommendations, there was not agreement among all members present regarding Action Step 6D, as noted on the matrix. These proposals were present to the Planning and Zoning Commission (P&Z Commission) on Thursday, November 19th, and their recommendations are included in the matrix. At this meeting, City Council has the options of directing staff whether or not to proceed with these proposals and draft them into code amendments for review and approval or make any changes to the proposals before drafting the code amendments.

The staff will be bringing the recommendations of this Committee to the Council over the next several months as the Committee completes its work. Each report will include the Committee recommendations and the comments/recommendations of the Downtown Commission and the Planning and Zoning Commission. When the Council has had the opportunity to review all of those recommendations, and request any changes to those recommendations they may choose; the staff will bring the drafted code amendments to Council for a vote. At this time it is anticipated that the work of this Committee will require several more months.

This action supports the City Council Strategic Operating Plan goal of completing the Downtown Master Plan process and beginning implementation of the plan.

Pros:

- The recommendations are the first step in implementation of the review process elements of the Downtown Master Plan.
- The recommendations have been reviewed in detail and deliberated by a subcommittee appointed by the Downtown Commission.
- One of the recommendations suggests Council have discretion over the largest of projects in the downtown "core." This differs from the master plan recommendation that Council only review on technical merits.

Cons:

- One of the recommendations suggests Council have discretion over the largest of projects in the downtown "core." This differs from the master plan recommendation that Council only review on technical merits and reservations regarding that element were expressed by some members of the Downtown Commission.

The Planning & Zoning Commission, Downtown Commission and Design Action Committee recommendations are presented on the matrix.

Ms. Cogburn then went into detail of the recommendations. She said the process elements include (1) First Review of Urban Design Subcommittee – Process Elements; (2) DTMP Strategy 6 – DT project review to be "transparent, predictable, and inclusive of community input."; (3) 11 Action Steps Identified by staff; (4) Suggestions on Variances and Appeals – Silent in Plan; and (5) Matrix created.

For Action Step 6A1, the following applies:

- Recommendation - large projects require early developer sponsored meetings
- Current practice – highly recommend that the developer meet with representatives of the neighborhood
- Suggestion - Level II and III project meetings be mandatory at design phase of project; Level I projects recommend meetings
- Suggestion – DTC recommends meetings should require certain notification – posting; advertising; letter to owners within 200 feet
- Meeting to be developer organized and run; staff attends to provide information on process
- Consensus agreement on most proposals from DTC, P&Z Commission, and staff
- Disagreement about advertising: DTC supports, staff and P&Z Commission do not recommend required advertisement

For Action Step 6A2, the following applies:

- Recommendation – All official review meetings should have advertised opportunity for public attendance and input

- Current practice – All official review meetings are advertised; DTC does not list projects being reviewed in the advertisement of their meeting
- Consensus agreement – UDS and DTC with proposed recommendation. Would require project listing in DTC advertisement

For Action Step 6C1, the following applies:

- Recommendation – Revise project level definitions to alter the thresholds for downtown proposals.
 - Level III – Above 175,000 square feet or above the Intermediate Height Zone (145 feet)
 - Level II – 20,000 to 175,000 square feet and up to the Intermediate Height Zone
 - Level 1 – less than 20,000 square feet
- Current practice – UDO levels same for all districts.
- Consensus agreement of UDS, DTC, and P&Z Commission with proposed recommendation. Still evaluating threshold levels.

For Action Step 6C2, the following applies:

- Recommendation – Require formal written findings detailing how a project does or does not meet requirements
- Current practice – Provide formal written reports on all reviews
- Consensus agreement of UDS, DTC, and P&Z Commission with proposed recommendation. Formalize by placing in ordinance

For Action Step 6C3, the following applies:

- Recommendation – Level I reviews should be handled at staff level including design review
- Current practice – Same as recommendation
- Consensus agreement of UDS, DTC, and P&Z Commission to continue current practice

For Action Step 6C4, the following applies:

- Recommendation – Level II review to TRC first, then to DTC, then to P& Z Commission (final reviewing body)
- Current practice – Projects go to DTC first, then to Technical Review Committee (TRC) (final reviewing body)
- Consensus agreement of UDS, DTC, P&Z Commission with proposed recommendation.

For Action Step 6C5, the following applies:

- Recommendation – Level III projects reviewed by TRC first, then to DTC, then to P&Z Commission, final review by Asheville City Council
- Current practice – Projects go to DTC first, then to TRC, then P&Z Commission, and to Council as a Conditional Use Permit (CUP).
- Consensus agreement of UDS, DTC, and P&Z Commission with proposed recommendation. Significant discussion on type of review to be conducted by Council.

For Action Step 6D, the following applies:

- Recommendation – Apply the CUP process only to projects on conditional use permit listing for Central Business District (CBD) (not reviewing based on size)
- Current practice – All Level III projects are treated as CUPs allowing City Council the ability to evaluate a project more

broadly and add conditions

- No Consensus - DTMP found CUP problematic, did not like quasi-judicial process. Called for more stringent rules with greater certainty in approval.
- Significant discussion by UDS and DTC on review of largest projects: Should there be some discretion for Council? If no discretion is review repetitive?
- UDS recommended:
 - Level III projects in the “core” to require conditional zoning approval (not quasi-judicial but is a legislative decision).
 - Projects outside the “core” also go to Council but would only be reviewed on technical merits.
- DTC – no consensus; mixed views.
 - Concerns expressed about not following a central premise in the DTMP.
 - Others felt that Council needs to have wide latitude in reviewing the largest projects, particularly in the traditional downtown.
- P&Z Commission consensus agreement on DTC proposal

For Action Step 6E, the following applies:

- Recommendation – Large development proposals with phased components should submit a master plan
- Current practice – May submit a master plan but it is not required
- Consensus agreement of UDS, DTC, and P&Z Commission to require a master plan when phasing a project

For Action Step 6I, the following applies:

- Recommendation – Establish a time limit between submission and written findings for each project review step
- Current practice – DTC recently adopted bylaws change:
 - Review limited to 120 days without developer concurrence.
 - TRC required to take action within 10 days of review of plans. Level I projects have 10 day turnaround. Council and P&Z Commission generally take action within two meetings on an item
- Consensus agreement of UDS, DTC, and P&Z Commission that with this change it is unnecessary to do anything but codify the DTC review limit of 120 days

For Action Step 6J, the following applies:

- Recommendation – Allow project sponsors to choose immediate project review by Council if: project review has extended past time allotted; design approval has been denied for not meeting standards; in lieu of making a contribution to Community Benefits Fund
- Current practice – No process to skip to Council in project review
- Consensus agreement of UDS, DTC, and P&Z Commission that not necessary to do anything at this time with bylaws change by DTC and no Community Benefits Fund

For variances, the following applies:

- Recommendation – Not addressed in DTMP
- Current practice – Variances from UDO requirements are heard by the Board of Adjustment (BOA). The DTC can modify guideline requirements as they are voluntary in compliance. Council can grant modifications to certain UDO requirements as part of a CUP or Conditional Zoning review

- Consensus of UDS, DTC, and P&Z Commission to allow staff to flex up to 10% of some standards – setbacks; openings; expanses of wall. All other variances would go to P&Z Commission. *Exception* – alternative compliance to Tree Commission

For appeals, the following applies:

- Recommendation – Not addressed in DTMP.
-
- Current practice – Appeals from staff go to the BOA. There are no appeals from DTC as compliance is voluntary. Appeals from P&Z Commission go to Council. Appeals from Council go to courts.
-
- Consensus agreement of UDS, DTC, and P&Z Commission that appeals from staff or DTC go to P&Z Commission. Appeals from P&Z Commission go to Council. Appeals from Council go to courts.

Next steps include: (1) Get Council direction on these issues; (2) Begin drafting ordinance amendments; and (3) Return through process for review and approval of ordinance amendments.

Ms. Cogburn responded to various questions/comments from Council noting direction from Council on the individual issues; some being, but are not limited to, how does this coincide with Council looking at an overall revamping of the UDO; with a substantial change in the review process tied in with more stringent regulations (for not such a subjective review process), it seems difficult to adopt the segments in phases; recommendation to be consistent regarding the core area and the traditional downtown area; concern about setting the 145 ft. height level is a de facto limit (and the square footage limit) because builders will stay at that limit rather than going through Council approval; concern of raising the Level III review from 100,000 to 175,000 square feet; concern that people expect City Council to listen and make decisions and projects outside the core area would only be a Council review on technical merits; how as the 10% number arrived at for flexing variances; are there appeal provisions for citizens with standing or special damages; is there some process available for appeals at various levels of the process even though a quasi-judicial decision is not being made; what kind of review is the Planning & Zoning Commission level for a Level II project; question if the Downtown Review Commission limit of 120 is short enough; concern that a project would have to go through four different committees even though the standards are laid out; request that not so many ordinances are brought back to Council for review at one time; request staff use visualization tools when bringing the rest of the segments to Council; request for a clear sense of how the parcels connected to Pack Square Park will be considered with the core threshold of 175,000 square feet; Strategy 6C1 and 6D appear to be in conflict; is it possible for Council to review projects in concept prior to the Technical Review Committee so that if Council does not approve of the project it will save the developer time and money from proceeding further in the process; and is there an appeal process whereby an appeal from the Planning & Zoning Commission goes straight to the Courts, by-passing City Council.

When Ms. Daniel asked to come back to Council in early May with an update, Mayor Bellamy asked that the review go through the PED Committee first.

It was the consensus of Council to instruct staff to begin the process of drafting the ordinance amendments, based on comments by Council, and then take it through the PED Committee, prior to coming before the full Council.

B. ASHEVILLE ENERGY INDEPENDENCE INITIATIVE

Vice-Mayor Newman explained the Asheville Energy Independence Initiative, which is a community campaign to create jobs, promote stewardship, and save money for businesses and families in Asheville. This topic was discussed by Council last year in conceptual form when we were going to the state legislature asking for legislative authorization to even consider having such an initiative. The legislature has taken steps to grant authorization to cities for these type of energy efficiency initiatives.

He said that Asheville has never been afraid of being a leader in supporting clean energy with citizens and political leaders from Asheville and Western North Carolina who developed and championed the passage of the North Carolina Clean Smokestacks Act in 2002, which committed our state to the strongest clear air standards in the nation. As a result of passing that legislation the Progress Energy power plant here in Asheville is 95% cleaner than it was prior to the technology improvements required by that Act. Asheville has also been a leader by committing ourselves to reduce our energy use by 80% at a rate of 2% per year on our public facilities. We have been very successful in meeting those commitments and we have saved taxpayers a lot of money in the process. The initiative to reduce energy and carbon pollution from our public facilities is one of the things he is most proud of that we have accomplished over the past several years. We all know that our citizens want Asheville to be a national leader in promoting clean renewable energy and this proposal represents what many people believe to be the most powerful way to create an initiative that our entire community can participate in.

He briefly reviewed with Council the following PowerPoint:

Opportunity and need: (1) There are compelling arguments –from national security, to global warming to job creation– for our country to free ourselves from dependence on polluting fossil fuels; (2) Buildings consume 39% of all energy in the United States and 68% of electricity; (3) There are proven technologies to reduce energy use in a cost-effective manner; (4) Innovative financing models make implementation of energy efficiency measures simple and scalable; and (5) In 2009, NC Legislature provided authority to local governments.

Asheville's Triple Bottom Line: (1) People—Improve public health by investing in clean energy technologies that reduce pollution from fossil fuel power plants and create new jobs in the green economy; (2) Planet—Make Asheville a national leader in improving the environmental performance of our homes and businesses; and (3) Profits—Put professionals in the construction trades back to work and save families and businesses in Asheville money by reducing their utility costs.

Using a chart, he showed the cost comparison of electricity technologies of energy efficiency, solar water heating, landfill gas, pulverized coal, wind, nuclear and solid waste methane.

Progress Energy requests significant rate increases. From WRAL.COM posted Jun 6, 2008. Raleigh, N.C. — Citing the need to cover the soaring cost of fuel for power plants, Progress Energy has asked the state to approve a 16.2 percent rate increase. The Raleigh-based utility filed a petition Friday with the North Carolina Utilities Commission to increase rates by about \$424 million. If approved, the increase would raise the average monthly bill to \$112.57 from the current \$98.86. The Utilities Commission will likely have a public hearing on the request in the fall. If approved, it would take effect Dec. 1.

The program design concept: (1) Partnership between the City of Asheville and property owners who want to invest in energy efficiency improvements on their homes or places of business; (2) City issues bonds or other financing instrument to create Asheville Energy Independence Fund; (3) Property owners access funds (\$5,000- \$20,000 for residential) to finance energy efficiency improvements; (4) Repayment through 10-15 year special assessment on property tax bill; (5) Program should be revenue-neutral (or better) for government, taxpayers and participating families and businesses; (6) Participation by property owners is voluntary; (7) Only property owners who participate pay the assessment; (8) Assessment revenues should be sufficient to repay principal and interest on municipal debt as well as administrative costs for managing the program; and (9) Energy savings should be equal to or greater than costs for paying the special assessment.

Energy efficiency technologies that have less than a 10-year payback:

<u>Technology</u>	<u>ROI</u>	<u>Typical Payback Period</u>
▶ LowFlow Showerheads	100- 200%	1 year or less
▶ Sealing ductwork	50- 100%	1- 2 years
▶ Weather-stripping	35- 40%	2- 3 years
▶ Programmable thermostat	50-75%	2-3 years
▶ Attic insulation	15- 25%	4 - 6 years
▶ CFLs	50-75%	2-3 years
▶ LEDs	10- 15%	6- 10 years
▶ Motion-sensors	25- 50%	2- 4 years
▶ Solar thermal systems	10- 20%	5- 10 years
▶ HVAC upgrade	10- 20%	5- 10 years
▶ Geothermal	8- 15%	7- 12 years

Process for property owners to participate: (1) Interested property owners fill out an application; (2) Energy audit performed to identify opportunities for cost-effective energy efficiency measures; (3) Property owner applies for funding and receives approval; and (4) Energy improvements for the home/business are installed.

Benefits for homeowners and business owners: (1) Eliminates upfront cost of energy project; (2) Special assessment transfers with property ownership; (3) Fixed repayment rate for 10- 15 years; and (4) Reduction in annual utility expenses should be larger than cost of assessments.

Opportunities for Job Creation:

Oct. 2008 -- 176,600 jobs in Buncombe County

Oct. 2009 -- 168,400 jobs in Buncombe County

Net loss -- 8,200 jobs

Construction

Oct. 2008 – 10,800 jobs in Buncombe County

Oct. 2009 – 9,100 jobs in Buncombe County

Net loss -- 1,700 jobs – 15.7% decline

- ▶ Based on projections from Sonoma County economic analysis, investment of \$50 million in energy efficiency initiative will generate 563 new jobs. 382 of the jobs would be in construction trades. The initiative would create enough jobs to re-employ 22% of the positions lost in the construction sector during the recession.
- ▶ Investment of \$50 million in the PACE model was also projected to generate \$3.3 million in additional state and local tax revenues. The new tax revenues are primarily through increased sales taxes (ex. purchase of equipment and materials from home improvement retailers) and income taxes as people return to work and begin paying taxes again.

Benefits for City of Asheville: (1) Improvement to Asheville's older housing stock and commercial facilities; (2) Pressure to construct additional power plants, which require utility rate increases, is reduced; (3) Program is essentially self-funding; (4) No liability to General Fund. City should charge enough interest to cover debt repayment and administrative costs; and (5) Strengthen Asheville's position as a leader for developing clean energy and green jobs.

Advantages of Assessment vs. Loan: (1) Assessment runs with property rather than individual. People defer energy investments because they do not know how long they will live in their home; (2) Provides City with strong security interest to assure repayment; and (3) Simple, low-cost method of collecting funds.

Case Study: The Jones Family: (1) After energy audit, the Jones family applies for and receives \$10,000 from Energy Independence Fund. Installs solar thermal system (\$6,500) attic, insulation (\$700), energy efficient windows (\$2,400) and more efficient lighting (\$400). Total investment = \$10,000; (2) Homeowner receives several credits and rebates, total = \$4,895 (a) Solar tax credits (\$1,950 federal+\$1,400 NC) = \$3,350 total; (b) Energy efficiency tax credit (for building envelope– windows and insulation)- \$930; and (c) Progress Energy rebate for windows (\$240) and insulation (\$375) -- \$615; (3) Homeowner repays \$10,000 over a 15 year period at 6.25% interest = \$85 per month/ \$1020 per year; (4) In year one, homeowner reduces energy costs by \$700 (assumes annual energy costs are \$2000 and achieves 35% reduction; (5) Over 15 years, home owner receives \$18,912 in energy benefits and tax credits (assumes 4% annual increase in cost of electricity/ natural gas); (6) Over 15 years, homeowner pays \$15,420 to repay special assessment taxes, for a net benefit to homeowner of \$3,492; and (7) After year 15, homeowner continues to have lower energy payments but no longer makes any special assessment payments.

Environmental benefits: (1) Retrofitting 1,000 homes like the Jones' would reduce electricity use by 3,850,000 kWh per year and reduce natural gas use by 231,000 Therms; and (2) Carbon reduction equivalent of taking 1,000 cars off the road or planting 40 acres of trees.

(Assumes each home uses 1,100 kWh per year of electricity and 660 Therms of natural gas and that each are reduced by 35%)

Start Small – Think Big: (1) Recommend launching Asheville Energy Independence with a pilot program. Monitor and evaluate results; (2) If successful, scale-up the program in 2011- 2012; and (3) If want to make a real impact on carbon footprint, peak power demand and job creation, we need to invest \$50 million or more in Asheville Energy Independence over the next three to five years (a) 2000 homes at \$15,000 each = \$30 million; and (b) 500 business at \$40,000 each = \$20 million.

Resources for further information include: (1) www.progress-energy.com/custservice/carres/efficiency/programs/heip/index.asp; and (2) www.pacenow.org.

Vice-Mayor Newman also presented Council with the Sonoma County Energy Independence Program: Employment and Economic Impact Analysis and Estimation. This is an analysis of the potential for this type of initiative to create jobs.

Vice-Mayor Newman's proposal for consideration is to (1) Request for City Council to approve Asheville Energy Independence Initiative in principal; (2) Direct City Manager to develop a pilot program to be implemented in 2010. Ideally, project can progress enough so that some work can be completed this calendar year to take advantage of strong national incentives for energy efficiency investments; (3) Work with staff and Sustainable Advisory Committee on Energy & the Environment (SACEE) to flesh out program details; (4) Explore whether Buncombe County may be interested in partnering in the program; and (5) Evaluate results of pilot program prior to extending or expanding the project.

The following individuals spoke in support of the Asheville Energy Independence Initiative:

President and Co-Owner of Asheville Geothermal
Representative of 1600 Members of the Sierra Group
Ms. Grace Curry, Asheville resident and member of local Sierra Club
Chair of the Board of Directors of the Blue Ridge Sustainability Institute and a
Senior Advisor to the Institute
Ms. Michelle Smith, Asheville homeowner
Member of Build Smart Alliance, employee of Sundance Power Systems and
Local Renewable Energy and Asheville resident
Building Scientist/Energy Auditor and Greenbuilding Consultant
Board Member of Green Building Council
Employee of the N.C. Dept. of Commerce in Sustainable Economies and Asheville
Resident
Representative of Biltmore Farms
Representative of Green Opportunities
Buncombe County Commissioner Holly Jones

Councilman Smith said that what this program will do is create the conditions for a truly green economy in Asheville and in western North Carolina. As the County and the surrounding areas mimic our success it will be our local businesses that are strong enough and well positioned to meet those needs as they begin to implement this same program. This will have a ripple effect for years to come for our local businesses. In tandem with our high tech earth science corridor and the other green infrastructure we hope to implement in the future, Asheville is going to be a national leader in this green economy. The job growth is only the beginning for us. This project is the beginning of something that is very crucial to our economic future.

Councilman Russell explained that we will definitely need some additional funding sources because we have a lot of other programs, debt service, and master plans to be funded. However, anything that could potentially work, be revenue neutral to the City and create this type of outcome is exciting.

Councilwoman Manheimer is supportive of the concept if staff putting together a plan that Council can review to see if it is possible to implement this program and she is supportive of the goal. She would need to understand the difference of how would the financing work, e.g., why wouldn't people get a home equity line; and, what kind of protection is the City afforded if someone were to default on repayment. Those are the type of questions that Council will to discuss to ensure that we are protecting our City's finances and our citizens who rely on the City maintaining a strong financial position. However, she felt this recession is calling on a new day for private/public partnerships that create jobs and create a new economic outlook.

Councilman Davis felt this is an exciting initiative, but he is cautious as well. He is supportive of the program, but he felt the details of the program will require a lot of staff time to research.

Councilman Bothwell was supportive of this initiative and noted that the houses that are most in need are usually the ones in worse shape and are the older homes that are more likely to be low income houses. Although the intent is not particularly an affordable housing issue, this would address it in some ways. He felt positive that we will find models for this because towns as small as 1,600 people have working models.

Mayor Bellamy wanted to be clear that staff will be doing research on this concept only and felt this should be a key agenda item for the Finance Commission to look at on an on-going basis. She could not, however, support investing \$50 Million at this time because Council must look at all the capital needs of the City. Council heard at their retreat that the capital needs of the City is \$270 Million and that doesn't include a performing arts center and other projects that the community wants Council to support. She did support staff researching this concept. She questioned if the \$250,000 from the Department of Energy for the competitive grant for community projects process might be available, and perhaps some money from the Community Development Block Grant funds. Keeping our limited budget in mind, Council has been asked to clean up downtown, expand greenways implement different master plans and support a lot more issues that impact our City. She felt that in the future we need to look at a true bond program (not just for energy efficiency) because there are a lot of needs in our community. As we go forward with this concept, as it comes back to Council, the community needs to understand that this will be a pilot program. The pilot program must be successful and we need to make sure we are good stewards of the City's tax dollars. She asked that Council, in the future, hear from Mountain Housing Opportunities on their rural rehabilitation program is a model for review.

Councilman Bothwell moved to (1) Approve the Asheville Energy Independence Initiative in principle; (2) Direct City Manager to develop a pilot program to be implemented in 2010. Ideally, project can progress enough so that some work can be completed this calendar year to take advantage of strong national incentives for energy efficiency investments; (3) Work with staff and SACEE to flesh out program details; (4) Explore whether Buncombe County may be interested in partnering in the program;

and (5) Evaluate results of pilot program prior to extending or expanding the project. This motion was seconded by Councilwoman Manheimer and carried unanimously.

C. SIX-MONTH REVIEW OF THE ROADSIDE SOLICITATION POLICY

Police Chief Bill Hogan said that City Council established a policy for granting approval of roadside solicitation requests on May 12, 2009, and resolved to review this policy 6 months after its implementation.

Asheville City Council established a policy for granting approval of roadside solicitation requests on May 12, 2009 (Resolution 09-87) in accordance with N.C.G.S. 20-175 which authorized roadside solicitation under certain circumstances. Since the adoption of this policy, the City of Asheville has received two requests for roadside solicitation. These requests were from the Asheville Firefighter's Association (AFFA) for Fill the Boot events in conjunction with the Muscular Dystrophy Association (MDA). These events were held in May and September of 2009. There were no safety issues or problems identified by the Asheville Police Department during these events.

The Public Safety Committee reviewed this update on November 17, 2009, and agreed to make no changes to the current policy.

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

Pro:

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

Cons:

- There has not been an increase in the first 6 months of this policy; however, Council may see an increase in requests for roadside solicitation from a variety of organizations in the future.
- Standing in the roadway, even with a vest, is an inherently dangerous activity.

City staff recommends that City Council continue the roadside solicitation policy currently in place.

- In order to increase the safety of those participating in roadside solicitation, staff would like to suggest the City require advanced signage that warns motorists that a solicitation is taking place and to slow down since pedestrians are in the roadway.
- The City may wish to produce the signage to be used and rent or loan it to an approved organization to notify oncoming traffic that they are approaching an intersection where solicitation is taking place.

Councilman Davis moved to continue the roadside solicitation policy with the City requiring advanced signage. This motion was seconded by Councilman Russell and carried unanimously.

VI. NEW BUSINESS:

A. RESOLUTION NO. 10-3 – RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for vacancies on the Board of Adjustment, they made the following recommendations: (1) appoint David Brown (Regular member) to fill the unexpired term of Councilwoman Manheimer, to serve until January 21, 2011; (2) reappoint Kristy Carter and Phillip Harden (Alternate members) to serve a three-year term respectively, term to expire January 21, 2013; and (3) appoint Douglas Hattaway (Alternate member) to serve the unexpired Alternate term of David Brown, term to expire January 21, 2011. All appointments are until their successors have been appointed.

Councilman Russell moved to make the appointments as recommended by the Boards & Commissions Committee as noted above. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 311

B. CIVIC CENTER COMMISSION

It was the consensus of Council to instruct the City Clerk to re-advertise for the vacancy on the Civic Center Commission.

C. RESOLUTION NO. 10-4 – RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for a vacancy on the Asheville-Buncombe Community Relations Council, they recommended appointing Sharon West.

Mayor Bellamy moved to appoint Sharon West (to replace Craig White) to serve a three-year term, term to expire December 31, 2012, or until her successor has been appointed. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Councilman Bothwell voting “no” due to a misunderstanding in the voting process procedure.

RESOLUTION BOOK NO. 32 – PAGE 312

D. RESOLUTION NO. 10-5 – RESOLUTION APPOINTING MEMBERS TO THE DOWNTOWN COMMISSION

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for vacancies on the Downtown Commission, they made the following recommendations: (1) appoint Michael McDonough to fill the unexpired term of Harry Weiss, to serve until December 31, 2011; and (2) reappoint Guadalupe Chavarria to serve an additional three-year term, term to expire December 31, 2012. Both appointments are until their successors have been appointed.

It was the consensus of Council to instruct City Clerk Bureson to re-advertise the three remaining vacancies, particularly looking for architects or design professionals.

Councilman Davis moved to make the appointments as recommended by the Boards & Commissions Committee as noted above. This motion was seconded by Councilwoman Manheimer and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 313

E. RESOLUTION NO. 10-6 – RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for vacancies on the Sustainable Advisory Committee on Energy & the Environment, they made the following recommendations: (1) reappoint Sasha Vrtunski and Jane Mathews, to serve a three-year term respectively, terms to expire December 31, 2012, or until their successors are appointed; and (2) interview for the remaining position.

After a brief discussion, it was the consensus of Council to instruct City Clerk Bureson to re-advertise for the one position, particularly looking for diversity on the Committee.

Councilwoman Manheimer moved to reappoint Sasha Vrtunski and Jane Mathews, to serve a three-year term respectively, terms to expire December 31, 2012, or until their successors are appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 314

F. RESOLUTION NO. 10-7 – RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for a vacancy on the Firemen's Relief Fund, they recommended reappointing Pat Leckey.

Councilman Russell moved to reappoint Pat Leckey to serve an additional two-year term, term to expire January 1, 2012, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 315

G. RESOLUTION NO. 10-8 – RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE GREENWAY COMMISSION

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for vacancies on the Greenway Commission, they made the following recommendations: (1) reappoint Glen Locascio to serve an additional three-year term, term to expire December 31, 2012, or until his successor is appointed; and (2) interview for the remaining two positions.

It was the consensus of Council to interview Stephen Jones, Bill Jones, M. James Grode and Sandy Tarantino.

Councilman Smith moved to reappoint Glen Locascio to serve an additional three-year term, term to expire December 31, 2012, or until his successor is appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 316

H. RESOLUTION NO. 10-9 – RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD OF DIRECTORS

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for a vacancy on the Metropolitan Sewerage District Board of Directors, they recommended reappointing Mayor Terry Bellamy.

Councilman Russell moved to reappoint Mayor Terry Bellamy to serve an additional three-year term, term to expire January 19, 2013, or until her successor has been appointed. This motion was seconded by Councilwoman Manheimer and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 317

I. RESOLUTION NO. 10-10 – RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE RIVERFRONT REDEVELOPMENT COMMISSION

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for vacancies on the Riverfront Redevelopment Commission, they made the following recommendations: (1) appoint Joe Ferikes and Robert Camille (both representing the riverfront property or business owner) to each serve an initial one-year term, terms to expire January 1, 2011, or until their successors are appointed; and (2) interview for the remaining one position.

It was the consensus of Council to instruct City Clerk Burlison to re-advertise for the one position.

Councilman Russell moved to appoint Joe Ferikes and Robert Camille (both representing the riverfront property or business owner) to each serve an initial one-year term, terms to expire January 1, 2011, or until their successors are appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 318

J. RESOLUTION NO. 10-11 – RESOLUTION APPOINTING MEMBERS TO THE TRANSIT COMMISSION

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for vacancies on Transit Commission, they made the following recommendations: (1) reappoint Hanna Raskin to serve an additional three-year term, term to expire December 31, 2012; (2) appoint Georgia Shannon (to replace Andrew Goldberg) to serve a three-year term, term to expire December 31, 2012; (3) appoint Paul Van Heden (to replace Karen Austin) to serve a three-year term, term to expire December 31, 2012; and (4) appoint Kevin Jenkins to serve the unexpired term of Josh O'Connor, term to expire December 21, 2010. All appointments are until their successors have been appointed.

It was noted that when Josh O'Connor returns from his tour of service that if he wishes he will be placed in the next available seat on the Transit Commission.

Councilman Davis moved to make the appointments as recommended by the Boards & Commissions Committee as noted above. This motion was seconded by Councilwoman Manheimer and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 319

J. RESOLUTION NO. 10-12 – RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that after a review of all applications received for a vacancy on the Tree Commission, they recommended reappointing Laura Uberbacher and Bill Hascher.

Councilman Russell moved to reappoint Laura Uberbacher and Bill Hascher to each serve a three-year term respectively, term to expire December 31, 2012, or until their successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 32 – PAGE 320

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

The following claims were received by the City of Asheville during the period of November 26 – December 23, 2009: Steven Weinrib (Sanitation), Cyndy Howze (Water), Shirnell Langford (Transit), Jeffrey Harris (Transit), Bill Carter (Streets), Eleanor Jones (Streets), Kathleen Campbell (Transit), Richard Jackson (Water), Mike Gratton (Streets), Marcello Bargellini (Sanitation), John E. Willard (Police), Progress Energy (Water) and Eric Woon (Fire). The following claims were received by the City of Asheville during the period of December 23 – December 31, 2009: Lael Kmecza (Streets), Thomas H. Jones (Fire), Louise Kistler (Streets), Lisa Bruet (Water), Fannie Bishi (Streets), Ronald Gates (Streets), Timothy Cutshaw (Transit) and Kaye Coxe-Andrews (Water). These claims have been referred to Asheville Claims Corporation for investigation.

Rev. Christopher Chiaromonte spoke about homeless camps.

Mr. Gene Hampton spoke on Asheville's economic development.

Ms. Patricia Pinner asked for Council's help in obtaining municipal water for 14 homes on Chapel Hill Church Road and Gilmore Drive.

Mr. Aaron Penland urged Council for additional assistance in providing clean water to residents on Chapel Hill Church Road which CTS continues to put hazardous chemicals in the ground.

After discussion about the City's former and present commitment to partner with Buncombe County in extending water lines to the Chapel Hill Church Road area, it was the consensus of Council to instruct City Attorney Oast to prepare a letter to elected and appointed officials, including Congressman Shuler, Senators Burr and Hagan, the local delegation to the N.C. General Assembly, the Buncombe County Commissioners, the NCDENR (N.C. Dept. of Environment and Natural Resources sending them the City's analysis for water line extensions to that area and noting the City's offer for partnership in order to extend water lines into the Chapel Hill Church Road area.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:42 p.m.

CITY CLERK

MAYOR