

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 Gordon D. Smith; City Manager Gary W. Jackson; Assistant City Attorney Martha McGlohon; and City Clerk Magdalen Burleson

Absent: Councilman William A. Russell Jr.

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Bothwell gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING FEBRUARY, 2010, AS “BLACK HISTORY MONTH”

Mayor Bellamy read the proclamation proclaiming February, 2010, as "Black History Month" in the City of Asheville. She presented the proclamation to Elder Alfred Blount with Tried Stone Missionary Baptist Church, who briefed City Council on some activities taking place during the month and was pleased to note that they are getting ready to celebrate their 82nd anniversary.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE CITY COUNCIL RETREAT HELD ON JANUARY 8-9, 2010; THE REGULAR MEETING HELD ON JANUARY 12, 2010; AND THE WORKSESSION HELD ON JANUARY 19, 2010

At Mayor Bellamy's request, it was the consensus of Council to amend the minutes of the City Council retreat held on January 8-9, 2010, as follows: "It was the consensus of Council for Mayor Bellamy to place on a future Council meeting agenda consideration of approval of the RICH Task Force, Mayor's Committee on (Dis)abilities and Mayor's Committee on Veterans in order for these programs to receive City staff resources."

B. RESOLUTION NO. 10-13 - RESOLUTION APPOINTING COUNCILMAN GORDON SMITH TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Summary: Councilman Gordon Smith be and he is hereby appointed as the elected representative to the Americans with Disabilities Act Compliance Committee to serve a term according to the length of his Council term of office.

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C. RESOLUTION NO. 10-14 - RESOLUTION APPOINTING COUNCILMAN JAN DAVIS TO THE CITIZENS/POLICE ADVISORY COMMITTEE

Summary: Councilman Davis be and he is hereby appointed to serve as the ex-officio non-voting City Council member on the Citizens/Police Advisory Committee to serve a term according to the length of his Council term of office.

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D. RESOLUTION NO. 10-15 - RESOLUTION APPOINTING COUNCILMAN GORDON SMITH TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE BOARD

Summary: Councilman Gordon Smith be and he is hereby appointed to serve as the City Council Planning & Economic Development Committee member to the HUB Community Economic Development Alliance Board, until such time as he is no longer a member of the City Council Planning & Economic Development Committee.

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E. RESOLUTION NO. 10-16 - RESOLUTION APPOINTING VICE-MAYOR BROWNIE NEWMAN AS CHAIRMAN TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: Vice-Mayor Brownie Newman be and he is hereby appointed as the City Council representative, to serve as Chairman, to the Police Officers and Firefighters Disability Review Board to serve a term according to the length of his Vice-Mayor term of office.

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F. RESOLUTION NO. 10-17 - RESOLUTION APPOINTING COUNCILMAN JAN DAVIS TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Summary: Councilman Jan Davis be and he is hereby appointed as the ex-officio non-voting City Council representative on the Buncombe County Tourism Development Authority to serve a term according to the length of his Council term of office.

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G. ORDINANCE NO. 3823 - BUDGET AMENDMENT FROM VARIOUS CONTRIBUTIONS TO SUPPORT RECREATION PROGRAMS

Summary: The consideration of a budget amendment, in the amount of \$8038, for contributions to support recreation programs.

The City of Asheville in the Parks, Recreation & Cultural Arts Department has received contributions to support programming and special projects within the department operations. Description of each is listed below.

\$6831.00 from the Asheville Parks and Greenway Foundation to increase the operating budget in the Recreation Division to support cultural art programs, therapeutic recreation, youth summer playground program, youth athletics and senior citizen programs.

\$1,207.08 from miscellaneous donations to support youth recreation programs community centers.

This action complies with the Parks, Recreation, Cultural Arts & Greenway Master Plan in that it makes use of diverse funding sources for successful implementation in the delivery of parks, recreation and cultural art services.

Pro:

- Provide funds to support parks, recreation and cultural arts programming enhancements

Con:

- None

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The City's Fiscal Year 2009/10 operating budget for Parks and Recreation will increase by \$8873. This increase is funded by \$6831 in contributions from the Asheville Parks and Greenway Foundation and \$1207 from miscellaneous donations. Thus, there is no net fiscal impact to the City's budget.

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Staff recommends City Council to adopt budget amendments authorizing the City Manager to increase the budgets for 1) WC Reid Center for Creative Arts by \$3,790, 2) Therapeutic Recreation by \$1,353, 3) Summer Playground Program by \$900, 4) Youth Athletics \$520, 5) Senior Citizen Program by \$268, and community centers by \$1,207.08.

ORDINANCE BOOK NO. 26 – PAGE

H. RESOLUTION NO. 10-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ASSIGN THE LEASE HELD BY PALACE BASEBALL LLC FOR THE USE OF MCCORMICK FIELD TO DEWINE SEEDS – SILVER DOLLAR BASEBALL LLC FOR THE CONTINUED OPERATION OF MINOR LEAGUE BASEBALL IN THE CITY LIMITS OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to assign the lease held by Palace Baseball,

L.L.C. for the use of McCormick Field to DeWine Seeds –Silver Dollar Baseball, L.L.C. for the continued operation of minor league baseball in the city limits of Asheville.

On July 1, 2005, the City entered into a lease with Asheville Tourist Baseball Club, Inc. for the use of McCormick Field to operate a minor league baseball program. On October 7, 2005, the lease with Asheville Tourist Baseball Club, Inc. was assign to Palace Baseball, L.L.C.

On January 5, 2010, Palace Baseball, L.L.C. entered into an asset purchase agreement with DeWine Seeds – Silver Dollar Baseball, L.L.C. Palace Baseball, L.L.C. wishes to assign the lease for the use of McCormick Field to DeWine Seeds – Silver Dollar Baseball, L.L.C. for the continued operation of minor league baseball in the city limits of Asheville. The Parks, Recreation and Cultural Arts Department is committed to working with DeWine Seeds –Silver Dollar Baseball, L.L.C. to make minor league baseball available in the community.

This action complies with the Parks, Recreation, Cultural Art & Greenways Master Plan in that it continues a partnership within the community to take advantage of existing facilities and provide recreation services to the community.

Pro:

- DeWine Seeds –Silver Dollar Baseball, L.L.C. is committed to keeping minor league baseball in Asheville.

Con:

- None

Assignment of the lease will have no impact on the budget as all financial terms will remain the same.

Staff recommends City Council adopt a resolution authorizing the City Managers to assign the lease held by Palace Baseball, L.L.C. for the use of McCormick Field to DeWine Seeds – Silver Dollar Baseball, L.L.C.

Mayor Bellamy said that because the City owns McCormick Field she felt it was important to note that the City will continue the relationship with DeWine Seeds – Silver Dollar Baseball LLC for baseball in our community.

RESOLUTION BOOK NO. 32 – PAGE 326

I. RESOLUTION NO. 10-19 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR A FEDERAL TRANSIT ADMINISTRATION GRANT TO PURCHASE THREE 30-FOOT DIESEL BUSES AND TWO 30-FOOT LOW FLOOR HYBRID DIESEL-ELECTRIC BUSES AND AUTHORIZING THE MAYOR TO EXECUTE THE APPROPRIATE DOCUMENTS TO ACCEPT THE GRANT, IF IT IS AWARDED TO THE CITY OF ASHEVILLE

Summary: The consideration of a resolution authorizing City staff to apply for a Federal Transit Administration (FTA) grant to purchase three 30-foot diesel buses and two 30-foot low floor hybrid diesel-electric buses and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

As previously shared with City Council, the City of Asheville's Transit System fleet consists of a total of 21 buses. 16 of these buses were purchased in 1996 and five were purchased in 2006. Since the typical life cycle for the existing buses is about 10 years, 16 buses are overdue for replacement. Five low floor hybrid diesel-electric buses have been ordered with an expected delivery date during November 2010 and five diesel buses are currently going through the requisition process. The subject grant would provide funding for three diesel buses and two low floor hybrid diesel-electric buses. Assuming the subject grant is approved, only one bus would remain to be replaced.

The Federal Transit Administration (FTA) has announced the availability of discretionary Section 5309 Bus and Bus Facilities grant funds in support of the Department of Transportation's Livability Initiative (Livability Bus Program). The Livability Bus Program will be funded using \$150 million in unallocated discretionary bus and bus facilities program funds to finance capital projects to replace, rehabilitate, and purchase buses. Funds may not be used for operating expenses or preventive maintenance. Through the Livability Bus Program, the Federal Transit Administration (FTA) will invest in projects that fulfill the six livability principles that serve as the foundation for the DOT-HUD-EPA partnership for sustainable communities. These principles include providing more transportation choices, promoting equitable, affordable housing, enhancing economic competitiveness, supporting existing communities, coordinating policies and leveraging investments, and valuing communities and neighborhoods. The deadline to apply for the subject grant is February 8, 2010.

The total cost to purchase the five buses is \$2,400,000. Thanks to Congressman Heath Shuler's office, the City has already received \$532,000 to be used to help purchase two hybrid diesel-electric buses. Therefore, the grant application would total

\$1,868,000 (\$2,400,000 - \$532,000). If awarded, the grant would fund 80% of the cost, which equals \$1,388,000, the City would fund half of the 20% local match, which equals \$240,000, and City staff would request the North Carolina Department of Transportation to provide the additional half of the 20% local match. Staff recommends using the Transit's Capital Reserve Fund to provide the local match. This reserve only allows us to fund five buses, instead of the six that need replacement. City staff has been aggressively looking for funds to replace the aged fleet and a plan is moving forward in the proposed Capital Improvement Program (CIP) for Fiscal Year 2010-11 to fund the subject five buses. This grant opportunity enables us to speed up the process.

This action complies with the current City Council's Strategic Operating Plan by helping to achieve short-term and long-term energy goals and reducing city carbon emissions, helping to establish a multi-modal transportation plan by making transit system improvements, and helping to fully leverage funding for transportation improvements. This action also complies with the capital improvement recommendations included in the Transit Master Plan that was accepted by the City Council on October 27, 2009.

The Transit Commission supports the subject action.

Pros:

- The subject grant, if awarded, would enable the City to replace most of its aged transit system fleet (15 out of 16 buses) that would produce savings in maintenance costs and fuel costs.
- The subject action would help reduce the City's carbon emissions.
- The Federal Transit Administration (FTA) would fund 80% of the subject project cost.
- The North Carolina Department of Transportation (NCDOT) would fund 10% of the subject project cost.
- The City of Asheville's local match has been identified and would not require any additional allocation of funds.

Con:

- A 10% local match in the amount of \$240,000 is required.

The total anticipated cost of the subject project is \$2,400,000. The City has already received \$532,000 for two hybrid diesel-electric buses through the efforts of Congressman Heath Shuler's office. The grant application would total \$1,868,000, with 80% to be paid by Federal funds, 10% by State funds, and 10% by City funds. The City's 10% match, which totals \$240,000, is already included in the Transit Capital Reserve Fund.

City staff recommends City Council to adopt a resolution authorizing City staff to apply for the Section 5309 Bus and Bus Facilities Livability Initiative Program Grant to purchase three 30-foot diesel buses and two 30-foot low floor hybrid diesel-electric buses and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

Mr. Paul Van Heden, member of the Transit Commission, suggested Council take advantage of this opportunity and acquire six buses instead of five, which would mean an additional \$40,000.

After a brief discussion about why staff was recommending five buses, noting that the City's match for five buses is already included in the Transit Capital Reserve Fund and the additional \$40,000 would have to come out of the City's Fund Balance, it was the consensus of Council to proceed with staff's recommendation as we will be pursuing additional grant funds in the future to replace the last bus.

RESOLUTION BOOK NO. 32 – PAGE 327

J. ORDINANCE 3824 - ORDINANCE AMENDING THE WATER POLICIES ORDINANCE

Summary: This is the consideration of an ordinance authorizing the changes in the Water Policies Ordinance.

The Water Policies were last updated and adopted by City Council in November 2007. Since then, Water Resources Staff have reviewed the Water Policies and determined that some sections need to be updated to coincide with current departmental procedures, engineering design standards, and State / Federal laws that the department is required to follow and enforce. Changes to the Water Polices include:

1. I. General, B. Definitions: added a definition for ISO, or International Organization for Standardization. The department is ISO 14001 certified.
2. I. General, D. Contracts: updated this section to be compliant with City of Asheville Purchasing contracting requirements.

3. II. Water Availability: updated the application process to align with current departmental procedures.
4. III. Connection Policy: updated wording to align with current departmental procedures and Water Engineering Standard Specifications and Details.
5. IV. Extension Policy, B. General Specifications, 5.: add clarifying language to define the Pump Station Maintenance Fee and how it is calculated.
6. V. Meters, E. Metering Requirements: changed this section to read:

“Metering options may be found in the Water Engineering Design Standards Manual. All metering shall comply with Section VI: Cross-Connection Control Policy.”
7. VI. Cross-Connection Control Policy: replaced all verbiage in this section to comply with current State and Federal laws as pertains to backflow and cross connection control.
8. X. Water Shortage Response Plan: renamed this section (former title: Water Use Restrictions) and replaced all verbiage with the same wording in the Water Shortage Response Plan to be compliant with State and Federal laws. The State required Water Resources to update this section of the policies. The updated wording in this section has been approved and found compliant with all applicable laws.
9. XII. Interruption of Service, B. Pressure Fluctuations: added “The City of Asheville shall not be liable for any damages to a customer’s plumbing or property caused by high pressure, low pressure, or by fluctuations in pressure in the City’s water mains.” This is our current operating practice.
10. XIII. ISO 14001:2004 / Safety Policies and Procedures: added this entire section:
 - A. The City of Asheville Water Resources Department is ISO 14001 Registered by a third party organization. Contractors are expected to abide by the ISO 14001:2004 Standard while working for or on behalf of the City. Contractors are also expected to abide by all local, state, and federal laws and regulations while conducting business for or on behalf of the City.
 - B. Water Resources staff may inspect any job site at any time. If a job site is found out of compliance with the ISO 14001:2004 Standard or any local/state/federal law, it shall be shut down until the job site is brought in compliance.
 - C. The Director may be contacted for any disputes.
11. XIV. Water Engineering Standard Specifications and Details: added the following section to inform interested parties where they can find Water Engineering requirements since the Standard Specifications and Details are too extensive to include in the policies:

“Refer to the Water Resources Water Engineering Standard Specifications and Details for more requirements.”

This action is part of City Council's Strategic Plan to implement practical water system management and to improve infrastructure installation and maintenance.

Pro:

- Adoption of the change in the Water Policies Ordinance will ensure that the Water Policies are compliant with required State and Federal laws and up-to-date with current departmental procedures.

Con:

- Failure to adopt the change in the Water Policies Ordinance will keep clauses in effect that are not relevant to current procedures or compliant with State and Federal laws.

The changes to the Water Resources Policies do not change any fees, charges, or operating procedures that would affect revenues or expenditures for the department.

Staff recommends City Council adopt the ordinance authorizing the changes in the Water Policies Ordinance to become effective upon adoption.

- K. **RESOLUTION NO. 10-20 - RESOLUTION AMENDING THE 2010 CITY COUNCIL MEETING SCHEDULE TO INCLUDE A WORKSESSION ON (1) TUESDAY, FEBRUARY 9, 2010, AT 2:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL; AND (2) TUESDAY, MARCH 9, 2010, AT 3:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL**

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

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

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

III. PRESENTATIONS & REPORTS:

A. ECONOMIC STIMULUS PACKAGE UPDATE

RESOLUTION NO. 10-21 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH J.L.S. COMPANY LLC FOR THE KIMBERLY AVENUE RESURFACING PROJECT

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 approval of a resolution to award the construction contract for the Kimberly Avenue resurfacing project to J.L.S. Company, LLC, of Arden, NC, in the amount of \$539,995.00.

This is the last of the ARRA projects funded through the French Broad River Metropolitan Planning Organization (MPO). The grant agreements and budget amendments were approved by the Asheville City Council on August 25, 2009. Once this resolution is adopted, the contract documentation will be forwarded to the N.C. Dept. of Transportation (NCDOT) for final reviews and authorizations prior to city contract execution.

The Kimberly Avenue resurfacing project will provide milling, repair, resurfacing, and pavement markings on Kimberly Avenue from Edwin Place to Gracelyn Road/Griffing Boulevard. It will include the addition of a bicycle climbing lane on the northbound side of Kimberly within the project limits. The contract specifies that work may begin as soon as February 1, 2010, and must be completed by October 15, 2010.

A formal request for bids was issued on December 7, 2009, and bids were opened December 30, 2009. The engineer's estimate for the project was \$567,176.16, and the disadvantaged business enterprise (DBE) goal was 10%. The lowest bid was provided by J.L.S. Company, in the amount of \$539,995, which was 4.8% below the engineer's estimate of project cost. The project's 10% DBE participation goal was met in the bid. This is a unit price contract, not a lump sum contract.

<u>Bidder</u>	<u>Address</u>	<u>Bid Amount</u>
J.L.S. Company	Arden, NC	\$539,995.00
Moore & Sons Site Contractors	Mills River, NC	\$562,552.50
Young and McQueen Grading Co., Inc.	Burnsville, NC	\$579,975.05
APAC Atlantic, Inc.	Candler, NC	\$670,642.85

This project supports the City Council's strategic plan goals of proactively pursuing funding opportunities with state and federal economic stimulus packages and leveraging funding for regional transportation improvements.

Pros:

- Improves Asheville's transportation facilities
- Provides long term investment in the City's infrastructure

Con:

- Project management and contract administration will consume staff time and possibly city funds

The cost of the construction contract for the Kimberly Avenue resurfacing project is \$539,995. In addition to this amount, it

is estimated that there will be \$81,000 in construction administration costs, which is based on a 15% MPO allowance for project inspection and materials testing costs. The total cost for the project is thus estimated at \$620,995.

Of this total, approximately \$550,000 in ARRA funds is available. This amount will cover the \$539,995 construction contract and a portion of the \$81,000 in contract administration costs, leaving a balance of \$70,995 to be funded by the city.

Grant Revenue:

ARRA Funding: **\$550,000**

Project Costs:

Construction Contract	\$539,995
Contract Administration	<u>81,000</u>
Total Project Costs	\$620,995

Balance to be Funded by the City: **\$70,995**

Funds to cover the \$70,995 in remaining construction administration costs (that are currently not covered by the ARRA grant) are already included in the existing city budget. Specifically, the construction administration costs will be covered with fund balance proceeds that were previously appropriated in anticipation of cases where total project costs might exceed the amount of available ARRA funding. It is possible that additional ARRA funds may be identified to cover the construction administration costs. If such funds are identified, no fund balance will be used for this project. An update on the actual amount of fund balance required to support ARRA projects will be presented in the next quarterly financial report.

City staff requests City Council approve the resolution to award the construction contract for the Kimberly Avenue resurfacing project to J.L.S. Company, LLC, of Arden, NC, in the amount of \$539,995.00.

When Mayor Bellamy asked for public comment, no one spoke.

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

Councilwoman Manheimer moved for the adoption of Resolution No. 10-21. This motion was seconded by Vice-Mayor Newman and carried unanimously.

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IV. PUBLIC HEARINGS: None

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 10-22 - RESOLUTION ADOPTING THE WATER SYSTEM MASTER PLAN AS PREPARED BY JORDAN, JONES & GOULDING IN MAY 2009

Water Resources Director Steve Shoaf said that this is the consideration of a resolution to officially adopt the Water System Master Plan as prepared by Jordan Jones & Goulding (JJG) in May 2009.

A Water System Master Plan is typically updated every 5 – 10 years. The City of Asheville Water Resources Department's Master Plan was last updated in 1995. In June 2007, the Water Resources Department partnered with Jordan, Jones & Goulding (JJG) to update the Water System Master Plan. In September 2008 JJG presented a draft Master Plan to the City Council and highlighted the projections for future growth and projects to improve the water system to meet that demand. JJG completed the final update of the plan in May 2009, and is now presenting the following projections and recommendations to the Asheville City Council:

- Buncombe County Growth – In 2007, Buncombe County population was 243,565. In 2012, 2017 and 2037, the population is projected to be 264,326, 285,088 and 368,135, respectively. The major growth is projected to be in the southern part of Buncombe County.
- Model Development – JJG developed a model to project future needs for treatment plants, pipes, pump stations, and valves. Model Development will also provide GIS integrated water computerized hydraulic model and maps.
- System Evaluation – with future growth projections, the water treatment plant capacity will be needed to be increased around the year 2025.
- Capital Improvement Plan – between now and 2037, JJG projects 14 pipeline installations, one pump station replacement,

one new pump station, and additional water treatment plant capacity at a total estimated cost of \$60,449,000. This amount does not include recommended annual costs for pipe replacement due to age or any line extensions that the City accepts from developers.

This project is part of the City Council strategic plan to improve City infrastructure and sustainability through long-term planning.

Pro:

- Adoption of the Water System Master Plan will help to ensure that Asheville builds the water infrastructure to accommodate current demands and future growth while making the best use of financial resources.

Con:

- Failure to adopt the Water System Master Plan will not prepare the Water Resources Department for future growth.

The cost to update the Water System Master Plan was \$550,000 in 2007. There is no additional cost for City Council to officially adopt the plan. The updated Master Plan recommends additional long-term improvements that will require financial planning to implement. The projected cost of the Master Plan's proposed projects is \$60,449,000 spread over the next 27 years. City staff has started to incorporate the plan's recommended projects into the five-year Capital Improvement Program. Revenue generated from the CIP Fee will be used to fund a majority of these projects. Additional funding sources may be required to implement the most costly improvements recommended in the plan by JYG.

City staff recommends that City Council officially adopt the Water System Master Plan Update as prepared by Jordan, Jones & Goulding (JYG).

Mr. Eric Nease, representing Jordan, Jones & Goulding, provided Council with a graph showing the Buncombe County population growth, along with the projected growth to 2037.

Using a PowerPoint, he explained the system overview as (1) 21.4 Million Gallons Per Day (MGD) annual average day demand; (2) 1,625 miles of pipe; (3) 3 Water Treatment Plants; (4) 40 pump stations; (5) 31 storage tanks; (6) 12 Pressure Reducing Values (PRV); (7) 37 pressure zones; and (8) elevations 1,950 to 3,700.

He then provided an overview of pressure zones and a system overview.

Model development includes (1) treatment plants, pipes, pumps, and valve locations based on the City GIS (mapping system); (2) updated pressure zone boundaries; (3) actual pump data used to simulate pumps; (4) system controls included in model; and (5) model verified to simulate actual system data.

System evaluation includes (1) total system demand for 2037 is 41 MGD; (2) exceeds current treatment capacity of 27 MGD; (3) additional water treatment capacity needed in 2025 ±; (4) pipes evaluated for velocity; (5) tanks evaluated for ability to drain and re-fill; and (6) pumps evaluated for capacity.

Using charts, he showed the PRV relocation, areas of recommended improvements, and concord area options.

Using a table, he showed the growth Capital Improvement Plan summary showing a total cost of \$60,449,000 for 14 pipeline installations, one pump station replacement, one new pump station, and additional water treatment plant capacity. This amount does not include recommended annual costs for pipe replacement due to age.

Throughout discussion, Mr. Nease and Mr. Shoaf responded to various questions/comments from Council, some being, but are not limited to: have studies been analyzed to determine if conservation efforts reduce usage; explanation of 21 MGD usage even though we have lost industry water users in the past decade; for a system Asheville's size what factors are taken into consideration of unaccounted-for water; thoughts on using Bee Tree Reservoir (since it is more of a back-up plant) for recreation opportunities; how are we partnering with Buncombe County on the maintenance of their two facilities and extension of water lines; regarding the new \$40 Million new water treatment facility in the future, is that taking into consideration we have the Bent Creek property and that would be the location of the new facility; how does this study support the Brown & Caldwell Study; why are two major lines outside the City limits included in these recommendations; and has there been any analysis about how much land is needed to build a new water treatment facility on the Bent Creek property.

In response to Mayor Bellamy, Mr. Shoaf confirmed that in 2025 or 2033 the Council at that time will need to consider whether to build a water treatment facility on the Bent Tree property, so we need to keep that land for that purpose whenever it comes back to the City.

Mayor Bellamy felt we need to talk about growth and how and where we grow and the resources that are going to be needed to support that growth. Vice-Mayor Newman has talked about land use planning and our ability to use our water system as an opportunity for people to come into the City without an involuntary annexation. We are seeing the impact of growth outside the City limits and its impact on rate payers. Discussions need to continue, about our asset of water, with our state legislators and the Buncombe County Commissioners with the two major lines outside the City limits in the future costing over \$2 Million.

Councilman Newman hoped we would get into more detail as the Bent Creek property gets to be closer under the City's management. He felt it was appropriate to plan for the new water treatment facility, but if there is more property than is needed for that facility there may be other values that we might want to use that land for. Also, he didn't want to be dismissive of the potential for different policies that we create to affect future demand because there is quite a bit we can do through education and rate policies.

Mr. Alan Ditmore spoke about how the projected population and consumption are only guesses.

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

Councilman Bothwell moved for the adoption of Resolution No. 10-22. This motion was seconded by Councilman Smith and carried unanimously.

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B. RESOLUTION NO. 09-23 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A 90-DAY EXTENSION AGREEMENT WITH WNC COMMUNITY MEDIA CENTER (FORMERLY KNOWN AS URTV INC.) FOR THE MANAGEMENT OF PUBLIC ACCESS

Administrative Services Director Lauren Bradley said that this is the consideration of a resolution authorizing the Mayor to sign a 90-day extension agreement with WNC Community Media Center (formerly URTV, Inc.) for the management of public access.

At its meeting on October 13, 2009, the City Council directed staff to negotiate a 90-day extension to URTV's, now known as the WNC Community Media Center, agreement for the management of public access, including terms that (1) address compliance with open meetings and public records law and (2) specify the funding amount and payment terms for the duration of the agreement. City Council agreed that an extension would provide time for Council to work through unresolved concerns expressed by the Boards and Commissions Committee in its July 20, 2009, letter to the WNC Community Media Center. At the same time, staff would review the materials submitted by the WNC Community Media Center in its request for a longer-term management agreement. The additional time will also allow staff to evaluate how the transition to a State-wide franchise agreement will impact the City's relationship with the WNC Community Media Center.

The 90-day extension agreement includes clauses that address public records, open meetings and compensation, as directed by Council. The agreement also includes a section to clarify the WNC Community Media Center's board structure and membership.

Staff is seeking City Council direction on the City's role in making appointments to and defining the number of members on the WNC Community Media Center board. In the past, pursuant to a City resolution, board membership was set at 11 members, and the City and the County each appointed two members to the board. It is staff's recommendation that the management agreement be structured in a manner that is consistent with other contracted services. Following that model, the City Council would not appoint members to the contractor's board. Instead, the contractor would be held accountable for its performance according to the terms in the contract. If City Council continues to appoint members to the board, the WNC Community Media Center has requested that the total board membership be increased to 13.

The WNC Community Media Center has reviewed and agreed to the terms of the extension agreement. During the 90-day extension, at City Council's direction, staff will work to develop a longer-term management agreement for Council consideration in March 2010.

Pros:

- The extension agreement provides a foundation for beginning to formulate a longer term contract for managing public

access television in Asheville.

- The agreement addresses concerns expressed by City Council regarding open meetings and public records.
- The agreement also clarifies the organization's board structure and the city's payment terms for management services.
- The extension period will allow for additional time to resolve any concerns City Council may have with the conduct of the WNC Community Media Center's board and/or the organization's operations.

Con:

- The process by which City Council will work to address concerns regarding the WNC Community Media Center's board or operations is currently undefined, which may make negotiating a long-term agreement beyond the 90-day extension challenging.

Under the proposed agreement, the City will pay the WNC Community Media Center \$30,000 in P.E.G. fees, which is one-half of the total budget allocation, for managing public access for a full year. By the time the 90-day extension agreement expires, the WNC Community Media Center will have managed public access for more than six months of the fiscal year. P.E.G. fees are collected from cable subscribers and must be spent on public, government, or education access activities.

Staff recommends that City Council approve the resolution authorizing the Mayor to sign an extension agreement with the WNC Community Media Center for management of public access. Staff further recommends that the clause allowing City Council to appoint two board members to the WNC Community Media Center be removed from the agreement or that Council clarify its direction for the total number of members allowed on the board.

Ms. Bradley said that there have been some questions as to whether the WNC Media Center's Board is a public body. She thought that what adds to some of that confusion is the fact that we make board appointments to that organization. If Council would like to continue to appoint members to the WNC Media Center Board, the Board is requesting an increase from 11 to 13 due to quorum problems. Staff would like clarification on whether Council wants to continue to appoint members in this agreement and also in terms of negotiating a longer term agreement.

She also asked for policy consideration from Council if they are supportive of this 90-day extension agreement and if so, could this agreement be in effect from today through 90 days and then Council would come back to Council to look at negotiating a longer term agreement in the March timeframe.

Councilwoman Manheimer said that her firm has represented URTV in the past and although that attorney is no longer with the firm as of the end of December, she was not sure of the on-going relationship. Therefore, out of an abundance of caution, Vice-Mayor Newman moved to excuse Councilwoman Manheimer from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Smith and carried unanimously. Councilwoman Manheimer then left the Chamber.

At Vice-Mayor Newman's request, it was the consensus of Council to hear public comments prior to a motion being made.

The following individuals spoke in support of an agreement with WNC Community Media Center:

Operations Manager of WNC Community Media Center
Rev. Christopher Chiaromonte
Director of Programming at the WNC Community Media Center (also provided Council
with a graphic explaining the name change)
Two individuals who have a show on URTV

Mr. Alan Ditmore felt that the membership fees should be reduced. He also felt the Board is too powerful relative to elected officials and the members. He did not support self-perpetuating boards with no outside accountability.

In response to Councilman Bothwell, Ms. McGlohon said that the issue is whether or not the URTV Board is a public body. By removing Council's authority to appoint members to the Board it lessens the impact and the appearance that this is a public body. She felt that is the reason why staff is recommending that Council consider not appointing members to this body. However, whether Council continues to appoint members to the URTV Board or not, the issue of whether or not it is a public body will not go away.

In response to Vice-Mayor Newman, Ms. Bradley said that we are essentially contracting with a non-profit agency to provide management services and they have by-laws by which they have a board and structure and they appoint members. The complicating factor is layering in our involvement with appointing members to the Board. If the City chose not to do that, they would continue to operate like a non-profit agency. We could structure that arrangement like we do with other agencies for

contracted services.

Ms. Bradley said that Council does not have to decide on whether to appoint members to this Board or not as it's not essential to this 90-day extension agreement. When staff comes back to Council in March they will provide additional information on the pros and cons of appointing members or not.

In response to Councilman Davis, Ms. Bradley said that there is some question now about our ability to force them to comply with the Open Meetings Law and Public Records Law as a public body. What we have tried to do under the terms of the contract is to say we want you to follow the intent of the law and your performance under this contract requires that you follow the intent of those laws but not that you are forced to do so as a matter of law as a public body.

Councilman Davis, liaison to the WNC Media Community Center, spoke about a meeting with the Board he attended in which they reviewed their audit in an open meeting. He recommended Council extend the 90-day management agreement. He wondered if an ad hoc committee should be appointed to help staff craft a longer-term agreement. He felt that even though Council has limited accountability with the Board, other than appointing members and providing P.E.G. fees, and did not want to give up that limited accountability up.

Councilman Davis moved to authorize the Mayor to sign a 90-day extension agreement with WNC Community Media Center (formerly URTV, Inc.) for the management of public access, or sooner if possible. This motion was seconded by Councilman Smith.

In response to Councilman Davis, Buncombe County has not stepped away from making their appointments to the Board.

Mayor Bellamy felt that City Attorney Oast did a good job in capturing the concerns raised. She noted that if the public is unable to obtain records from a board that reports to City Council, they can make a public records request to the City Clerk for those records. At Mayor Bellamy's request, it was the consensus of Council to amend the agreement in order to provide language that they provide all meeting minutes to the City Clerk. Councilman Davis also noted that WNC Community Media Center's meeting minutes are also posted on-line.

In response to Councilman Bothwell, Ms. McGlohon said that staff has been asked to bring a permanent agreement back to Council in March, so this extension agreement will not be perpetual. It was the consensus of Council that that language be incorporated into the resolution.

Ms. Bradley clarified that staff is asking that the effective date of the agreement be effective 90-days from tonight, but that they will come back in March and be on the road of having a longer-term agreement before the 90-day extension agreement would expire.

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

The motion made by Councilman Davis and seconded by Councilman Smith to adopt Resolution No. 09-23 carried unanimously.

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At this time, Councilwoman Manheimer re-entered the Chamber and continued participation in the Council meeting.

VI. NEW BUSINESS:

A. UPDATE ON THE 2025 PLAN IMPLEMENTATION

Planning & Development Director Judy Daniel said that the 2025 Comprehensive Plan was adopted by the City Council in October of 2003. In June of 2009 the Planning and Economic Development Committee asked for a review of this Plan to benchmark progress toward the goals outlined in the Plan. A comprehensive review of the Plan goals led to the development of a matrix that reflects the progress toward each goal and its strategies.

Ms. Daniel provided Council a summary matrix of those findings. The full content of the 7 section, 66 page matrix of finding is posted on the Planning and Development Department website. She also provided a summary of goal achievement. The full 2025 Plan (430 pages divided into 7 documents) is also posted.

The timeline since inception includes (1) 2001 City Plan Advisory Committee formed by City Council; (2) 2003 City Development Plan 2025 Adopted – October; (3) 2005 City Development Office Merged into Office of Economic Development (OED); (4) 2008 Downtown Master Plan Process Initiated; (5) 2009 Downtown Master Plan Adopted by City Council; and (6) 2009 PED Request Review of 2025 Plan.

The 2025 Plan represents a bold, ambitious, and visionary commitment by the citizens and leadership of the City to becoming a greener, cleaner, safer city with a strong economic base. The Plan’s 96 goals with 486 strategies for achieving those goals set high standards for achievement. To the City’s credit, only seven years after adoption, with fifteen years remaining on the timeline – achievement or major progress has been reached on 87% of the goals of the City Plan, and 60% of the goals of the Center City Plan. This is an excellent result 7 years into a Plan looking 25 years into the future.

The 2025 Plan laid out standards in the following areas: Smart Growth Development Tools, Public Participation and Intergovernmental Cooperation, Land Use and Transportation, Air and Water Quality, Economic Development, City Services, and the Center City Plan. Within the Center City Plan there are goals for Economic Development, Housing, Physical Environment, and Transportation. Interestingly, there are almost as many strategies for the Center City (242) as for the entire residual City Plan (244). The primary reason for the less successful implementation rates for the Center City Plan was the elimination of the entity that was to be the primary implementation driver in Downtown, the City Development Office, due to changing City policies. The commitment of a subsequent City Council to a new Downtown Master Plan reinvigorated these goals, and the intent of much of the Center City Plan was included and expanded in the Downtown Master Plan, now being implemented.

The seven sections of the 2025 Plan envision and require participation from all City Departments and multiple other government entities and the local organizations. Many of the goals have practical, easily achieved strategies and these have seen the greatest progress. Some of the more visionary goals have strategies require substantial action outside the control of the City and those have seen less progress. Some are ongoing goals that will always need to be monitored. Some of the strategies require substantial funding that has not been available, or participation of organizations that are no longer active, or reflect changing directions of Council policies.

As of this date, it can be definitively stated that the 2025 Plan is moving toward success – with major strides made since 2003. This is clearly not a Plan that has “sat on a shelf”. All City Departments, all subsequent City Councils, many related organizations and outside organizations have and continue to, contribute to that success. That success, however, does not include a number of the most important and visionary goals the City set for itself. There are still a number of areas of the Plan that have seen limited success. Some of these will need funding, but others can still be achieved through the ongoing commitment of the City Council, Asheville’s committed and dedicated residents, and the continuing commitment and hard work of the City staff.

The commitment to this ongoing work is the primary reason that staff reports to the Council reflect the relationship any subject matter to both the Council goals, and the 2025 Plan. Statistically, implementation success of the Plan is as follows:

	Goals / Strategies	Achieved or Major Progress
Section 1 Smart Growth Vision		
Development Tools	8 / 39	80%
Section 2 Communication		
Public Participation and Intergovernmental Cooperation	3 / 5	100%
Section 3		
Land Use	13 / 72	82%
Transportation	9 / 45	62%
Section 4		
Air/Water Quality	12 / 16	85%
Section 5		
Economic Development	8 / 14	90%
Section 6 City Services		
Fire	5 / 12	100%
Police	8 / 8	100%

Streets	3 / 5	90%
Solid Waste/Recycling	2 / 2	100%
Water	3 / 3	100%
Sewer	5 / 5	100%
Schools	1 / 4	75%
Parks, Recreation, Open Space	3 / 14	90%
CITY PLAN TOTAL	83 / 244	
Section 7 Center City Plan		
Economic Development	6 / 74	68%
Housing	3 / 47	55%
Physical Environment	10 / 56	54%
Transportation	7 / 65	59%
CENTER CITY PLAN TOTAL	26 / 242	

Achievements include (1) Practical, necessary, achievable strategies; (2) Ongoing commitments and monitoring; (3) Bold action by City Council; (4) Ongoing participation and push for action by citizens; and (5) Volunteer actions.

Challenges include (1) Limited funding for some goals; (2) Required actions from outside entities; (3) Action organizations disbanded or never formed; and (4) Visionary goals with long range action required.

2025 Plan through 2009 for the City Center Plan include: (1) *Significant Challenges* (a) Loss of City Development Office; and (b) National/Regional Economy; and (2) *Significant Achievements* (a) Adoption of Downtown Master Plan; (b) Downtown Master Plan Implementation Committees; and (c) Near Completion Pack Square.

Challenges Looking Forward: 2010 to 2025 (1) Consider Plan update by 2015 –differential visionary and ongoing goals; (2) Continue building cooperative relationships with local and state government to achieve some visionary goals; (3) Unified Development Ordinance/Zoning goals require substantial staff time (or consultants) for research and processing; (4) Some transit goals depend on both added density along transit corridors and supplemental funding; and (5) Some goals face ongoing fiscal constraints.

Overall much to celebrate and much more to do - *If visionary, a Plan never fully meets all goals, but it should achieve success in many goals and keep working on or modify the boldest goals.*

When Mayor Bellamy asked if we will have more restrooms downtown, Ms. Daniel replied that she will work on that.

Mayor Bellamy thanked Ms. Daniel for this update and looked forward to continuing updates.

B. RESOLUTION NO. 10-24 - RESOLUTION ADOPTING REVISIONS TO THE HOUSING TRUST FUND GUIDELINES

Community Development Director Jeff Staudinger said that this is the consideration of a resolution authorizing revisions to the Housing Trust Fund Guidelines.

Community Development Division staff and Council's Housing and Community Development Committee have been reviewing and revising the Housing Trust Fund's policies and procedures since June. The purpose of the review was to ensure that available resources are strategically targeted, and that the Trust Fund aligns with the City's strategic housing goals.

The Committee notes the following issues:

- The Guidelines have not been revised since the release of the Affordable Housing Plan;
- City budget constraints have reduced the annual allocation to the Fund;
- The need for newly affordable rental housing is a clear priority arising from the 2009 Housing Needs Assessment and Market Analysis.
- Lessons learned in the Fund's operations need to be translated into the Fund's application and underwriting processes.

The review is now complete, and the Housing and Community Development Committee recommends 21 changes to the policy and procedures. These are summarized below, and are incorporated into the proposed revised application guidelines.

Eligible projects, eligible applicants, eligible uses:

- 1) Grants will not be made from the Fund.
- 2) Loans for homeownership housing will be for construction only.
- 3) Soft second mortgages will be discontinued.
- 4) Applications for manufactured housing are to be considered provided that units are on a permanent foundation and titled as real property.
- 5) Rehabilitation loans are to be considered for the conversion of market rate developments to affordable housing provided that the displacement of current residents remains minimal and that the impact on the available workforce housing stock is negligible.
- 6) Public Housing Agencies and State/Local governments to be listed as eligible applicants.
- 7) Affordable units pledged in exchange for density or conditional zoning are not eligible for HTF financing. However, if the total number of affordable units pledged for density or conditional zoning and for Housing Trust Fund financing equals 20% of all units, an application can be considered for those additional Housing Trust Fund units.
- 8) A minimum of 20% affordable units of the total project units being developed is required for consideration of HTF financing.

Priorities for use of the fund:

- 9) Rental Housing will be prioritized over homeownership with the goal to award a minimum of 75% of available HTF funds to rental projects (as averaged over the most recent three year period).
- 10) Multi-family housing is to be prioritized over single-family housing.
- 11) Larger scale projects requiring less subsidy per unit will be prioritized.
- 12) Program resources will be targeted to the income demographic(s) identified in the new Housing Needs Assessment as being in the most need of assistance.
- 13) Higher priority will be given to applications that create 1-bedroom and efficiency units as noted in the Affordable Housing Plan.
- 14) Higher priority will be given to projects developed along transit corridors.
- 15) Higher priority will be given to projects that meet the highest level of energy efficiency as determined by an independent rating system.

Terms and Conditions:

- 16) The affordability period for non-construction loans is to be equal to the term of the loan repayment.
- 17) A tiered interest rate structure will be based on the number of affordable units provided as shown in the following Table.

Number of Affordable Units	Interest Rate
1-9	4.50%
10-19	3.00%
20-29	2.50%
30+	2.00%

- 18) The maximum housing-for-sale sales price is to be eliminated and qualification is to be based on the cost to the buyer after subsidy. The final cost to the buyer, as measured by the monthly PITI (principal, interest, taxes and insurance for all primary and secondary financing sources) is not to exceed 30% of the buyer's household income and the buyer's total household income cannot exceed the 100% of the area median income (100% AMI)
- 19) Maximum loan amounts are to be based on per-unit subsidy rather than a predetermined amount as shown in the following Table:

Per Unit Subsidy Requested	Maximum Loan amount
More than \$20,000	\$0.00
\$15,001 to \$20,000	\$150,000
\$10,001 to \$15,000	\$200,000
\$5,001 to \$10,000	\$300,000
Less than \$5,000	\$500,000

Application Review Process:

- 20) A minimum score must be achieved before an application is reviewed by HCD for funding.
- 21) Staff will score applications to determine that projects meet the minimum threshold. Additional review by an outside expert/consultant to provide a commercial underwriting analysis will be performed if determined necessary and advisable by the CD Director.

These changes directly support the City's Strategic Operating Goals of: (1) Affordable: Many of the recommendation directly support recommendations made in the 2008 Affordable Housing Plan; all are intended to continue to make housing affordable for Asheville citizens; and (2) Sustainable: These proposed changes prioritize development located near to transit lines, higher urban development densities, and encourage higher standards of energy efficiency.

Pros:

- The proposed changes align the Housing Trust Fund policies with the strategic plans developed by the City of Asheville;
- The proposed changes prioritize projects that meet the greatest housing needs of the community;
- The proposed standards encourage increased leveraging of the Housing Trust Fund resource;
- The proposed changes will prioritize longer periods of housing affordability.

Cons:

- The proposed changes reduce the amount of funds available per unit;
- The proposed changes will eliminate the participation of the Housing Trust Fund in the long-term financing of single-family housing.

The proposals do not affect the amount of funding contributed from the City's General Fund to the Housing Trust Fund.

City staff recommends City Council adopt a resolution adopting the proposed changes to the Housing Trust Fund policy.

Mr. Staudinger responded to various comments/questions from Council, some being, but are not limited to: how did staff come up with the percentage of affordable units required for consideration of financing; when staff looked at adjusting the interest rates based on the number of affordable units, why did they use units instead of a percentage of units; request to proofread the guidelines for possible errors; suggestion to have only the definition of eligible projects (not eligible projects and ineligible projects); how often do we subordinate a loan; has the City ever had to foreclose on a loan or been involved in foreclosure proceedings; does the subordination issue come before Council or does staff make that decision; and how do we enforce affordability over the term of the loan with houses.

When Councilwoman Manheimer expressed concern about subordinating our loans, Mr. Staudinger said that the next portion of review that staff will be doing is reviewing some of our specific underwriting policies as we look again to reflect the changing economic times and look at what is happening in the real estate market in general. That will be part of the work staff will bring to the Housing & Community Development Committee this year.

Mr. Alan Ditmore expressed various concerns about the Guidelines.

Rev. Christopher Chiaromonte felt the Guidelines do not meet the basic needs of the poor.

Mayor Bellamy noted that single room occupancies are allowed in the City of Asheville, but we need individuals who want to operate them.

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

Vice-Mayor Newman moved for the adoption of Resolution No. 10-24. This motion was seconded by Councilman Bothwell and carried unanimously.

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C. INVOCATIONS AT COUNCIL MEETINGS

At Mayor Bellamy's request, it was the consensus of Council to delay this item in order to give City Attorney Oast sufficient time to provide Council the necessary information, as he is currently defending the City in a lawsuit. This matter will be rescheduled on a future meeting.

D. RESOLUTION NO. 10-25 - RESOLUTION APPOINTING MEMBERS TO THE GREENWAY COMMISSION

Vice-Mayor Newman said that the term of Phyllis Stiles, as a member on the Greenway Commission, expired on December 31, 2009.

There also currently exists a vacancy by Rev. Russ Pierce, whose term will expire December 31, 2010.

At the January 12, City Council meeting, it was the consensus of Council to interview M. James Grode, Stephen Jones, Bill Jones and Sandy Tarantino.

After Council spoke highly of the candidates, M. James Grode received 5 votes; Stephen Jones received 4 votes; Bill Jones received 2 votes; and Sandy Tarantino received 1 vote. Therefore, Stephen Jones was appointed to serve the unexpired term of Rev. Pierce, term to expire December 31, 2010 and M. James Grode was appointed to serve a three-year term, term to expire December 31, 2012. Both terms are until their successors have been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaromonte spoke about the homeless in Asheville.

Mr. Alan Ditmore commended on invocations at Council meetings and felt Asheville should preserve their southeastern leadership on friendliness to religious diversity.

Mr. John Kleckner, local artist, provided Council with information on his evolution of an art project and hoped to work with the City.

Ms. Leesa Kulba asked that staff provide large plan documents as soon as possible to the public to review prior to the Council meeting it is scheduled to be discussed.

The following claims were received by the City of Asheville during the period of January 1-14, 2010: Michelle Ward (Water), Kenneth Woody (Water), J. Michael Baldwin (Streets), Carolyn Termini (Parking Services), Darlene Dixon (Streets), Barbara Sullivan (Transit), Tom Brotherton (Streets), Kevin Minish (Sanitation), Sears Holding (Water), Barbara Melton (Parks & Recreation), Nathan Monroe (Police) and Deborah Arnold (Water): These claims have been referred to Asheville Claims Corporation for investigation.

City Clerk Burlison said that she would attach to the minutes as Exhibit "A" the abstract containing the number of legal votes in the Primary Election, City of Asheville, held on October 6, 2009. Also attached as Exhibit "B" is the abstract containing the number of legal votes cast in the General Election, City of Asheville held on November 3, 2009.

Closed Session

At 7:19 p.m., Councilman Smith moved to go into closed session for the following reasons: (1) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Davis and carried unanimously.

At 8:02 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Vice-Mayor Newman and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 8:02 p.m.

CITY CLERK

MAYOR

