

Tuesday – June 8, 2010 - 5:00 p.m.

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

Councilwoman Manheimer gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF SCHOOL SUCCESS PROGRAM

Mayor Bellamy said that in the fall of 2006, the Asheville City Schools refocused their energy to change the image of dropout prevention. The effort embraced the old African proverb; *"It takes a village to raise a child."* As a result, the School Success Network Council was launched to engage our learning community stakeholders.

Their mission is to support Asheville City Schools and promote 21st Century Systems that reduce the dropout rate. Furthermore, the School Success Network Council will offer strategies for engaging students in the learning community in order to increase the number of high school graduates for Asheville City Schools.

The School Success Coordinator for Asheville City Schools was honored to be at the meeting in which the Mayor will recognize some exceptional students who have represented the School System and the School System to the utmost.

She was proud to acknowledge the following participants in the program, by presenting them with a certificate of recognition: Charles "Dre" Payton, Keyona Presha, Jalen Craig, Jarquis Fair, Jamil Hawes, Curtis Johnson, James King, Marcus Whitson, Bryanna Williams, Markes Jackson, Lisa Waters, Cayla Jiles, Joesci McIntosh, Erik Whitesides, Caleah Hallum, Promyss Wately, China Robinson, Na'Shayla Petty, Clementine Turner and Deandra "Dre" Bowden.

B. RECOGNITION OF CITY OF ASHEVILLE YOUTH LEADERSHIP ACADEMY

Ms. Erica Germer, Coordinator of the City of Asheville Youth Leadership Academy (CAYLA), was proud to announce the accomplishments of the City of Asheville Youth Leadership Academy and thanked Council for their support of this program.

Mayor Bellamy said that all of the CAYLA students successfully completed their summer internships last year, and were given high words of praise from their various supervisors. In addition to City departments, CAYLA students worked with community partners such as the United Way, UNC-Asheville, AB Tech, HomeTrust Bank, MAHEC, Sisters of Mercy, and the YMI Cultural Center. The CAYLA students completed more than 400 volunteer hours with local agencies including RiverLink, Asheville GreenWorks, Kids Against Hunger, Meals on Wheels,

ABCCM, and the Asheville Housing Authority. Since 2007, CAYLA students have accumulated 1,200 hours of community service. All 10 graduating CAYLA seniors will begin college at campuses across North Carolina (and one in South Carolina) this fall. More than \$100,000 in academic scholarships were awarded to this year's CAYLA students, including: the Dell Scholars program, Paddison Family Foundation, Optimist Club, Rotary Club, and the Kesha Young Memorial Scholarship (Mission Hospital).

She then recognized the following City of Asheville Youth Leadership Academy Class of 2010 with a certificate of appreciation: Keevon Baten, Dre Bowden, Yelena Dary, TJ Davidson, Dreama Davis, Darius Drummond, Anika Ellis, Gio Figaro, Andrea Griffin, Nakia Harrell, Roosevelt Harvin, Ceante Hudson, Martel Jackson, Tyler Jeffries, Satorria Jones, Simone Knotts, Sohna Njia, Dre Payton, Brianna Rock, Crystal Sherriff, Anice Smith, Jarrett Vernon, and Ariana Weaver.

II. CONSENT AGENDA:

At the request of Mayor Bellamy, Consent Agenda Item "K" was removed from the Consent Agenda for an individual vote.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 25, 2010**
- B. RESOLUTION NO. 10-125 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PATTON CONSTRUCTION GROUP, LLC, FOR THE VIEWMONT ACRES WATER SYSTEM EXTENSION PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Patton Construction Group, LLC, in the amount of \$294,950.00 for the Viewmont Acres Water System Extension Project.

Grant Funds from the North Carolina Department of Environment and Natural Resources (NCDENR) North Carolina Water Infrastructure Act of 2005 (N.C.G.S. 150G) are available to reimburse the City of Asheville Water Resources for this project and were approved by City Council on July 14, 2009, by Resolution No. 09-147.

The City of Asheville has received a grant from NCDENR to replace the existing, private, failing water system at the Viewmont Acres Mobile Home Park. Upon completion of the water system improvements project, the City of Asheville will own and maintain this new water system. The Water Resources Department (WRD) issued an Advertisement For Bids for the construction and installation of approximately 2,850 Linear Feet of a new 8-inch waterline, fire hydrants, valves, and other appurtenances as well as the installation of five (5) private residential booster pump stations. In response to the Advertisement For Bids, the WRD received five (5) bids.

Companies responding were:

1. Patton Construction Group, LLC – Asheville, NC
2. T & K Utilities, Inc. – Asheville, NC
3. Spur Construction, LLC – Waynesville, NC
4. Steppe Construction, Inc. – Mill Spring, NC
5. DPI Construction – Arden, NC

A review team, comprised of consulting engineers from McGill Associates and staff from multiple City Departments including James Lee, the City of Asheville Minority Business Coordinator, reviewed these bids and selected Patton Construction Group, LLC, as the lowest responsible bidder at a bid of \$294,950.00.

This project is part of City Council's strategic plans to improve city infrastructure and provide local companies with labor opportunities.

Pros:

- This project will provide twenty three (23) customers with a safe reliable drinking water source and much improved fire protection.
- The contract amount is fully reimbursable by the committed NCDENR grant money.
- Approval of the construction contract to the lowest responsible bidder will invest City funds in the local economy.

Con:

- Failure to award a construction contract would lead to forfeiture of the NCDENR grant and the existing failing private water system would not be upgraded.

The Water Resources Department will initially fund the estimated construction costs of \$294,950.00 for this project until reimbursement is received from the State. Funds for these upfront costs are already included in Water Resource's FY 2009-10 Capital Improvement Program budget.

City staff recommends City Council award the Viewmont Acres Water System Extension Project to Patton Construction Group, LLC, as the lowest responsible bidder at a bid of \$294,950.00; and authorize the City Manager to execute any and all contracts and change orders up to the budgeted amount to implement the project.

RESOLUTION BOOK NO. 33 – PAGE 65

C. RESOLUTION NO. 10-126 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. HISTORIC PRESERVATION OFFICE FOR A GRANT TO UPDATE AND EXPAND THE DOWNTOWN ASHEVILLE NATIONAL REGISTER HISTORIC DISTRICT

ORDINANCE NO. 3870 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR A NATIONAL PARK SERVICE GRANT PASSED THROUGH THE STATE HISTORIC PRESERVATION OFFICE FOR THE DOWNTOWN NATIONAL HISTORIC DISTRICT UPDATE PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to apply for and enter into an agreement with the N.C. Historic Preservation Office for a grant to update and expand the downtown Asheville National Register Historic District; and (2) a budget amendment, in the amount of \$7,700 to accept a \$4,500 federal pass through grant from the National Park Service Historic Preservation Fund via the North Carolina State Historic Preservation and to dedicate \$3,200 in local matching funds received from Buncombe County for the update and expansion of the Downtown Asheville National Register Historic District nomination.

The Downtown Master Plan adopted by City Council in May, 2009, included a recommendation that Asheville review the existing National Register District, which was originally completed in 1978 and consider an expansion of the boundaries and period of significance. A study list application was prepared and approved by the Advisory Council on Historic Preservation in October, 2009. Staff has now successfully obtained a grant from the Historic Preservation Fund to complete the study and update the nomination.

This project is to update and expand the Downtown Asheville Historic District National Register nomination, originally listed on the National Register in 1978. Since 1976, there have been approximately 82 building rehabilitations in Downtown Asheville's National Register Historic District and a number of buildings have been demolished. The existing district encompasses

approximately 85 acres with 257 properties. The update will document twelve contributing resources within the existing boundary, which were not originally identified. It will also increase the period of significance to 1961. The proposed boundary increase is estimated to add ten acres with thirty-five structures clustered to the west and southwest of the existing district and will allow more properties to be considered for the rehabilitation tax credit.

This action complies with the City Council 2009-2010 Strategic Operating Plan Fiscal Responsibility Focus Area in that the City and County share in the services provided by the HRC and with the Sustainable Focus Area in that the funding will help support implementation of the Downtown Master Plan.

Pro:

- Funding will be made available to update the Downtown National Register District as identified in the Downtown Master Plan.
- Local matching funds have been provided by Buncombe County and are currently available.

Con:

- None noted.

The local match is already included in the FY 2009-10 Historic Resources division's budget. In Fiscal Year 2012 there will be additional advertising costs incurred prior to approval of the expanded district, which are not included in the grant.

The expansion of the national district could potentially be an economic development incentive as it would increase the number of structures available for the federal and state rehabilitation tax credit, thus spurring redevelopment. However; the expansion of the national district is completely separate from local district or landmark designation and will not result in the creation of any locally designated properties or associated local property tax reduction.

City staff recommends that City Council (1) adopt a resolution authorizing the City Manager to apply for and enter into an agreement with the N.C. Historic Preservation Office for a grant to update and expand the downtown Asheville National Register Historic District; and (2) approve a budget amendment, in the amount of \$7,700, to accept a grant from the Historic Preservation fund, via the NC State Historic Preservation Office and to set aside local matching funds.

**RESOLUTION BOOK NO. 33 – PAGE 67
ORDINANCE BOOK NO. 26 – PAGE**

D. RESOLUTION NO. 10-127 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH DIXON HUGHES, PLLC, CERTIFIED PUBLIC ACCOUNTANTS AND ADVISORS, FOR AUDITING SERVICES FOR FISCAL YEAR 2009-10

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Dixon Hughes, PLLC, Certified Public Accountants and Advisors, for auditing services for Fiscal Year 2009-2010.

N.C. Gen. Stat. sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission. In response to the aforementioned general statute, staff recommends retaining the services of Dixon Hughes to conduct the basic audit of the city's accounts for the fiscal year ending June 30, 2010. Staff has previously worked with Dixon Hughes and they have consistently provided a thorough and high quality audit for the City,

Staff also recommends contracting with Dixon-Hughes to provide various auxiliary financial services that are beyond the scope of their basic audit engagement but are necessary for its completion. These services were added as an addendum to the audit contract for last year. These services include preparation of various city financial statements and production of the Comprehensive Annual Financial Report, which are traditionally performed in-house by various accounting staff. The staff is currently involved heavily in converting the City to a new core financial system. In addition the City is operating without a permanent Director of Finance and has one unfilled vacancy in the financial reporting section. As a result staff currently does not have the capacity to perform the auxiliary financial services without additional support from Dixon-Hughes. It is anticipated that next fiscal year the CAFR will be live on the new system and that outside assistance will no longer be needed.

This project complies with City Council's Strategic Operating Plan of operating the City of Asheville's organization to the highest fiscal responsibility.

Pro:

- Will help ensure the timely and successful completion of two high priority, critical projects.

Con:

- None noted.

A base fee of \$110,000 has been proposed for the basic audit plus \$43,450 for auxiliary services and is included in the Finance Department's portion of the Fiscal Year 2010-2011 proposed annual operating budget. The total cost for services for this year are the same as last.

City staff recommends adoption of the resolution authorizing the Mayor to execute a contract with Dixon Hughes PLLC, Certified Public Accountants and Advisors, for basic auditing services and auxiliary services in the amount of \$153,450 for fiscal year 2009-2010.

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E. RESOLUTION NO. 10-128 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ASHEVILLE FORD, KARS & KOLORS, INC., RUSSELL'S PAINT AND BODY, LLC., ANCHOR-RICHEY EVS INC., AND ENSLEY PAINT & BODY FOR AUTO BODY SHOP REPAIR

Summary: The consideration of a resolution authorizing the City Manager to approve multi-year contracts, with multiple vendors, for the repair of city owned vehicles and equipment by local Auto Body repair shops.

This contract is necessary to repair accident damage to city owned vehicles and equipment operated by City departments, such as: Police, Fire, Public Works, etc. Each individual contract shall not exceed \$75,000 in any fiscal year for any one (1) vendor. This contract will expedite the repair of vehicles involved in accidents without having to wait for separate estimates each and every time there is an accident.

This contract is "Unencumbered" in nature and utilized to document the hourly rate labor charge as well as the cost of parts and any markup percentage. This contract will be established for a period of three (3) years with the possibility of two (2) - one (1) year extensions, if the city and appropriate vendor agree to maintain the current price structure.

Pros:

- Improve efficiency in overall process in vehicle accident repair
- Reduce staff labor by utilizing at least 5 blanket contracts in lieu of individual contracts

- for each accident repair
- Reduce vehicle downtime by increasing turnaround efficiency in vehicle repair process
- Help ensure multiple vendors are involved in city vehicle repair process

Con:

- None

There is no increase in fiscal demands as vehicle repairs will be paid for out of the current, and future, budgeted Fleet Charge account for the appropriate division.

City staff recommends City Council adopt a resolution authorizing the City Manager to approve multiple contracts for Auto Body Shop repair.

RESOLUTION BOOK NO. 33 – PAGE 69

F. ORDINANCE NO. 3871 - BUDGET AMENDMENT TO COVER THE COST OF CURB INSTALLATION ON DOGWOOD GROVE ROAD PROJECT

Summary: The consideration of a budget ordinance amendment, in the amount of \$87,440, to cover the cost of installing concrete curb along Dogwood Grove Road.

The City of Asheville Water Department installed a new six inch water line along Dogwood Grove Road, replacing a combination of old six inch and two inch water lines, having had numerous breaks over the years.

House Bill 702, Session Law 2009-114, adopted June 16, 2009, is an amendment to the Sullivan Act which allows the City of Asheville to use up to 5% water utility revenues for street and sidewalk improvements associated with waterline improvements. City Council approved the transfer of 5% of Fiscal Year (FY) 2009-10 water revenues for this purpose on November 24, 2009. The amount of the FY 2009-10 transfer totaled \$1,657,481. The Dogwood Grove Road project will be the first project funded with Sullivan Act proceeds.

The curb at the time of the waterline installation was a mixture of concrete curbing and asphalt curbing in very poor condition with further degradation due to the new water line installation. The installation of approximately 7,000 feet of eight inch curbing is eligible to utilize the 5% utility fund.

The Public Works Department, Streets Division, solicited bids for the construction of 7,000 linear feet of curbing. The lowest responsible competitive bid was \$87,440 submitted by Frogs Paving.

This action complies with the City Council Strategic Operating Plan, Fiscal Responsibility sustaining meaningful performance levels for programs and services.

Pros:

- Existing sub standard and poor condition curbing will be replaced by conforming concrete curbing.
- Utilization of the 5% utility revenues allows curb replacement in a timely manner.

Con:

- The 5% utility revenue balance is reduced by \$87,440

As noted above, \$1,657,481 in Sullivan Act funds were transferred from the Water Fund to the General Capital Projects Funds in FY 2009-10. With adoption of this amendment, the amount of Sullivan Act funds available for other projects is reduced by \$87,440 to \$1,570,041. The FY 2010-11 Proposed Budget includes a 1% water revenue transfer to the General Capital

Projects Fund, which will provide an additional \$341,000 in funding for FY 2010-11. Therefore, the total amount of Sullivan Act funding available in FY 2010-11 will be \$1,911,041. Staff is proposing that this \$1.9 million be used for improvements along Azalea Road.

City staff recommends City Council adopt the budget amendment to appropriate fund accounts.

ORDINANCE BOOK NO. 26 – PAGE

G. RESOLUTION NO. 10-129 - RESOLUTION AUTHORIZING EXECUTION OF EASEMENT TO PROGRESS ENERGY CORPORATION FOR POWER LINES AT LIVINGSTON STREET COMMUNITY CENTER

Summary: The consideration of a resolution authorizing the Mayor to execute an easement to Progress Energy Corporation for electric power lines for the proposed Livingston Street Community Center.

The City plans to construct a new community center on Livingston Street. In order to accommodate this new facility with adequate and updated electrical power, a new service line is required. The line will cross Depot Street overhead, and then run underground to the actual building, as shown on the drawing attached to the resolution.

This proposal has been reviewed by affected City Departments, and no objections have been noted.

The easement will cover both Depot Street (public right-of-way) and the Livingston Street property (public property).

This action complies with the City's strategic operating plan in that it contributes to the development of a new community center and supports sustainable economic development.

Pros:

- Will facilitate provision of power to new center; and
- Lines will be underground on City property

Con:

- Overhead line crossing on Depot Street.

City not required to pay for this work.

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 33 – PAGE 70

H. RESOLUTION NO. 10-130 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE CRIMESTOPPERS INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY

Summary: The consideration of a resolution authorizing the Mayor to sign the Crimestoppers interlocal agreement with Buncombe County.

On November 1, 1983, Crimestoppers of Asheville-Buncombe, Inc., a North Carolina non-profit corporation, was formed to assist law enforcement in catching suspects of crimes by offering cash rewards for tips which lead to arrests. The City of Asheville and Buncombe County

pledged support to the Crimestoppers program including appointing board members to the Crimestoppers' Board of Directors. The City and County have funded the program based on appropriations from each governmental agency's budget every fiscal year since 1983. The Crimestoppers budget is established each year as a part of the County's annual budget, and the City reimburses the County one-half of the budgeted amount.

With the City's recent conversion to a new financial software system which requires contract documentation before payments of this type can be made, City staff contacted the County to obtain a copy of the original 1983 interlocal agreement that established the Crimestoppers program. County staff was unable to locate a copy of the original agreement, so City legal staff recommended that a new agreement be drafted and signed by the City and the County. A copy of that agreement is attached to this staff report.

This action complies with the City Council Strategic Operating Plan to operate the City of Asheville's organization to the highest fiscal responsibility.

Pros:

- Provides the proper documentation to allow for the City's payment of its share of the Crimestoppers program.

Con:

- None.

\$40,108 is budgeted in the FY 2009-10 Adopted General Fund Budget and \$40,796 is included in the FY 2010-11 Proposed General Fund budget for the City's share of the Crimestoppers program.

City staff recommends Council authorize the Mayor to sign the Crimestoppers interlocal agreement with Buncombe County.

RESOLUTION BOOK NO. 33 – PAGE 72

I. RESOLUTION NO. 10-131 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ACCEPT FUNDING FROM THE FEDERAL TRANSIT ADMINISTRATION SECTION 5309 BUS AND BUS FACILITIES STATE OF GOOD REPAIR PROGRAM GRANT

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.

City Council approved Resolution No. 10-19 on January 26, 2010, authorizing City staff to apply for discretionary Section 5309 Bus and Bus Facilities grant funds in support of the Department of Transportation's Livability Initiative (Livability Bus Program). City staff has not received any notification regarding the status of the City's application; therefore, City staff does not want to miss the current opportunity to apply for the subject grant in order to get five new buses funded.

As previously shared with City Council, the City of Asheville's Transit System fleet consists of a total of 21 buses. Sixteen 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 more are going through the procurement 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 its "State of Good Repair" initiative. The State of Good Repair (SGR) bus initiative will be funded with up to \$775 million in unallocated Fiscal Year 2010 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. The deadline to apply for the subject grant is June 18, 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.

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 State of Good Repair 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.

J. RESOLUTION NO. 10-132 - RESOLUTION AMENDING THE CITY COUNCIL 2010 MEETING SCHEDULE TO CANCEL THE JULY 13, 2010, FORMAL MEETING

RESOLUTION BOOK NO. 33 – PAGE 74

K. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE 2010 INGLES 4TH OF JULY CELEBRATION

RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE 2010 BELE CHERE FESTIVAL

These items were removed from the Consent Agenda for individual votes.

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

K. RESOLUTION NO. 10-133- RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE 2010 INGLES 4TH OF JULY CELEBRATION

RESOLUTION NO. 10-134 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE 2010 BELE CHERE FESTIVAL

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2010 Ingles 4th of July Celebration and the 2010 Bele Chere Festival.

2010 Ingles 4th of July Celebration

The Benevolent Patriotic Order of the Does have requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer at the 2010 Ingles 4th of July Celebration and allow for consumption at this event.

The 2010 Ingles 4th of July Celebration will be held at Pack Square Park on Sunday, July 4, 2010, from 4:00 p.m. to 10:00 p.m. The festival area will be open on Sunday, July 4 from 4:00 p.m. to 10:00 p.m.

The sale of malt beverages will end at 9:30 p.m. However, the possession of open containers of malt beverages or consumption of malt beverages will be allowed during the festival hours of 4:00 p.m. to 10:00 p.m.

2010 Bele Chere Festival

The following organizations: Asheville Ski Club, Benevolent Patriotic Order of the Does, Phi Beta Lambda, A-B Tech, Cataloochee Ski Patrol, Brother Wolf Canine Rescue, Xi Omega Chapter of Beta Sigma Phi, Wild South, St. Johns Episcopal Church, Asheville Area Paralegals, and Engineers Without Borders have requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at 2010 Bele Chere Festival and allow for consumption at this event.

The 2010 Bele Chere Festival area will be open on Friday, July 23, 2010, from 12:00 p.m. to 10:00 p.m.; Saturday, July 24, 2010 from 10:00 a.m. to 10:00 p.m.; and Sunday, July 25, 2010 from 12:00 p.m. to 6:00 p.m.

The sale of malt beverages and/or unfortified wine will end at 9:45 p.m. in all instances; however, the possession of open containers of malt beverages and/or unfortified wine or consumption of malt beverages and/or unfortified wine will only be allowed during the periods as follows:

Friday, July 23, 2010, from 12:00 p.m. to 10:00 p.m.
Saturday, July 24, 2010, from 10:00 a.m. to 10:00 p.m.

There will be no sales and/or consumption of malt beverages and/or unfortified wine permitted on Sunday July 25, 2010.

Pros:

- Allows for fundraising opportunities

Cons:

- Potential for public safety issues

Serving alcohol at the 2010 Ingles 4th of July Celebration and Bele Chere Festival does not contribute to a fiscal impact.

City staff recommends City Council adopt a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2010 Ingles 4th of July Celebration and the 2010 Bele Chere Festival.

Vice-Mayor Newman moved for the adoption of Resolution Nos. 10-133 and 10-134. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Mayor Bellamy voting "no."

RESOLUTION NO. 10-133 - RESOLUTION BOOK NO. 33 – PAGE 75
RESOLUTION NO. 10-134 - RESOLUTION BOOK NO. 33 – PAGE 78

III. PRESENTATIONS & REPORTS:

A. BOARD OF ELECTRICAL EXAMINERS UPDATE

Mr. Harold Garland, Chairman of the Board of Electrical Examiners, said that the Board's membership consists of Fred Pratt, Tommy Wilson, Phil Wilson and Randy Osborne, who recently died on June 2, 2010. Building Safety Director Robert Griffin was honored to note that Mr. Garland has served the City of Asheville for almost 40 out of his 90 years.

Their mission is the examination of applications for journeyman electrical licenses for the City of Asheville.

The ordinance states the Licensed Electrician may employ a journeyman to work under their oversight and perform work meeting the N.C. State Electrical Code. The journeyman may have two helpers who are not required to have the journeyman license.

2009 highlights include (1) journeyman exam given 6 times; (2) 67 applicants (a) 33 passing grades (75 or higher); and (b) 34 not passing; and (3) highest grade 93.

2010 objectives include (1) continue issuing photo id's to all journeymen; (2) continue with Spanish exams when requested in association with A-B Technical Community College; (3) hold special exam dates when necessary; (4) maintain high standards; and (5) continue reciprocity with 7 North Carolina cities meeting our standards.

On behalf of City Council, Mayor Bellamy thanked Mr. Garland and the Board for their commitment to this Board.

B. TREE COMMISSION UPDATE

Mr. Bob Gale, Chairman of the Asheville Tree Commission, said that the purpose and need statement of the Tree Commission includes a number of aspects geared toward promoting a healthy tree population for Asheville. Its introduction offers a philosophical basis for the need for such protection and then offers an impressive list of goals that Council may not be aware of. I think it's appropriate to state them here.

- (1) Encourage the preservation and health of existing trees, tree canopies, and other existing vegetation, and to replenish removed vegetation;
- (2) Improve and protect the visual quality of the City of Asheville, city forests, and forested view sheds, and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, traffic, heat, overcrowding, and odor;
- (3) Provide environmental benefits, such as climate modification, decreased energy consumption, reduced storm water runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;
- (4) Provide a transition between dissimilar zoning districts to protect abutting properties from potential negative impacts of neighboring development, particularly between residential-commercial interfaces, and to preserve the character and value of a property and provide a sense of privacy;
- (5) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of Asheville while allowing flexibility to promote well designed and creative landscape plantings.
- (6) Enforce the maintenance of landscaping installed to meet the requirements of these high standards to ensure that the landscaping continues to thrive and enhance the visual quality of the City of Asheville.

The Tree Commission continually works to try to meet these goals through its monthly meetings and through the work of its Citizen Review Committee, Alternative Compliance Subcommittee, and Education Committee.

For 2010-2011, the Tree Commission is pursuing a goal from previous years regarding public education about the existence of, and regulations regarding, the landscape and tree provisions of the Municipal Code. We are planning to make use of the City website for short

articles geared toward proper tree planting and care. We also believe we have a source of funding to cover the cost of inserts into water bills explaining to homeowners the need for proper pruning to avoid damage to their trees.

Also, from time to time, the Commission has seen a need to improve the landscape and tree provisions and make recommendations to City Council. For 2010-11, the Commission is looking at ways to address the problem of improper pruning in areas outside those currently addressed by the provisions, but which are near to and clearly visible from city streets. This issue of "tree topping" appears to be on the increase and the Commission is exploring solutions in addition to that of public education for this issue.

He thanked the Tree Commission members for their continued voluntary participation and commitment to this work. He also thanked the Public Works and Planning department staffs, who do an incredible job despite a lack of adequate resources. Together, with its other ex officio members from other agencies and the City Council liaisons, the Tree Commission has an amazing diversity of expertise, and he is honored to be able to serve with this group.

On behalf of City Council, Mayor Bellamy thanked Mr. Gale and the entire Tree Commission for their efforts on this very important Commission.

C. 2008-2012 BUNCOMBE COUNTY AGING PLAN UPDATE

Ms. Linda Kendall-Fields, Aging Services Consultant for the Area Agency on Aging at the Land-of-Sky Regional Council, updated Council on the Buncombe County Aging Plan.

She reviewed a chart of projected population growth by age group in Buncombe County from 2005 – 2030.

The federal and state planning context consists of (1) Older American's Act (1965) requires aging planning; (2) North Carolina *Livable and Senior-Friendly Communities* Initiative (2006); (3) NC Senate Bill 448 (2007) - Buncombe County one of 7 identified by NC to watch how we plan for aging demographic shift; and (4) Governor's Executive Order (2010).

The aging plan has a vision for a livable, aging-friendly community that (1) Environments are safe and support self-sufficiency; (2) The health care system maximizes wellness and meets older adult needs; (3) Resources and opportunities support and enhance financial wellbeing; (4) Living environments (built and natural) enhance functioning of older adults; (5) Social engagement enriches lives with people, places and programs; and (6) A collaborative network of services and supports are coordinated.

The ABC's of the Aging Plan are (1) Active Document; (2) Broadening base of buy-in; and (3) Community consequences.

The following is financial information for seniors (1) Response to current economic situation; (2) OnTrack statistics as an example; (3) Specific products: (a) Rack Cards; (b) DVDs – six segments; and (c) Financial Fraud, Scam & Exploitation Summit.

The following are partners for financial information for seniors: OnTrack Financial Education and Counseling; Pisgah Legal Services; Council on Aging of Buncombe County; SHIIP – Senior Health Insurance Information Program; Better Business Bureau; Pisgah Legal Services; Financial Social Work Program; Buncombe County Department of Social Services; Buncombe County Television Channel; Buncombe County Sheriff's Office; Land-of-Sky – Regional Ombudsman; AARP – Regional Office; North Carolina Attorney General's Office; North Carolina Secretary of State's Office; HomeTrust Banks and State Employee's Credit Union; AT&T; Senior Tarheel Legislature Representative; and Heath Shuler and Kay Hagan Representatives.

Community resource connections include (1) Aligning the aging planning process with the Community Resource Connections; (2) Uniform access for older adults and people with disabilities; (3) Utilizes United Way's 2-1-1; (4) Selected agencies to perform core functions; and (5) Quarterly cross-training for stakeholders.

Health and wellness include (1) Resource rich community; (2) Focus on awareness and access; and (3) Highlights (a) Wiki with monthly calendar of events; (b) Live phone access for health information; and (c) Programming and outreach to underserved areas.

Partners in health and wellness include Land-of-Sky Living Healthy Program; Council on Aging; Project EMMA & Nutrition Sites; North Carolina Center for Creative Retirement; UNC-Asheville WASA Program; Mission Hospital; Park Ridge Hospital; MAHEC; Buncombe County Health Center; YMCA/YWCA; and Givens Estates – Life Ministries Outreach.

What's next for 2010-11 includes (1) Continue ongoing work; (2) Broaden committee membership; (3) Launch housing/transportation work group; and (4) Establish liaisons to key planning efforts.

At Mayor Bellamy suggestions, Ms. Kendall-Fields said that she would provide the Mayor's Office with the updated Senior Resource Directory to be placed in City Hall for reference.

Mayor Bellamy thanked Ms. Kendall-Fields for this very informative update.

D. ASHEVILLE MOTOR SPEEDWAY MEMORIAL UPDATE

Councilman Davis said that the Asheville Speedway Memorial Committee has continued to work toward the goal of erecting a Memorial at the current Carrier Park Recreation Park, located on Amboy Road.

In the fall of 2007, the Asheville City Council and Buncombe County Commissioners jointly endorsed and supported efforts by an Asheville Motor Speedway Memorial Committee to raise money through private donation. The Committee's aim was to design and build an appropriate memorial commemorating the history of stockcar racing in the Asheville Buncombe Area. Since this time, he was pleased to report that the Committee has agreed on the historic photos and text that will be displayed to outline the history of stock car racing in Western North Carolina and that the project has officially broken ground. He hoped that the unveiling will be in late August or early September.

He explained the rich history of the Asheville Motor Speedway Memorial Project, being (1) From 1960 – 1999 this site was home to one of the most legendary tracks in the history of stockcar racing; (2) Legendary figures: Junior Johnson, Richard Petty, Jack Ingram, Bob Pressley, etc.; and (3) Not just part of the community, but a community itself. He said the Project should be completed this summer.

Carrier Park Today – (1) In 1999, the track was sold to Riverlink and the land donated to the City of Asheville; (2) Asphalt oval remains, incorporated into the park as a thoroughfare for bicyclists, joggers and walkers; and (3) The park has become the most used city recreational facility, has no admission fee, and offers a wide variety of recreational and educational opportunities.

In the fall of 2007, Asheville City Council and Buncombe County Commissioners supported efforts to raise money through private donations for the Speedway Memorial Park.

He showed (1) the final concept; (2) the front and back of the Memorial Wall; and (3) the revised site plan of the Asheville Speedway Memorial.

On behalf of City Council, Mayor Bellamy thanked Councilman Davis for his update on the key aspects of the Asheville Speedway Memorial Project and his leadership on this Project.

Mr. Fred English, NASCAR fan, urged Council to name a street or highway for Jack Ingram as he has brought a lot of recognition to Asheville.

E. DROUGHT MANAGEMENT PLAN UPDATE

Water Resources Director Steve Shoaf said that City staff has prepared an update on the status of the existing Drought Management Plan, and utilized Brown and Caldwell Environmental Engineers to incorporate necessary updates to the Plan.

In 2003, the City of Asheville Water Resources Department worked with Brown and Caldwell Consulting Engineers to develop a Drought Management Plan for the water supply reservoirs and two water treatment facilities. Since then, there has been a significant drought in 2007, the startup of the William DeBruhl Water Treatment Plant, and implementation of a Flood Management Plan. Water Resources has reviewed the impacts of these events and is updating the Drought Management Plan to include new, relevant information.

The Drought Management Plan is a planning tool to allow us to remain sustainable and meet the demands of our system. The plan models hydrologic conditions and is used to predict lake level response based on assumptions about the weather, soil, system water demands, past history, and other factors. Both real-time and historical data (1926 to 2009) is incorporated. The plan addresses operational strategies and includes estimates of how often we should expect to announce voluntary water restrictions, mandatory water use restrictions, and water conservation surcharges.

This initiative complies with the City Council's strategic plan to promote sustainability through long-term planning.

Pros:

- Manage our water resources to support a viable community.
- Provide a systematic response to water shortages that allows Asheville to be pro-active.
- Avoid declarations of water shortage when such a declaration may be a "false alarm".

Con:

- The plan balances the potential for drought with the potential for flooding thereby not maximizing the storage potential of our reservoirs.

The costs of the updates to the Drought Management Plan are budgeted and have been allocated. There are no other impacts to the budget. This plan should minimize our exposure to the negative impacts of droughts and reduce the needs for emergency water conservation measures, thus preserving our revenue stream generated from water consumption.

Using a PowerPoint, Mr. Shoaf said that the Asheville Drought Management Plan (1) Began development in 2003; (2) Provides guidance for reservoir operation; (3) Predicts when to declare voluntary or mandatory water conservation measures; and (4) Based on computer modeling that reflects current conditions and historical experience.

The 2004 Drought Plan constraints consisted of (1) North Fork water surface elevation when full = 2601 feet; (a) Target minimum water level 2580 feet to protect raw water quality; and (b) Treatment Plant Intake elevation at 2530 feet; (2) Acceptable frequency of drought restrictions (a) Once every 5 years for voluntary conservation; (b) Once every 5 - 10 years for mandatory measures; (c) Once every 10 years or more for conservation surcharge; and (d) Minimum of 30 days implementation between increments; (3) Incremental demand reductions of 2%, 2%, and 6 % under voluntary, mandatory, and surcharge restrictions; (4) Identify drought triggers based on

historical, current, and predicted conditions (a) Capture all drought events; (b) Must provide drought notice in advance to be effective; (c) Allow for phasing of remedial actions based on severity; (d) Minimize the number of false alarms; and (e) Based on probabilities of impacts of all factors; and (5) Evaluated various scenarios for North Fork Reservoir.

The 2007 North Fork Flood Operation Plan – (1) Based on computer simulations using historical and current conditions; (2) Establishes acceptable lake water levels to minimize flooding impacts downstream; (3) Maximum lake level 2598 feet or 3 feet below full; (4) Developed seasonal lake levels as “rule curve” to follow leading to water releases to adjust lake levels; and (5) Has measurable impact on Drought Management Plan.

The 2010 Drought Plan recommendations include: (1) Incorporate operation of William DeBruhl WTP and Flood Operation Plan; (2) Adjust projected future water demands based on master plan; (3) At average annual demand of less than 21.5 MGD (current): (a) No restrictions needed (based on repeat of 1926-2009 hydrology); (4) At average annual demand of 23.5 MGD (Year 2017): (a) This demand would result in declarations of voluntary conservation about every 20 years (based on repeat of 1926-2009 hydrology) with no mandatory or conservation surcharges; and (b) Longest duration of these events = 8 months; (5) At a demand of 26 MGD: (a) The declaration of voluntary conservation measures exceeds acceptable frequencies and the plan will need modification. Projected demand in Year 2037 = 28 MGD; (6) New drought triggers (a) Trigger 1: 20% chance of reaching 2570 feet in 10 weeks; (b) Trigger 2: 10% chance of reaching 2569 feet in 10 weeks; and (c) Trigger 3: 5% chance of reaching 2568 feet in 8 weeks; (7) The combination of risk, forecast horizon, and elevation minimized the number of trigger events while keeping North Fork at acceptable elevations; and (8) Refill consideration: Lift restrictions when North Fork refills to 2598 feet.

The following is what has changed:

- Include operation of William DeBruhl WTP and Flood Operation Plan
- Drought triggers changed:

	<u>2004 Plan</u>	<u>2010 Plan</u>
● Phase I	2572 feet	2570 feet
● Phase II	2571 feet	2569 feet
● Phase III	2570 feet	2568 feet
- Need for declared conservation events decreased
 - More flexibility
 - Some operating decisions can be based on cost

Because this is an information item, no action is required by the City Council. The Drought Management Plan will be used as operational guidance during water shortages.

F. ECONOMIC STIMULUS PACKAGE UPDATE

RESOLUTION NO. 10-135 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDS FROM THE N.C. DEPT. OF HEALTH & HUMAN SERVICES TO FUND A SUMMER INTERN FOR THE ENGINEERING SERVICES DIVISION

ORDINANCE NO. 3872 - BUDGET AMENDMENT TO ACCEPT FUNDS FROM THE N.C. DEPT. OF HEALTH & HUMAN SERVICES TO FUND A SUMMER INTERN FOR THE ENGINEERING SERVICES DIVISION

American Recovery & Reinvestment Project Manager Brenda Mills said that this is the consideration of a resolution authorizing the City Manager to enter into an agreement to accept funds from the North Carolina Department of Health and Human Services (NC DHHS) to fund a

summer intern for the Engineering Services Division, and an associated budget amendment in the amount of \$1,500 from NC DHHS's ARRA funds.

The Engineering Services Division has been working with the Human Resources Department to find an intern for the summer that had an interest in the field of engineering. Human Resources staff was successful in this endeavor, in that a current student at Asheville High School that plans to attend college next year in an Engineering discipline would like to work for the City this summer. The funds to pay the student would come from the American Reinvestment and Recovery Act (ARRA) from the NC DHHS, and the City is not required to pay any matching funds.

This action complies with the City Council Strategic Operating Plan in that we actively pursued funding opportunities with State and Federal economic stimulus packages, and that it expands partnerships with educational institutions to achieve common goals, such as workforce development.

Pros:

- The City will be able to add a seasonal employee at no direct cost to the City.
- The student will be able to obtain real life experience in their chosen field of study.
- Expanding relationships with Asheville High and NC DHHS for mutually beneficial agreements.
- Current staff will get much needed help to manage ongoing projects.

Cons:

- The student will use City equipment while employed over the summer, such as computers, tools and vehicles.
- City would be required to carry Workers Compensation on the employee.

There is no fiscal impact, unless injured while on the job.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with NC DHHS to accept ARRA funds to employ summer intern in the Engineering Services Division and adopt the budget amendment to appropriate fund accounts.

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

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

Councilwoman Manheimer moved for the adoption of Resolution No. 10-135. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 83

Councilwoman Manheimer moved for the adoption of Ordinance No. 3872. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE

G. QUARTERLY STRATEGIC OPERATING PLAN

Strategic Operating Plan

Assistant City Manager Jeff Richardson said that the Asheville City Council identified short and long term goals at the February 2009 strategic planning retreat and staff is providing its quarterly updates on progress of the five key focus areas.

City Council has asked City staff to provide quarterly updates on key strategic initiatives associated with the five primary focus areas of the City's Strategic Plan. Staff has tracked projects using performance indicators and measurement through the Fiscal Year 2009-10. In addition, staff provided Council with the Economic Development Key Indicator Report.

He then showed Council a video showing the staff's progress on the key strategic areas for the third quarter.

This information is to update City Council on key operational initiatives specific to City Council's Strategic Operating Plan. No action is necessary at this time.

Quarterly Financial Report

Mr. Richardson also provided Council with the City's overall financial position for the fiscal year through March 2010.

The executive summary is as follows:

Amendments. The General Fund budget presented in this third quarter report reflects the adopted budget of \$92,688,293; plus \$1,097,031 in prior year encumbrances that rolled over from FY 2008-09; along with sixteen budget amendments approved by Council since the start of the fiscal year that total \$817,937. Four budget revisions involved the appropriation of fund balance: 1) \$366,812 was used as the City match for transportation improvement projects that were partially funded with an ARRA grant; 2) \$60,000 was used to expand the number of early voting sites; 3) \$71,451 was used to cover civil service board expenses that arose from a General Assembly mandate; and 4) \$19,842 was used to fund the cost of hiring a project manager for the City Hall building project. The other amendments were funded with various grants and donations.

Adopted Budget	92,688,293
Encumbrances	1,097,031
16 Budget Amendments*	<u>817,937</u>
3/31/2010 Budget	<u>\$94,603,261</u>

* Fund balance appropriations since July 1 total
\$518,105

Revenues. Through March 31, 2010, the City collected \$72,536,833 in General Fund revenue, which represents approximately 79.6% of the total General Fund revenue budget. Sales tax collections continue to under perform budget estimates and are down 8.2% compared to the same time last fiscal year. As a result, sales tax revenue is expected to come in under budget in the current year by \$1,500,000. The City received its official FY 2009-10 property tax data from Buncombe County in January, which confirmed that property tax revenue should come in at budget. Based on current year-end estimates, staff is projecting that *FY 2009-10 total General Fund revenue will come in under budget by \$1,309,000.*

Expenditures. General Fund expenditures through March 31, 2010 total \$65,508,110 or 69.2% of the budget. *Based on spending through the first three quarters of the year and historical trends, staff is currently estimating that the overall General Fund budget will end the year with a budget savings of \$583,000.*

Fund Balance. The City ended FY 2008-09 with available fund balance of \$16,696,979, which equated to 18.7% of FY 2008-09 expenditures. *Based on current year-end revenue and expenditure estimates for FY 2009-10 staff is projecting that available fund balance will decrease to \$13,657,479, which will equate to 14.5% of estimated year-end expenditures.*

When Mayor Bellamy questioned the 14.5% Fund Balance analysis and voiced support for raising that to 15%, Director of Administrative Services Lauren Bradley acknowledged the reduction from 15.1% and stated that staff will work to restore that level of reserve to 15% either through a savings plan or in the next year's budget.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING A PORTION OF FEDERAL ALLEY

RESOLUTION NO. 10-136- RESOLUTION TO PERMANENTLY CLOSE A PORTION OF FEDERAL ALLEY

RESOLUTION NO. 10-137- RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY BY NORTH CAROLINA NON-WARRANTY DEED ANY AND ALL INTEREST, IF ANY, THE CITY HAS IN THE CLOSED PORTION OF FEDERAL ALLEY ADJACENT TO SWANNANOVA CLEANERS

Mayor Bellamy opened the public hearing at 6:26 p.m.

Mr. David Foster, Assistant Director of Public Works, said that this is the consideration of a resolution to permanently close a portion (35 sq. feet) of Federal Alley, near 165 Coxe Avenue. This public hearing was advertised on May 14, 21, 28 and June 4, 2010.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, the adjoining property owners, Swannanoa Laundry Inc., and the City of Asheville have requested the City of Asheville to permanently close a portion of Federal Alley.

The Greenway Commission reviewed the proposed closure at their meeting on May 13, 2010, and supported the closure of a portion of Federal Alley.

This closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties.

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close a portion of Federal Alley. City staff also recommends that the City relinquish any and all rights it may have, if any, as a fee simple owner to the closed portion of Federal Alley by authorizing the City Manager to convey by North Carolina Non-Warranty Deed and all interest, if any; the City has in the closed portion of Federal Alley adjacent to Swannanoa Cleaners.

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

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

Councilwoman Manheimer moved for the adoption of Resolution No. 10-136. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 33– PAGE 84

Councilman Russell moved for the adoption of Resolution No. 10-137. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 33– PAGE 85

B. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF 97 UNDERWOOD ROAD TO HIGHWAY BUSINESS DISTRICT

ORDINANCE NO. 3873 - ORDINANCE ZONING 97 UNDERWOOD ROAD TO HIGHWAY BUSINESS DISTRICT

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

Urban Planner Julia Cogburn said that this is the consideration of zoning 97 Underwood Road to Highway Business District. This public hearing was advertised on May 28 and June 4, 2010.

The City of Asheville recently completed the voluntary annexation (effective April 30, 2010) of a 1.96 acre tract located at 97 Underwood Road in Southern Buncombe County. The property is located to the west of the Asheville Regional Airport and is adjacent to I-26. Access to the property is off of Underwood Road. A single building (warehouse) is located on the site which previously housed a rental facility.

The property is currently unzoned and is surrounded by unzoned property. The airport property is zoned Institutional but other properties along Airport Road that are in the City's corporate limits are zoned Highway Business (HB). Staff proposes HB zoning for this parcel.

At a meeting on May 5, 2010, the Asheville Planning and Zoning Commission voted 6-0 to recommend the rezoning to the Asheville City Council. One person owning adjoining property (that is not in the City) spoke after the public hearing and vote had occurred to state that he was concerned as he had heard that a strip club was proposed. He was concerned about potential impacts to a large office building he planned to build on his property. The developers of the project on the property at 97 Underwood Road will be at the Council meeting to report that this is not their plan. [Such an establishment would not be allowed as it is too close to a residence.]

Pro:

- Zones property recently taken into the City of Asheville in consideration of the surrounding zoning and land use and the City's comprehensive plan.

Con

- None noted.

At a meeting on May 5, 2010, the Asheville Planning and Zoning Commission voted 6-0 to recommend the initial zoning to Highway Business to the Asheville City Council. Based on the analysis provided in this report, staff finds this initial zoning to be reasonable.

Mr. Aaron Dean, partner of the business at 97 Underwood Road, said they are looking at opening a live music venue, starting the first year with local bands.

Mayor Bellamy closed the public hearing at 6:32 p.m.

City Attorney Oast reminded Council that any if any property is rezoned to a specific classification, any use in that classification is allowed. He did note that Ms. Cogburn is correct in that a strip club would not be allowed as it is too close to a residence.

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

Councilman Russell moved for the adoption of Ordinance No. 3873. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE

C. PUBLIC HEARING TO CONSIDER AMENDING THE CODE OF ORDINANCES FOR THE PURPOSE OF CORRECTING CODIFICATION ERRORS AND RESOLVING DISCREPANCIES IN THE USES BETWEEN DIFFERENT SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

ORDINANCE NO. 3874 - ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE PURPOSE OF CORRECTING CODIFICATION ERRORS AND RESOLVING DISCREPANCIES IN THE USES BETWEEN DIFFERENT SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Bellamy opened the public hearing at 6:33 p.m.

Technical Services Manager Kim Hamel said that this is consideration of a public hearing to amend the Unified Development Ordinance for the purpose of correcting codification errors and resolving discrepancies in the uses between different sections of the Unified Development Ordinance. This public hearing was advertised on May 28 and June 4, 2010.

The Planning & Development staff has been meeting regularly over the past 3 months to evaluate the UDO for consideration of consolidating permitted land uses into a comprehensive "Table of Uses" to add to the UDO. This evaluation has also identified a number of discrepancies and revealed errors when cross-referencing the list of "Permitted uses" and "Uses by Right Subject to Special Requirements", outlined in Article VIII, General Use Districts, to the uses identified in Article XVI, Uses by Right, Subject to Special Requirements and Conditional Uses.

This report proposes changes to correct these discrepancies and errors as a first step in the process of creating the consolidated table of permitted uses, and will provide a clearer document for the staff and the public to use.

This ordinance supports the Council goal of completing UDO amendments to improve clarity and address community goals.

On Wednesday, May 5, 2010, the Planning and Zoning Commission reviewed the proposed amendments to the UDO as outlined in this report and recommended approval by a unanimous vote (6-0).

Pros:

- Corrects discrepancies and codification errors.
- Provides consistent language and terminology for all uses listed throughout the UDO.

- Provides a “clean and consistent” template and text for creating a comprehensive “Table of Uses” document.

Con:

- None Noted.

The Planning and Development Department staff recommends approval of these wording amendments.

Mayor Bellamy closed the public hearing at 6:35 p.m.

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

Councilman Bothwell moved for the adoption of Ordinance No. 3874. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE

D. PUBLIC HEARINGS REGARDING THE STORMWATER AND EROSION CONTROL ORDINANCE

ORDINANCE NO. 3875 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES (SECTION 7-12-1) PERTAINING TO ENVIRONMENTAL PROTECTION STANDARDS FOR SOIL EROSION AND SEDIMENTATION CONTROL AND STORMWATER MANAGEMENT

ORDINANCE NO. 3876 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES (SECTION 7-2-5) PERTAINING TO DEFINITIONS OF THE ENVIRONMENTAL PROTECTION STANDARDS

ORDINANCE NO. 3877 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES (SECTION 7-18-2) PERTAINING TO ENFORCEMENT OF THE STORMWATER AND SOIL EROSION PROVISIONS

RESOLUTION NO. 10-141 – RESOLUTION APPROVING THE TABLE OF USES FOR POST-CONSTRUCTION AQUATIC BUFFERS AS A GUIDELINE

Mayor Bellamy opened the public hearing at 7:24 p.m. and noted that one public hearing would cover all three ordinance revisions.

Public Works Director Cathy Ball said that this is the consideration of adopting the revised Stormwater and Stormwater and Erosion Control Ordinance, including all related sections of the Unified Development Ordinance that impact the Stormwater and Erosion Control Ordinance. These public hearings were advertised on May 28 and June 4, 2010.

In January 2010, a public hearing was scheduled for the revised Stormwater and Erosion Control Ordinance. (The January 12, 2010 Staff Report and attachments have been included for reference.) Council moved to table the Stormwater and Erosion Control Ordinances pending review by the City Council Planning and Economic Committee (PED).

The history of this action is (1) federal mandate through State required adoption of ordinance to address water quality issues; (2) City Council adopted the current stormwater ordinance on August 21, 2007; (3) adopted buffer requirements are 30' for all disturbed areas; and (4) City Council remanded the ordinance back to the Planning & Zoning Commission and the Watershed Policy Committee (WPC) for evaluation of the buffer, inspection and enforcement.

The WPC, staff, Planning & Zoning Commission and the Planning & Economic Development Committee recommended by consensus 17 changes to the ordinance.

Using charts, she outlined the consensus ordinance improvements.

On February 10 and March 10, 2010, the PED Committee met and discussed the ordinance with the focus on following:

- exemptions from the Post-Construction Stormwater Controls (Section 7-12-2(a)7.b and c found on page 4 of the ordinance); and,
- buffer requirements for during construction and post-construction buffers.

Exemptions from Post-Construction Stormwater Controls

The draft ordinance submitted for the January 12, 2010, public hearing was not clear regarding which development or re-development was exempt from post-construction stormwater measures and what measures these projects were exempt from.

The recent changes reviewed by the PED committee, clarify that the following projects are exempt from water quantity, water quality requirements **but not from buffer requirements or other special requirements.**

1. Development that disturbs less than one acre and will have a proposed impervious surface area of fifty percent or less of the total lot size, provided it is not part of a larger development.
2. Redevelopment that disturbs less than one acre and will have a proposed impervious surface area of fifty percent or less of the total lot size, provided it is not part of a larger development.
3. Development or redevelopment of a single one or two family dwelling that disturbs less than one acre and is not part of larger development.

The following types of development are exempt from all sections of the post-construction section of the ordinance **including exempt from any post-construction buffer** requirements.

1. Redevelopment that results in no net increase in impervious surface and provides equal or great stormwater controls than prior to redevelopment.
2. Activities that are exempt from the permit requirements of Section 404 of the Federal Clean Water Act, as specified in 40 CFR 302 (primarily, ongoing farming and forestry activity.)

Buffers

The draft ordinance submitted for the January 12, 2010, public hearing included a risk-based matrix referred to as "Pete's Matrix" for determination of the buffer width for during and post-construction buffers.

The PED Committee agreed that the matrix may be difficult for property owners to understand and therefore cause confusion and non-compliance with the ordinance. The PED Committee majority recommended a **30 foot post-construction buffer** for all properties that are not exempt from the buffer requirements (Section 7-12-2(f)3.1-3). The committee recommended going with the State law for during construction buffers (Section 7-12-2(e)2.1) for consistence.

The group also discussed two variations for post-construction buffer requirements. If Council votes to select one or both of these alternates, staff would need to add wording to the ordinances and come back to Council to approve the revised ordinances.

1. **Alternate 1:** 30 foot buffer in densely zoned areas and 50 foot buffer in all other less densely zoned areas. If Council recommend this alternate staff would work to define the higher density areas by transit corridors, etc., rather than by zoning districts, as these are likely to change. From a technical perspective, there is an inverse relationship between increased density and decreasing buffers.
2. **Alternate 2:** 30 foot buffers on parcels with slopes less than 15% and 50 foot buffers on properties with an average natural slope of 15% or greater. We have attached a map that depicts these areas in light purple. Some data regarding the number of parcels impacted by this option are below.

30 foot buffer for all properties less than 15% slope and 50 foot buffer for all properties 15% or greater

	30 foot for all parcels		<u>Additional 50 foot on parcels with slopes 15% or greater</u>	
	Acres	# of Parcels	Acres	# of Parcels
City Limits	2,471	10,933	765	803
ETJ	1,220	2,266	412	111
Total	3,691	13,199	1,177 (24% increase)	914 (6.5% increase)

Regarding buffers, the majority of the WPC recommended Pete's Matrix for buffers that included items related to a risk based approach (a) cross sectional slope; (b) total disturbed area and cumulative impervious area; and (c) type of adjacent stream (i) perennial – stream with continuous flow throughout the year; and (ii) intermittent – stream that flows for part of the year. This exceeds state minimum.

Using Pete's Matrix, she reviewed the WPC's recommended buffers. The buffer pros are (1) risk-based - considers physical conditions; (2) provides for buffers along all streams; (3) considers trade-off between development and environment; (4) supported by majority of WPC; and (5) allows greenways in the buffer with mitigation. The cons are (1) complication of the matrix; and (2) could not obtain consensus.

The Planning & Zoning Commission recommendation regarding buffers is the State minimum of 30 feet for 1 acre or more disturbance, with the following qualifiers: (1) Sustainable Development Practices (a) require "sustainable building practices" for 1 acre or more; (b) allow civil engineers to select two approved list of Best Management Practices "BMP"; and (c) LEED certified projects qualify as "sustainable building; and (2) Greenway Trails and Continuous Stream Side Access (a) require public greenway easement projects that require 30 foot buffer and are on the Greenway Master Plan; and (b) Allow greenways identified on the Greenways Master Plan by right.

She reviewed the pros and cons of the Planning & Zoning Commission recommendation. The pros are (1) complies with State minimum requirements for land disturbing activity; (2) simple; and (3) allows greenways in the buffer as a right. The cons are (1) loss of 112 miles of aquatic buffers; (2) LEED certification is not water quality based; (3) no authority for taking land under the authorizing legislation; and (4) not acceptable to NC Division of Water Quality.

The PED discussed this issue on February 10 and March 10, 2010, no official vote was taken. The PED review is (1) during construction (a) 30 foot minimum for all land disturbing activity except redevelopment; and (b) redevelopment – State standards; and (2) post-construction (a) 30 feet minimum except as exempted by ordinance.

Discussion by the PED also talked about two proposed alternates (1) Alternate 1: 30 feet in more densely zoned areas (transit corridors, etc.) and 50 feet in less densely zoned areas; and (2) Alternate 2: 30 feet on parcels with less than 15% slope and 50 feet on parcels with 15% or greater average natural slope. The PED Committee discussed this issue on February 10 and March 10, 2010, but no official vote was taken. The pros on the PED proposal are (1) exceeds State's minimum requirements; (2) simple; (3) allows greenways in the buffer with mitigation; and (4) provides more protection than WPC recommendation except in steep slopes. The cons on the PED proposal are (1) reviewed by PED but no official vote; and (2) one size fits all situations.

Regarding greenways in the buffers, the proposed ordinance allows greenways to be located in an aquatic buffer when there is no practical alternative and mitigation is achieved as described in the Table of Uses.

Other Changes

Some typos were corrected as well as providing consistency in terminology. Section 7-12-2(j)(2) was also modified to allow flexibility in the best management practices used for during construction protection provided that the same level of treatment, discharge and velocity control were maintained.

Other than the items mentioned above, the ordinance was not changed from the January 12, 2010, version.

Pros:

- Approval of the consensus items will improve efficiency and reduce both City and developer cost in the process without sacrificing water quality.
- The Watershed Policy Committee met every two weeks for four hours over a six month period to develop the recommended ordinance. The committee reached consensus on all but three issues.
- The revised ordinance is better organized and easier to follow than the existing ordinance. Staff has developed a "Citizen's Guide to the Stormwater and Erosion Control Ordinance" to assist non-technical customers.
- A standard 30 foot buffer with a possible exception for steep slopes will allow for easier compliance.

Cons:

- The WPC did not reach consensus on the buffers or on the definition of a Watershed Overlay Zone.
- The WPC did not consider and provide a recommendation on allowing impervious greenways in the Aquatic Buffer.
- The Committee struggled with the balance of the amount of buffer required versus the ability to develop land. It was difficult to develop the group beyond a win-loose solution.

A sub-committee of the WPC called the Cost/Benefit Analysis committee evaluated other consensus recommendations. In all cases, the implementation of the consensus items improves efficiency without significant adverse impacts to water quality.

Approval of the consensus items will improve the efficiency of the permitting process. The fiscal impact will result in a more efficient use of City staff as well as the individuals filling the appeals.

Staff recommends that City Council adopt the revised Stormwater and Stormwater and Erosion Control Ordinance, including all related sections of the Unified Development Ordinance. Staff recommends that Council consider increasing the buffer requirements to 50 feet on parcels with a 15% average natural slope or greater.

More specifically, staff asks that Council adopt staff's recommended changes to the Unified Development Ordinance Section 7-12-2 (Stormwater and Erosion Control Ordinance), parts of Section 7-2-5 (Definitions) and parts of Section 7-18-2 (Enforcement).

In summary, staff's recommendation is (1) Council recognize consensus items as a significant improvement to current ordinance; and (2) adopt 30 foot buffers for all disturbed areas as recommended in the proposed ordinance.

The following individuals voiced their varying opinions on the proposed ordinance:

Mr. Pete Hildebrand, member of the WPC
 Ms. Julia Mayfield, Executive Director of the WNC Alliance
 Mr. Rod Hudgins, President of Council of Independent Business Owners (provided Council with a statement)
 Mr. Paul Szurek, member of the WPC
 Mr. Mac Swicegood, Asheville resident (provided Council with a statement)
 Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities
 Mr. Ned Gardner, Asheville resident
 Ms. Barber Melton, Vice-President of Coalition of Asheville Neighborhoods and member of the WPC
 Mr. David Herbert, member of the WPC
 Mr. Jerry Sternberg, member of the WPC
 Mr. Jerry Rice, Buncombe County resident
 Mr. Robert Zieber, member of the WPC

At 8:22 p.m., Mayor Bellamy closed the public hearing.

Mayor Bellamy said that members of Council have previously received copies of the ordinances and the resolution and they would not be read.

Councilwoman Manheimer moved to adopt Ordinance No. 3876 (definitions). This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK 26 – PAGE

Councilwoman Manheimer moved to adopt Ordinance No. 3877 (penalties). This motion was seconded by Vice-Mayor Newman and carried unanimously.

ORDINANCE BOOK 26 – PAGE

Vice-Mayor Newman moved to adopt Ordinance No. 3875 (standards) recommended by City staff for continuous 30-foot buffer in the City of Asheville, with the definition of aquatic buffer being amended to dictate that it is "undisturbed". This motion was seconded by Councilwoman Manheimer.

Councilwoman Manheimer said that this ordinance addresses during construction and post-construction. The State tells us that our stormwater buffer must be 30-feet for parcels 1 acre or greater. This ordinance says the buffer will be 30-feet for during construction and post-construction for all parcels, regardless of size. However, there is an exception section, and some blanket exceptions for some redevelopment. The State defines what redevelopment means and it is included in this ordinance. She felt this ordinance represents a true compromise between those who wanted Council to go with the absolute State minimum and those that wanted Council to put in some requirements that far exceeded the State standards. In addition, staff will have the ability to allow an exception, so we won't have residential parcels in the City that would become unbuildable.

Throughout discussion, Ms. Ball responded to various questions/comments from Council, some being, but are not limited to: what pollutants are we trying to keep out of the streams; how do buffers keep the sediment out of streams; what happens downstream with the pollutants; why are downstream property owners concerned with pollutants; how did staff come up with the 30-foot buffer and the 15% slope; what is the science of the buffer size; at what level does the steep slope regulations begin and how the stormwater regulations and the steep slopes would interface; are pollutants from stormwater drains piped directly into the streams; how many miles of streams will be affected; how many exceptions have been granted since 2007; and has staff looked at maps comparing the steep slope regulations at 2230 and the lower elevations to see how much land this really will affect.

The motion made by Vice-Mayor Newman (staff recommendation for continuous 30-foot buffer in the City of Asheville, with the definition of aquatic buffer being amended to dictate that it is "undisturbed") and seconded by Councilwoman Manheimer carried on a 5-2 vote, with Councilman Russell and Councilman Smith voting "no."

ORDINANCE BOOK NO. 26 - PAGE

Councilwoman Manheimer moved for the adoption of Resolution No. 10-141. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no."

RESOLUTION BOOK NO. 33 – PAGE 91

Councilman Bothwell moved to amend Ordinance No. 3875 (standards) for 30-foot buffers up to 15% slope, 40-foot buffer between 15-25% slopes, and 50-foot buffers for more than 25% slopes. This motion was seconded by Councilman Smith and failed on a 2-5 vote, with Mayor Bellamy, Vice-Mayor Newman, Councilwoman Manheimer, Councilman Davis and Councilman Russell voting "no."

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 10-138- RESOLUTION AUTHORIZING EXECUTION OF A \$1.1 MILLION INSTALLMENT PURCHASE FINANCING CONTRACT WITH BB&T FOR THE LIVINGSTON STREET COMMUNITY CENTER PROJECT

When Councilwoman Manheimer asked if she had a conflict of interest because her law firm represents BB&T, City Attorney Oast said that she did not have a conflict of interest.

Mr. John Smith, Interim Finance Director, said that this is the consideration of a resolution authorizing execution of a \$1.1 million installment purchase financing contract for the construction of the Livingston Street Community Center.

The City of Asheville Capital Improvement Program (CIP) includes \$1.1 million previously appropriated by City Council to finance the construction of a community center on Livingston Street in central Asheville.

The Finance Department sought proposals from five local and regional banks. Three proposals were received, the best of which was submitted by BB&T at a rate of 4.55% for fifteen years.

The proposed resolution authorizes an installment purchase contract between the City of Asheville and BB&T to finance the construction of the Livingston Street Community Center and authorizes the City Manager, City Attorney, Interim Finance Director and City Clerk to execute and deliver any and all necessary documents.

Pros:

- Provides funding of capital expenditures at a very favorable rate of interest.
- Financing capital assets spreads the cost of construction over several years of the useful life of the asset.

Con:

- Financing the asset slightly increases the lifetime cost due to the payment of interest on the amount financed.

The annual debt service payment for this financing will range from \$76,000 to \$123,000. Funds are already included in the City's proposed debt service budget to cover this cost.

City staff recommends City Council adopt the resolution authorizing the City Manager to execute an installment purchase contract and closing process with BB&T for the construction of the Livingston Street Community Center.

Mr. Smith responded to questions from Councilman Russell regarding the 15-year loan and the annual service.

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. 10-138. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting "no."

RESOLUTION BOOK NO. 33 – PAGE 86

B. RESOLUTION NO. 10-139 - RESOLUTION APPROVING THE RECOMMENDATIONS OF THE HOUSING & COMMUNITY DEVELOPMENT COMMITTEE FOR THE 2010 OUTSIDE AGENCY PROGRAM

Mr. Jeff Staudinger, Community Development Director, said that this is the consideration of a resolution approving the recommendations of the Housing & Community Development (HCD) Committee for the 2010 Outside Agency Program.

The HCD Committee received applications from 10 eligible organizations for Outside Agency funding for 2010. The Committee heard presentations from these applicant organizations on May 26, 2010.

The Committee recommends the following funding under this program for 2010:

Design Center	Coordinating community and design professional work on public infrastructure projects	\$ 4,000
Homeward Bound of Asheville-AHOPE	A HOPE Day Center outreach, intake and support for homeless persons on weekends.	\$ 20,000
Asheville Buncombe Community Relations Council	Fair Housing	\$ 50,000

Economic Development Coalition	Economic development services	\$ 40,000
Asheville Greenworks	Graffiti removal; tree planting	\$ 8,000

The Committee took no action on the remaining five applications. These applicants were invited to return to the next HCD meeting to participate in a discussion about how the City can best support after-school, mentoring and other youth enrichment programs. Regardless, the Committee expects to allocate the \$162,400 that were pre-budgeted for the program. Only individual agency funding recommendations decisions are being deferred until the next HCD meeting.

This action complies with the City Council Strategic Operating Plan in (1) Affordable: Supports an initiative to end chronic homelessness in Asheville; (2) Fiscal Responsibility: It provides resources for strategic initiatives and creates meaningful performance measures for programs and services; (3) Job Growth and Community Development: Creates more collaborative and effective working partnerships between the City of Asheville and key organizations to accomplish economic development goals; an (4) Safe: Supports recreation and employment alternatives for youth at risk of gang exposure.

Pros:

- Approval of Outside Agency Grants provides operating support to Asheville- based organizations that are providing direct services for Asheville residents.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints have curtailed the availability of funds for this year, and organizations will need to find alternate sources of program support;

Outside Agency Grants are funded from the City's general fund. The funding recommendations are within the fiscal limits developed by Council during the budget working sessions. Except for one agency recommendation (ABCRC), all funding recommendations are made at 80% of last year's individual agency funding.

The HCD recommends approval of the 2010 Outside Agency Program budget, and individual grants as presented.

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

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

Vice-Mayor Newman moved for the adoption of Resolution No. 10-139. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 89

VI. NEW BUSINESS:

A. RESOLUTION NO. 10-140 - RESOLUTION FOR LOCAL CAMPAIGN FINANCE REFORM OPTIONS

Councilman Bothwell asked for consideration of the following resolution for local campaign finance reform options: "WHEREAS, the cost of running for local office should be attainable to everyday citizens in any North Carolina community; and WHEREAS, public financing programs that encourage small donations, voter participation, and voluntary spending limits are present at the federal and state level, including in North Carolina statewide judicial and executive branch elections; and WHEREAS, public financing programs increase voter contact with candidates, and allow elections to be "voter-owned"; and WHEREAS, the Town of Chapel Hill successfully implemented a public financing pilot in 2009, with participating candidates winning more votes than any of their non-participating opponents; and WHEREAS, a North Carolina city or town can only be implemented if State law is changed to give local governments the authority to pursue this option; and WHEREAS, the North Carolina House of Representatives passed HOUSE BILL 120, AN ACT TO ESTABLISH A PILOT PROGRAM FOR PUBLIC FINANCING OF MUNICIPAL ELECTION CAMPAIGNS, during the 2009 session. NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Asheville calls upon the North Carolina General Assembly and Governor to enact legislation that gives large towns, like Asheville, the authority to sponsor a public financing program for their elections, using local resources, with technical assistance from the State Board of Elections. AND BE IT FURTHER RESOLVED THAT such legislation should allow for the consideration of said financing by any qualifying municipality, but not mandate the implementation of such a plan."

He explained that this resolution urges the N.C. General Assembly to pass pending legislation that would permit cities to institute voter-owned election plans. This action doesn't commit Asheville to a voter-owned election system, but if the General Assembly passes the law, we would be able to choose such a plan in the future. Last fall Chapel Hill became the first North Carolina city to use such a finance plan and it has been deemed a success.

A representative from WNC for Change spoke in support of the resolution.

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. 10-140. This motion was seconded by Vice-Mayor Newman and carried on a 5-2 vote, with Councilman Davis and Councilman Russell voting "no."

RESOLUTION BOOK NO. 33 – PAGE 90

B. BOARDS & COMMISSIONS

Airport Authority

Mr. David Hillier is a seated member on the Authority and is eligible for reappointment. His attendance is 97% and he is interested in being reappointed. Mr. Rhett Grotzinger is not eligible for reappointment. The following candidates applied for a position on the Airport Authority: Nan Chase, Phillip G. Kelley and Bob Roberts.

Vice-Mayor Newman, liaison to the Airport Authority, recommended interviewing Mr. Kelley and Mr. Roberts, along with Mr. Hillier to talk with them about the issues the Airport is working on and issues the City has an interest in.

Mayor Bellamy supported interviewing Mr. Kelley and Mr. Roberts; however, she felt it would be appropriate to have Mr. Hillier meet with Council separately to talk about his vision for the Airport, especially since he is currently the Chairman of the Airport Authority. Therefore, Mayor Bellamy moved to reappoint Mr. Hillier to serve an additional 4-year term, term to expire June 30, 2014, or until his successor is appointed; and to interview Mr. Kelly and Mr. Roberts for

the vacancy left by Mr. Grotzinger. This motion was seconded by Councilman Davis and carried unanimously.

Civic Center Commission

The following candidates applied for a position on the Civic Center Commission: Dan Breneman, Bill Jones, Jeffery Quick, Jeremy Gillespie, Katrina Bragg, James Richards, Carol Ann McLendon and Linda Brandt. It was the consensus of Council to readvertise for the vacancies on the Civic Center Commission.

At the request of Councilman Russell, Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that his Committee will review Council's policy regarding city residency on our boards.

RESOLUTION NO. 10-142 – RESOLUTION REAPPOINTING A MEMBER TO THE WNC REGIONAL AIR QUALITY AGENCY

Vice-Mayor Newman said that the following candidates applied for a position on the WNC Regional Air Quality Agency: Rachael Bliss, Dennis Miller and Eric Rainey. Mr. Loyd Kirk is the seated member who has served one term with a 95% attendance. He has asked to be reappointed.

Councilwoman Manheimer said that she has been contacted by a group asking City Council to take a position on the very controversial concrete plant issue in northern Buncombe County which public hearing will be held before the WNC Regional Air Quality Agency. They are asking for City Council's position as we make appointments to that board. The Buncombe County Commissioners have taken a position against the project. She is bringing this up at this meeting because the public hearing on this will take place before the next City Council meeting.

After Councilman Davis spoke highly of Mr. Kirk and his involvement on the Agency, he moved to reappoint Loyd Kirk to serve an additional six year term, term to expire July 1, 2016, or until his successor is appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 101

RESOLUTION NO. 10-143 – RESOLUTION APPOINTING A MEMBER TO THE TRANSIT COMMISSION

Vice-Mayor Newman said that the candidates applied for a position on the Transit Commission: Rachael Bliss, Julie Mayfield, Brett McCall, Joan Gryscavage, Kevin Cross, David John Boshart and Pamela K. Fisher.

Councilman Smith moved to appoint Julie Mayfield to the Transit Commission to serve the unexpired term of Ms. Hanna Raskin, term to expire December 31, 2012, or until her successor is appointed. This motion was seconded by Councilwoman Manheimer and carried on a 6-1 vote, with Councilman Russell voting "no" in that he felt Council should interview Ms. Mayfield first.

RESOLUTION BOOK NO. 33 – PAGE 102

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Dr. Albert Anderson spoke about the need for better police protection. At the request of Mayor Bellamy, City Manager Jackson said that he would follow-up with Dr. Anderson, investigate his concerns, and report back to Council and Dr. Anderson with his findings.

Mr. James Latimore, representing Veterans for Peace, urged Council to place on their agenda (and adopt) a resolution advising North Carolina delegates in the U.S. Congress and Senate and President Obama to vote in support of a timely withdrawal plan for our troops in Afghanistan and Iraq.

Mr. Jerry Rice felt it was in Council's best interest to keep the programming of the WNC Community Media Center (formerly URTV) going and hoped that the audit and findings are made public.

Mr. John Blackwell urged Council to not shut down the WNC Community Media Center and outlined several options to keep their doors open using less money.

Dr. Herbert Johnson urged Council to make the financial records of the WNC Community Media Center transparent.

Ms. Davyne Dial, former WNC Community Media Center Board member, provided Council with a Federal Form 990 of URTV Inc. showing a deficit of \$62,239 for 2007. She said there are other alternatives than closing their doors.

Councilwoman Manheimer felt Asheville may be missing funding opportunities and was interested in pursuing re-engaging a lobbyist on a federal and state level. Mayor Bellamy felt this issue should be an agenda item that ultimately will require staff input and suggested Councilwoman Manheimer follow the process for placing items on the Council agenda.

The following claims were received by the City of Asheville during the period of May 14 – June 3, 2010: John Vann (Streets), Sheila Plemmons (Water), Rachel Jernigan (Water), Brian Roberts (Sanitation), Bernadette Wolf (Parks & Recreation), Tanya McDaniel (Transit), Jean Beachboard (Civic Center), Michael Thomas (Water), Harry Woogon (Streets), and Laurel York (Water). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:21 p.m.

CITY CLERK

MAYOR