

Tuesday – June 22, 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 Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: William A. Russell Jr. (family emergency)

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilman Davis gave the invocation.

**I. PROCLAMATIONS:**

**A. RECOGNITION OF ASHEVILLE SISTER CITY DELEGATION FROM CHIAPAS, MEXICO**

Mayor Bellamy said that our relationship with San Cristobal is active and vibrant, filled with cultural, humanitarian and educational projects. Ines Paniagua Solis, as co-chair, has been to Asheville twice and is familiar with the City and its many amenities. She is also working with us on several art/craft project possibilities. The delegates have toured Asheville today visiting Handmade in America, the Folk Art Center, Warren Wilson College, Curbie Recycling and Mountain Bizworks. Tomorrow will be spent in Cullowhee with WCU and it's Cherokee Language Program. A delegation from ASCI and WCI travelled to UNC-Chapel Hill last fall to visit there and try to work out an agreement to exchange students and staff. They will be continuing this discussion that will also include performing arts, and local artisan programs. Friday will be spent at Mars Hill College to reconnect with long-time supporters there of San Cristobal indigenous peoples.

She presented the dignitaries each with a small token gift and a gift to send back to the Mayor, along with a letter of greeting.

She then recognized Asheville Sister Cities International President Andrew Craig who introduced Sarah Delcourt ASCI Chair for San Cristobal. Ms. Delcourt introduced Dely Paniagua - Mayor 's representative and Dir. of Recreation and Culture for the City of San Cristobal; Ines Paniagua Solis - Sister Co-chair for Asheville Committee in San Cristobal - and works with Grameen, Inc. for a Mayan Artisan Program; Dr. Andreas Fabregas Puig, Rector of Universidad Intercultural de Chiapas (UNICH); and Dr. Claudio Sartorello, Director of bi-lingual and Intercultural education at UNICH, She said that the 5th delegate who will not arrive until later is Hiram Marina - Producer of the production Palenque Rojo.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 8, 2010**

**B. ORDINANCE NO. 3878 - BUDGET AMENDMENT TO RECEIVE REIMBURSEMENT FROM THE N.C. DEPT. OF CRIME AND PUBLIC SAFETY**

**FOR OVERTIME EXPENDITURES RELATED TO THE FIRE DEPARTMENT'S  
REGIONAL HAZARDOUS MATERIALS TEAM**

Summary: The consideration of a budget amendment, in the amount of \$70,000, to receive reimbursement from the North Carolina Department of Crime Control and Public Safety, for overtime expenditures related to the Asheville Fire Department's Regional Hazardous Materials Team.

The Asheville Fire Department has received reimbursement funds from the North Carolina Department of Crime Control and Public Safety. These funds have been received in 2009 and 2010. The Department utilizes General Fund money to pay for overtime for hazardous materials training and emergency responses throughout the Western North Carolina region. The North Carolina Department of Crime Control and Public Safety reimburses the City of Asheville for these expenditures as they relate to regional hazardous materials responses. These funds that have been received will be used to reimburse the overtime expenditures that have come out of the General Fund.

This action complies with the City Council Strategic Operating Plan in that it helps to proactively pursue funding opportunities through state and federal economic stimulus packages.

Pro:

- This action allows for reimbursement of overtime expenditures without utilizing city tax funds.

Cons:

- None identified

These funds, which have been obtained through reimbursement payments from the North Carolina Department of Crime Control and Public Safety will be used to offset Fire Department overtime expenses.

City staff recommends City Council approve the budget amendment to receive reimbursement from the North Carolina Department of Crime Control and Public Safety, for overtime expenditures related to the Asheville Fire Department's Regional Hazardous Materials Team.

**ORDINANCE BOOK NO. 26 – PAGE 29**

**C. RESOLUTION NO. 10-144 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT TO PROGRESS ENERGY CAROLINAS INC. FOR ELECTRIC POWER LINES ON PROPERTY LOCATED OFF OF BREVARD ROAD**

Summary: The consideration of a resolution authorizing the Mayor to execute an easement to Progress Energy Carolinas, Inc. for electric power lines on property located off of Brevard Road, identified as PIN # 9636-10-3860-00000.

Henderson County owns a large acreage tract of property located off of Brevard Road in Buncombe County and according to Deed Book 2852 Page 775, the City of Asheville has certain reversionary interest in said property. Progress Energy Carolinas, Inc. (PEC) currently owns a power line easement through a narrow portion of this property measuring a total of 0.16 acres. Citing increased demand for electricity by PEC's customers, PEC requests that this easement area be expanded in width from 100 feet to 170 feet, thus increasing the overall easement area to 0.31 acres. This increased area would allow for an upgrade to the electric transmission line. Given the City of Asheville's reversionary interest in the property, PEC requests that the City of Asheville execute the easement alongside Henderson County.

This proposal has been reviewed by the affected City departments, and no objections have been noted. Henderson County has approved and executed the easement.

This action complies with the City's strategic operating plan in that it supports our local economy and capacity for sustainable development.

Pros:

- Improved electrical service for the community
- Minimal impact to the property

Con:

- None

No monetary consideration is being received by the City of Asheville in this transaction.

Adoption of the resolution is recommended.

**RESOLUTION BOOK NO. 33 – PAGE 103**

**D. RESOLUTION NO. 10-145 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ACCEPT FUNDS IF AWARDED FOR THE 2010 BYRNE JUSTICE ASSISTANCE GRANT – LOCAL SOLICITATION**

**ORDINANCE NO. 3879 - BUDGET AMENDMENT TO ACCEPT FUNDS FOR THE 2010 BYRNE JUSTICE ASSISTANCE GRANT – LOCAL SOLICITATION**

Summary: The consideration of (1) a resolution authorizing the City to apply for and accept funds if awarded for the 2010 Byrne Justice Assistance Grant – Local Solicitation and (2) the accompanying budget amendment in the amount of \$89,881.

The Asheville Police Department (APD) requests permission to apply for and accept funds from the Byrne JAG 2010 – Local Solicitation. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. The Asheville Police Department and Buncombe County Sheriff's Department have been allocated \$89,881 with Asheville receiving \$64,389 and Buncombe County receiving \$25,492. The distribution of funds has been approved by both entities through a signed Memorandum of Understanding.

APD plans to purchase 12 in-car video systems capable of wireless that will interface with our existing equipment (radar, computer, etc.). The resulting video recordings would generally serve as evidence to be utilized in court for the prosecution of criminal cases. However, these recordings could also be used to aid in resolving allegations of wrongdoing by officers. This would allow for an even greater level of protection of officers and citizens. The digital cameras provide high quality and high resolution video/audio recording of events in and around the patrol car. Recordings such as this help protect the interests of citizens as well as the interests of police officers. Recordings captured with these cameras could aid in mitigating potential civil liability for the City of Asheville by capturing in detail the actual events that transpired. The secure evidentiary storage and wireless upload capabilities of the system creates a user friendly system that is extremely secure and versatile.

The Buncombe County Sheriff's Department plans to purchase a robotic mobile surveillance system to enhance officer safety. The initial deployment of a robotic device will minimize the need for human exposure and potentially violent or hazardous incidents.

There will be an expense of \$64,389 by the APD for the in-car video system. The Buncombe County Sheriff's Department will expend \$25,492 for the purchase of a robotic mobile surveillance system. This accounts for the total allocation of \$89,881 for this Grant.

This is a 100% non-matching grant that will enable the APD to increase officer safety, and video evidentiary value through documentation of incidents via in-car camera recordings.

This action complies with City Council's Strategic Operating Plan in the Focus Area - Safe - Asheville will be one of the safest and most secure communities when compared to similar cities.

Pros:

- Increasing In-Car video will allow for better documentation of police related incidents.
- Increases officer and citizen accountability through recorded interactions.

Con:

- None.

: There is no fiscal impact at this time for City Council to approve the resolution granting APD's application for and acceptance of funds if this grant is awarded. There will be maintenance and replacement costs for the equipment, which will need to be included in future fiscal year budgets. The average lifespan of the units is appropriate 5-7 years. Replacement cost per unit would be approximately \$5,500.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to apply for and accept grant funds if awarded through US Office of Justice Programs; and (2) the associated budget amendment, in the amount of \$89,881.

**RESOLUTION BOOK NO. 33 – PAGE 104**

**ORDINANCE BOOK NO. 26 – PAGE 231**

**E. RESOLUTION NO. 10-146 - RESOLUTION APPOINTING RICHARD HALL AS THE RIVERLINK BOARD OF DIRECTOR'S MEMBER TO THE RIVER DISTRICT DESIGN REVIEW COMMITTEE**

Summary: Mr. Robert Shepherd is no longer on the RiverLink Board of Directors, thus leaving a vacancy for a member of the RiverLink Board of Directors on the River District Design and Review Committee until September 1, 2010. The RiverLink Board of Directors would like to replace Mr. Shepherd with Mr. Richard Hall, as one of the two members of the RiverLink Board of Directors, to serve the unexpired term of Mr. Shepherd, term to begin July 1, 2010, and expire September 1, 2010, and then a full three-year term, term to expire September 1, 2013, or until his successor has been appointed.

**RESOLUTION BOOK NO. 33 – PAGE 105**

**F. RESOLUTION NO. 10-147- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE MEMORANDUM OF AGREEMENT WITH THE NORTH CAROLINA DIVISION OF THE FEDERAL HIGHWAY ADMINISTRATION, THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING PACK SQUARE PARK**

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville an amendment to the Memorandum of Agreement regarding the Pack Square Park.

In 2007, a Memorandum of Agreement (MOA) was executed amongst the Federal Highway Administration (FHWA), The North Carolina State Historic Preservation Office (SHPO), and the Advisory Council on Historic Preservation (ACHP), as signatories, and the Pack Square Conservancy (PSC), City of Asheville (City), and North Carolina Department of Transportation (NCDOT) as concurring parties.

This MOA was a requirement of the City receiving federal funding on behalf of the PSC for the construction of the Park. The MOA has eleven stipulations that cover various aspects of the Park's design, construction and administration. All of these stipulations have been satisfied except for three related to pavilion design, architectural survey and duration.

The FHWA is in agreement with extending the duration of the MOA for an additional five years. This will enable completion of the plan for installation of a pavilion.

This action complies with the City Council Strategic Operating Plan in that we leveraged internal and external partnerships for pursuing capitol improvements and infrastructure projects.

Pros:

- The City will fulfill its responsibility in the original MOA.
- The City will comply with the Federal requirements associated with receiving the construction funds.

Cons:

- The City will need to assist with coordination to assure the revised MOA is successfully completed. This will involve staff time.

None, unless the MOA isn't adhered to. If this is neglected, then it is possible that the City would have reimburse the entire Federal grant in the amount of \$3,899,860.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign the amendment to the Memorandum of Agreement.

**RESOLUTION BOOK NO. 33 – PAGE 106**

**G. RESOLUTION NO. 10-148 - RESOLUTION OF SUPPORT FOR ADOPTION OF THE NORTH CAROLINA MOBILITY FUND**

Summary: The State of North Carolina is in need of new funding sources, generating revenues beyond the "Equity Formula" to help address North Carolina's critical transportation needs. The current funding levels at local, State and Federal levels are insufficient to meet the state's transportation needs, especially with respect to projects having regional, statewide and national significance. The State of North Carolina continues to grow at a rate higher than the normal average. The Asheville City Council supports adoption of the "North Carolina Mobility Fund" by the North Carolina General Assembly during its 2010 Legislative Session as a very positive means of providing upwards of \$300 Million in additional funds for transportation projects of regional or statewide significance.

**RESOLUTION BOOK NO. 33 – PAGE 107**

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

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

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

**ADDITION TO THE AGENDA - PEDESTRIAN WALKOVER BRIDGE AT HILLCREST APARTMENTS**

Mayor Bellamy said that she added to the agenda, at the request of Councilman Smith, the issue of the pedestrian walkover bridge at Hillcrest Apartments, due to the recent pedestrian fatality adjacent to Hillcrest Apartments.

Councilman Smith felt this matter is of some urgency. His thoughts go out to Charlton Owens, father, and the entire family of Anthony Ray Gilmore who was the pedestrian that was killed crossing I-240. Mr. Owens has (1) collected 300 signatures on a petition asking that the pedestrian bridge be re-opened, (2) opened a fund to help pay for funeral costs; and (3) asked that the pedestrian bridge, if re-opened, be named in honor of his son. Councilman Smith felt that when the bridge was closed back in 1999, there was a different attitude towards community policing and containment of crime and drugs. He felt it was time to reassess whether the bridge should be re-opened. He felt the City should provide the Hillcrest residents with quality infrastructure that we would provide in any place in Asheville. Whether or not the bridge is re-opened, he felt the sidewalk should be repaired and cleaned, and urged all residents to use safe routes even if it means adding a little more time to your travel. He did thank Councilman Bothwell for his efforts with Asheville on Bikes to clean up the sidewalk on the south side of I-240.

Mayor Bellamy suggested we refer this issue to the Public Safety Committee for a comprehensive discussion about this issue. She said that the Housing Authority has already planned a Hillcrest community meeting on this issue. The West End/Clingman Avenue neighborhood needs to be included in discussions as they are impacted as well. She did note that there are sidewalks all the up Hill Street and there are the stairs that lead to Westgate Shopping Center.

City Manager Jackson felt staff needs further direction and possibly some assistance in facilitating a comprehensive discussion. He asked if Council was directing the Public Safety Committee to hold public forums or for staff to facilitate comprehensive community discussion and then bring the results of that discussion to Council. He felt that a comprehensive discussion would require a professional facilitation and that we consider engaging a private consultation for that purpose.

Councilman Davis felt it was important to realize that the pedestrian bridge was closed for a reason and agreed it was important to have a dialogue with the Housing Authority, the Hillcrest neighborhood, the West End/Clingman Avenue neighborhood, Police Chief Hogan and City staff. He wasn't sure if it was best facilitated in the Public Safety Committee or whether Council should devote a worksession to this issue, without a facilitator. We need to recognize that as tragic as the accident was, there is also the tragedy of lives affected and lost by drugs and crime, which had a lot to do with the original bridge closure.

Councilman Bothwell, while investigating the sidewalk, noted that there is a nice stairway down to Roberts Street from the little sidewalk. He felt that the sidewalk is worth opening up and even the Police bike patrol can use it.

Mayor Bellamy felt that the discussion will include the illegal activities in that area. She asked that we keep in mind that the gates installed and the checking ID's were put there for a reason.

Councilman Smith felt that we now have 12 more years of technology and there may be new solutions to address crime and drugs. We need to make sure that the Housing Authority and

law enforcement have a pivotal role in this comprehensive discussion. He supported referring this to the Public Safety Committee, without a facilitator, for action in 6-8 weeks

Vice-Mayor Newman agreed that the Public Safety Committee should review this matter initially, but felt ultimately the entire Council will want to comment on this. He felt the Committee could review this primarily for the purpose of gathering facts and maybe a recommendation will come out of it. He felt they could hold a meeting and hear from the key groups who have a perspective they want to hear. He knows that the decision to close the pedestrian bridge was closed for real reasons, but a long time has gone by and felt we should re-visit the issue without rushing through it.

Mayor Bellamy said the Public Safety Committee should invite representatives of the Housing Authority, N.C. Dept. of Transportation representatives, representatives of the Hillcrest neighborhood, and representatives of the West End/Clingman Avenue neighborhood. She asked if the Housing Authority Board would prepare minutes of the meeting for Council information. She also asked if the Housing Authority Board would offer their position (as owners of the property) on this matter as well.

Vice-Mayor Newman questioned if we needed an outside facilitator for this meeting since we deal with important issues all the time without outside facilitation.

City Manager Jackson said that if Council is looking for a comprehensive community discussion involving the N.C. Dept. of Transportation, the Housing Authority, community and other interests, then that is where we need facilitation. He felt City staff could engage Housing Authority staff, the N.C. Dept. of Transportation staff and law enforcement officials and do a physical assessment and bring that physical assessment and history to the Public Safety Committee. And, then determine what kind of community input Council might want to have at that point in time. If Council is interested in obtaining community interest first, then that would be a different process.

At Mayor Bellamy suggestion, it was the consensus of Council to (1) ask the Housing Authority to facilitate input from the Hillcrest residents, (2) ask the Chair of the West End/Clingman Avenue Neighborhood Association, with possible assistance from the Coalition of Asheville Neighborhoods, to help facilitate input on this issue; and (3) ask Ms. Pattiy Torno, Chair of the River District Design Review Committee, to hold a meeting with her stakeholders on this issue. Those organizations are asked to provide their minutes and other information on this issue to the Public Safety Committee. City staff will provide the statistical data to the Public Safety Committee.

Mayor Bellamy said that in order for these meetings to occur, she would place this item on the August 24 agenda, at which time the Public Safety Committee will update City Council.

### **III. PRESENTATIONS & REPORTS:**

#### **A. ASHEVILLE-BUNCOMBE FAIR HOUSING COMMISSION UPDATE**

This update was delayed.

#### **B. WNC COMMUNITY MEDIA CENTER UPDATE**

WNC Community Media Center Vice-Chair Bob Horn updated Council on the WNC Community Media Center and provided them with information about the WNC Community Media Center and their activities. He showed Council videos on the summer youth camp promotion and a promotion for the station. He thanked City Council, citizens and promoters for their support.

In response to Councilman Smith, Mr. Horn explained that they plan to continue with the Media Center at least until this time next year, with funding from the City and County.

**C. ASHEVILLE ENERGY INDEPENDENCE INITIATIVE PILOT PROGRAM DESIGN AND DEVELOPMENT**

Ms. Maggie Ullman, the City's Energy Coordinator said that Council directed staff in January 2010 to design a pilot PACE program for Council consideration. Staff is providing an update to Council on progress toward a pilot program.

The following is a progress update is on the feasibility analysis (1) median household income; (2) total housing stock; (3) age of housing; (4) availability of qualified vendors; (5) annual residential energy usage; (6) existing energy related financial incentive programs; and (7) available home retrofit financing options. There is adequate market opportunity for a pilot loan program that supports energy efficiency and renewable energy investments.

The following is a progress update on the pilot program design (1) in-house program administration; (2) residential loans; (3) 60-100 homes; (4) prescriptive measures list and a custom measure route; (5) quality control through special building permit; and (6) prequalified contractors. Program design 80% complete pending legislative authority and outstanding regulatory factors.

Outstanding issues are (1) Federal level: Mortgage companies (a) Prohibiting senior liens and limiting transferability with property; and (b) San Francisco and Boulder County have suspended programs until further agreement is reached; and (2) State level: Clear legislative authority - Impacts loan security, capitalization of the fund, and loan repayment methods. Pursue legislation to enable workable model within parameters supported by mortgage companies.

Based on Council's previous direction, staff is pursuing legislative amendment in 2010 Short Legislative Session. Legislative partners include UNC School of Government, City of Asheville, City of Charlotte, City of Raleigh, Town of Chapel Hill and Town of Carrboro.

By September 1, option 1 is with clear legislation, staff would present a final recommendation for a pilot program that takes into consideration parameters supported by mortgage companies. Option 2 is lacking clear legislation. Staff would pursue legislative authority in 2011 Long Session (January 2011). Staff would continue to track progress on the Federal level with mortgage companies.

Vice-Mayor Newman said that there is enthusiasm and support in Asheville for the City to create opportunities for homeowners and business owners to invest in clean energy for their businesses and their homes. He believed that what Asheville is doing is important to many cities across the state. He hoped that we can get a program operational this year, even if it is a pilot program. Regardless of what happens in the Short Session this year, it's clear that next year there will be a much larger legislative discussion about these community-based or even state-based clean energy financing models. The compelling need in the state is to get something going so that everyone else can learn how it's working and then replicate what is working well. He asked our City Manager, City Attorney and others involved to do everything they can to make sure we do come out of this Short Session with the ability to get something up and running. He will be in Raleigh next week and he will try to meet with our delegation and other legislators who are interested in this.

Mayor Bellamy said that she attended an event hosted by the Board of Realtors and discovered that we need to involve realtors in these discussions as they can be a potential partner to help the community understand and sell the products. They can also provide existing homeowners information on greening their homes.



In response to Vice-Mayor Newman, Ms. Ullman said that staff will report back to Council prior to September 1 if, and when, there is clear legislation.

**D. ECONOMIC STIMULUS PACKAGE UPDATE**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH TRIANGLE J COUNCIL OF GOVERNMENTS ACCEPTING SUB-GRANTEE FUNDS FROM THE DEPT. OF ENERGY CLEAN CITIES GRANT**

**BUDGET AMENDMENT ACCEPTING FUNDS FROM THE DEPT. OF ENERGY CLEAN CITIES GRANT**

Mayor Bellamy announced that these items have been removed from the Agenda per staff's request.

**IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 902 SAND HILL ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING TO CONVERT THE EXISTING RESIDENTIAL STRUCTURE TO OFFICE USE**

**ORDINANCE NO. 3880 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 902 SAND HILL ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING TO CONVERT THE EXISTING RESIDENTIAL STRUCTURE TO OFFICE USE**

Mayor Bellamy opened the public hearing at 5:55 p.m.

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located on 902 Sand Hill Road from RM-6 Residential Multi-Family Low Density District to Office District/Conditional Zoning to convert the existing residential structure to office use. This public hearing was advertised on June 11 and 18, 2010.

The applicant is requesting a Conditional Zoning for one parcel located at the corner of Sand Hill and West Oakview Roads from RM-6 (Residential Multi-Family Low Density District) to O (Office District) in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO).

The site consists of a single parcel located at 902 Sand Hill Road with an area of approximately 1.02 acres (0.98 acres according to Buncombe County Tax records). The lot, located at the southwest corner of Sand Hill and West Oakview Roads, is currently zoned RM-6 and is similarly zoned to the west and adjacent to RS-4 to the south. Areas are zoned RS-4 across West Oakview to the east and CBI across Sand Hill Road to the north. There are single-family homes to the south, the Oak Forest Presbyterian Church across West Oakview to the east and a convenience store across Sand Hill Road to the north.

The lot contains a two-story brick and frame residential structure (2,080 square feet) and a detached frame garage (576 square feet). The applicant is proposing to maintain the existing structures and to convert the interior use from residential to office. Vehicular access to the structure will remain in the current location from West Oakview Road. A small gravel parking area is proposed and provides six spaces (including one accessible and one bike space).

Landscaping and open space are required on this site due to the rezoning and includes a Type A (20') property line buffer along the southwestern and southeastern boundaries adjacent to RM-6 and RS-4, street trees and parking lot landscaping. There is significant mature vegetation on the site that will be used as credits for much of the required landscaping around the perimeters. Fifteen percent of the site is required to be designated as open space and the applicant has provided more than 70%.

Both Sand Hill Road and West Oakview Road are identified as needed linkages for sidewalks and none currently exist, however the applicant has requested a fee-in-lieu under Section 7-11-8(e)(4) of the UDO, based on the cost of the sidewalk installation exceeding 15% of the total project cost. This request is granted by the City Traffic Engineer.

This project was recommended for approval with conditions by the Technical Review Committee (TRC) on May 3, 2010. No members of the public were present to speak on this proposal, however; staff has received notice of opposition from a nearby property owner. His concerns were regarding whether this action would make it easier for further non-residential uses to expand into the single-family residential neighborhoods and discomfort with the office incursion into the residential area.

The Planning & Zoning Commission recommended approval of this proposal at their meeting on June 2, 2010 (5-0 vote). No members of the public were present to speak. Staff has received one opposition who was concerned about non-residential uses in this established neighborhood.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

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

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

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

Aside from the creation of a small, six-space gravel parking area off of the existing driveway and turnaround, there is no proposed development of the land. A 20' Type A vegetated buffer will be installed along the southern property line, adjacent to the RS-zoned single-family house and is expected to mitigate any impact from the parking area. The existing building will remain and be used for the office use, resulting in very little visual change to the site and neighborhood.

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

The proposal is not expected to injure the value of adjoining or abutting properties. Since there is virtually no physical change to the site, there should be no impact to abutting properties.

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

The proposed office use is compatible with the other non-residential uses at this four-way intersection (church, convenience store and vacant parcel) and should be similarly compatible with the adjacent residential neighborhood. The heavy traffic and lights from the convenience store to the north result in a situation where non-residential use may be more suitable than residential.

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

The *Asheville City Development Plan 2025* provides strategies and goals that support this conditional zoning request, especially considering the proposal to retain the existing residential structure and convert it to office use, leaving the site largely unchanged. Although the *Plan* does recommend protecting and preserving residential neighborhoods and uses, the City recognizes that on high-traffic, non-residential intersections such as this one, allowing for a non-residential use may be appropriate.

The *Plan* directly supports adaptive reuse of structures, stating that “it is important to find new, compatible uses for buildings if we are to preserve the architectural character of the community. In addition, if these buildings stand vacant and dilapidated, they promote neighborhood decline”. While the use will be office, the house will remain and the site will not appear vastly different.

Allowing for the proposed office use supports small business development, which directly aligns with City Council’s goal of *Job Growth & Community Development*. Additionally, adaptive reuse of existing buildings is the most sustainable construction (according to the *2025 Plan*, p.74), supporting Council’s *Green & Sustainable* goal.

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

The project site is located at an intersection with a major road (Sand Hill Road) and less than a mile from US 19/23 and I-40. In addition, basic infrastructure appears adequate and preliminary review by other service providers has not revealed any problems for continued service to the site.

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

The proposed project has been reviewed by the City Traffic Engineer and it should not cause undue traffic congestion along the existing street infrastructure. The anticipated traffic is expected to be less than one hundred (100) vehicles per hour during the morning and afternoon peak hours during a typical weekday.

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

Pros:

- The proposal retains the existing residential structure with minimal physical changes to the site, maintaining the residential character of the area while allowing for a new use.
- Significant mature landscaping will be retained on-site and additional landscaping will provide a buffer for the residential use to the south.

Con:

- The rezoning to Office use may be perceived as allowing non-residential encroachment into the residential neighborhood.

Based on the above findings, staff recommends approval of the conditional zoning as requested by the applicant.

Mr. Gerald Green, representing the applicant, explained how they will maintain the character of the house and site. He said they will convert the house into an accounting office, where most of the 6 employees will work remotely. He said that the only visible change will be in the parking area which will have a sidewalk up to the house with a ramp. He explained why they are requesting a fee in lieu of for the sidewalk, primarily due to the trees that would have to be removed to build the sidewalk.

Mayor Bellamy closed the public hearing at 6:01 p.m.

In response to Councilwoman Manheimer about the increased traffic in that area, Director of Transportation Ken Putnam said that he would check with the N.C. Dept. of Transportation about their plans for a traffic signal or a round-about at the intersection of Sand Hill Road and West Oakview Road. Mayor Bellamy asked that Mr. Putnam express Council's support for a traffic control device at that location.

Ms. Bernstein responded to Mayor Bellamy regarding the property being on a septic tank.

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

Councilwoman Manheimer moved for the adoption of Ordinance No. 3880, to conditionally zone property located on 902 Sand Hill Road from RM-6 Residential Multi-Family Low Density District to Office District/Conditional Zoning to convert the existing residential structure to office use, to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; (6) All activities associated with the office use, including deliveries and refuse collection, shall be conducted between the hours of 7:00 am and 10:00 pm; and (7) Signage should be limited to a residential scale, may not be internally illuminated and should not exceed six feet in height and 15-square feet per sign face. This motion was seconded by Councilman Davis and carried unanimously.

**B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF THE BUNCOMBE COUNTY COURTHOUSE LIFE SAFETY ADDITION LOCATED AT 60 COURT PLAZA FROM CENTRAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF A 33,542 SQUARE FOOT ADDITION TO THE EXISTING COURTHOUSE BUILDING AND ASSOCIATED ROADWAY RECONFIGURATION WITH A REQUEST FOR A LANDSCAPE MODIFICATION**

**ORDINANCE NO. 3881 - ORDINANCE TO CONDITIONALLY ZONE THE BUNCOMBE COUNTY COURTHOUSE LIFE SAFETY ADDITION LOCATED AT 60 COURT PLAZA FROM CENTRAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF A 33,542 SQUARE FOOT ADDITION TO THE EXISTING COURTHOUSE BUILDING AND ASSOCIATED ROADWAY RECONFIGURATION WITH A REQUEST FOR A LANDSCAPE MODIFICATION**

Mayor Bellamy opened the public hearing at 6:07 p.m.

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone the Buncombe County Courthouse life safety addition located at 60 Court Plaza from Central Business District to Central Business District/Conditional Zoning for the construction of a 33,542 square foot addition to the existing courthouse building and associated roadway reconfiguration with a request for a landscape modification. This public hearing was advertised on June 11 and 18, 2010.

This is a request for review of a proposed Conditional Zoning in the Central Business District (CBD) to accommodate the construction of a life safety addition to the Buncombe County Courthouse.

The project area consists of 2 parcels with an approximate area of 1.06 acres. The site is located at 60 Court Plaza, at the southwest and southeast corners of College and Davidson Streets in the CBD and is the current location of the Buncombe County Courthouse and a small surface parking lot owned and operated by the County.

The proposal includes the construction of a 9-story tower addition onto the back (east) side of the Courthouse building and includes a consolidated entry / exit lobby, provides upgraded access to the upper stories of the Courthouse via four elevators and two separate stairways and includes two accessible bathrooms on each level through the 8<sup>th</sup> floor. The addition comprises 37,712 square feet overall with a 5,646 square foot footprint. The addition will be 139'2" in height (the Courthouse is 197' in height).

Currently all entry into the County Courthouse is through a small door and narrow hallway off of College Street. With this proposal, the main point of entry remains along College Street but will be enlarged to provide an entry vestibule (offering refuge during inclement weather), upgraded areas for security guards and a separate security office, entry points with two metal detectors and an handicapped accessible gate and an adjacent exit area. This consolidated ground level entry/exit lobby enhances security options for the Courthouse in a way to make for more efficient check-in and allows guards to monitor all coming and going from the building.

The existing plaza along College Street will be significantly enhanced and enlarged with benches, increased landscaping, pedestrian pathways, brick pavers and monumental steps leading up to the entry lobby. These improvements will aid in providing clear visual direction to pedestrians as to where to access the Courthouse as well as offering public gathering spaces. Sidewalks directly along College Street will remain less than the required 10' in width to preserve existing mature street trees but other larger, accessible pedestrian pathways are integrated throughout the plaza.

The applicant is requesting a modification to required landscaping requirements for street trees along Davidson due to existing utility and right-of-way constraints.

This project proposes the permanent closure of a portion of Davidson Street to private vehicles. Plans show the street as privately maintained and accessible only to police and associated personnel via a security gate at the southern intersection with Marjorie Street and a smaller, diverted "exit-only" at College Street. While the life safety addition expands into the existing Davidson roadway, the resulting private street will remain wide enough for emergency fire access to the jail building. This action requires a separate review process, approved by City Council. This proposed closure has given City staff an opportunity to begin assessing the potential benefit of seeking out another connection in the vicinity, such as extending the Valley Street right-of-way for a future connection back into South Charlotte Street.

The applicant has provided a tentative construction plan and timeline, indicating 18-months to complete construction of the Life Safety Addition. Intent to submit a Phase II has been expressed, which would include a new structure fronting along College Street, spanning across the Davidson opening. The Phase II project would likely significantly alter the appearance of the entry and plaza and will require review by the Downtown Commission, TRC, P&Z and City Council.

The design for this project was reviewed and unanimously approved by the Downtown Commission on March 12, 2010. Additionally, The Buncombe County Courthouse (1927-1928) is listed on the National Register of Historic Places and the proposal follows the guidelines set forth by the Secretary of the Interior's Standards for new exterior additions to historic buildings (Chapter 14). The Commission granted a modification to increase setback from College Street to align with the façade of the existing Courthouse building and to provide more area for the enhanced public plaza. The Commission review also included demolition of the Courthouse Annex building, located at 189 College Street, with the applicant proposing to use that lot for staging and lay-down of materials during the construction process. The Commission did not support the demolition of this structure, asking for an alternative site to be used and/or for the building to remain standing until the future Phase was imminent. *The demolition of 189 College Street is not shown in the current plans submitted by the applicant.*

The Technical Review Committee evaluated this request on May 3, 2010, and it was approved with conditions. No opposition has been received as of the writing of this report. The Planning & Zoning Commission unanimously recommended approval of this proposal at their regular meeting on June 2, 2010. There was no public comment.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

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

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements and can be regarded to actually improve the public health and safety by providing improved access to and from the courthouse building. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

**2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate**

**vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**

The proposed development of the land is compatible with the topographic features on the site. There is a slight grade change (13') from north to south which is mitigated by the installation of a retaining wall along the Davidson ground-level frontage (similar to the existing conditions) and accommodated at College Street through the plaza design and monumental steps leading pedestrians to the entry point.

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

The development is not expected to injure the value of adjoining or abutting properties. The use enhances and improves the existing government and public safety functions along this block (all adjoining and abutting parcels are owned by the County).

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

The proposed development is compatible with the Buncombe County Courthouse in design and character. The proposal follows the guidelines set forth by the Secretary of the Interior's Standards for new exterior additions to historic buildings (Chapter 14) and the addition is not visible from Pack Square Park. The addition is appropriate to the area, which has evolved as a governmental "campus" location for City and County uses.

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

The *Asheville City Development Plan 2025* makes specific references to the importance of historic preservation and its role in smart growth (p. 80). The proposed life safety addition makes it feasible for the County to continue operating in the National Register Courthouse building, make use of inaccessible upper stories and keep these governmental functions in their historic, downtown location.

Both the *Downtown Asheville Center City Plan* and the *Downtown Master Plan* stress that having a mix of uses – which includes civic (governmental) – is an asset and vital for the strength of downtown. Specifically, the City and County services are essential to bringing people downtown, providing employment and reinforcing downtown's status as the center of the region. The *Center City Plan* states that it is important to consolidate governmental uses to the existing "campus" location (p. 60-61).

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

This proposal is located near major road facilities and along multiple City bus routes in the walkable Central Business District. In addition, basic infrastructure appears adequate and preliminary review by other service providers has not revealed any problems for future service to the development.

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

The proposed project has been reviewed by the City Traffic Engineer and it should not cause undue traffic congestion along the existing street infrastructure. The anticipated traffic is expected to be less than one hundred (100) vehicles per hour during the morning and afternoon peak hours during a typical weekday, no traffic impact statement is warranted.

The proposed permanent closure of Davidson Street between College Street and Marjorie Avenue poses no significant impact for motor vehicle access. Both College Street and Marjorie Street will be accessible from Valley Street. The proposed gate for Davidson Street north of Marjorie Street is set back such that typical queuing for its operation will not interfere with Marjorie Street traffic flow.

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

Pros:

- Provides needed safety upgrades to the Buncombe County Courthouse building, prolonging the usability of this iconic historic structure.
- The permanent road closure improves security around the jail and courthouse areas.

Cons:

- Although more of a consideration than a concern, the future phase as shown on the master plan will dramatically alter the appearance of the current proposal (both structure and plaza) as seen from College Street.
- A permanent road closure slightly diminishes public vehicular access to this area of downtown, although this could easily be offset by modifications to other area road connections that could be considered in the future.

Staff recommends approval of the conditional zoning request as submitted by the applicant, including the modification to eliminate street trees along the Davidson frontage.

Assistant Buncombe County Manager Jon Creighton explained that this life safety addition will allow them to modernize the Courthouse. It will also allow them to use all the floors, which presently anything above the 10<sup>th</sup> floor is not in use. In the long-term the addition will give them a public entrance off College Street.

Mayor Bellamy closed the public hearing at 6:12 p.m.

City Attorney Oast said that the closure of Davidson Street will be coming back to City Council. He said that Council's vote on this conditional zoning should not affect Council's vote on the road closure, which is subject to separate consideration.

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

Vice-Mayor Newman moved for the adoption of Ordinance No. 3881, to conditionally zone the Buncombe County Courthouse life safety addition located at 60 Court Plaza from Central Business District to Central Business District/Conditional Zoning for the construction of a 33,542 square foot addition to the existing courthouse building and associated roadway reconfiguration with the approval for the landscape modification, to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilman Smith and carried unanimously.



**ORDINANCE BOOK NO. 26 - PAGE**

**V. UNFINISHED BUSINESS:**

**A. ORDINANCE NO. 3882 - ORDINANCE ADOPTING FISCAL YEAR 2010-11 ANNUAL OPERATING BUDGET**

Director of Administrative Services Lauren Bradley said that this report presents the Fiscal Year 2010/2011 Annual Operating Budget for adoption by City Council.

The Fiscal Year 2010/2011 Annual Operating Budget was formally presented to City Council on May 11, 2010. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the Public Hearing was published on May 14, 2010, and May 21, 2010. City Council conducted a public hearing on the budget on May 25, 2010.

*Budget Adoption*

The net proposed FY 2010/2011 operating budget totals \$136,095,766 and includes a General Fund appropriation of \$91,635,962. There have been no changes to the Proposed Budget since it was presented to City Council on May 11th. The Proposed General Fund Budget is balanced with an Ad Valorem tax rate of \$0.42 per \$100 of assessed value, which represents no change from the current year tax rate. The Proposed General Fund budget also includes no appropriation from the City's fund balance. All essential City services are continued in the Proposed Budget.

*Budget Ordinance Additions*

Since the proposed budget was presented to City Council, based on recent developments, staff has identified two areas that warrant additional detail and clarification:

(1) 5% Sullivan Act Projects: As Council is aware, in FY 2009-10, the City received authorization from the State General Assembly to begin transferring up to 5% of Water Fund revenues to the general capital improvement program to fund water-related infrastructure projects. The City transferred the full 5% in FY 2009-10, which provided \$1,657,481 in funding. At the June 8, 2010, meeting, Council approved the appropriation of \$87,440 from this \$1.66 million to cover the cost of installing concrete curb along Dogwood Grove Road. Therefore, the amount of Sullivan Act funds available to be carried over to FY 2010-11 total \$1,570,041. Based on Council direction, an additional 1% of Water Fund revenue, totaling \$341,000, will be transferred in FY 2010-11, which will bring the amount of Sullivan Act funds available in FY 2010-11 to \$1,911,041. The budget ordinance includes authorization to make the following appropriations from this \$1.9 million: 1) \$1,710,000 for various infrastructure upgrades along Azalea Road, and 2) \$110,000 for stormwater improvements along Ridge Avenue. The table below summarizes Sullivan Act funding and projects to date.

Revenue:

FY 2009-10 Water Fund Transfer	\$1,657,481
FY 2010-11 Water Fund Transfer	\$341,000
 Total Revenue	 \$1,998,481

Projects:

Dogwood Grove (approved June 8)	\$87,440
Azalea Road	\$1,710,000
Ridge Avenue	\$110,000

Total Projects	\$1,907,440
Balance	\$91,041

(2) Non-profit permit fee for special events: At its meeting on May, 25, 2010, the Asheville City Council affirmed that providing support to community events and programming is beneficial to the city of Asheville and serves a public purpose through economic and community development. As such, Council adopted a non-profit fee level, representing 75% reduction in any permit fees associated with producing an event on public property, which will take effect in FY 2010-2011. This fee will be available to any 501(c) organization recognized by the IRS. Staff has amended the Fees & Charges manual to reflect this addition.

(3) Capital Improvement Plan Street and Sidewalk Improvement Fund: Since the May City Council budget worksession, staff has been showing an allocation of fee-in-lieu of funds in the annual sidewalk program budget. However, the original proposed budget document did not reflect this appropriation. Staff has corrected the budget ordinance to include \$143,000 from fee-in-lieu of funds in the annual sidewalk program budget. These funds will be applied consistent with the Council-adopted Pedestrian Thoroughfare Plan.

This action complies with the Fiscal Responsibility focus area of City Council's Strategic Operation Plan in the following ways: (1) Operate the City of Asheville's organization to the highest fiscal responsibility; (2) Ensure financial accountability by matching resources with strategic initiatives and creating meaningful performance measures; and (3) Sustain a healthy fund balance in accordance with recommended State standards.

Pros:

- Ensures City's compliance with North Carolina General Statutes that require local governments to adopt a balanced budget ordinance by July 1 of each year
- Proposed General Fund Budget is balanced with no tax rate increase or fund balance appropriation and all essential City services are continued

Con:

- None

As noted above, the Proposed FY 2010/2011 General Fund budget is balanced with no fund balance appropriation. Based on year-end projections for the current fiscal year and the planned expenses for FY 2010/2011, staff is estimating that at the end of FY 2010/2011 fund balance in the General Fund will equal 14.5% of expenses.

Staff requests that Council review the FY 2010/2011 Annual Operating Budget, including the changes noted above, and make necessary recommendations or adjustments followed by adoption of the Budget Ordinance.

Mayor Bellamy said that after speaking with City Manager Jackson and Ms. Bradley she asked them to report back to Council any remaining balances in our capital projects. That will come back to Council with staff's quarterly report in September. She hoped that Council would support her request to add any of those cost savings towards sidewalks because they are important to our community. She also noted that staff will report to Council in late July about our sidewalk maintenance policy.

Director of Transportation Ken Putnam responded to Councilman Bothwell by explaining how the amount per linear feet for sidewalks varies from \$20 to \$100. Councilman Bothwell noted that \$1.6 Million will build approximately 4 miles of sidewalks.

Mayor Bellamy said it was appropriate for citizens to petition their government for priorities within their community. With that said, and since Tunnel Road is a state road, she

asked Council, after the motion for approval of the budget, to ask the N.C. Dept. of Transportation (NC DOT) to install sidewalks in east Asheville on Tunnel Road. The request is coming to Council as a need identified by our community, which is no different than asking for Metropolitan Planning Organization dollars for sidewalks on Hendersonville Road. City government can't meet everyone's needs at the same time; however, as the demands for City services grow, ways of paying for those services are diminished. She felt it's time for a conversation about a bond referendum if we can't get other funding sources to pay for the large ticket items. We must think about who we want to be as a City as we are the largest city in Western North Carolina with a nighttime population of 76,000 and a daytime population of 150,000. Council doesn't want to raise property taxes, but people want increased services - we are at a crossroads. We must continue our conversation with the County Commissioners and look within ourselves to see what we need to do to meet the growing demand of our citizens. She felt we must plan for Asheville's future. There have been some items in this budget she has not agreed with, but it's about the budget as a whole. She thanked Council for identifying early that property taxes would not be raised during this economic climate and thanked the management team for creating a budget that still meets the needs of the community. She will support the budget with the mind that she wants to see increased funding for sidewalks and look for creative ways to do that. At the same time she would like to see increased funding for affordable housing, but we have to talk about where we want to go as a community. We must work with our partners to see how we grow and meet the needs of our citizenry who want to be a cleaner, greener, affordable, safe, sustainable, fiscally responsible city. We need to do it in a transparent way that doesn't break the backs of the people who live in our community.

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

Councilwoman Manheimer moved for the adoption of Ordinance No. 3882, with the three modifications outlined above by Ms. Bradley. This motion was seconded by Vice-Mayor Newman.

Regarding sidewalks, Vice-Mayor Newman urged people who want sidewalks to continue to speak up and make the case for it being a priority for City Council. However, there are other places we need to work together on to get funds for sidewalks. The City has a role to play with their General Fund, but sidewalks are transportation and a lot of transportation funding in North Carolina happens through the state. Plus, the City has used Community Development Block Grant funds for sidewalk funding. He encouraged representatives to attend the Metropolitan Planning Organization (MPO) meetings to speak up for pedestrian safety, noting that the City has tried to re-program some of the priorities of the MPO to be more supportive of sidewalks.

Councilwoman Manheimer said that when you look at the size of our budget (after cutting \$5 Million) there is not much left for capital improvements. We have taken approximately \$1.6 Million (maximum 5% from our Water Utility Fund) to allocate toward capital improvement projects that meet the criteria for those funds. To get an idea of what one road project costs the City is the Azalea Road project which is approximately \$1.6 Million. She agreed with Mayor Bellamy that bonds make more sense to fund some of these projects comprehensively. She agreed that we do need sidewalks, but it needs to be put in perspective in dealing with an economic crisis.

Councilman Bothwell noted that the addition to the water rate pulls in money from Buncombe County residents on the City's water system to help pay for sidewalks.

Councilman Smith felt Council has decisions to make – lower City services or find different ways to find new revenue streams. We are seeing some lower community services since we had to cut \$5 Million from this budget. He too supported Mayor Bellamy's thoughts for a bond referendum for capital improvements.

In response to Vice-Mayor Newman, City Attorney Oast said that City Council has held the required public hearing and the statutes set out a particular process. In view of that process, it would be his opinion that any public comment at this time would be out of order.

The motion made by Councilwoman Manheimer and seconded by Vice-Mayor Newman carried unanimously.

### **ORDINANCE BOOK NO. 26 - PAGE**

Mayor Bellamy said that because of the outcry from residents for sidewalks on a portion of Tunnel Road in east Asheville, she asked if Council would be willing to show their support for the request by adopting a motion asking staff to prepare a resolution (to be brought back to Council for action) directing the Mayor to sign a letter asking the NC DOT to fund that request for sidewalks.

Councilwoman Manheimer moved to ask staff to prepare a resolution (to be brought back to Council for action) directing the Mayor to sign a letter asking the NC DOT to fund that request for sidewalks. This motion was seconded by Councilman Bothwell.

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

Vice-Mayor Newman was concerned that Council is being asked to take a position on a specific sidewalk project without it being on the formal agenda. He did support sidewalks on Tunnel Road, but he also supports them on Patton Avenue, Sweeten Creek Road, and other state roads that are high priorities in our Pedestrian Plan. He felt we need to think through what is the best way to be most effective in terms of our relationship with the NC DOT.

In response to Vice-Mayor Newman, Mayor Bellamy said that she has previously asked City Manager Jackson to prepare information on sidewalks, including our priority sidewalk projects, updates on our current sidewalk projects, etc. for Council discussion at the August 10 meeting. Since City Council is slated to hold a community meeting in East Asheville at the end of August she felt it would be appropriate for Council to hear the information first in order to provide feedback.

Councilman Smith supported sidewalks all over the City, but was concerned that this request is outside the process of getting items on Council's agenda for a vote.

Mayor Bellamy felt that since Ms. Bradley's e-mail to City Council regarding budget modifications included sidewalks, she felt it was appropriate to bring the subject up at this meeting. During the budget discussion earlier she noted that she would be asking for Council's support for NC DOT to install sidewalks on Tunnel Road since Tunnel Road is a state road. She felt this was not out of the norm in that Council routinely asks staff to follow-up with actions – noting this is only asking staff to craft a resolution for Council consideration at a later meeting. She questioned how we can direct staff to at least craft a resolution if Council doesn't vote on it.

Councilman Davis said that he and Vice-Mayor Newman are the City's MPO representatives and they meet with our Director of Transportation and our Public Works Director on a routine basis prior to their MPO meetings. He felt a good topic at that meeting might be to review the City's priorities.

Mayor Bellamy agreed that asking the MPO to consider this project is good; however, because this is specific to Asheville she felt Council should take a position on this issue. Instead of a motion, she asked for the majority of Council to support asking City staff to prepare a resolution to come back at Council's July 27 meeting. She saw no problem with the City of Asheville, who represents citizens, in asking the NC DOT to construct sidewalks in east Asheville.

Public Works Director Cathy Ball and Director of Transportation Ken Putnam responded to Councilwoman Manheimer when she questioned if we would be harming other sidewalk projects if we ask the NC DOT to fund this one.

The motion made by Councilwoman Manheimer and seconded by Councilman Bothwell, to ask staff to prepare a resolution (to be brought back to Council for action) directing the Mayor to sign a letter asking the NC DOT to fund that request for sidewalks, failed on a 3-3 vote, with Mayor Bellamy, Councilman Bothwell and Councilwoman Manheimer voting "yes" and Vice-Mayor Newman, Councilman Davis and Councilman Smith voting "no."

Regarding process, Mayor Bellamy said that the pedestrian walkway bridge at Hillcrest Apartments was not on the printed agenda; however, because there was request from the community to get that addressed, it was added to the agenda. However, as she understands it from Council, and to be clear of the process going forward, Council will discuss only what is on the printed agenda.

Councilman Smith felt that if Council is bringing something for a vote and they may need more information on it before casting their vote, it may be more helpful to have that information in advance. He did, however, appreciate Mayor Bellamy bringing up the Hillcrest pedestrian bridge at this meeting due to the urgency. Otherwise he would not have requested it.

Mayor Bellamy stressed that the motion was to ask staff craft a resolution only and that the resolution would be brought back to Council for a vote. The issue with the Hillcrest pedestrian bridge was directing staff to proceed with a specific process, so she was not sure if the issue Council is concerned about is process related or a larger issue.

Because Mayor Bellamy felt this issue is important, she would request two other members of Council to support bringing a resolution forward on an agenda, which resolution she would craft herself.

At this time, Mayor Bellamy announced a short break.

**B. RESOLUTION NO. 10-149 - RESOLUTION AMENDING THE DOWNTOWN DEVELOPMENT AGREEMENT TO EXTEND IT FROM JULY 1, 2010, TO DECEMBER 31, 2010, INCLUDING AN EXTENSION OF THE OPTION TO PURCHASE 51 BILTMORE AVENUE FROM JULY 1, 2010, TO DECEMBER 31, 2010, AND AN EXTENSION OF THE OPTION TO PURCHASE THE HOT DOG KING PROPERTY FROM JULY 1, 2010, TO OCTOBER 31, 2010**

Public Works Director Cathy Ball said that this is the consideration of a resolution amending the Downtown Development Agreement to extend it from July 1, 2010, to December 31, 2010, including an extension of the option to purchase 51 Biltmore Avenue from July 1, 2010, to December 31, 2010, and an extension of the option to purchase the Hot Dog King property from July 1, 2010, to October 31, 2010.

In October 2008, City Council approved a Downtown Development Agreement with McKibbin Hotel Group, Public Interest Projects and the City of Asheville for the purpose of constructing a parking garage. The design of the parking garage is complete. The architect is in the process of applying for all applicable permits.

As designed, the project consists of the following:

- four hundred ten (410) parking spaces;
- public restrooms;
- four (4) parking spaces for electric vehicles;
- ten (10) bike lockers; and,

- public art component.

In June 2009 and again in November 2009, City Council extended the Downtown Development Agreement (DDA) to June 30, 2010. The current DDA does not allow for an additional extension. Staff is requesting an amendment to the agreement to include another six months. The prior extensions were necessary because McKibbon Hotel Group has not been able to obtain funding due to current economic conditions. In recent months, McKibbon Hotel Group (MHG) is closer to obtaining financing for their portion of the project.

MHG wants to eliminate 28 rooms of the proposed hotel (the top floor). She provided a revised rendering of the project. As a result of this change, MHG would need 28 less parking spaces freeing spaces for public parking.

The Hot Dog King (HDK) property owners have agreed to decrease the cost of the option to purchase the property. The City has been paying \$10,000 per month for the option to be applied to the purchase price. The HDK has agreed to \$10,000 for 120 days but will not extend the option beyond that time.

This project is in alignment with the Strategic Plan by promoting sustainable, high-density, in-fill growth that makes efficient use of resources and by making environmentally efficient capital improvements. In addition, this action complies with the Parking Action Plan adopted by City Council.

Pros:

- According to the findings of the downtown parking study, this area has a deficit of public parking. This parking garage would address this need.
- Project should allow the development of workforce housing more feasibly due to reduced capital requirements for constructing private parking which in turn supports lower priced housing units.
- Capitalize on relationship with mixed use developer who is willing to partner with the City and make private property available for public use.
- Offer the opportunity to leverage public parking as an economic development tool.
- Offers community benefits such as additional jobs and tax base for the City created by the mixed use elements.
- Public parking helps sustain existing investments and future growth of retail and office uses in the area.
- Public parking is critical for downtown office job expansion.

Cons:

- Public-private partnerships tend to be complicated and require additional coordination between the City and the private sector than traditional stand-alone projects.
- Specific performance guarantees must be made by the City to third parties. Corresponding grantees are required of the developer to the City regarding the quality and sustainability of the mixed use components.
- The cost of the land is higher than the appraised value. Originally the owner did not want to sell the property but rather lease the property to the City for sixty years. After the City determined that it was a better financial decision for the City to purchase the property, the owner agreed to sell but with the restriction that they recoup the capital gains taxes.

The cost to extend the option for the property at 51 Biltmore Avenue for an additional six months is \$5,000 and \$10,000 for the option for the HDK for 120 days from July 1, 2010. The budget for these expenses is in the Parking Services Capital Project Fund.

Staff recommends City Council adopt a resolution amending the Downtown Development Agreement to extend it from July 1, 2010, to December 31, 2010, including an extension of the

option to purchase 51 Biltmore Avenue from July 1, 2010, to December 31, 2010, and an extension of the option to purchase the Hot Dog King property from July 1, 2010, to October 31, 2010.

Mr. Wes Townsend, representing McKibbon Hotel Group, said that the hotel business is improving. He explained they now have a signed term sheet from a lender and down to essentially one major item that needs to be resolved – the loan to cost ratio. With this extension, their goal is to complete the legal work necessary to close on the transaction, complete the financing commitment and revise the plan slightly as outlined by Ms. Ball.

Mr. Pat Whalen, representing Public Interest Projects, was excited to still be a part of this project and was pleased that it will bring parking to that part of the downtown that the City's study shows we have a parking shortfall. He hoped Council would support the extension.

In response to Councilman Bothwell, Ms. Ball said that there are several different components of the project. The City spent \$400,000 on the design portion, but there have been other components such as the option to purchase the HDK property, as well as having an owner's representative that has provided oversight on the design of the parking garage.

In response to Councilman Bothwell, Ms. Ball said that the parking deck will have 411 parking spaces which includes parking for the hotel. In the Downtown Development Agreement we have specified that there would be 35 dedicated parking spaces and an additional 115 spaces as needed, but those spaces would also be available for the public when there was no need for them from the hotel. Because of the change in the number of rooms, it would be around 87 parking spaces that may be needed, but would not be dedicated to the hotel.

In response to Councilman Bothwell, Ms. Ball said that we currently have 100 surface spaces, but the City's concern is if Public Interest Projects (owner of that lot) decides to do a different project we would lose those 100 parking spaces.

Ms. Ball responded to Councilman Davis when he asked what our options would be when the option with the HDK property runs out on November 1.

Councilman Smith said that as we look to the future with our Downtown Master Plan which calls for a shuttle services that moves people around downtown and our Transit Master Plan, he hoped to see a move towards a more 21<sup>st</sup> Century way to get people into downtown and move them around once they get there. He wondered if there was a way to dedicate some of this revenue from the parking garage towards the future of Transit Master Plan or the Downtown Master Plan.

Ms. Ball said that all indications point to us getting a better pricing if we move forward on the parking garage now. She felt we need to look at a combination of parking and shuttle services together and if Council wants to move forward with serious consideration of a shuttle service, then she felt we need to do a feasibility analysis. She provided Council preliminary numbers on a shuttle service.

Councilman Bothwell explained why he could not support the extension in that this project will take all of the parking fund monies for 10 years. He also noted that we are already having to deal with financing issues from the Grove Arcade Public Market Foundation and the Pack Square Conservancy.

Councilwoman Manheimer said that having made a decision that we need more parking downtown, this is the best option for us.

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. 10-149. This motion was seconded by Councilman Davis and carried on a 5-1 vote, with Councilman Bothwell voting "no".

**RESOLUTION BOOK NO. 33 – PAGE 108**

**VI. NEW BUSINESS:**

**A. MOTION TO DISCONTINUE PRODUCTION OF THE ASHEVILLE FILM FESTIVAL AND PRIVATIZE THE OPERATIONS BY ALLOWING THE EVENT TO BE PRODUCED ON THE OPEN MARKET AT NO COST TO THE CITY AND WITHOUT THE CITY PROVIDING ANY RESOURCES FOR THE PRODUCTION OF THE EVENT**

City Manager Jackson said that the budget City Council adopted did not recommend staffing and continuing to produce the Asheville Film Festival. Even though we regret discontinuing the Festival, we are here to provide core services. Staff recommends City Council discontinue the operation of the Asheville Film Festival and direction on how we dispose of the festival service mark and logo.

Assistant Director of Parks, Recreation and Cultural Arts Debbie Ivester said that the Asheville Film Festival (AFF) began in 2003 to showcase western North Carolina as a strong film location and as a film festival destination for filmmakers and visitors while celebrating the development of emerging and established artists in the filmmaking industry. At that time, Asheville was home to Blue Ridge Motion Pictures Studios and had built a strong film and arts community, including the Asheville Film Commission, the managing group of AFF under the direction of the Asheville Parks, Recreation, and Cultural Art Department. Since then, the AFF has not met its responsibility as an enterprise fund by operating at a deficit.

The City's intent is to optimize production of festivals including Bele Chere, 4<sup>th</sup> of July and AFF as an enterprise fund by providing resources to support the events while securing revenue to offset the cost of event production. Recent economic conditions and budget constraints have reduced revenue particularly in corporate sponsorship resulting in budget reductions to support the events.

Even in good economic times AFF has experienced the greatest reduction in resources since potential sponsors increasingly do not find AFF a good match for their investment. Sponsorships have consistently decreased each year, resulting in an ever increasing shortfall in revenue and greater reduction in operating budget.

She provided a seven-year financial table which reports the actual AFF budget demonstrating a pattern of revenue reduction, along with reduction in expense as a means to minimize the City's subsidy while attempting not to negatively impact the quality of the event. The FY 2010 event shows a sharp decrease in actual revenue since sponsorships fell off sharply due to the added factor of the poor economy. The expenses were also significantly decreased that affected the quality of the event.

As a result of the AFF seven-year City subsidy pattern, and the need to manage corresponding expenses that impact the quality of the event, staff recommends City Council to make a policy decision regarding the future of the AFF.

**Policy Questions**

Staff is seeking Council's policy direction on choosing one of the following options:



- 1) City continues to produce AFF in house by city staff and continue to subsidize the operational budget loss of the event.
- 2) City discontinues production of AFF and privatize the operations by allowing the event to be produce on the open market at no cost to the City and without the City providing any resources for the production of the event.

If Council chooses to discontinue producing the event, Council could assign or lease the AFF U.S. Service Mark and Logo to another party. Council could also sell the Mark and Logo to another organization or individual by:

- 1) private negotiation and sale (if mark valued less than \$30,000)
- 2) advertisement for sealed bids
- 3) negotiated offer, advertisement and upset bid
- 4) public auction; or
- 5) exchange

In 2003 the City purchased the rights to the AFF U.S. Service Mark and Logo for \$5,000 from Tommy and Kathy Hildreth.

Pros:

- If Council chooses to discontinue producing the AFF in house and allow it to go on the open market for production:
  - AFF may expand beyond the City's capacity to produce the event and gain a greater community benefit.
  - The City will no longer subsidize AFF operations resulting in a budget benefit.
  - Festival staff will have the ability to dedicate their time and resources to other City produced festivals and special events.

Cons:

- If Council chooses to discontinue producing the AFF in house and allow it to go on the open market for production:
  - a. There is no guarantee that someone from the community will produce the event.
  - b. The City will have no operational control of the event.
- If Council chooses to continue to produce the AFF in house:
  - a. Establish an annual operating budget at approximately \$130,000 to support a quality event at a level valued by the community.
  - b. The City will continue to subsidize the AFF.
  - c. There will be no AFF in 2010 and it would resume in 2011.

If Council chooses to discontinue producing the AFF in house and allow it to go on the open market for production, it is projected there will be no fiscal impact to the City.

If Council chooses to continue to produce the AFF in house, Council will need to amend the Festival Fund budget to add approximately \$130,000 to support AFF operations, and be prepared to subsidize the event on average at 70% each year.

Staff recommends discontinuing City production of the AFF and seeks City Council policy decision regarding the disposition of the AFF U.S. Service Mark and Logo.

Mr. Tom Anton said that he is creating the Asheville International Film Festival which will start in September of 2011. It will be a 10-day event primarily held downtown. They are not interested in obtaining the logo or the website, or any funding from the City. This will be a private event.

Rev. Christopher Chiaromonte thanked City Council for their support of the Film Festival in the past.

Mr. Andre Gower, representing Cinema South, hoped we could find an alternative avenue to show just what Asheville has to offer as a premiere destination. Cinema South was created to develop and operate the best film festival in the southeast and with its unique ability to combine local relationships with decades of film industry experience, it allows him to achieve the essential components for a successful film festival. He felt that with the access to knowledge and resources, his team is able to put together a program of events and screenings that make its mark in the popular festival world and create the new exposure needed for the lucrative production value of WNC and the state.

Councilwoman Manheimer moved to discontinue production of AFF and privatize the operations by allowing the event to be produce on the open market at no cost to the City and without the City providing any resources for the production of the event. This motion was seconded by Vice-Mayor Newman and carried unanimously.

In response to Vice-Mayor Newman, City Attorney Oast said that Council can leave it up to staff to determine the best way to dispose of the non-real property from the options outlined above. He also noted that once staff determines the best option it may come back to Council for final approval.

Councilman Davis felt we need to be careful in the disposition of the logo in that we have spent quite a bit of money over the years into developing a festival. If the trademark is assigned to another party, we need to make sure that person makes it the festival we hope it would be. It is a service mark worth protecting.

Vice-Mayor Newman said that if we allow staff to take this to the next step, it should be with the understanding that if there is interest amongst one or more parties to continue build a successful film festival (and we hope that will happen) that the City taxpayers get as much value for our investments and work put into it to date.

At Mayor Bellamy's suggestion, it was the consensus of Council to instruct City staff to propose a plan of action and bring it back to Council so Council feels comfortable with that direction.

Councilwoman Manheimer moved to direct staff to determine the best way to dispose of the non-real property. This motion was seconded by Vice-Mayor Newman and carried unanimously.

Mayor Bellamy thanked Ms. Sandra Travis for her work with the Film Festival and especially her work on the Memorial Day event.

## **B. MOTION TO RESTRUCTURE THE GROVE ARCADE PUBLIC MARKET FOUNDATION'S CERTIFICATES OF PARTICIPATION PAYMENT**

Assistant City Manager Jeff Richardson said that this is the consideration of restructuring the Grove Arcade Public Market Foundation's Certificates of Participation payment.

At its May 18<sup>th</sup> meeting, staff provided the Planning and Economic Development (PED) Committee information relating to the Grove Arcade Public Market Foundation's (GAPMF) yearly COPs payment to the City of Asheville. Given a number of financial challenges facing the Foundation (such as capital improvements and a tough economy), the Foundation may require additional assistance from the City of Asheville to continue to operate effectively.

The City of Asheville acquired the title to the Grove Arcade building in 1997 under the National Monuments Act and signed a 198 year lease with the GAPMF. This restored building includes shops, restaurants, offices, 42 luxury apartments, and provides 78 full-time and 111 part-time jobs, making it Western North Carolina's largest commercial building. Since the 1997 agreement, there have been challenges in the GAPMF business plan, but in general the Foundation has performed well.

The GAPMF approached the City of Asheville in the summer of 2009 with concerns of fulfilling their yearly debt obligation. With the exception of the 2007 payment being deferred, the Foundation has made all payments in full since the inception of the loan. The GAPMF made a presentation to the City's PED Committee on June 15, 2009, outlining on-going debt load and capital maintenance concerns at the Grove Arcade. The PED Committee directed City staff to explore options of restructuring the COPs payment to relieve their debt load concerns. As follow-up, City staff updated the PED Committee on May 18, 2010, and presented COPs payment restructuring options to include crediting Asheville City property and sales tax revenue generated from the property as a direct credit toward the yearly debt service payment.

However, due to other pending capital maintenance needs, to include roof replacement and terra cotta restoration, the tax credit may not lower the payment to a level that the building's cash flow will be able to meet over the next 3-5 year period. Therefore, the PED Committee recommended that additional analysis continue and additional options be presented to the City Council.

The GAPMF aligns with City Council's focus area of Affordable, specifically by supporting diversified job growth and small business development.

Pros:

- The GAPMF continues to support the rehabilitation of pocket areas in the central business district to enhance dense urban development and principles of highest and best use land management.
- Due to the ongoing success of this project, the City has successfully brought the largest dilapidated building in the central business district back to full restored use, with direct tax revenues to the City and to Asheville City Schools, totaling over \$70,000 per year.

Cons:

- Debt load restructuring may be perceived by some citizenry as government subsidized loan restructuring because they may not fully understand the public/private partnership.
- State Statutes do not require any consideration for local City funding for the Asheville City Schools district, and therefore school tax revenue credit is not a direct offset to the City's budget.

The debt service payment that the City is required to make on the COPs is included in the FY 2010-11 Proposed Budget. However, the Proposed Budget does not include any direct payment from GAPMF to the City to help offset the City's debt service expense. GAPMF has recommended consideration of a "contribution credit" toward the payment that they owe the City based on the property, sales, and Asheville City Schools tax revenue generated by the Grove Arcade building. In addition, GAPMF has reviewed its current cash flow, taking into account the need for dedicated funding to repair the roof of the building, and has determined that it can make a direct annual payment to the City of \$50,000 over the next five year period. Further, it's contemplated that within the next five years, Progress Energy will divest from participation of the second through fifth floors and has committed final debt load payment to the City at that time.

City staff recommends that the City Council consider COPs payment restructuring options as presented by the GAPMF.

Mr. Scott Hughes, Treasurer for the GAPMF, provided Council with a brief history of the project which began on December 2, 1985, when the Mayor of Asheville established an ad hoc Committee for Preservation of the Grove Arcade and charged it with investigating the feasibility of restoring the Grove Arcade to its original construction and its original use. From that initial vision a plan was set into motion to restore the Arcade to its former and now current grandeur. Over the years this has been the purpose and goal of the GAPMF. He then showed Council before and after pictures of the Grove Arcade. The Foundation secured Progress Energy as a partner for the project. The Foundation has a 99 year lease from the City for the entire structure. The Foundation controls the first floor commercial space while the upper floors (2-5) are subleased and operated by Progress Energy. Common costs of operations are allocated between the Foundation and its partner. Since renovation, the following items are what this asset has done for the City: (1) paid \$1.3 Million dollars toward the COPS debt; (2) generated over \$130,000 per year in ad valorem taxes; (3) become the cornerstone for economic development in the western business district of downtown; and (4) turned a \$1 investment on behalf of the City into an asset worth over \$25 Million. Intangibles include (1) creating 74 new fulltime jobs and 110 part-time jobs; (2) draws visitors to the building who are fascinated with its ornate architecture and curious about the design, original purpose and history of the building; (3) consists of primarily Asheville grown businesses; (4) provides free of charge to the public one of the only public restrooms in downtown Asheville which is open 7 days a week, when stores are open; maintenance is over \$20,000 annually; (5) is a local gathering spot; (6) has inexpensive meeting spaces; and (7) has the Portico Market which supports local farmers and craftspeople with an appropriate space to sell directly to the public. Some flaws in the original business model include (1) risk associated with targeted tenant population; (2) time necessary to reach full occupancy; (3) cost overruns resulted in additional bridge loan from Progress Energy of \$1.85 million on top of the COPS loan; (4) annual building maintenance costs were originally projected at \$180,000 annually – currently they exceed \$300,000 per year; and (5) original plan had 5 employees – currently we employ 1.5 employee. Post renovation points consist of (1) the cost of the entire project exceeded \$31 Million – our first tenants occupied the first floor in 2002; (2) once full occupancy was achieved, rents have remained fairly constant at about \$900,000; (3) over 25% of their annual budget goes to shared maintenance cost each year, another 10% of their annual budget goes to market the facility, and adding to that is personnel costs, utilities, annual audits, janitorial, etc. and there is no way to accumulate funds for major capital repairs. Their immediate capital needs consist of (1) as a result of numerous leaks, the Arcade is in desperate need of a new roof at a cost of almost \$1.2 Million; (2) additional funds are needed to restore and protect the terra cotta exterior at a cost of \$450,000; (3) our share of these costs is approximately \$500,000. These repairs need to be done immediately. The Arcade simply does not produce enough resources to cover major repairs, COPS payments and repayment of the Bridge Loan to Progress Energy. Three years ago we proposed the following options (1) re-amortize the debt over a longer period of time that more closely fits the cash flow the asset generates; (2) have the parties agree to some forgiveness of the debt between the Foundation and Progress Energy and the City that allows the same result; or (3) find a means to divest the asset to a developer that would allow for the satisfaction of the existing debts of the Foundation and our partner Progress Energy, including the COPS loan. In June 2009, they went before the PED committee to seek guidance on how to fund the debt and maintain the asset. The proposal tonight they believe is a result of collaboration between our board, City staff and Progress Energy. In summary, the proposal would allow GAPMF to contribute to the debt service \$50,000 in cash each year plus the tax being paid to the City and the City schools, while also addressing the continuing maintenance needs of the Arcade. Progress Energy has assured City staff that should they divest themselves of the asset, repayment of the COPS loan will be the first proceeds disbursed. We believe this proposal gives us the opportunity to keep the Arcade in a good state of repair while making a more reasonable schedule of debt retirement based on current economic conditions.

Councilman Davis, Chairman of the PED Committee, thanked the Foundation for being stewards of this amazing treasure. The Foundation has actually be paying for what the City should have been paying for themselves.

Mr. Richardson and Mr. Hughes responded to various questions/comments from Vice-Mayor Newman and Councilwoman Manheimer regarding the loan repayment terms.

In response to Councilwoman Manheimer, Mr. Hughes said that the City's contribution was \$200,000 for sidewalks.

Councilman Bothwell felt these repayment terms shift the tax burden to the rest of City taxpayers, because if we credit the GAPMF with the taxes they paid, we have to make it up in our budget. The City is actually paying for the loan. If we apply it to the balance, it's reducing the price Progress Energy has to pay if they buy it out.

Mr. Hughes said that of the \$31 Million, the first floor portion was about \$12 Million and the remainder has been put into the project by Progress Energy. In looking at the original amortization of this loan, the payoff in 2017 is very close to what the payoff would be if all payments were being paid.

Mayor Bellamy applauded this public-private partnership because the Foundation is taking care of a building that the City of Asheville committed to support for 198 years.

Councilman Davis moved to restructure the GAPMF's Certificates of Participation payment to allow GAPMF to contribute to the debt service \$50,000 in cash each year plus the tax being paid to the City and the City schools, as detailed by Mr. Richardson. This motion was seconded by Councilman Smith and carried unanimously. Note: Councilman Bothwell did not vote on the motion before Council and that, by operation of law, the vote was recorded as being in the affirmative.

**C. RESOLUTION NO. 10-150- RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY**

Vice-Mayor Newman said that the terms of Mr. Rhett Grotzinger and Mr. David Hillier, as members on the Airport Authority, expire on June 30, 2010.

At the City Council meeting on June 8, 2010, City Council reappointed Mr. Hillier to serve an additional four-year term, term to expire June 30, 2014, or until his successor has been appointed.

Also at the Council meeting on June 8, it was the consensus of Council to interview Mr. Phillip Kelley and Mr. Bob Roberts.

Vice-Mayor Newman, liaison to the Airport Authority, said that both candidates interviewed had excellent credentials and noted that there are additional opportunities for appointment to the Authority through the Buncombe County Commissioners and the Airport Authority itself.

Mayor Bellamy felt that the Authority needs more aviation background representation.

After Council spoke highly of the candidates, Phillip Kelley received 1 vote and Bob Roberts received 5 votes. Therefore, Bob Roberts was appointed as a member to the Asheville Regional Airport Authority to serve a four-year term, term to begin July 1, 2010, and expire June 30, 2014, or until his successor has been appointed.

**RESOLUTION BOOK NO. 33 – PAGE 115**

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Steve Holland, coordinator of the video production for Central United Methodist Church, but speaking on his on behalf, he supported public access television on Channel 20. He believed the Media Center provides resources to assist groups and individuals in producing local shows. He detailed the two major issues regarding public access (1) the current contractor who manages the channel; and (3) the issue of funding. In summary because the City's agreement with Buncombe County has expired, he asked Council to appoint a joint task force consisting of one member of City Council, a Buncombe County Commissioner, a City staff person, a County staff person and perhaps up to three members of the public to chart a course for public access. He outlined the responsibilities the task force could be charged with. Mayor Bellamy felt it was appropriate for Council direct staff to draft a response to Mr. Holland and those he is representing on the interlocal agreement with Buncombe County. City Attorney Oast said that he would review the extended interlocal agreement with Buncombe County and report back to Council. Mayor Bellamy asked City Clerk Burleson to place this in a tickler file for further discussion as to where we are as a Council, if clarification is needed.

Rev. Christopher Chiaronmonte urged Council to be more compassionate to the homeless who sleep in public parks.

Mr. Fred English spoke in opposition of toll roads.

Councilman Bothwell said that we have an under-used parking lot at McCormick Field and felt that if we had a shuttle service to that lot we could cover a lot of our parking needs in the City immediately. We might even get a private contractor to operate the shuttle. When Councilman Smith asked if Councilman Bothwell was asking for support to put this on an agenda to direct staff formally, he replied that would be fine. When Vice-Mayor Newman felt the Transit Commission should review this first, Councilman Bothwell agreed and Councilman Smith (liaison to the Transit Commission) said that he would get this on a Transit Commission agenda.

Councilman Smith was pleased to note that Asheville High and TC Roberson were named among two of the top high schools in the United States. Out of the 27,000 high schools in the United States both of these schools are in the top 1600 as ranked by Newsweek Magazine.

Mayor Bellamy invited the public to attend the Ingles 4<sup>th</sup> of July celebration and thanked Ingles for this public/private partnership.

#### **VIII. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 9:01 p.m.

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CITY CLERK

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MAYOR