

Tuesday – August 24, 2010 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman (arrived at 5:15 p.m.); Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Davis gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 13-17, 2010, AS “MINORITY ENTERPRISE DEVELOPMENT WEEK”

Mayor Bellamy read the proclamation proclaiming September 13-17, 2010, as “Minority Enterprise Development Week” in the City of Asheville. She presented the proclamation to 2010 MED Week Board of Directors Chair Hope Huskey, who introduced other Board members in the audience briefed City Council on some activities taking place during the week.

B. PROCLAMATION RECOGNIZING THE 75TH ANNIVERSARY OF THE BLUE RIDGE PARKWAY

Mayor Bellamy read the proclamation recognizing the 75th Anniversary of the Blue Ridge Parkway. She presented the proclamation to Ms. Marla Tambellini, Marketing Chair on the Blue Ridge Parkway 75th Anniversary Board, who briefed City Council on some activities taking place during the anniversary celebration.

II. CONSENT AGENDA:

At the request of City staff, Consent Agenda Item “L” was removed from the Consent Agenda from consideration.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 10, 2010

B. ORDINANCE NO. 3886 - ORDINANCE INCREASING THE SIZE OF THE MEMBERSHIP OF THE ASHEVILLE RIVERFRONT REDEVELOPMENT COMMISSION AND TO CHANGE IT’S NAME TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

Summary: The consideration of an ordinance approving the alteration of the Asheville Riverfront Redevelopment Commission’s name and the expansion of Commission’s membership.

At their regularly scheduled meeting on July 8, 2010, the Asheville Riverfront Redevelopment Commission (ARRC) unanimously passed a motion to ask Asheville City Council

to amend the ARRC ordinance's membership section to include an appointee from the Town of Woodfin. The motion was made by City Councilman Jan Davis and seconded by County Commissioner Bill Stanley. In discussion, ARRC members expressed interest in having the Commission reflect regional partnership in riverfront redevelopment efforts.

The ARRC subcommittee charged with recommending by-laws to the Commission met with City Attorney Bob Oast and Riverfront Coordinator Stephanie Monson on August 5, 2010. At this meeting, the by-laws subcommittee decided to ask the ARRC to consider altering the Commission's name from "The Asheville Riverfront Redevelopment Commission" to "The Asheville Area Riverfront Redevelopment Commission" in order to further reflect the intention for a regional partnership. At the ARRC's next regularly scheduled meeting on August 12, 2010, the ARRC members were asked to consider said change. While no formal motion was made, the group unanimously agreed that altering the Commission's name to include the word "area" was a desirable change.

The proposed name change would make the Commission's official title "The Asheville Area Riverfront Redevelopment Commission" instead of "The Asheville Riverfront Redevelopment Commission".

The proposed membership change would increase the number of Commission members from thirteen to fourteen. The Town of Woodfin, as a new appointing board, would have one member on the Commission and would be exempted from the requirement that one half of any board's appointees shall own land or a business within the Riverfront District.

This action aligns with the following goals from Council's strategic operating plan: (1) Sustainable: Pursue a stronger riverfront redevelopment partnership and dedicated office; (2) Affordable: Support diversified job growth and small business development; (3) Green: Support open space preservation; and (4) Sustainable: Promote sustainable, high-density, infill growth that makes efficient use of existing resources.

Pros:

- Expansion of membership to the Town of Woodfin encourages participation by a more diverse stakeholder group towards the Commission's stated purpose: to support the sustainability and continued development of the Riverfront District.
- Alteration of Commission name better reflects a regional partnership on riverfront revitalization efforts.

Cons:

- Expansion of membership to the Town of Woodfin but not to other stakeholders may be perceived as exclusionary instead of inclusionary.
- Alteration of Commission name may not accurately reflect the Commission's current primary focus on the geographic area within the City's jurisdictional boundaries.

No fiscal impact is expected to occur as a result of these ordinance changes.

If Council approves of the ordinance adoption of it is recommended.

Councilman Davis spoke in support for the additional seat for the Town of Woodfin.

ORDINANCE BOOK NO. 26 - PAGE

C. RESOLUTION NO. 10-190 - RESOLUTION SETTING A PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF A PORTION OF DAVIDSON DRIVE

Summary: The consideration of a resolution of intent to permanently close a portion of Davidson Drive and setting the public hearing on September 28, 2010.

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

Pursuant to this statute, the adjoining property owner, Buncombe County, has requested the City of Asheville to permanently close a portion of Davidson Drive.

The Greenway Commission approved the closure, without restrictions, at their meeting on August 12, 2010.

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

Pros:

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

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close a portion of Davidson Drive and setting the public hearing on September 28, 2010.

RESOLUTION BOOK NO. 33 – PAGE 185

D. ORDINANCE NO. 3887 - BUDGET AMENDMENT FOR A GRANT FROM THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR THE WNC NATURE CENTER

Summary: The consideration of a budget amendment, in the amount of \$110,621, for a grant from the State of N.C. Dept. of Environment and Natural Resources through the Grassroots Science Museums Collaborative for the WNC Nature Center.

Each year the State of North Carolina allocates funds to the 25 to 30 member museums, science centers and nature centers in North Carolina for the Grassroots Science Museums Collaborative as supported by North Carolina Senate Bill 1741. WNC Nature Center is a member of the collaborative.

Funds will be used to enhance Nature Center operations and to make improvements to the facility and animal exhibits at the Nature Center.

The action complies with the City Council 2010-2011 Strategic Plan in fiscal responsibility in that it makes use of alternative funds to enhance the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements and public facilities. The action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it increases department funding with alternative funding via grants.

Pros:

- Provide funds to enhance the well-being of the animals, operations and special projects, and services to Nature Center visitors
- Provide funds to assist in fulfilling standards and maintaining Nature Center accreditation with the Association of Zoos and Aquariums

Cons:

- None

The project budget for one-time operational and facility improvements at the Nature Center will increase by \$110,621. This increase is funded by a grant from the State of North Carolina Department of Environment and Natural Resources through the Grassroots Science Museums Collaborative. Thus, there is no impact to the City's General Fund budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget of \$110,621 for the WNC Nature Center with a grant from the State of N.C. Dept. of Environment and Natural Resources through the Grassroots Science Museums Collaborative.

ORDINANCE BOOK NO. 26 – PAGE

E. ORDINANCE NO. 3888 - BUDGET AMENDMENT TO RECEIVE DONATED MONEY FROM CITIZENS FOR PROCUREMENT OF SUPPLIES FOR THE PURPOSE OF FIREFIGHTER DONATION

Summary: The consideration of a budget amendment, in the amount of \$3,527, to receive donated money from citizens, for procurement of supplies for the purpose of firefighter recognition.

The Asheville Fire Department has received donations from private citizens for the purpose of firefighter recognition. These donations have been received throughout fiscal year 2009/2010. The department would like to use these funds to purchase supplies for the annual 9/11 Memorial and Recognition program as well as to purchase holiday meals for on duty firefighters this fall and winter. The Fire Department's annual program allows employees to be recognized for professional accomplishments throughout the year. The meal purchases allow on duty firefighters to prepare a meal in their stations without securing these supplies on their own when many restaurants and stores are closed for the holiday.

This action complies with the City Council Strategic Operating Plan in that it helps to attract and retain quality employees and to ensure operational effectiveness by paying sound wages and benefits.

Pro:

- This action allows for recognition of firefighters without utilizing city tax funds. This action also provides for utilization of these funds as the donating citizens intended.

Con:

- None identified

These funds have been obtained through donations from private citizens for the purpose of firefighter recognition. No city tax funds will be utilized.

City staff recommends City Council approve the budget amendment to receive donated money from citizens.

ORDINANCE BOOK NO. 26 – PAGE

F. ORDINANCE NO. 3889 - BUDGET AMENDMENT FOR YEAR 3 FUNDING FROM THE N.C. DEPT. OF PUBLIC INSTRUCTION FOR THE 21ST CENTURY COMMUNITY LEARNING CENTER

Summary: The consideration of a budget amendment in the Grant Fund, in the amount of \$104,000, for Year 3 funding from the N.C. Dept. of Public Instruction for the 21st Century Community Learning Center as part of the City of Asheville Weed and Seed Initiative.

In October 2004, elected officials, city staff and Asheville citizens mobilized to develop comprehensive strategies to address issues of law enforcement, neighborhood restoration, and prevention/intervention/treatment programs and activities in the West Riverside area of Asheville as part of a Weed and Seed initiative. The program was introduced to the community via a series of public meetings to determine the concerns of target area residents and was received favorably with the understanding that residents would be integrally involved in the planning and implementation of the initiative. In July 2006, the U.S. Department of Justice announced the designation of Asheville as an "Officially Recognized" site for the federal Weed and Seed initiative aimed at reducing crime and improving quality of life.

Weed & Seed sites are required to leverage additional funds to carry out goals and objectives. The 21st Century Community Learning Center grant relates directly to the Weed & Seed prevention/intervention/treatment strategy and provides funds for afterschool programs serving youth who are academically at risk. Community-identified goals such as increased parent involvement in education and afterschool activities, and increased community input on programming are addressed through the programming.

The following sites will have 21st CCLC activities funded through this grant: Burton Street Recreation Center, Pisgah View Community Center, Shiloh Community Center, Asheville Middle School and Randolph Learning Center. Programming was initiated at the Shiloh Community Center last year as the Shiloh community has been identified as an area experiencing challenges similar to those in the Weed & Seed designated area.

Aboard Spaceship Earth (ASE) is one of many innovative teaching tools being used to engage students and improve academic performance through the program. ASE is a national academic based program using high tech tools and experiences to improve academic success. The use of certified teachers, law enforcement officers and community leaders ensures program participants are given opportunities to build trusting relationships in the community while at the same time improving self esteem. In 2009/2010, the City of Asheville 21st CCLC program provided services to 161 middle and high school youth with a majority of students (121) attending Asheville Middle School.

This action complies with the City Council Strategic Operating Plan in that it implements strategies to significantly improve public safety in neighborhoods in Asheville with the highest levels of crime and supports recreation and employment alternatives for youth at risk of gang exposure. This action also complies with the community-based Weed & Seed goals of 1) reducing crime and improving public safety, 2) enhancing the relationship between the community and law enforcement, 3) providing accessible programs for youth, 4) increasing parent involvement in education and afterschool activities and 5) increasing job readiness among youth and adults.

Pros:

- Program will bring much needed academic assistance to middle and high school students who are struggling in school and/or reside in high risk neighborhoods.
- Program works with community resources to affect change.
- Program will enhance the Weed & Seed strategy of providing a comprehensive crime prevention plan to address law enforcement, neighborhood restoration and prevention/intervention/treatment programs for residents of the targeted area.

Con:

- Additional funds will need to be leveraged during the 2011-2012 school year to sustain the program since funding decreases by 20% that year.

Grant revenue in the amount of \$104,000 will cover all personnel and operating expenses related to the afterschool program at no additional cost to the City. Expenses include, but are not limited to: salary for a full time program director, part-time assistants, contracted teachers and resource providers, and supplies and transportation costs.

City staff recommends City Council adopt a budget amendment in the Grant Fund in the amount of \$104,000, to establish a budget for Year 3 of the 21st Century Community Learning Center grant.

ORDINANCE BOOK NO. 26 – PAGE

G. ORDINANCE NO. 3890 - BUDGET AMENDMENT FROM THE N.C. ARTS COUNCIL TO SUPPORT THE PUBLIC ART 360 CONFERENCE

Summary: The consideration of a budget amendment, in the amount of \$5,000, for a grant from the North Carolina Arts Council to support the Public Art 360 Conference.

Funding from the North Carolina Arts Council Creating Place grant will be used to support the Public Art 360 Conference, a Southeastern regional conference to be held in Asheville September 23 – 25, 2010 which celebrates and examines the collaborative benefits of public art for working artists, arts administrators, and the community as a whole.

The action complies with the City Council 2010-2011 Strategic Plan Goal of fiscal responsibility of exploring alternative funding for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. The action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it increases department funding with alternative sources, enhance public confidence for and appreciation of the arts, and enhance facilitation and resources among arts interests.

Pros:

- Provides additional funds to support the Public Art 360 Conference

Con:

- None

The existing budget for a one-time project within the Cultural Art Program will increase by \$5,000. This increase is funded by a grant from the North Carolina Arts Council. Thus, there is no net fiscal impact to the City's budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to increase the budget by \$5,000 for a grant from the North Carolina Arts Council to support the Public Art 360 Conference.

ORDINANCE BOOK NO. 26 – PAGE

H. RESOLUTION NO. 10-191 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH MOTOROLA INC. TO PROVIDE MAINTENANCE COVERAGE FOR THE CITY'S RADIO SYSTEM

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with Motorola, Inc. to provide maintenance coverage for the City's radio system.

Motorola, Inc. has provided maintenance services for the City's radio communications system since installation of the system in 1992. The service agreements are renewed annually. The maintenance cost per unit of equipment for the renewal period of August 1, 2010 through

July 31, 2011 has increased by approximately three percent and this year we have included audio logging maintenance for unified and consistent maintenance support.

The renewal agreement reflects an annual charge of \$142,877.40 and covers additional equipment purchased by the City that has come out of warranty during the past year.

This ties back to Council's goal of partnerships to improve critical services and supports the sustainable focus of maintaining our radio infrastructure. These partnerships also help the City recoup some of their investment in the system infrastructure through fees collected for use of the system.

Pro:

- By keeping the radio system in optimal condition the City is able to provide communication services to several outside agencies, thereby improving interagency communications.

Con:

- None noted.

Funding for this contract is included in the Adopted FY 2010-11 Information Technology Services and Police Departmental Budgets.

City staff recommends the adoption of the resolution for radio maintenance coverage for the term of August 1, 2010 through July 31, 2011.

RESOLUTION BOOK NO. 33 – PAGE 186

I. ORDINANCE NO. 3891 - ORDINANCE AMENDING THE CIVIC CENTER COMMISSION MEMBERSHIP SIZE TO INCLUDE TWO BUNCOMBE COUNTY APPOINTEES

Summary: The consideration of an ordinance expanding the membership of the Asheville Area Civic Center Commission to include two Buncombe County appointees.

The Asheville Area Civic Center Commission consists of seven members, all appointed by the City. This structure has existed since 1965, when the Commission was established.

Even though the Civic Center is operated by the City, it continues to be recognized as a regional facility. Expanding the membership of the Commission to include some county appointees reflects that regional status.

The Boards and Commissions Committee recommended expanding the membership of the Commission from seven to nine members, with two appointments to be made by the Buncombe County Commissioners. The terms would be for three years and shall be deemed to commence on July 1, 2010. Terms of current members would not be affected.

Pro:

- Recognizes regional status of Civic Center

Con:

- Some additional administrative cost.

The Strategic Operating Plan encourages the pursuit of regional partnerships to achieve common goals and pursue economic development strategies.

Adoption of the ordinance is recommended.

Councilman Davis stressed that this is an opportunity Buncombe County has afforded themselves by participating in partnership with the City. These two new appointments have been earned and not taken lightly. This is no less significant than a seat on any enterprise board. He felt it would be appropriate to put in place and then speak with the County Commissioners.

ORDINANCE BOOK NO. 26 – PAGE

J. RESOLUTION NO. 10-192 - RESOLUTION SUPPORTING THE ASHEVILLE FIRE DEPARTMENT'S PARTICIPATION IN MISSION HOSPITAL'S LIGHTEN UP 4 LIFE CAMPAIGN

Summary: The consideration of a resolution for City Council support for the Fire Department's participation in Mission Hospital's "Lighten Up 4 Life" campaign.

Mission Hospital is coordinating a regional "Lighten Up 4 Life" campaign to begin September 1, 2010, and has requested fire departments to participate in support of the overall effort to promote healthy diet and exercise in our community.

An organized kickoff event is being proposed to be held at the Municipal Building. Mission Hospital representatives will be there to kick off the event with Fire Department personnel.

Short video interviews in which participants share what healthy diet and exercise means to them would be taped. The interviews would then be utilized to advertise in media outlets to promote Mission's Lighten Up 4 Life campaign.

Pros:

- Participation in the event will allow individuals the opportunity to express their desire to promote healthy diet and exercise.
- The event and associated videos will make a visual statement about the City's support of health and wellness.

Con:

- None identified.

Participation in the event would require no significant fiscal impact involved.

City staff recommends City Council adopt a resolution of support for Asheville Fire Department participation in Mission Hospital's "Lighten Up 4 Life" campaign.

Ms. Maureen Skullen, representing Lighten Up 4 Life, thanked City Council and the Asheville Fire Department personnel for their support and participation in this program to get our community healthier.

RESOLUTION BOOK NO. 33 – PAGE 187

K. RESOLUTION NO. 10-193 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH SUNGARD, INC., FORMALLY HTE, TO PROVIDE MAINTENANCE COVERAGE FOR THE CITY'S HTE SOFTWARE

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with SUNGARD, Inc. formally HTE, to provide maintenance coverage for the City's HTE Software.

SunGard/HTE, located in Lake Mary, Florida, has provided maintenance services for the City's HTE Software since installation of the system in 1997. Since this company received the bid for this software in 1997 and its proprietary software, we must contract our maintenance through this company and they have no subsidiaries in North Carolina. The service agreements are renewed annually. This maintenance covers currently used critical applications such as payroll, banking, and other core financial services during the transition to the BTIP project. The maintenance cost of this software for the renewal period of July 1, 2010, through June 30, 2011, has been reduced due to transitioning to Munis.

This ties back to Council's goal of supporting a sustainable community through a strong commitment to infrastructure maintenance.

Pros:

- By keeping the HTE Software in optimal condition, the City is able to provide service that is more efficient to our city employee users, giving them the ability to do their jobs in a timely manner.
- This allows the City to provide excellent service to the customer of the City of Asheville and to the vendors who conduct business with the City of Asheville.

Con:

- None noted.

The renewal agreement reflects an annual charge of \$118,342. Funds have been appropriated in the Information Technology Services Contracted Service and the Parking Services Interfund accounts.

City staff recommends City Council adopt the resolution for HTE software maintenance coverage for the term of July 1, 2010, through June 30, 2011.

RESOLUTION BOOK NO. 33 – PAGE 188

L. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN DOCUMENTS RELATED TO THE APPLICATION FOR AND IMPLEMENTATION OF TWO GRANTS FROM THE APPALACHIAN REGIONAL COMMISSION

This item was removed from the Consent Agenda from consideration.

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

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

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

III. PRESENTATIONS & REPORTS:

A. HOUSING AUTHORITY UPDATE

Mr. David Nash, Deputy Executive Director of the Housing Authority of the City of Asheville (HACA), updated City Council on the following two focus areas: (1) HACA Five Year

Plan: Board of Commissioners has established priorities that are aligned with the Asheville Consolidated Strategic and Housing and Community Development Plan; and (2) Update on Recovery Act and Energy Performance Contract projects.

He explained the following City priorities and how they align with the HACA goals: City Priority #1: Provide affordable rental housing, particularly for households earning 60% of median income or less. (Greatest need is for one bedroom units.). HACA Goals: (1) Preserve Aston Park Tower with energy efficient and more attractive exterior (1-3 years), (2) Redevelop Aston garden apartments as workforce housing with emphasis on 1BRs (2-5 years); and (3) Replace burned Hillcrest units with 1BRs at another location (1-3 years). City Priority #2: Coordinate housing development with transportation, jobs, and services and make efficient use of available land and infrastructure. HACA Goals: (1) Collaborate with City on Sustainable Communities Initiative – including projects above (current); and (2) Expand job opportunities for HACA residents through programs like Asheville Green Opportunities (ongoing). City Priority #3: Help those with special needs – the homeless, the frail elderly, persons with mental illness, and people with disabilities and help people succeed through supportive services coordinated with housing. HACA Goals: (1) Participate on Homeless Initiative Advisory Committee – advocate for supportive services (ongoing); and (2) Include opportunities for the chronically homeless people with disabilities in all existing and future developments (ongoing). City Priority #4: Emphasize high quality, energy efficient, environmentally friendly designs. HACA Goals: (1) Complete Energy Performance Contract and Recovery Act work (ongoing - more below); (2) Complete implementation of green maintenance and operations commitments (1 year); and (3) Become an environmental and conservation leader in the Public Housing community (1-5 years). City Priority #5: Target low-wealth neighborhoods for improvements that will improve housing conditions and create stronger communities. HACA Goals: (1) Aston Park work above (1-3 years); and (2) Collaborate with City and other local partners on a Choice Neighborhoods or other major grant for Lee Walker Heights (2-5 years). City Priority #6: Preserve existing housing and focus preservation efforts to make rental and ownership housing affordable. HACA Goals: (1) Apply for additional Housing Choice Vouchers whenever possible (application pending); (2) Apply for renewal of Asheville Terrace Housing Assistance Contract (next 3 months); and (3) Complete Klondyke Homes comprehensive modernization project (3 years) (a) Refinance Woodridge Apartments to ensure long term affordability (next 3 months).

Energy Efficiency Projects include (1) Recovery Act (\$5.9MM in grants): (a) 24 Klondyke Homes units complete; 18 more under construction; (b) Pisgah View Community Services Building complete; (c) Altamont roof - 29% complete; (d) Bartlett Arms roof -17% complete; (e) Hillcrest/Deaverview – prototype installed and approved; contractor to begin in September replacing ~3,450 windows; and (f) Pisgah View – contractor to begin in October replacing ~3,000 windows; (2) Energy Performance Contract (\$3.6MM loan) (a) Water improvements 100% complete: 313 new dual flush toilets; 970 lower flow toilet retrofits; 3,600 lower flow aerators/showerheads; (b) Weatherization 55% complete: 970,000 square feet of living space in six developments; (c) Insulation 37% complete: 290,000 linear feet in walls; 350,000 square feet in attics – four developments; and (d) Livingston starting this month – 900 window replacements.

The Guaranteed annual energy savings: (1) Electricity - 680,000 kWh; (2) Natural Gas - 180,000 therms; (3) Water - 41 million gallons; and (4) Utility Bills - \$757,000.

The Annual Carbon Dioxide Reduction: (1) Electricity - 490 metric tons; (2) Natural Gas - 900 metric tons; and (3) www.epa.gov/RDEE/energy-resources/calculator.htm.

When Mayor Bellamy asked if there was any way to begin to capture with those agencies related to us (e.g., Housing Authority, MSD, Airport) in some way all their carbon dioxide reductions, City Manager Jackson said that efforts are being made in the community to begin gathering that information on a community-wide and regional basis.

Mr. Nash responded to various questions from Council, some being, but are not limited to: are utility bills included in the rents; do the utility bill savings result in rental cost savings; how are crime statistics in our public housing developments; and how is the City progressing with the Weed & Seed program in Pisgah View.

Mr. Nash responded to Councilman Smith on the six grants the Housing Authority is exploring and gave more detail on the Lee Walker grant.

On behalf of City Council, Mayor Bellamy thanked Mr. Nash, Executive Director Gene Bell, Housing Authority Board Chair Brian Weinkle and the entire Board for their service.

B. ECONOMIC DEVELOPMENT COALITION UPDATE

Mr. Ben Teague, Senior Vice-President of the Economic Development Coalition for Asheville-Buncombe County, said that the Economic Development Coalition (EDC) is a public-private partnership committed to: (1) Creating and retaining high quality jobs; (2) Serving as a trusted resource for better business decisions; and (3) Providing expertise and community leadership. They serve the Asheville Metropolitan Area which is a dynamic four-county region with a population of 412,672 and a workforce of 204,100+.

He said that the core services of the EDC enables businesses to thrive in Asheville. Using charts, he explained our region's industry employment patterns and how they chart the economic indicators.

Activities for Fiscal Year 2009-10 include (1) Business & Industry Services (a) announced six expansions totaling \$16.4 Million in new capital investment and 304 new direct jobs; (b) made 130 industry visits; (c) hosted 4th Annual Homecoming Job Fair; (d) lead WNC Transportation Alliance; (e) launched Advanced Manufacturing Partners in Education; (f) conducted 4 educational business & industry seminars; and (g) facilitated Advocates for Industry Forum; (2) Small Business and Entrepreneurship (a) facilitated Business Healthcare Roundtable (i) HB 212 and ChamberCare; and (ii) actuarial cost comparison complete for HB 212 Demonstration Project; (b) five award programs; (c) nine Hot Tips educational seminars; (d) assistance to 600+ small business inquiries; and (e) leadership development training classes; (3) Research & Analysis (a) 400 detailed business research requests; (b) 20 presentations on business, industry, and economy for metro region; (c) 10th Annual Asheville Economy Outlook –audience of 350+; (d) six economic impact analyses; (e) green economy analysis; (f) data updates for 20+ public demographic and economic indicator reports; (g) Business & Industry Directory for 600+ local businesses; and (h) ACCRA cost of living index data for metro region; and (4) Marketing and Recruitment (a) 79 proposals in response to corporate RFI's; (b) hosted 62 new-to-area client visits representing 25 projects; (c) exhibited at 2 major aerospace and climate conferences; (d) five marketing missions to targeted communities; (e) aerospace direct mails and call campaigns to 48 companies; (f) real estate e-blast to 200 site selection consultants/brokers; (g) co-sponsored Asheville Metro site consultants "FAM" tour; (h) over 100,000 marketing exposures; and (i) solicited and assisted 6 firms with Recovery Zone Bond applications – RZ Bond allocations went to Ingles Markets and AVL Technologies.

Using a chart, he showed a June 2010 snapshot of active projects with a total investment of \$327,250,000 and total jobs of 1,992. Also using a chart, he showed a June 2010 snapshot of lead development investment by sector for a total investment of \$59,500,000 and total jobs of 537.

He explained the return on investment history since 2005-06 to the present. He also spoke about the alignment with the City's Strategic Plan in (1) Job Growth and Community Development (a) partnership with EDC fosters regional economic development strategies; (2) fiscal responsibility (a) EDC has demonstrated consistent positive return on investment; and (b)

EDC generates ongoing opportunities to attain community goals; and (3) Green and Sustainable, outlining several company examples.

In summary, he showed Council the EDC's success stories for Fiscal Year 2009-10, which amounted to a total of 549 jobs and an investment of \$44,440,000.

Mr. Teague responded to various questions/comments from Council, some being, but are not limited to: review in detail of the June to June economic indicators; in the future, can the Board report back to Council on if they have any thoughts about things that the City of Asheville can do better in bringing in new business, and their thoughts on why are other companies are leaving; what things can we do as a City or a region to do a better job in the marketing and professional & business services areas; have you looked at what other regions in the country are doing in terms of marketing for specific areas; and does the economic indicator of the unemployment rate take into account people who have dropped out of looking for jobs; and further explanation of projects that are identified as active.

Mayor Bellamy said that AdvantageWest and representatives from Henderson County are preparing educational opportunities for us to look at the new norm when it comes to economic development and job growth.

On behalf of City Council, Mayor Bellamy thanked Mr. Teague and the entire Board for their service.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL USE PERMIT AT 105 BLEACHERY BOULEVARD

ORDINANCE NO. 3892 - ORDINANCE AMENDING A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT AT 105 BLEACHERY BOULEVARD

Councilwoman Manheimer moved to excuse Councilman Davis from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Russell and carried unanimously. At this time Councilman Davis left the Council Chamber.

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

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

Regarding disclosure, Mayor Bellamy noted that she was on City Council when the overall development came to Council and Councilman Smith said that he was liaison to the River District Design Review Committee when this project came through that Committee. Both said they would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

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

City Attorney Oast said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or

advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 6:00 p.m.

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

Ms. Bernstein said that the applicant is requesting review of site plans for a new retail structure at 105 Bleachery Boulevard. This project is being considered as an amendment to the previous Conditional Use Permit (Ordinance # 3275) which placed specific restrictions on any future development at this site.

The project site consists of a single parcel, 1.14 acres in size, located at 105 Bleachery Boulevard, just off of Swannanoa River Road. The area is zoned River District and located in the Riverbend Shopping Center. Other tenants include Wal-Mart, Kohl's, several restaurants and multiple smaller retail establishments. The eastern portion of the parcel (closest to the Swannanoa River and greenway) is within the 100 year floodplain (but no portion of the site is within the floodway) (City Exhibit 3 – Staff Report).

The applicant is proposing the construction of a 6,950 square foot building for retail tire sales and installation. The structure is a single-story with a mezzanine (30 feet to the tallest architectural element) and will be located towards the southwestern corner of the parcel (Attachment to City Exhibit 3 – Conceptual Landscape Plan).

Access to the site is proposed in two locations – an entrance (left-turn only) from the one-way Wal-Mart driveway on the eastern boundary of the parcel and a two-way entrance/exit on the western boundary into the existing Wal-Mart parking lot. The vehicular use area surrounds the structure to north and east and contains 42 parking spaces (including two accessible spaces and three bike spaces). The applicant is proposing elimination of parking lot lighting because of existing surrounding lighting. Staff approves of this request.

Landscaping required on the site and includes street trees, building impact landscaping, parking lot landscaping and a street buffer. 7,419 square feet of open space is provided (15% of the total site area). Sidewalks currently exist along two sides of the parcel and there is no change proposed.

The applicant has requested several modifications:

- *Number of Parking Spaces* – Number proposed (42) exceeds maximum allowance in UDO (20-35 for retail sales). Excess spaces will be pervious per 7-11-2(c.)2. and require additional landscaping. This request (per the UDO) has been reviewed by the Public Works department and granted approval by the Planning Director.

The following modifications need approval by City Council:

- *Front Setback* – A corner of the building encroaches approximately 5 feet into the front setback along Bleachery Boulevard. The building's placement on the lot is set to maximize internal site maneuverability of delivery trucks. Staff is supportive of this request.
- *Parking in Setback* – A portion of several parking spaces encroach into the front setback along Bleachery Boulevard. Staff is supportive of this request.

- *Interior Landscape Islands* – The applicant is proposing elimination of all required interior landscaping in order to provide an unobstructed area for maneuverability of large delivery trucks to and within the site. Although understanding of the applicant's concerns, staff feels there may be other design options available that would, at a minimum, allow for the placement of reduced interior islands that would not inhibit maneuverability of delivery trucks. Staff would be supportive of a request that reduces the number and/or size of interior islands and plantings but is not supportive of eliminating the requirement altogether. During the River District Design Review Committee discussion, the applicant offered to plant trees offsite (along the greenway) as a means of "alternative compliance." Alternative Compliance requests, however, are typically only considered when physical conditions or site constraints exist (not perpetuated by a preferred site or building design) and that the relocation and placement of landscaping elsewhere onsite will mitigate the impact created by the loss of plant materials, which would not be the case with the planting of trees offsite.

Ordinance No. 3275 was adopted by City Council on August 23, 2005, amending the original Riverbend Shopping Center Conditional Use Permit, conditioning the development of Outparcel 1 as "a 5,000 square foot high-turnover restaurant or similar use of an equal or lesser impact," with the primary concern being traffic impacts to the surrounding area.

Although the proposed development of the Discount Tire store is for a different use and a larger structure than the conditions specified for this outparcel, the number of trips generated is significantly less than would be generated by a 5,000 square foot high-turnover restaurant so there should be no expansion of the traffic impact.

The River District Design Review Committee reviewed the proposed design and their approval was granted on May 26, 2010. Details such as façade elements, materials, color scheme, landscaping and signage were discussed.

This proposal was recommended for approval with conditions by the Technical Review Committee on July 19, 2010. No members of the public were present to speak on this project and no comment has been received by staff. As an amendment to a Conditional Use Permit, this project was not required to be reviewed by the Planning & Zoning Commission.

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

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

The 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.

The most notable natural feature in the vicinity of the site is the Swannanoa River, located more than 100 feet to the east. The easternmost half of the parcel is within the 100 year floodplain. Development on this portion of the site is proposed as surface parking, which is an acceptable use with the 100 year floodplain. Otherwise, the outparcel site is relatively flat, having been previously graded during demolition and

remediation of the Sayles Bleacheries site and development of the Wal-Mart / Riverbend Shopping Center. The proposed use and development of the land is compatible with natural and topographic features on the site and within the immediate vicinity.

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

When the Riverbend Shopping Center was approved for development by City Council in 2002, development was included on this outparcel. Some retail / commercial use has always been intended for this site and it is expected to complement, not injure, the value of adjoining or abutting property.

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 design for the proposed retail tire store has been evaluated by the River District Design Review Subcommittee, with specific attention given to façade materials, colors and landscape material for compatibility with the existing surrounding development. The building façade is proposed to match that of the nearby Walgreens and Aldi stores with a brick pattern and parapet design. Punched brick window openings with keystone detail will break up the predominant brick veneer siding. The site design is similar to this style of large retail shopping center layout.

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.

This outparcel development helps near the completion of a large retail development approved by City Council in 2002 that met multiple goals of the *2025 Plan* such as infill development on a previously disturbed site resulting in increased pervious area, environmental remediation from the Sayles Bleacheries use, siting commercial development at transportation nodes and other transportation elements such as the greenway, inclusion of bike lanes on the new bridge connection, improvements to Swannanoa River Road.

The goal of *Job Growth & Community Development* recommends promoting infill development that makes use of existing resources – this proposal is situated on a outparcel of a large, existing retail development where infrastructure exists and has been improved in recent years.

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 off of major transportation corridors (I-240 and Tunnel Road) as well as accessed via transit (Routes 12, 13, 26 & 29). Adequate water supply, fire and police protection, waste disposal and similar facilities are verified during the TRC review process.

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

The original traffic study's adopted condition outlines the allowable impact for the subject parcel as "the development of Outparcel 1 as 5,000 square foot high-turnover restaurant or similar use of an equal or lesser impact." The developer has provided an updated technical memorandum comparing the projected vehicular impacts for the 'High-Turnover Restaurant' category versus the 'Tire Store' category as described in the most recent edition of the ITE Trip Generation manual. Despite an increase of 1,950 square feet to the store footprint, the Tire Store development has significantly less new trips generated.

Therefore, this intended use is in accord with the outlined impact tolerance of the original traffic impact study.

Use	Size	Weekday Total	Weekday Peak Hour of Adjacent Street Traffic (7-9 am)	Weekday Peak Hour of Adjacent Street Traffic (4-6 pm)
High-turnover Restaurant	5,000 SF	635	58	55
Tire Store	6,950 SF	173	20	28

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

Pro:

- Proposed use (tire store) results in less traffic impact than originally intended use (high-turnover restaurant)

Con:

- Although the applicant has offered to plant trees along the greenway area as an alternative, elimination of interior landscape islands within the parking field is contrary to the stated goals of the landscape ordinance

Staff recommends approval of this amendment to the Conditional Use Permit for the construction of the Discount Tire use based on the lesser traffic impact. In addition, staff recommends approval of the modifications for parking in the front setback and for the encroachment of the structure into the front setback due to the somewhat irregular shape of the frontage along the roundabout. Staff is not fully supportive of the request to entirely eliminate interior parking islands and suggests a lesser modification to require reduced interior planting.

Mr. Charlie Robinson, representing the Civil Engineering Firm for this project, urged City Council for their support of this project.

After rebuttal, Mayor Bellamy closed the public hearing at 6:06 p.m.

Councilman Russell moved for the adoption of Ordinance No. 3892, amending the amendment to the Conditional Use Permit adopting the proposed plan for Discount Tire to include the modifications for parking in the front setback and for the encroachment of the structure into the front setback; and the modification request to allow a reduction in number of plant materials and interior island size requirements that are required within the parking field with a condition that the plans be revised to show this reduction interior landscaping, subject to the conditions recommended by City staff; all subject 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; and (6) Plans shall be revised to include reduced interior island landscaping within the parking field. This motion was seconded by Councilman Bothwell and carried unanimously (with Councilman Davis being recused).

At this time, Councilman Davis returned to the Council Chamber and participated in the remainder of the meeting.

ORDINANCE BOOK NO. 26 - PAGE

V. UNFINISHED BUSINESS:

A. ENDORSEMENT OF ECONOMIC DEVELOPMENT INCENTIVE GRANT REQUEST FOR THE MONTFORD COMMONS PROJECT IN CONCEPT

At the request of Mayor Bellamy, City Attorney Oast said that Council has to make a policy decision on whether to extend the economic development policy to encompass residential housing developments.

Planning & Development Director Judy Daniel said that local developer Frontier Syndicate is seeking an Economic Incentive Grant (EIG) to support Phase I of the Montford Commons Urban Village project. The Montford Commons project was approved and rezoned in September 2007, and amended in June 2009.

When the economy changed, they proposed a public/private partnership (requiring a cash contribution from the City) that would enable them to proceed with the first phase of their project; as private lending sources had become difficult to obtain. A presentation from the developer and an initial staff assessment were heard at the April 2010 meeting of the Planning and Economic Development (PED) Committee. After some discussion, but no specific action, the PED Committee suggested that the proposal should also be heard by the Finance Committee.

At their June meeting, the Finance Committee heard the petition and a revised staff recommendation that did not recommend support for the request. The developers, however, then requested another type of support from the Finance Committee than had been requested at the PED meeting, an EIG in the form of tax relief similar to what was approved for the Biltmore Town Center development. The Finance Committee directed the representatives of Frontier Syndicate to submit required materials to the staff in time to consider the request and prepare a recommendation for the Council for the July 27 Council meeting.

The developers requested the Council to approve an EIG equal to the amount of anticipated property tax revenue generated by Phase I of the development for its first ten years after completion; and 100% relief of permitting fees and water tap fees. The staff report again did not recommend support for the proposal because it did not meet thresholds of expectations for projects requesting public support.

At the July 27 Council meeting, the development team was given suggestions by members of the Council about modifications they could consider to their request that would better align the request with Council adopted goals and policies, and past practice. Following that meeting the staff sent a summary of those suggestions to the development team, posed as a series of questions. Staff received answers to those questions (and a few more questions from the developers) on August 2, 2010. The staff assessment of those answers follow. On August 13, 2010, staff met with the developers to discuss their financial projections. At that time, the developers made the following revised request and an analysis by City staff of that revised request follows:

“Frontier Syndicate LLC plans to develop 250 rental units and 390 structured parking spaces that specifically targets Asheville’s workforce by providing housing that is practically sustainable and affordable. The developer has previously requested economic assistance. In response to input from City Council at its July 27th meeting and subsequent communications with City staff Frontier Syndicate LLC is amending its request as follows:

1. The developer requests an economic incentive grant equivalent to:
 - a. The City property taxes (in excess of currently assessed taxes) that will be generated by the project for the first five years after construction is complete.
 - b. Relief of one-half of the permitting fees of \$350 per unit. This represents an estimated consideration of \$43,759 ($\$87,500 * 50\%$).
 - c. Relief of one-half of the tap fees of \$103,012 representing an estimated consideration of \$51,506.
 - d. The grant would also be subject to reduction to the extent of any costs incurred by the City to defend the grant.
2. The developer will incorporate significant green development strategies into the project but without burdening the project with certification costs.

Although the \$3 million financial gap remains the same, the rationale for this revised request is that with the City's support, subsequent investment might be enticed.

Other Council Concerns

Parking

Our Lender has first deed of trust on all of the real property. In order for the HUD funding to close, our Lender must agree to release their property so that it will be owned outright by the Montford Commons development. They will do this for the six acres upon which the current design is located, but they will not do this for the 3+ acres of prime real estate along I-240 for its use as a surface lot. This would preclude their ability to market and/or sell this property to another interest.

Our HUD consultant, architect and builder all agree that changing the parking deck to a surface lot is not feasible and would be detrimental to our current Lender and the HUD Lender. Also, a surface lot is contrary to all community input to date. Our perception is that three and a half acres of surface parking right along Hill Street would create an unsightly project and ill-will with the community.

Regarding a reallocation of funds from a deck to surface parking, the financial structure in place does not allow for reallocation, per se. If the scope of the project was changed to remove the parking deck, then the financial structure would also change and the same basic "financial gap" dilemma would still exist, likely to a greater degree.

Green

There are at least four different options for obtaining defined "green" certifications. The most expensive is LEEDS but there are other choices (outlined in Exhibit A2a - A2c to the original proposal) including Energy Star and NAHB. The project gains many green points as it is presently designed due solely to its proximity, location and site plan (see LEEDS worksheet: A2c) but the administration costs of the "certification" process is prohibitive. We request that Council allow us to develop in a manner consistent with "getting the points" without the requirement to obtain formal certification.

Due to timing constraints we request that City Council consider and approve this request at its August 24, 2010, meeting."

Staff Analysis

The list of questions below reflects the comments the staff heard from the individual Council members, related to their concerns and to get their support for an ECI. The developer answers and the staff thoughts follow the questions:

1. *Would you be able to reduce the grant request from 10 to 5 years? If so, what changes to the project would result from that reduction?*

The developers state that there are two constraining dynamics that limit what they can do. Their HUD loan guarantee required commitment to a design, and the project was designed as minimally and functionally as they could. Because of that, it would be extremely difficult and costly to change the plan design. Second, because the lender (Carolina First Bank) has the first position on all the land holdings they have to release property to be used for development.

They suggested that they could reduce the term of the request from 10 to 6 years, but would need the City to pay for installation of the Phase I infrastructure, which would have a lower cost if the City did the work. They noted that this was the process used for the Biltmore Town Square development.

The staff does not recommend support for this suggestion, as it essentially reverts back to a proposal requiring initial fiscal outlay for the City for the infrastructure needs for the project, without providing substantial public benefit.

On August 13, the developers proposed reducing their request to \$750,000, equivalent to the estimated increase in City taxes upon completion of the construction for a five-year period commencing upon receipt of the Certificate of Occupancy. This essentially reduces their request by 50%. It removes from consideration City up-front investment in infrastructure, as the EIG would only be payable upon completion of the project.

2. The EIG would mean the City would not have revenue for the established timeframe but would need to provide services to the project. In this time of very tight city budgets that will be problematic. Could you consider a lower percentage of relief from taxes to compensate for this?

The development team asked if the City could provide an estimate of the anticipated service costs from the project. A review found that there would be small increases to budgets of Public Works and Fire and Rescue, and a bit more for Police. Police estimates that a 250 unit complex with parking garage adjacent to the CBD could yield an appreciable need for service calls, with an average cost per year of somewhat over \$25,000 per year – escalating higher over the years. The use of city facilities by residents of the complex are more difficult to estimate, but will also contribute to city expenses.

The developers note that private garbage service is a possibility, but private garbage service would be required anyway for a large multi-family project. They suggest that more could be considered if the City contributed to installation of the infrastructure.

The staff does not believe that the answer meets what we understood to be the concern expressed by the Council. It implies that something would be considered only if the City had more fiscal participation in the project.

As noted above, the developers have now proposed a significantly lower percentage of relief from taxes.

3. Can you reconsider and add additional “green” features, “Healthy Built” features, or LEED certification? Maybe things like solar panels for water heating? This seemed to be important to several members of the Council.

The developers state that there are four options for obtaining defined “green” certifications; and the most expensive is LEED. They state that the goals of Energy Star and NAHB are easier to reach. They state that the project as already designed “gains many green points” due to its location and site plan; but the administrative costs for getting LEED certification (developer estimate is \$500,000) are prohibitive for them. No additional elements have been added; however, the developers state that the project already incorporates significant energy conservation elements, as well as green locational and siting elements.

They ask if the Council would agree that the points they get on the LEED forms are sufficient, without requiring the formal certification. They would invite staff inspections, or other third party inspections, if these could be provided at a nominal cost to the developers. The staff tends to agree with the request, as the cost of certification itself (not only the construction costs) can be prohibitive for a very large project. The request could be considered, but the design would need to include additional energy conscious elements.

4. Would you consider reducing your costs by converting from structured to surface parking for this Phase? The staff would support that change with a commitment to the garage in a future Phase. How much could your grant request be reduced if you did this? How would that reduction in your costs alter the pro forma submitted previously?

It appears that removing the parking garage from this Phase would allow reallocation of those funds elsewhere, improving your "bottom line" and perhaps allowing you to invest in city strategic elements like LEED certification, trail development, making a percent of units affordable or a percent of tax revenues to flow to the Housing Trust Fund.

The developers state that Carolina First Bank will not release any additional land for use by the development to be used for a surface parking lot, even if that is considered an interim use of the property. The rationale is that this would preclude the ability of the bank to market/sell the property elsewhere should the developers default because the area that would be suitable for surface parking is considered the most highly valued part of the assembled properties.

They state that they consulted with their HUD liaison and the bank and concluded that a change to a parking lot is not feasible, primarily because it would be fiscally detrimental to the bank. They further state that this would be contrary to community input they have received which strongly prefers structured parking. Finally, they state that the financial structure for this project will not allow modifying it.

The staff believes this to be a rational reason for their inability to consider an alternate form for parking for the development. They cannot act without support from HUD and the bank; and these partners appear to be unwilling to modify the terms of their participation. This is unfortunate, but is not an uncommon situation between developers and their lenders these days.

The staff does not believe, however, that this unfortunate situation changes the fact that it would be a substantial precedent for the City to give fiscal support through an EIG for a project that has only modest public purpose, and includes construction of a structure that is not really needed for the project to move forward. This is a financial bind for the developers, and it seems a short-sighted decision on the part of the bank, but the staff does not see that such a situation is sufficient reason for EIG participation by the City.

5. Would you reconsider allocating some units for affordable housing? Or would you consider an agreement to restrict a percentage of units to those at "workforce" housing income levels? Or could you accept a lower grant and suggest that Council earmark a percent of future annual tax revenue to the Housing Trust Fund?

The developers make a point that when the cost of transportation is factored into housing affordability, this project would likely to meet new indexes that measure affordability (45% of income toward housing and transportation costs).

Additionally, they have proposed to consider a form of "preference queue" that could be offered to civil service employees. They suggest that City staff would manage such a list. When a unit became available, the rental office would first call that list manager to find the next person on the wait list.

The staff believes that this proposal could work, and could address one of the concerns with the project – but would entail a cost for the City in allocating staff time to maintaining the list. It also raises a question as to whether it should be only government employees on such a list. It does not change the proposed rent structure.

6. Are there other ideas you may have to enhance the public benefits offered and thus enhance the potential for approval by the Council? You stated that you could not offer an easement on the “ravine” property due to encumbrances on that property; but do you have other ideas that add to the public benefits?

The developers restated the severe fiscal constraints the project faces; but offer as part of an agreement offered by the Council, they would make a formal proposal to Carolina First Bank to request a release of the “ravine” portion of the property for the purpose of creating a greenway connection. Rather than an “easement” they might be stronger interest from the bank in deeding a portion of the property to the City in exchange for a tax benefit.

They state that they might also consider working on a “green” public transportation shuttle (a multi-person golf cart type vehicle) to run a continuous route connecting the parking garages in the CBD and the development. They suggest that perhaps it could be run by volunteers.

The staff does not believe that these proposals go far enough to reach the expectations stated by members of the Council. The first depends on the support of the lender, who has already chosen to not allow use of some of the assembled land for a rational interim purpose as a parking lot; which might allow the bank to get a good return on their investment over time as the property developed. The second is an interesting idea, but is tied to the use of volunteers to run the shuttle. Neither, although intriguing, seem to have substantial chance of success.

7. Would you possibly reconsider your construction work position and guarantee a percent of construction contract work be committed to Buncombe County or WNC contractors and subs?

The developers confirm that they have a very strong interest in offering the construction work to local firms as much as possible, but feel that any “guarantee” would be problematic as they believe that there are few contractors in this area with the required capacity to complete a project of this size and scope in the required timeframe. And they believe that such an agreement might “create havoc with the costing” as they fear the local subcontractors would be inclined to bid higher. They stand by the process proposed previously, whereby local subs are given the first chance at the work. But they also state that cost and response time would be critical factors.

They also stand by their general contractor choice and architect because of their extensive experience with HUD and working together as a team.

Given all the constraints on this process, the staff can understand the reasons for their concerns, but again, the staff does not believe that the proposed process provides incentives for using local contractors sufficient to meet the expectations heard from members of the Council.

8. Given the potential for a legal challenge of this new type of use for the ECI statute, the Legal Department has asked if you would be willing to assume the risk of a legal challenge. If so, what entity would be assuming the risk? We would need to know the assets/collateral of that entity (LLC or corporation).

The developers agree to accept the risk of such a legal challenge, with a few “reservations”; but they believe this is something that should be negotiated after adoption of a formal resolution approving the support.

The staff agrees that details on such an agreement would need to be worked out if the Council should agree to the EIG requested.

9. Would you be willing to reduce your fee waiver request to the 50% level that is already established in Council policy for affordable housing?

The developers state that they are willing to accept the 50% reduction in the fee and permitting request. This is the level of reduction that has been established for defined “affordable” housing projects.

The staff notes that this would be the first time that the Council has authorized this level of reduction in fees to a project that does not contain any defined “affordable” housing; setting another precedent for future proposals.

10. We will need to see a revised pro forma, as it seems the Finance Department found an error in the original PV calculation that was submitted.

A pro-forma was submitted and reviewed by the Community Development Division staff. Their assessment notes that in this request, to enable a reduction in the number of years that assistance is being requested, the developers were calling for City assistance in two forms:

First, they were requesting assistance through an interpretation of an EIG (a form of TIF) through the suspension of tax payments on the project for a period of six years, at an estimated cash value of \$900,000 (from the City). (These numbers were also used in a net present value (NPV) calculation, which is not really relevant to an analysis of proposal.)

Second, they were requesting the direct construction of infrastructure by the City or the equivalent in a grant. They seemed to be looking for this in direct assistance, paid out as cash during a period of construction, with a total amount provided (in actual construction or cash) of \$789,000 (appearing in the table of values tab as \$698,500 of actual infrastructure and \$90,000 of fee rebate. This does include \$89,500 of sewer system improvements, which is not a city controlled element.

The submitted data is incomplete and problematic in several ways:

- a. This would be a first time use of the EIG authorization for a residential project, and is legally tenuous.
- b. They reduced the years of tax relief requested from 10 to 6, not by reducing the amount of the request in any way, but rather by restructuring \$700,000 of the request (the infrastructure) into a straight grant. The staff believed that this proposal defeated the intent of the Council request.
- c. The submitted information appears to be incomplete in several ways, making interpretation of it somewhat confusing to interpret, and leading several unanswered questions:

No capital or operating reserves are provided, or a projection of future net operating income provided. From what was submitted it appears that the project can be self-supporting without additional subsidy.

The development budget, however, does not appear to be complete. No rationale is provided for the construction cost estimates. The infrastructure line item is \$2.1 million compared to the \$2.9 itemized costs estimate provided with the EIG request. Has the additional \$800k been diverted to another line item or is this assuming final costs after a \$790k contribution from the City?

The land acquisition costs and total equity position are unclear. Total land cost is shown as \$4.1 million, but the RERC report in March noted a \$5.15 million acquisition loan with

a \$4.9 million principal balance. It appears in this proforma that \$2.4 million of the \$4.1 million land costs will be financed with \$1.7 paid in cash. Is there existing debt service on the \$5.15 million? If so, what are the terms? Will there be additional debt service incurred following closing on the \$4.1 million? Are these separate transactions or one in the same?

Can the developer provide additional clarification regarding the \$2.4 million Builders & Sponsors Profit & Risk Analysis (BSPRA) equity contribution? Will this equity be realized at closing of the HUD financing, or at the end of construction? How will operational costs overruns be covered in future years without the benefit of deferred developer fees? [BRSPA is a financing mechanism used on HUD 221(d)(4) loans which allows a builder to decrease the hard equity requirement from 10% to 3% on HUD financing. We are not familiar with this process and have not heard the term before, but information found via a weblink suggests they are waiving future profits in exchange for creating an additional 7% equity investment on the front end of the deal. From the City's perspective this seems to be a fairly creative form of financing rather than a negative risk factor. Deferred developer fees, however, would not be available to cover any future operating losses which could create a future cash flow problem. It may be helpful to have the developer provide more information as to how and when this equity will be recognized given it is such a large component of the overall cash investment.]

Finally, clarification is needed regarding a stated \$3 million in "new equity". Is this an additional cash investment by the development team or a reference to the requested City and County contributions?

To fully assess the fiscal status of the project, these questions noted above would need to be answered.

Staff met with the developers on August 13, 2010. Staff learned the following:

- * The full project proforma does include capital and operating reserves. Although the actual reserve percentage was not confirmed, there was a mutual understanding that 5% of gross rents is normal and appropriate.
- * Construction cost estimates appeared to be reasonable and customary.
- * The cost of land acquisition was \$7.5 million; \$5.1 million of that was financed. Of the 20 acres purchased, approximately six acres will be used for the project. The estimated value of these six acres is \$4.1 million. HUD will allow a value of \$2.4 million for purposes of configuring their guarantee, because of the uncertain nature of land values in this economy. The bank financing for the land was intended to be taken out by the construction financing for the project. Since that has not yet occurred, the land not used for the project will still be held by the bank as security, and a new arrangement for its finance will need to be made.
- * The BPSRA is an allowance made by HUD for developers' profit. It enables the HUD guarantee to be made on a total project cost that includes projected developers' profit. The developers will leave this amount, agreed to by HUD, in the project as equity.
- * In order for the project to succeed, the developers will need to raise an estimated \$3 million in new equity. They consider City participation a key factor in creating sufficient investor confidence in the project to incentivize additional investment.

d. According to what was submitted the project starts generating income as soon as lease-up is achieved (estimated by spring of 2013). The cash available would be sufficient to pay the taxes on the project, assuming that reserves were created through the financing to cash flow the

deficits until the project started making money. The project proforma shows cash of \$28,000 monthly before the tax benefits kick-in, and before funding reserves. This is \$336,000 annually.

The staff believes that while there could be some discussion on the availability of some participation by the City as a lender for the infrastructure segment; grant assistance does not appear to be necessary for the simple operational cash flow of the project. Knowing that lenders are quite conservative these days, the comfort of the lenders would probably be greatly enhanced by a City grant of almost \$1.7 million, but that the project cash projections do not show this necessity if the project can get built and start generating cash flow.

If the City were to provide subsidy through tax deferments or through participation in the initial infrastructure costs, could we require those funds to be repaid over time at a nominal interest rate?

The developers believe that to raise the needed additional equity, they must provide a reasonable return on investment. They believe that no additional debt service can be carried without hindering their ability to offer a reasonable return to the new equity investors.

e. Support of the infrastructure might be justifiable in terms of cash flow. Looking at annual revenues of \$3.4 million, a 5% reserve of \$170,000 would be reasonable (\$50/month for 250 units = \$150,000 annually). This would eat up about half of the annual cash available. It might be difficult to get conventional financing for the \$700,000 of proposed infrastructure.

The new request of five years of support equal to the incremental tax increase is roughly equal to the estimated cost of the infrastructure. No up-front City funds for infrastructure are requested, except for the 50% fee rebate, discussed above.

f. Since the property appears to produce a relatively healthy cashflow after lease-up, why cannot affordable units be required in exchange for City subsidy? Using the same proration of units for the entire project (8.4% 0 BR, 46% 1-BR, 45.6% 2-BR), a 20% affordability requirement would reduce the monthly gross rents by only \$17,350 using the current HTF standards of \$600, \$650, and \$780 respectively.

Given the limited information available for our analysis, it would appear the request for assistance is not needed. Perhaps the City could offer to finance \$700k of the infrastructure in exchange for 20% affordability if there is a dedicated funding source other than the HTF.

The developers maintain that both because of the constraints of the HUD guarantee program (for market rate housing) and the need to provide a return for the additional equity investment, they cannot change their rate structure. This is contrary to Staff's discussion with HUD. In exchange for additional subsidy, the City can impose additional restrictions; however, the loan would need to be returned to HUD for underwriting and any change in the proposed rents could place their commitment at risk. Staff continues to believe that lower rents on affordable units could be absorbed thru very slight increases on the market rate units without substantially decreasing the total gross rents.

In summary, given the concerns noted, and with the analysis of information submitted; the staff does not recommend that the Council support the proposed request. The developer has responded positively to Council's request for significant changes in the amount and structure of the proposed City assistance. However, two key policy questions remain unresolved. First, is this a transformational project in terms of either creating housing affordable to low-income persons, and/or being a catalyst for redevelopment of a targeted area. Second, provided the first condition is met, is the level of assistance commensurate to the public value of the project and in line with past precedents or what we would similarly grant in the future.

Although the developers are getting closer on the second condition, the proposal is still missing the mark on the first and most critical condition.

In response to Councilwoman Manheimer, Ms. Daniels said that the infrastructure that would be construction would eventually be dedicated to the City.

In response to Vice-Mayor Newman, Community Development Director Jeff Staudinger explained that this is a HUD guarantee program (which is a very competitive program) which provides a level of security to the first lender. HUD does monitor the rents over the course of the guarantee situation (30 years) to make sure they are what was agreed to as part of the guarantee situation, which has the effect of capping rents so it is affordable to a workforce-type housing clientele.

Mr. Staudinger responded to Mayor Bellamy when she asked what the criteria is to get HUD backing.

When Councilman Smith asked for the range of rents, Mr. Staudinger believed for a 2-bedroom apartment it was in the range of \$1,000-\$1,200.

Councilman Bothwell noted that when the loan guaranteed by HUD is paid off, then there is no control on rents.

Vice-Mayor Newman noted that this is not a grant, but it really is a rebate on their property taxes for a period of time and some partial rebates on permit fees. He felt there are a lot of reasons to support this proposal, including smart growth, infill development, and the opportunity to have 250 units in middle-range housing within ½ mile of downtown. Luckily we have Mountain Housing Opportunities (MHO), and others, to build truly affordable homes in our community, but he doesn't see a lot of mid-range housing built. He felt the difficulty with this request is that it does not fit into our current policies. He felt this is a good time to create a policy with some incentives to encourage infill development near downtown and other key job centers.

Councilman Davis agreed with Vice-Mayor Newman in the need for a policy for workforce housing near key job centers.

Councilman Bothwell felt that we have other apartment projects that are not luxury which are being constructed without asking for City assistance. He was uncomfortable in providing incentives for one developer and not others unless there was a policy in place.

Councilwoman Manheimer felt there was consensus that a policy needs to be crafted and she imagined that it would reflect a lot of components of this application. But, what the developers are asking for with the Montford Commons project is that if it is completed, and if it results in an increase in property value, and if it results in an increase net benefit to the City in terms of future property taxes, can they be remitted 5 years worth of that increase to offset the cost of public infrastructure construction. The City gets a project supported by HUD for workforce housing which includes a green building component, urban infill development and walkability to the downtown. She felt that the City should be encouraging development of this type and to incentivize developers to do these types of projects. If the Montford Commons does not get built, it does not cost the City anything. If this project is approved, she would want the following conditions imposed: (1) the City's participation would be contingent upon approval by Buncombe County; and (2) reimbursement of any legal fees should there be a challenge to this tax structure reimbursement program.

When Councilman Bothwell wondered if we could intentionally limit the number of parking spots to make it a truly walkable development, Ms. Daniels understood that the developer has an agreement with the lender of a parking garage, which will be built to serve other phases of the project

Vice-Mayor Newman moved to endorse the public/private partnership request on the Montford Commons Project that would include 5 years property tax relief and 50% relief from permitting and water tap fees as outlined in staff's report. This motion was seconded by Councilwoman Manheimer.

City Attorney Oast understood the motion is (1) to endorse the Montford Commons proposal in concept; and (2) to direct staff to develop an agreement that incorporates those conceptual principles and bring it back to City Council for approval, which is the way we would do any other economic development agreement, contingent on Buncombe County approval and reimbursement of any legal fees should there be a challenge to this tax structure reimbursement program. He also noted that staff may come back with additional suggestions for protection of the City. Vice-Mayor Newman and Councilwoman Manheimer agreed with City Attorney Oast's interpretation of the motion.

Mayor Bellamy asked for a friendly amendment that Council delegate to staff the responsibility for incorporating Council policy direction into the final development agreement with the developer. Vice-Mayor Newman and Councilwoman Manheimer agreed to incorporate this friendly amendment into their motion.

Mr. Fred English did not support the City's participation in this project.

The amended motion made by Vice-Mayor Newman and seconded by Councilwoman Manheimer carried on a 4-3 vote, with Councilman Bothwell, Councilman Russell and Councilman Smith voting "no."

At Vice-Mayor Newman's request, it was the consensus of Council to direct the City Manager to begin crafting a policy to look at additional incentives to encourage infill development in the City for affordable and mid-range priced housing within walking distance of the downtown and potentially other key job centers in the City. Said policy should recognize the opportunities to partner with workforce or affordable housing in the private sector in the urban areas and walkable job centers. This draft policy should be reviewed by the City Council Planning & Economic Development Committee prior to being brought back to City Council for consideration.

At 6:59 p.m., Mayor Bellamy announced a short recess.

B. DISCUSSION OF PEDESTRIAN WALKOVER BRIDGE AT HILLCREST APARTMENTS

Director of Transportation Ken Putnam said that the purpose of the subject memorandum is to provide information to City Council to help them with their consideration of the potential reopening of the Hillcrest Pedestrian Bridge.

Using pictures, he showed several pictures of the pedestrian path to Hillcrest Apartments.

Whether or not the subject pedestrian bridge is reopened, the N.C. Dept. of Transportation (NCDOT) and the City of Asheville share the goal of minimizing or eliminating pedestrian fatalities along I-240 on the east side of the Smoky Park Bridges. In addition, both parties share the goal of providing good pedestrian and bicycle access between West Asheville and downtown Asheville.

Background: A tragic fatal pedestrian crash occurred on June 16, 2010, at 9:27 p.m. while a pedestrian was attempting to cross I-240 on the east side of the Smoky Park Bridges.

The pedestrian, a black male 25 years old, was walking to Hillcrest Apartments at the time of the crash.

According to information from the NCDOT, two similar fatal crashes have occurred in the same area during the past 20 years. The first one occurred on September 17, 1996, at 9:41 p.m. and the second one occurred on February 20, 1998, at 5:17 p.m.

The NCDOT closed the subject pedestrian bridge on November 28, 1994, at the request of the City of Asheville, the Asheville Housing Authority, and the residents of Hillcrest. After the second pedestrian fatality, City Council revisited the closing of the pedestrian bridge including a meeting at the Carl Johnson Hillcrest Community Center. City Council approved a motion (*with a 4 to 3 vote*) to keep the pedestrian bridge closed on July 9, 1998.

A report was presented to the Public Safety Committee on July 20, 2010, that outlined four possible solutions that could be considered. After receiving public comment, the committee agreed that the subject item should move forward to the City Council including the fiscal impact for the solutions.

Possible Solutions:

- Work with the NCDOT to “beef-up” the signing in the immediate area to emphasize to pedestrians that they are not to cross a controlled-access facility at points other than such designated points at which access may be permitted. Estimated Cost = \$500
- Work with the NCDOT to repair any and all “breaks” in the controlled-access fencing to prevent pedestrians from crossing a controlled-access facility at points other than such designated points at which access may be permitted. Estimated Cost = \$15,000
- Work with the Asheville Housing Authority and the residents of Hillcrest Apartments to emphasize alternative routes and modes of transportation. Estimated Cost = \$0
- Reopen the pedestrian bridge (*Safety issues including bridge assessment, brush clearing, and lighting, sidewalk maintenance and repair, and fence repair need to be pursued in greater detail including determining applicable costs*). Estimated Initial Cost = \$178,725 and Estimated Annual Cost = \$145,799

Fiscal Impact:

If the decision is made to reopen the subject pedestrian bridge, the tasks and their associated costs outlined in Table 1 would need to be accomplished. The total estimated initial cost equals \$178,725 and the estimated annual cost equals \$145,799. Depending on the results of the bridge inspection, the initial cost could be more due to the age of the bridge, which is 35 + years.

Table 1

Task Description	Initial Cost	Annual Cost
Inspect Bridge – NCDOT	\$1,000	\$0
Remove and install new fenced “cage” on the bridge (sloped top)	\$86,525	\$0
Remove and install new fenced “cage” on the bridge (flat top)	\$80,410	\$0
Remove the gates on either end of the bridge	\$200	\$0
Repair and install new fencing in the immediate area of the bridge (about 300 linear feet)	\$15,000	\$0
Perform heavy cleaning and maintenance of existing sidewalk (about 2,400 linear feet)	\$500	\$0

Rehab and replace sections of existing sidewalk (about 100 linear feet)	\$5,000	\$0
Clear cut and remove the vegetation in the wooded areas in the immediate area of the bridge including the stairs leading down to Roberts Street	\$12,000	\$3,000
Install area lighting along the existing sidewalk (about 2,400 linear feet) and the stairs leading down to Roberts Street (25 fixtures)	\$4,000	\$4,500
Provide APD presence from 6:00 am until 9:00 pm	\$54,500	\$138,299
Totals =	\$178,725	\$145,799

The highest known initial cost is removing and installing a new fenced “cage” on the existing bridge. Costs are listed for two options; specifically, one option with a sloped top and the other option with a flat top. The Asheville Police Department prefers the option with the sloped top to discourage citizens from climbing on top of the “cage”.

The impact to the Asheville Police Department is based on the number of personnel resources (officers) that it would take to provide for the safety of the area from 6:00 a.m. until 9:00 p.m. seven days per week. It is estimated that it would take three full-time officers to accomplish the subject task.

In addition, the Asheville Police Department has a significant safety concern for the citizens and officers regarding the immediate area. Much of the vegetation including trees, bushes, underbrush, and over-growth should be cleared for the safety of everyone that would use the bridge and travel under it. Currently, the area is a secluded place of concealment that creates the opportunity for crime.

Community Input:

Prior to the July 20th Public Safety Committee meeting, there were several avenues for residents and property/business owners in the neighborhoods adjacent to the pedestrian bridge to have input on whether or not the bridge should be reopened. Community members in the West End Clingman Avenue Neighborhood (WECAN)/River Arts District area were invited to attend a meeting of the WECAN Board or to submit comments to Pattiy Torno, the WECAN Board Chairperson. Notes from the meeting including comments from those who could not attend the Board meeting were shared with the Public Safety Committee. Ms. Torno summarized these comments at the Public Safety meeting. In addition, approximately ten residents from the WECAN/River Arts District area attended the meeting and spoke during the public comment period.

A representative from the Housing Authority of the City of Asheville, David Nash, was available at the meeting to answer questions about input from Hillcrest residents. Since the meeting the Housing Authority determined it needed to conduct a survey of Hillcrest Apartment residents in order to get a more accurate reading of the level of support for reopening the bridge. The survey was distributed to residents on Monday, August 16 and the majority wanted the bridge re-opened.

Feedback from community members in the WECAN/River Arts District area was mixed. Many felt the bridge should be open to reconnect Hillcrest residents with their WECAN/Arts District area neighbors. An equal number voiced concerned that opening the bridge would result in an increase in the existing criminal behavior in the area near the bridge. The public comment indicates that there is a high level of agreement among all perspectives that if the bridge is reopened major improvements will need to be undertaken in the area on the south side of the bridge. These improvements should be aimed at increasing public safety through improved maintenance of the area and the implementation of crime prevention strategies such as increased lighting and police presence.

Summary – Action Steps:

- Staff agrees that providing good pedestrian and bicycle access between West Asheville and downtown Asheville is important and it can be a strong argument for the separation of local and non-local traffic regarding the I-26 Connector project. Staff will discuss these accessibility issues in detail during the public comment period for the I-26 Connector project after the draft Environmental Impact Statement document is released later this year.
- Staff is prepared to provide additional information to City Council if needed.

He asked for direction to (1) keep the bridge closed – work with the NCDOT to “beef-up” the signing and repair and/or replace controlled-access fencing; or (2) open the bridge – ask the NCDOT to perform an in-depth inspection of the bridge to determine any additional costs.

Councilman Bothwell questioned some of the expenses, noting that some are potential expenses but not necessary expenses, e.g., the fencing because it should be replaced whether or not the bridge is re-opened.

Mr. Putnam said that they have tried to identify any and all things that should occur for the bridge to re-open. We have not gotten to the point of who is going to pay for what. He would work closely with the NCDOT and feels that we can make a strong argument on some of these items that the responsibility rests with NCDOT.

When Councilman Bothwell asked why the cage needed to be replaced, Mr. Putnam said that we are faced with a very old structure and it has been shut down for 16 years. All the galvanized posts holding the cage in place were originally imbedded into the concrete and over years water has collected and the posts have rusted.

Regarding rehabbing the sidewalk, Councilman Bothwell found that approximately 5 feet of the sidewalk isn’t wheelchair accessible, noting that there are broken sidewalks all over town. He felt the \$5,000 estimate for rehab and replacement of sections of existing sidewalk is not a contingency for opening or closing the bridge. It’s just another sidewalk that needs work. He doesn’t feel that should be attributed to re-opening the bridge.

Regarding the installation of area lighting, Councilman Bothwell felt it would be nice to have that lighting but the sidewalk has been in use for many years without lighting. Again, this is a nice thing, but many of the expenses don’t have any direct bearing on whether we re-open the bridge or not.

In response to Councilwoman Manheimer, Mr. Putnam said that the bridge was constructed in 1943 and closed in 1994. Regarding fatalities on the roadway similar to the three mentioned above, she asked how many other fatalities have been reported on that stretch of road. Mr. Putnam responded that he worked with the NCDOT and their records go back for 20 years only. Only the three mentioned above were fatalities close to the pedestrian bridge.

In response to Councilman Smith, Police Chief Bill Hogan said that the police presence recommendation came from captains and lieutenants in the Department who were probably officers and sergeants at the time that this bridge was opened and had some horrific experiences in terms of crime, everything from serious assaults, rape, armed robberies, in addition to the drugs, prostitution, gambling, etc. Their goal is to make the citizens the safest we can possibly make them. The ultimate solution is to staff it when people would be coming across the bridge and entering into Hillcrest Apartments. There are other things they can do on a lesser degree.

Councilman Smith said that the area underneath the bridge is also a gathering place for people up to no good, and also considered a drop spot for bodies. There are already several

things in that area that need to be addressed, so regardless of how we move forward on this issue, we need to address those.

Councilman Smith questioned on how the Police Department presence would affect the area underneath the bridge, the staircase, etc. to make it safe. Police Chief Hogan said if the City wanted to open the bridge tomorrow after the inspections clear, we could not staff it with three additional people for about one year. They would have to do other things. The first logical thing is they would ask their beat patrol officers to keep an eye on it, noting that they have other neighborhoods they have to police. That would not be a dedicated presence in the area. The second thing would be to have the Drug Suppression Unit spend as much time there as possible. When the bridge was opened, day in and day out there was criminal activity of a serious nature. That is why the recommendation is to staff it with dedicated officers for the safety of the community. We have the Crime Prevention through Environmental Design (CPTED) program, which is the trees and lighting – things that make it safer by increasing the visibility so that people can't jump out on you. The bridge created a natural escape route and many of the apartments on the back end were probably a less desirable place to live because of that traffic. Those apartments became abandoned and that is where a lot of people would go in and hang out. We would also start with a Neighborhood Watch Program where residents would call the police when they see suspicious circumstances. He didn't know what the resources are of the Housing Authority but they might add another guard. Again, we are looking for the safest alternative knowing the past history of that foot bridge.

Mayor Bellamy noted that Police Chief Hogan outlined the problems associated outside the gates when the bridge was open, but asked what was it like inside Hillcrest when the pedestrian bridge was open. Executive Director Gene Bell responded that the crime was horrific and the bridge was contributing to that crime. What's important to note is that the reason the bridge was closed was the Housing Authority surveyed the residents and the majority asked the bridge to be closed. They contacted the City and the NCDOT and the bridge was closed. We then put a gate on the Hillcrest side at first, but people were passing the drugs through the fence, so they installed a gate on the other side of the bridge too. After the Housing Authority surveyed the residents on August 16, 2010, the majority wanted the bridge to re-open, so they support the residents to re-open the bridge. The bridge was closed because it was a major vehicle for crime activity. Since the bridge was closed in 1994, they have seen a dramatic change for the better.

If the bridge is re-opened, Mayor Bellamy requested that a survey be conducted of the residents in Hillcrest again in one year on whether the residents continue to want the bridge opened or they want it closed. Even though we want to have police presence from 6 a.m. to 9 p.m., the reality is that 9:01 p.m. when the officer patrols the other areas at 9:02 p.m. we will have people up to no good. Her concern is we will open the bridge and the residents will like it for a little while, but there are some realities we will have to face. No amount of police presence will protect the residents of Hillcrest Apartments and the West End/Clingman Avenue area 24 hours a day. She felt there will be an increase of traffic of the kind the residents will not want on both sides. If the bridge is re-opened, she felt it was imperative that the survey be taken again in a year.

Mr. Bell committed to do the survey again in a year. He felt that another factor to add value to the information if the bridge is re-opened is to look at the statistics from the time we open the bridge 12 months out vs. the 12 months prior to the bridge being re-opened. That would give us a good comparison.

Mayor Bellamy also asked for a matrix of what we will study, as she felt it was important to look at not only the dollars, but the number of officers needed to patrol, the maintenance of the undergrowth, etc. The City has done a lot to clean up public housing and she didn't think this was in the residents' best interest long-term.

Mr. Bell said that the 12-month report should consist of not only the Housing Authority and the Police Chief statistics, but input from Asheville United Christian Church and others in the immediate area.

When Councilman Russell asked if there are interim steps that can be done for perhaps a 12-month trial of the bridge re-opening or if there are some things that can be put on hold, Mr. Putnam said that he would be glad to work with the NCDOT on that. He noted that when the NCDOT does the in depth inspection, they could unveil some other things that need to be done. If we are only going to do a year pilot of re-opening the bridge, he felt we could get their cooperation in working that out. NCDOT, as well as the City, wants to be sure that if they re-open it, it's safe structurally.

Councilman Russell moved to (1) re-open the pedestrian bridge for a 12-month basis with Mr. Putnam working with the NCDOT to control costs as much as possible; and (2) obtain feedback in 12-months from the Hillcrest Apartment residents and others in the immediate area. This motion was seconded by Councilman Bothwell.

The father of the boy who was killed on June 16, 2010, crossing I-240 to Hillcrest Apartments felt that people should have safe access to the pedestrian bridge. He supported opening the pedestrian bridge for a 12-month trial period.

Mr. Whit Rylee, resident on Roberts Street, supported re-opening the pedestrian bridge and cleaning up (not clear-cutting) the wooded area.

The Pastor of Asheville United Christian Church recalled instances violence, gang fights, vandalism, gun shots, and other criminal activity when the bridge was open. He felt that whether the bridge is re-opened or not, the woods and underneath the bridge needs to be cleaned up. The Police Department has done a wonderful job of cleaning up this area and he didn't want to see that disappear with the re-opening of the walkway. If the bridge is re-opened, he feared there will be more violence, rapes and killings.

Rev. Christopher Chiaromonte felt Hillcrest Apartments should handle the security with the Police Department teaching them what to do.

A Leicester resident who routinely drives on I-240 near the bridge said that many times she almost hit someone crossing I-240. She felt this is about lives and safety and urged Council to make this area pedestrian friendly.

Mayor Bellamy asked that if the motion passes to re-open the bridge, that the woods, underneath the bridge, sidewalks, etc. be cleaned prior to re-opening the bridge.

Mr. Putnam said that the first step would be the NCDOT inspection process will be approximately 60 days to initiate the request and for them to report back to the City. Assuming that everything is a go and there are no other additional costs to worry about, then we can proceed to re-open the bridge. However, in that 60-day window, he will be working closely with the local NCDOT people to put things in order, e.g., the clearing. He believes that the NCDOT has a contractor for clearing and repair of the fencing. Some things can be worked on simultaneously and not wait until the final word on the bridge inspection.

Councilman Russell moved to amend his motion that the clearing begin before the bridge is re-opened for safe passage. Councilman Bothwell agreed to this amendment.

Mayor Bellamy also suggested the City use the CPTED principle of putting eyes on places that can harbor illegal activities. She felt that once we clean out the area, we should make a pedestrian and bicycle friendly path to encourage more pedestrian traffic so illegal activities diminish.

Councilman Smith felt that the CPTED principle is a good idea and to clean up and light underneath the bridge is important. As we go toward the riverfront redevelopment, this is an important part of our addressing the whole transformation of the River District. Once we make this area safe, then we have created a cornerstone in that area. He supported a community watch on both sides of the bridge to take ownership of what goes on in that area.

Councilman Davis agreed this area needs to be cleaned up, but he didn't think re-opening the bridge was the right solution. We have gone a long way to make it safe for the Hillcrest residents. It's not as safe as it could be, but it's better than it was before the closing of the pedestrian bridge. He felt that we are running a terrible risk of going back to the illegal activity in that area if we don't put adequate funds in for the police presence, cleaning up of the woods, lighting, etc., and that he felt we will uncover more expenses than anticipated. He felt the budget implication will require some study because we don't want to do it half-way. He doesn't want to see a body on the interstate, but no one should see their child being sold narcotics, and other illegal activities that can take lives just as readily as a speeding car on the interstate. He wants people to be able to have safe access across the interest, but feels this is a mistake to re-open the bridge at this time.

Councilwoman Manheimer supported re-opening the bridge because it will be reviewed in one year. She recalled a time when she delivered Meals on Wheels in the Hillcrest neighborhood in 1993-94 and she would hate to see those conditions exist again. She would defer to those residents in the Hillcrest community who by majority requested the bridge to be re-opened, but wondered how many of those residents lived there when the bridge was open 16 years ago. She was concerned that we now have an entrance that is staffed and a way to monitor who is going in and out of the community and without a security presence, we are changing that dynamic in this neighborhood.

Mayor Bellamy felt that even though the pedestrian bridge is opened, we will still have people utilizing the paths. She would support the motion to re-open the bridge because we received comments from the West End/Clingman Avenue neighborhood as well as the Hillcrest neighborhood requesting the bridge be re-opened. She asked that this issue be revisited one year.

Vice-Mayor Newman agreed that we need to take steps to get the area prepared before the re-opening happens. He understood that we are giving clear direction that we want \$138,000 of additional police protection to keep this community safe if we re-open the bridge. He felt this is money well invested even if we don't re-open the bridge. He was, however, concerned about the sequence of hiring additional officers for that dedicated purpose. He suggested the Public Safety Committee continue to look at this to make sure we are doing everything we need to do from the day it's opened to make it as safe as we can. If there are additional things that the City Manager or Police Chief want to bring to us to make sure that's happening on the front end, he wants to make sure we hear and support that.

When Councilman Smith asked if we are asking that this issue be revisited one year from today or one year from when the bridge is re-opened, Police Chief Hogan said that he will report back to Council 6-months and then 12-months after the bridge is re-opened.

Mayor Bellamy said she has already been lobbied about the west Asheville bridge over I-240 at Pisgah View. The residents who have contacted her said they do not want that opened and she would not be supportive of opening that bridge.

The amended motion made by Councilman Russell and seconded by Councilman Bothwell carried on a 6-1 vote, with Councilman Davis voting "no."

When Mayor Bellamy said that since the NCDOT is looking at the possible realignment of the River District and the whole corridor, she wondered if they could look at what might be available for the Hillcrest area. Councilman Davis responded that the Asheville Area Riverfront Redevelopment Commission will be taking a field trip to look at the entire corridor; however, the realignment is not part of their prospective.

Mayor Bellamy suggested sending the appropriate group a letter asking to see how this area is configured and to see if there are any possibilities of joint partnership. Councilman Davis responded that this may be something the Asheville Area Riverfront Redevelopment Commission may want to do.

After a short discussion initiated by Mayor Bellamy, it was the consensus of Council to have Mayor Bellamy send a letter to the NCDOT to see if they can partner with the City in working to connect the Hillcrest community with the rest of the City of Asheville.

C. RESOLUTION NO. 10-194 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Newman said that term of Ron Storto, as a member of the Buncombe County Tourism Development Authority, expires on August 30, 2010.

When Councilwoman Manheimer said that the law firm that she works for represents the Tourism Development Authority, City Attorney Oast said that he did not see a conflict of interest in her voting in this matter.

At the recommendation of the Boards & Commissions Committee, Councilman Russell moved to reappoint Mr. Storto, as a member of the Buncombe County Tourism Development Authority (as the owner or operator of a hotel, motel or other taxable tourist accommodation with 100 or fewer rental units), to serve an additional three year term, term to expire August 30, 2013, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

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VI. NEW BUSINESS:

A. ORDINANCE NO. 3893 - ORDINANCE AMENDING THE ESTABLISHING OF THE PUBLIC ART BOARD

RESOLUTION NO. 10-195 - RESOLUTION ADOPTING THE PUBLIC ART POLICY AND IMPLEMENTATION GUIDELINES

Superintendent of Cultural Arts Diane Ruggiero said that this is the consideration of adoption of (1) an ordinance amending the establishment of the Public Art Board; and (2) a resolution adopting the Public Art Policy and Implementation Guidelines.

Ordinance No. 2609 was passed on September 14, 1999 establishing a public art board and a public art policy for the City of Asheville. The proposed updates to the ordinance and policy reflect advancements and best practices in the field of public art and changes within the Parks, Recreation and Cultural Arts Department structure.

The goal for updating the ordinance and policy is to provide more opportunities for public art throughout Asheville as outlined in numerous master plans including the Parks, Recreation, Cultural Arts and Greenways Master Plan and the Downtown Master Plan.

Members of the Public Art Board and staff worked closely with Janet Kagan, a public art consultant who worked on the Parks, Recreation, Cultural Arts, and Greenways Master Plan, to update the public art ordinance and policy, both of which were originally written and approved in September, 1999.

Updates to the ordinance include:

- Broadens the definition of public art to include temporary works of art and does not exclude performing arts;
- Adjusts the board size from seven members to nine and requires a majority of arts professionals;
- Adjusts the Purposes, Responsibilities, and Powers so that it does not overlap or interfere with City staff responsibilities (i.e. "Facilitate public art in buildings and spaces" replaces "Provides public art in buildings and spaces").

Updates to the policy include:

- Includes implementation guidelines for public art;
- Defines the roles of staff and community;
- Provides direction on artists selection, acquisitions, and deaccessioning;
- Provides a glossary of terms.

The updated public art ordinance and policy was approved by the Public Art Board at their monthly meeting in February 25, 2010.

The updated public art ordinance and policy was reviewed by the Boards and Commissions Committee at their meeting on August 10, 2010.

The Public Art Board held two community meetings on July 30, 2010, for public input about the updated public art ordinance and policy. The updated ordinance and policy were posted on the City of Asheville's website for public input and comment.

The updated public art ordinance and policy complies with the Parks, Recreation, Cultural Arts, and Greenways Master Plan in that it 1) enables sustainable funding for permanent and temporary public art, 2) maintains and enhances Asheville as an arts destination, and 3) develops and expands the city's public art collection.

Pros:

- Follows best practices in public art;
- Allows for more public art opportunities throughout Asheville;
- Achieves goals of the Parks, Recreation, Cultural Arts and Greenways Master Plan.

Con:

- None.

Approval of the updated public art ordinance and policy has no direct fiscal impact to the City.

City staff recommends City Council adopt (1) an ordinance amending the establishment of the Public Art Board; and (2) a resolution adopting the Public Art Policy and Implementation Guidelines.

In response to Mayor Bellamy, Ms. Ruggiero explained the process for obtaining public art and the site selection process.

Mayor Bellamy recommended the Public Art Board work with the Civic Center Commission for a possible site inside the Civic Center lobby.

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

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

Councilman Smith moved for the adoption of Ordinance No. 3893. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 26 - PAGE

Councilman Smith moved for the adoption of Resolution No. 10-196. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 190

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Daniel Wallace, resident of Battery Park Apartments, urged Council not to change handicapped parking.

Rev. Christopher Chiaromonte spoke about his fast in protest of the cruel and inhumane treatment of the poor and homeless.

Mayor Bellamy urged citizens to be careful of children walking, biking and riding the school bus since school has started.

Mayor Bellamy said that she has been invited to represent the City of Asheville to the Expo 2010 Shanghai UN Millennium Development Goals Urban Construction Forum in Langfang, China.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 8:49 p.m.

CITY CLERK

MAYOR