

Tuesday – September 14, 2010 - 5:00 p.m.

Regular Meeting

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

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilwoman Manheimer gave the invocation.

**I. PROCLAMATIONS:**

**A. RECOGNITION OF DR. JACK TEAGUE**

Mayor Bellamy recognized Dr. Jack Teague for his efforts in spearheading the Missions of Mercy free dental clinic, sponsored by the N.C. Dental Society, held in Asheville on August 13-14, 2010.

Dr. Teague gave a brief synopsis of the results of the free clinic. He said that they treated 755 patients with a dentistry value of \$416,000; extracted 1,004 teeth, 226 of which were surgical extractions; 136 cleanings; 909 fillings; 18 root canals; and 38 partial appliances. He thanked the approximately 250 community volunteers and 50 dentists (2 endodontists and 4 oral surgeons).

**B. PROCLAMATION PROCLAIMING SEPTEMBER 27, 2010, AS "FAMILY DAY – A DAY TO EAT DINNER WITH OUR CHILDREN"**

Mayor Bellamy read the proclamation proclaiming September 27, 2010, as "Family Day – A Day to Eat Dinner with Our Children" in the City of Asheville. She presented the proclamation to Mr. Paul Vest, President and CEO of the YMCA, who thanked City Council for their support.

**II. CONSENT AGENDA:**

Mayor Bellamy said that Consent Agenda item "E" will be removed from the agenda for consideration at this meeting for a future public hearing.

Councilman Smith asked that Consent Agenda item "H" be removed for discussion and a separate vote.

**A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON AUGUST 24, 2010, AND THE COMMUNITY MEETING HELD ON AUGUST 31, 2010**

**B. ORDINANCE NO. 3894 - BUDGET AMENDMENT TO APPROPRIATE REVENUE AND BUDGET EXPENDITURES ASSOCIATED WITH THE INGLES, SCHENCK PARKWAY, FARLEIGH STREET, DEERFIELD,**

**MOUNTAINBROOK, WATERS ROAD, ROCKING PORCH ROAD,  
KEASLER/SUNNYCREST, UPPER SONDDLEY, TUNNEL ROAD, WILLOW  
WINDS, AND AIRPORT ROAD ANNEXATION AREAS**

Summary: The consideration of a budget amendment in the General Fund in the amount of \$166,757, and a budget amendment in the General Capital Projects Fund in the amount of \$50,000 to appropriate revenue and budget expenditures associated with the Ingles, Schenck Parkway, Farleigh Street, Deerfield, Mountainbrook, Waters Road, Rocking Porch Road, Keasler/Sunnycrest, Upper Sondley, Tunnel Road, Willow Winds, and Airport Road annexation areas.

In May 2010, City Council approved the annexation of the areas listed above. Under state law, property owners are allowed sixty days to file legal challenges to any annexation. The period for filing legal challenges has now passed, and there were no challenges filed for these annexations. As a result, these areas will become part of the City of Asheville on September 30, 2010. Therefore, the City needs to amend the current year budget to reflect expenses associated with serving these areas between September 30, 2010 and June 30, 2011.

The cost of providing services to these areas for the remainder of FY 2009-10 will be \$163,875. Included in this amount is \$82,150 to hire and equip two additional police officers to accommodate the anticipated increase in demand for police services and \$50,000 for initial expenses associated with installation of sewer lines in the Airport Road area. The full cost of the sewer installation project for Airport Road will be \$180,000. The remaining \$130,000 needed to complete construction of this project will be included in the FY 2011-12 capital improvement budget which will be presented to Council next spring.

The City will receive nine months of property tax and fee revenue from the newly annexed areas in FY 2009-10. In total, these two areas will generate estimated revenue of \$166,757 in FY 2009-10. As noted above, the total operating and capital costs for FY 2009-10 are \$163,875. Therefore, total revenue in FY 2009-10 will exceed expenses by \$2,882. This amount will be budgeted in a contingency account and flow into fund balance at year end.

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

Pro:

- Provides budget authorization for the City to incur the costs associated with the newly annexed areas from September 30, 2010 to June 30, 2011.

Con:

- None.

City staff recommends City Council adopt the budget amendment to appropriate revenue and budget expenditures associated with the Ingles, Schenck Parkway, Farleigh Street, Deerfield, Mountainbrook, Waters Road, Rocking Porch Road, Keasler/Sunnycrest, Upper Sondley, Tunnel Road, Willow Winds, and Airport Road annexation areas.

**ORDINANCE BOOK NO. 26 – PAGE**

**C. ORDINANCE NO. 3895 - BUDGET AMENDMENT FOR MISCELLANEOUS  
CONTRIBUTIONS TO BE USED FOR PARKS AND FACILITIES  
IMPROVEMENTS**

Summary: The consideration of a budget amendment, in the amount of \$11,761, for miscellaneous contributions to be used for parks and facilities improvements.

The City of Asheville in the Parks, Recreation & Cultural Arts Department has received miscellaneous contributions totaling \$11,761 to support improvements to parks and facilities. The funds will be used to help support facility improvements such as swimming pools and tennis courts.

This action complies with City Council's Strategic Operating Plan in that it supports making smart investments that accomplishes lasting and tangible returns by investing in ongoing capital improvements to the city's park system. It is also consistent with the Parks, Recreation, Cultural Arts and Greenways Master Plan in that it provides capital investment in replacing aging infrastructure in the city's park system.

Pros:

- Investment to maintain and care for city-owned park assets.
- Provide quality service for capital improvements in the city's parks system.
- Fulfill commitment for improvements to park system.

Con:

- None

The city's Fiscal Year 2010/11 capital budget for Parks, Recreation & Cultural Arts will increase by \$11,761. This increase is funded by \$11,761 in miscellaneous contributions. Thus, there is no net fiscal impact to the City's budget.

Staff recommends City Council to adopt a budget amendment authorizing the City Manager to increase the capital budget for Park, Recreation & Cultural Arts by \$11,761.

#### **ORDINANCE BOOK NO. 26 – PAGE**

#### **D. RESOLUTION NO. 10-196- RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CHANGE ORDER FOR HUNTLEY CONSTRUCTION COMPANY FOR THE REYNOLDS MOBILE HOME PARK WATER SYSTEM REPLACEMENT PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to sign a change order increasing Huntley Construction Company's construction contract to \$172,293.52 for the Reynolds Mobile Home Park Water System Replacement project.

Huntley Construction Company was originally hired by the City through a competitive bidding process to provide the construction for the Reynolds Mobile Home Park Water System Replacement project in the amount of \$167,496.00. Change Order # 1 in the amount of \$4,797.52 will allow Huntley Construction Company to add a section of 8-inch water line from the mobile home park entrance to two apartment buildings across the parking lot, one (1) new fire hydrant, eight (8) new connections to existing water meters, and three (3) connections on the new water line.

This project is part of City Council's strategic plans to improve city infrastructure.

Pro:

- Approval of the change order will allow the City to complete the project in the current fiscal year in order to expedite receipt of N.C. Dept. of Environment & Natural Resources (NCDENR) grant funds.

Con:

- Failure to award the change order will delay completion of the project and subsequently, state reimbursement.

The funds needed for this change order are available in the capital project. The additional funds needed are fully reimbursable by the NCDENR grant. A detailed project budget is summarized below:

<b>Total Project Budget:</b>	<b>\$420,420.00</b>
Easement Recording Fee:	\$ 20.00
NCDENR Administrative Fee:	\$ 5,317.00
Engineering Contract:	\$ 68,450.00
<u>Construction Contract:</u>	<u>\$167,496.00</u>
Expenses To-Date:	\$241,283.00
<u>Change Order (Increase):</u>	<u>\$ 4,797.52</u>
Total Expenses With Change:	\$246,080.52
Remaining Project Balance:	\$174,339.48

City staff recommends City Council approval of the City Manager to sign a change order increasing Huntley Construction Company's construction contract to \$172,293.52 for the Reynolds Mobile Home Park Water System Replacement project.

**RESOLUTION BOOK NO. 33 – PAGE 201**

**E. ORDINANCE REPEALING THE DESIGNATION OF RICHMOND HILL HOUSE AS A LOCAL HISTORIC LANDMARK**

This item was removed from consideration at this meeting to be considered at a later date.

**F. RESOLUTION NO. 10-197 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MICHELIN NORTH AMERICA INC. FOR THE LEASE OF TIRES TO THE ASHEVILLE TRANSIT SYSTEM**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Michelin North America, Inc. for the lease of tires to the Asheville Transit System.

The City of Asheville released a RFP for transit bus tire lease on August 3, 2010. The city received three bids, Michelin North America, Inc., Bridgestone Americas Tire Operations, LLC. and The Goodyear Tire and Rubber Company. The only responsive bid was from one bid that fulfilled the bid requirements, Michelin North America, Inc. After a thorough review, City staff is recommending signing a contract for three years with Michelin North America, Inc.

The Asheville Transit System has been leasing tires for the buses since 2000. The cost for leasing the tires is about \$4,700 per month and is based on actual mileage per tire (*6 tires per bus*). The rate per mile in a three year period is as follows:

	Year 1	Year 2	Year 3
30570R225	\$.00818	\$.00867	\$.00919
31580R225	\$.00728	\$00.772	\$.00818

The Asheville Transit System uses about 15 tires per month and if the City bought them, it would cost about \$400 per tire or \$6,000 per month plus the cost of shipping. In addition, the City would have to pay a disposal fee to get rid of the old tires. The total cost of the project for three years is approximately \$170,000.

The subject lease is part of the current operational budget and is recorded as an operational expense.

This action complies with the City Council FY 2009-10 Strategic Operating Plan within the Fiscal Responsibility Focus area by operating the transit system to the highest level of fiscal responsibility.

The Transit Commission supports the subject project.

Pros

- Leasing the tires generates savings thereby using resources and staff in a more efficient way.
- The company provides technical assistance and equipment.
- The contract is based on tires per mile and the price is “locked” for three years.
- The company takes care of tire disposal.

Con

- The total cost of the project is \$170,000.

The total fiscal impact for the subject project is \$170,000 which is currently budgeted in the Asheville Transit operational budget.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a contract with Michelin North America, Inc. for the lease of tires to the Asheville Transit System.

**RESOLUTION BOOK NO. 33 – PAGE 202**

**G. RESOLUTION NO. 10-198 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE HERSEY METERS AGREEMENT TO ALLOW FOR THE COLLECTION OF GLOBAL POSITIONING SYSTEM DATA FOR COMMERCIAL AND RESIDENTIAL WATER METER LOCATIONS**

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to the Hersey Meters agreement to allow for the collection of global positioning system (GPS) data for approximately 56,000 commercial and residential water meter locations at a cost not to exceed \$112,000.00.

On February 9, 2010, City Council authorized the City Manager to execute an agreement with Hersey Meters (recently renamed Mueller Systems) to install Automated Meter Reading (AMR) devices on all water meters in the water system. Water Resources would like to increase the existing agreement to allow for the collection of GPS locations for approximately 56,000 commercial and residential meter locations as part of the AMR project. Hersey Meters is already deployed, on-site, and capable of integrating the GPS data collection portion at a greatly reduced rate. The cost to collect GPS coordinates for all 56,000 meters in the water system is \$2.00 per meter for an amount not to exceed \$112,000.00.

This project is part of City Council’s strategic plan to improve city infrastructure.

Pros:

- Allows the department to adjust the driving route to improve meter reading efficiency, ensure that all meters are read before leaving the route, and reduce carbon emissions.
- Meter locations in the GIS system will be accurate, providing better customer service by allowing staff to locate meters quicker in order to perform needed maintenance and repairs.

- Helps keep an accurate inventory of all water meters in the water system.
- Reduces safety risks to Water Resources staff traveling in remote, wooded areas.

Con:

- If not approved, Water Resources staff will not have accurate locations for water meters, which may delay needed maintenance and repair due to dense foliage and overgrowth.

The cost to collect the GPS locations is \$2.00 per point for 56,000 water meters for a cost not to exceed \$112,000.00. Funds are available in the AMR capital projects budget. The available funds after the contract amendment or change order will be used to continue the installation of AMR devices and purchase of water meters needed for the project.

<b>Project Budget:</b>	<b>\$4,490,576.00</b>
Hersey Meters AMR Contract:	\$1,790,000.00
Water Meter Purchases:	\$ 732,879.40
Change Order Increase:	\$ 112,000.00
<u>Subtotal:</u>	<u>\$2,634,879.40</u>
Available Funds After Change:	\$1,855,696.60

The consideration of a resolution authorizing the City Manager to execute an amendment to the Hersey Meters agreement to allow for the collection of global positioning system (GPS) data for approximately 56,000 commercial and residential water meter locations at a cost not to exceed \$112,000.00.

#### **RESOLUTION BOOK NO. 33 – PAGE 203**

#### **H. RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO APPLY FOR A US DEPT. OF HOMELAND SECURITY FISCAL YEAR 2010 STAFFING FOR ADEQUATE FIRE & EMERGENCY RESPONSE GRANT TO OBTAIN FUNDING FOR SIX ADDITIONAL FIREFIGHTER POSITIONS**

This item was removed from the Consent Agenda for discussion and an individual vote.

#### **I. RESOLUTION NO. 10-200 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH OTIS ELEVATOR TO PROVIDE ELEVATOR MAINTENANCE AND REPAIR SERVICE FOR MULTIPLE MUNICIPAL BUILDINGS**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Otis Elevator to provide elevator maintenance and repair service for multiple municipal buildings.

The service contract with Otis Elevator, located at 203 Elk park Drive, Asheville, NC, is in the third year of a five year renewal period that began in 2007. The service contract is a predictive, preventative maintenance system for the elevators at City Hall, Municipal Building, Stephens Lee Recreation Center, and Asheville Fire Station 11. The total contract amount is \$69,283.56 renewable with a CPI adjustment.

This contract supports the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities.

Pro:

- Provides a contract to maintain and provide repair service to the elevators at City Hall, Municipal Building, Stephens Lee Recreation Center, and Fire Station 11.

Cons:

- Maintenance cost to the elevators at City Hall will continue to increase due to the age of the elevators increasing the annual service contract.
- Some repair costs may still be incurred for repairs beyond the scope of this contract.

The \$69,283.56 for contracted elevator services is budgeted in the City's Fiscal Year 2010-11 operating budget for facilities maintenance.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign the contract with Otis Elevator to provide elevator maintenance and repair services for multiple municipal buildings in the amount of \$69,283.56

### **RESOLUTION BOOK NO. 33 – PAGE 205**

#### **J. RESULTS OF THE SEPTEMBER 8, 2010, CIVIL SERVICE BOARD EMPLOYEE ELECTION**

Summary: One copy of the results of the Civil Service Board employee election held on September 8, 2010, is to be filed with the City Manager and one with the City Clerk, who shall present such certification to the City Council at its next regular meeting. Secretary to the Civil Service Board Jessica Dunlap and City Clerk Burlson provided the following certified certificate on September 8, 2010: We do hereby certify, having opened, canvassed, and determined the original returns of the Civil Service Board employee election, the results of the Civil Service Board Employee Election held on September 8, 2010, noting the name of each person voted for and the number of votes cast for each person as follows: Charlie Hume - 102; and Anthony Alan Coxie - 118.

#### **K. RESOLUTION NO. 10-201 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR A FEDERAL TRANSIT ADMINISTRATION JOB ACCESS AND REVERSE COMMUNITY PROGRAM GRANT TO FUND THE BLACK MOUNTAIN ROUTE**

Summary: The consideration of a resolution authorizing City staff to apply for a Federal Transit Administration (FTA) Job Access and Reverse Commute (JARC) Program grant to fund the Black Mountain route and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

Since inception in 2002 the Black Mountain route was funded using Intercity funds, 45% Federal, 45% State and the remaining 10% had come from the Town of Black Mountain, Buncombe County, and from the route' farebox revenue. In December 2008 The North Carolina Department of Transportation (NCDOT) informed the City that the Intercity funding was going to be discontinued effective November 1, 2009 because the assessment of the route determined that they were not compliant with the requirements of Intercity Circular Section 5311 (f).

After negotiations with the NCDOT, it was agreed that they would continue funding the route until December 31, 2010, to give the city the opportunity to find another funding source. This is the last year NCDOT would fund the route.

After exploring all the options available, the JARC funding is the only funding source in the short-term we can apply for, and if awarded will allow city staff to pursue other funding sources for the upcoming years. The JARC program was established to address the unique transportation challenges faced by welfare recipients and low-income persons seeking to obtain and maintain employment. Eligible activities are capital, planning and operating expenses for projects that transport low income individuals to and from jobs and activities related to employment, and for reverse commute projects.

This route is proposed as a partnership between Warren Wilson College and the City. As proposed in the Transit Master Plan, this route will be combined with the current route 29 that serves the college and will operate as a regular route with frequent stops. The proposed route will operate five times a day, Monday through Saturday, along US 70 (Tunnel Road) between downtown Asheville and Black Mountain. Mountain Mobility is also applying for the JARC funding to fund the Black Mountain portion of the route. The service will continue connecting with the local Mountain Mobility deviated route service.

This route's ridership grew considerably since 2007. However, during FY2010 ridership decreased significantly due to the changes the city had to make to comply with the Intercity regulations. The new route will reverse some of these changes to be able to recover ridership, charging the same fares than the other routes in the system and increasing the number of stops along the route.

Route 28		
Year	Total Ridership	Change
FY2010	33,240	-40%
FY2009	55,038	44%
FY2008	38,216	9%
FY2007	35,140	78%
FY2006	19,727	

The total cost of providing this service is \$201,552; 50% or \$100,776 will be paid by the grant and the other 50% by the combined contribution of Warren Wilson College (14% or \$56,576) and the City of Asheville to the route (36% or \$144,976). The city is planning to apply for a two year period, for a total of \$403,104.

The application deadline is September 20, 2010.

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

The Transit Commission supports the subject action.

Pros:

- Increased mobility for the citizens of Asheville both within and outside the city.
- This is a step toward retaining the service and funding.

Cons:

- The City is required to fund 50% (\$201,552) of the subject project cost; funding will be allocated from the Warren Wilson College and City of Asheville contribution to current route 29.

The total two-year cost of the subject project is about \$403,104. The City is required to fund 50% (\$201,552) of the subject project cost with the remaining 50% funded by the JARC grant. The City's required funding will be allocated from the Warren Wilson College and the City of Asheville's contribution to current route 29. The two-year amount from Warren Wilson College



will total \$56,576; therefore the City's two-year cost is \$144,976 or \$72,488 per year. The City's first year funding is already included in the Transit Fund budget for this year, and second year funding will be requested in the Transit Fund budget for next fiscal year.

City staff recommends City Council adopt a resolution authorizing City staff to apply for a Federal Transit Administration (FTA) Job Access and Reverse Commute Program grant to fund the Black Mountain route and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

**RESOLUTION BOOK NO. 33 – PAGE 206**

- L. MOTION SUPPORTING THE CITY OF ASHEVILLE JOINING IN THE LET'S MOVE CITIES AND TOWNS INITIATIVE AIMED AT SOLVING CHILDHOOD OBESITY WITHIN A GENERATION**
- M. RESOLUTION NO. 10-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE ASHEVILLE HUMANE SOCIETY FOR ANIMAL SHELTER SERVICES FROM JULY 1, 2010, THROUGH JUNE 30, 2011**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Asheville Humane Society (AHS) for animal shelter services within territorial limits of the City of Asheville.

Historically, Buncombe County has required the City of Asheville pay for animal shelter services through the Asheville Humane Society who has contracted with the County to run the animal shelter. The Asheville Humane Society (AHS) has told City staff that the cost for the shelter to the City for FY 2010-2011 will be \$11,116.88 per month for a FY year total of \$133,402.56. This is a five percent (5%) increase from last year's contract amount. This agreement for the shelter services for the term of July 1, 2010 through June 30, 2011.

Over the past year, Buncombe County has appropriated \$4.5 million for a new animal shelter that is now on-line and operated by AHS. In addition to this one-time capital construction cost, Buncombe County also allocated \$35,000 for initial start-up costs, along with an operational base contract of \$550,000 for shelter care, \$89,000 for all building operations and equipment, \$100,000 for spay/neuter programming for adopted animals, and \$25,000 for specialty care and rabies control. Lastly, the County also provided \$36,000 in contract performance incentives.

The City of Asheville continuing its animal shelter contract through the Asheville Humane Society ties directly back through the City Council's Strategic Operating Plan, specifically the focus area of safe by actively enforcing animal control laws. In addition, this city/county/non-profit collaborative effort should continue to provide opportunities to hold sheltering costs down through economies of scale.

Pros:

- This contract has allowed the City to continue to partner with Buncombe County and the AHS for animal sheltering services.
- Without this partnership, the City would be forced to identify alternative sheltering options.

Con:

- Contracted sheltering costs, when compared to other municipalities in North Carolina, may reveal higher than average sheltering costs.

This cost is included in the Asheville Police Department's budget. Increase of 5% from last year's shelter contract from \$127,050.00 to \$133,402.56.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Asheville Humane Society for Animal Shelter Services for the term of July 1, 2010, through June 30, 2011. In addition, staff recommends that city staff work with county officials over the next six months to examine operational costs for sheltering throughout Buncombe County, to include all other Buncombe County municipalities who use Asheville Humane Society's sheltering services. Any recommendations for contract amendments would occur during the FY 11-12 budget process.

**RESOLUTION BOOK NO. 33 – PAGE 207**

**N. RESOLUTION NO. 10-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH DR. PAUL MARTIN FOR PHYSICIAN SERVICES PROVIDED THROUGH THE CITY'S HEALTH SERVICES DIVISION**

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement for physician services provided through the City's Health Services Division.

In January 1995, Council authorized the City Manager to enter into an agreement for part-time physician services in the Health Services Division. Dr. Paul Martin entered into a contractual agreement with the City of Asheville to provide three clinic days to City employees and their families. These clinic days have been very successful for Health Services.

This action complies with the Fiscal Responsibility prong of the City of Asheville's Strategic Operating Plan for 2010-11. By offering city employees clinic hours and complimentary health services for non-critical issues, Health Care funds are saved in unnecessary doctor and emergency room visits, maintaining the city's long term financial commitment to high levels of fiscal responsibility.

Pros:

- The Health Services Clinic and Health Services Satellite Clinic provides on-site care for non-critical health needs
- Onsite care and services for employees saves the City of Asheville money in expenses that are not paid in unnecessary doctor and emergency room visits
- Dr. Martin is a trusted member of the Health Services staff team

Con:

- There are no foreseen cons for these services

This is a one year \$100,000 contract, and funds have been budgeted and will be encumbered from the Health Care Fund to cover the cost of this contract.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign an agreement for physician services with Dr. Paul Martin, MD to continue to provide physician services to employees and their families.

**RESOLUTION BOOK NO. 33 – PAGE 208**

When Mayor Bellamy asked for public comments on any item on the Consent Agenda, no one spoke.

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

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

**ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES**

**H. RESOLUTION NO. 10-199 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO APPLY FOR A US DEPT. OF HOMELAND SECURITY FISCAL YEAR 2010 STAFFING FOR ADEQUATE FIRE & EMERGENCY RESPONSE GRANT TO OBTAIN FUNDING FOR SIX ADDITIONAL FIREFIGHTER POSITIONS**

Summary: The consideration of a resolution authorizing the City of Asheville to apply for a grant in the amount of \$540,000.00 from the US Department of Homeland Security to obtain funding for 6 additional firefighter positions.

The Department of Homeland Security has recently issued guidance for the FY 2010 Staffing for Adequate Fire and Emergency Response (SAFER) program. This is a grant opportunity for fire departments to add additional firefighters. The grant is a 3 year matching grant. In years 1 and 2, the grant covers 100% of the cost for the additional firefighter's salaries and benefits. The matching portion for the grant occurs in year 3, which is the full cost of these firefighter's salaries and benefits. This could be a good opportunity for our city to add needed personnel and have their cost completely absorbed by this grant for two years.

We currently operate 4 firefighter companies on 8 of our 17 fire companies (47%). One of our companies operates with two firefighters (Haw Creek). This grant could assist with increasing additional fire companies to four firefighter staffing which helps accomplish the following strategic priorities:

- Increased firefighter safety
  - Studies performed in Providence, RI, and Austin, TX, have shown that four firefighter companies reduce firefighter injuries and reduce the physiological effects of firefighting activities on firefighters.
  - Increased efficiency translates into increased firefighter safety during fire emergencies. Tasks that are performed more quickly reduce the exposure time for firefighters as well as mitigate emergencies earlier. In summary, a small fire is safer to firefighters than a large fire.
- Increased efficiency
  - We have conducted critical task analyses of our 3 firefighter and 4 firefighter companies. These analyses of actual fireground activities showed that 4 firefighter companies perform up to 41% more efficient during fire emergencies and up to 92% more efficient during medical emergencies.
- Increased service delivery
  - Increased efficiency translates into increased service delivery for citizens during fire and medical emergencies. Performing tasks quicker provides better service to citizens. Fire and medical emergencies have been shown to significantly worsen as time progresses. Mitigating emergencies earlier lessens the impact on citizens.
  - Earlier incident mitigation places fire companies in service and available to respond to other citizen needs earlier. The increased efficiency of 4 firefighter companies increases unit reliability and lessens the amount of time that citizens are receiving help from fire stations further away.
  - Additional firefighters are the one area that increases our ISO rating performance the most and moves us closer to an ISO 2.

We recommend applying for 6 firefighter positions for the following reasons:

- The grant program guidance indicates that a much higher priority for awards will be given to applicants who are increasing staffing to comply with the OSHA 2 in/2out standard. The strongest application we can compile would be to address our 2 firefighter company at Haw Creek to four firefighter staffing. This is the only area that we currently are not meeting the OSHA standard. This is also our only stand alone company that does not operate with 4 firefighters.
- We feel that a grant that asks for less or more would not be competitive.

Due to the timing of this notification, the Public Safety Committee has not reviewed this request; however, this is the same action that was reviewed last year in which the Public Safety Committee recommended approval; however, the grant was not awarded.

This action complies with the Strategic Operating Plan by increasing safety, efficiency, and service delivery; therefore this grant will assist in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pros:

- Firefighter safety, efficiency, and service delivery will be increased.
- Hiring 6 new firefighters will help reduce overtime. The firefighters obtained from this grant could be placed on shift without a requirement to be minimally staffed positions. These positions will fully meet the requirements and intent of the grant as more of our companies will be fully staffed more frequently.
- The grant covers 100% of the cost for these firefighters for two years.

Con:

- We would assume the full cost of these employees in year three (FY 13/14)

We would receive \$270,000 each year for two years. In year three, we would have to absorb the \$270,000 annually.

City staff recommends that City Council authorize the City of Asheville to apply for a grant in the amount of \$540,000.00 from the US Department of Homeland Security to obtain funding for 6 additional firefighter positions.

Assistant Fire Chief David McFee responded to various questions from Council, some being, but are not limited to: how will we program the \$270,000 into to years three and on as we go into long-term budget planning; what is the staffing needed for the Haw Creek Station; why did the City not receive the grant last year; and is the grantor looking for public safety priorities that relate to homeland security.

Vice-Mayor Newman noted that we are making an open-ended commitment of adding these positions to the full-time payroll in year three and didn't want grant opportunities to make these decisions for us. When he asked how much flexibility we have in making keeping these employees on when the grant runs out, City Manager Jackson said that a good faith effort would need to be made to continue the funding of the positions.

Mayor Bellamy said that there are always retirements and a constant need for hiring. She believed that even with the addition of six individuals over this time period, she felt we could use them as we continue to increase the corporate boundaries of the City of Asheville. This ensures our ability to do that in an effective and safe way, especially when the first two years will be paid for with grant funds.

Councilman Davis moved to adopt Resolution No. 10-199. This motion was seconded by Councilman Russell and carried unanimously.

**RESOLUTION BOOK NO. 33 – PAGE 204****III. PRESENTATIONS & REPORTS:****A. BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY UPDATE ON WAYFINDING SIGNS**

Councilwoman Manheimer noted that her firm does represent the TDA; however, since this is an informational update only, she did not have a conflict of interest.

Mr. Kelly Miller, Executive Director of the Buncombe County Tourism Development Authority (TDA), and Ms. Marla Tambellini, Director of Marketing and Public Relations, briefly updated City Council on the peeling wayfinding signs and the solutions associated with the peeling signs, noting that this is a top priority of the TDA.

**B. METROPOLITAN SEWERAGE DISTRICT UPDATE**

Mr. Tom Hartye, Executive Director of the Metropolitan Sewerage District (MSD), expressed Chairman Steve Aceto's regrets for not being able to attend this meeting. Mr. Hartye then thanked City Council representatives for their service on the MSD Board. He said that MSD's mission/objectives include environmental stewardship, fiscal management, customer service, and continual improvement.

Regarding environmental stewardship, (1) MSD met all legal and permit requirements and received good regulatory reports for Plant Discharge and air permits, the collection system permit, the pretreatment program, and the ISO program; (2) Annual System Performance Report on website with summary mailed to customers; (3) Rehab and replace 50,000 feet of sewer per year; (4) cleaned over 1 million feet per year of sewer line last year; (5) \$10 Million Microscreen project will increase quality of treatment plant effluent; (6) Industry awards for treatment, innovation and management; and (7) Significant reductions in overflows. He then showed a chart showing significant progress over the past 11 years of the sanitary sewer overflows.

Regarding fiscal management, (1) Kept within operating budget (which was set at less than last fiscal year) – we were under our operating budget by 6%; (2) Issued \$17 Million in bonds for Capital Improvement Program funding: issued \$17.2 Million at a fixed rate of 4.13% and refunded \$13.4 Million for a present worth savings of over \$1 Million; and (3) Utilize financial forecast model/business plan (a) keep rate increases small and consistent; (b) use equal measures of bond and pay-as-go financing for Capital Improvement Program; and (c) keep Capital Improvement Plan on track for the future. He then showed a chart of Fiscal Year 2011 budget expenditures of \$45,420,400 for construction projects; debt service; operations & maintenance; and capital equipment. He then showed a chart of Fiscal Year budgeted revenues of \$45,420,400 of interest & miscellaneous income; domestic user fees; bond & pay as go; industrial user fees; and facility & tap fees.

Regarding continual improvement, (1) Capital Improvement Program (CIP) of approximately \$15 Million per year for next 10 years; (2) Have constructed \$249 Million since consolidation in 1991; (3) 99% of CIP is replacement and rehabilitation of existing sewers and plant equipment; and (4) Replacements are upsized according to the Master Plan to handle future growth.

Mr. Hartye showed a chart of the Capital Improvement Program for 10 years, for a total of \$148.0 Million. Said Program included interceptors/wet weather rehab; collection rehabilitation; treatment plant / P.S.; and reimbursements.

Regarding customer service, (1) MSD has a service area of approximately 180 square miles; (2) MSD achieved an average response time to customer calls at 30 minutes during the

day and 39 minutes at night; and (3) MSD partners with member agencies to save money and to limit disturbance to the public.

He then outlined all the City of Asheville and MSD partnering projects as of August 2010.

Regarding planning initiatives, (1) MSD has agreed to take over Avery Creek District sewer lines for ownership and maintenance; (2) Updating agreement with Cane Creek District for future service pursuant to both Master Planning efforts; and (3) Utilizing Master Plan to formulate expansion policies and priorities.

Mr. Hartye responded to various questions/comments from Council, some being, but are not limited to: will the Microscreening project affect the smell from the river; after treatment of the water is it drinking water clean; explanation about the bidding process for contracts and whether local contractors are being awarded those contracts; and explanation of MSD's affordable housing policy.

On behalf of City Council, Mayor Bellamy thanked Mr. Hartye and the Board of Directors for their efforts on this very important Board.

#### **C. GREENWAY COMMISSION UPDATE**

Mr. Marc Hunt, Greenway Commission Chairman, provided Council with several maps showing completed greenway segments, the Greenways Master Plan recommendation map, and transportation routes. He explained how greenways are important for health and wellness; redevelopment, economic development and tourism; connecting the community; and environmental protection. He explained how the Greenway Commission collaborates with many organizations, some being, but are not limited to: Buncombe County, Asheville Parks & Greenways Foundation, Asheville Parks, Recreation & Cultural Arts; the Trust for Public Land; Mountain Housing Opportunities; City of Asheville Transit Commission; Asheville Design Center; Quality Forward; and RiverLink.

On behalf of City Council, Mayor Bellamy thanked Mr. Hunt and the Committee for their efforts on this very important Committee.

#### **D. SPORTS COMMISSION UPDATE**

Mayor Bellamy said that this update will be given at a later date.

#### **E. QUARTERLY STRATEGIC OPERATING PLAN**

##### **Finance Committee Update**

Councilman Russell, Chairman of the Finance Committee, said that the purpose of this memorandum is to provide the City Council an update on progress and achievements made by the Finance Committee during the fourth quarter of fiscal year 2009-2010.

Beginning in February 2010, the Finance Committee allocated time at each monthly meeting to focus on items of importance to the annual budget process. The committee spent considerable time reviewing fees and charges and the city's healthcare program while receiving ongoing updates about the overall budget process. Although the FY 2010-11 budget process was challenging due to impacts of the global recession, we were pleased to take part in a process that resulted in the adoption of a budget that included no property tax increase, no staff layoffs, and minimal impacts to city services.

As a result of our consideration of the city's health care program, the committee recommended that City Council form a Blue Ribbon Health Care Task Force made up of local

human resource professionals. The purpose of the task force is to review and benchmark major components of the city's health care program to best practices found in Asheville and throughout North Carolina. City Council recently approved the membership of this group, and we are looking forward to a report back from the task force in the third quarter of this fiscal year.

The Finance Committee also considered an economic incentive proposal submitted by the developers of the Montford Commons project. I believe the committee's work helped refine the proposal that was ultimately considered by the full City Council.

As you know, the city's FY 2011-12 capital planning process is already underway, and the Finance Committee is looking forward to a productive and effective budget process for the coming fiscal year. The committee recently recommended the concept of a capital planning retreat, which has been since scheduled by the Council for October 8. Based on the vision and course Council charts at the retreat, the committee will stand ready to help provide policy guidance to both the capital planning and budget process.

### **Planning & Economic Development Committee**

Councilman Davis, Chairman of the Planning & Economic Development Committee, updated Council on some major accomplishments during the 4<sup>th</sup> quarter of the Committee as follows: (1) Sidewalk Cleaning: Flow chart produced for determining responsibility for sidewalk cleaning, as a guide in the rewrite of the sidewalk cleaning ordinance; forwarded to City Council; (2) 51 Biltmore Avenue, Downtown Development Agreement: Reviewed 51 Biltmore Avenue Downtown Development Agreement and forwarded to City Council; (3) Development Incentive Process: Staff directed to draft guidelines to be used by Council for assessing transformational projects when evaluating requests for Economic Development Incentives; (4) UDO Streamlining Process: Planning staff has almost completed Phase I of five phases in the UDO Streamlining Process; (5) Grove Arcade, COPS Payment: Reviewed options for restructuring of the Grove Arcade Public Market Foundation's Certificates of Participation payment, and forwarded to City Council; and (6) Eminent Domain for Public Infrastructure: Staff directed to develop procedures for obtaining private property for public use that would mirror procedures already in place by the MSD.

### **Quarterly Strategic Operating Plan**

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

City Council has asked City staff to provide quarterly updates on key strategic initiatives associated with the five primary focus areas of the City's Strategic Plan. Staff has tracked projects using performance indicators and measurement through the Fiscal Year 2009-10. Similar to the previous quarter, this update will be presented in the form of a video. In addition, as a subset to this presentation, staff provided the Economic Development Key Indicator Report

He then showed Council a video showing the staff's progress on the key strategic areas for the fourth quarter. The video will be available on the City's website.

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

Mayor Bellamy noted that Asheville's unemployment rate which is 7.4% is down from last year at this time at 7.8%. Also, the home sales are increasing for our community. Last year it was 217 and this year it's 260. We are seeing some improvement in our local economy.

Vice-Mayor Newman noted that our energy reduction achievements are good and for the next fiscal year we have increased our goal to reduce our carbon footprint from 2% to 4%. He was excited about what that energy reduction footprint will look like in the next 4-5 years and felt we need a good plan on how we can achieve those goals.

#### **IV. PUBLIC HEARINGS:**

##### **A. PUBLIC HEARING TO CONSIDER ADOPTION OF THE SHILOH COMMUNITY PLAN 2025**

##### **RESOLUTION NO. 10-204 - RESOLUTION ADOPTING THE SHILOH COMMUNITY PLAN 2025**

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

Urban Planner Julia Fields said that this is the consideration of a resolution adopting the Shiloh Community Plan 2025. This public hearing was advertised on September 3 and 10, 2010.

In late 2003, the Shiloh Community Association, Neighborhood Housing Services of Asheville, and the City of Asheville came together to organize a community planning process, apply for funding for facilitation, and organize a task force to lead the effort to develop a plan for Shiloh. The Shiloh Community Task Force began meeting in 2004 and over the past several years has continued to meet to address pressing community concerns and to work on the development of the plan.

She explained that there was a collaborative effort of the Shiloh Community Association, Neighborhood Housing Services and the City of Asheville to develop a set of objectives to enhance the development and quality of life in Shiloh for years to come. The Plan pulled in a broad base of involvement and support, linked the plan's recommendations to the Asheville City Development Plan 2025, found ways to ensure the preservation of Shiloh's historical identity while acknowledging the reality of change, and increased awareness of the Shiloh community along with establishing consensus on improvements in the neighborhood.

Using maps, she showed the plan area and then the core implementation area. The plan as drafted is divided into three major sections. The first section provides an introduction to the plan and details how the plan was developed and how it is proposed to be used. The second section provides background on the Shiloh community including a detailed history prepared by resident Anita White-Carter, along with demographic and land use statistics. In Chapter IV, the vision, goals, strategies and implementation measures to carry out the plan are presented. An implementation matrix completes the plan.

A few of the plan's quality of life goals and strategies include: (1) celebrate, promote and showcase community spirit, citizen participation and neighborhood history (1) strengthen the neighborhood association; (b) promote Shiloh throughout Asheville and Buncombe County; and (3) complete a detailed history of the Shiloh neighborhood; (2) establish a community resource, recreation, and education center (a) develop a plan and program concept for a resource center; (b) initiate programming as work is completed on the development of a resource center; (c) examine community partnerships as part of the development of the resource centers; and (d) utilize the new pavilion as a way to initiate interest in the idea of a resource center; (3) work to improve the livability of our neighborhood – particularly housing and safety (a) work to ensure a safe Shiloh; (b) improve pedestrian accessibility throughout the neighborhood; (c) improve the overall appearance and beauty of the Shiloh community; and (d) utilize the new pavilion as a way to initiate interest in the idea of a resource center; (4) improve the infrastructure in the community (a) work with City of Asheville and utility service providers to access the infrastructure issues in the neighborhood; and (b) work with the Transportation Department to determine if additional traffic calming measures are warranted; (5) provide assistance for affordable housing and home



improvement (a) provide assistance to residents to enable them to remain in their homes; (b) explore opportunities to develop new affordable housing; (c) provide information on home improvement assistance; and (d) coordinate efforts to remove dilapidated and abandoned manufactured homes; (6) maintain and develop opportunities for green space (a) retain and develop the green space along the creek; (b) create additional green space and tree canopy in area; and (c) improve recreation opportunities at Recreation Center; (7) protect, enhance and complement the existing character of Shiloh (a) create a Shiloh Overlay District in the core area; (b) target areas for redevelopment and infill complementing existing development (c) restrict commercial incursion; define appropriate areas for commercial development; and (d) examine National Register District; and (8) create neighborhood gateways/identity (a) create a primary gateway into the community along Shiloh Road; (b) create smaller gateways into the community – West Chapel and Caribou Roads; and (c) explore ways to obtain approval and funding for customized street signs within the Shiloh community.

She then explained the implementation plan for each implementation measure, along with the suggested timeframes and principal responsible parties.

Some of the major recommendations in the plan include:

- Establishing a community resource, recreation, and education center.
- Working with Asheville Police Department on several initiatives to ensure a safe Shiloh.
- Creating a Shiloh Overlay District for new construction in the community core area.
- Creating neighborhood gateways.

The Asheville City Plan 2025, called for a neighborhood plan for the Shiloh Community. If adopted by Council, the policies and implementation measures found in this plan should be used to guide action in the community. Many of the community goals will need to be spearheaded by the Community Association. This plan should also be used as guidance for issues such as rezoning, housing initiatives and other relevant programs in the Shiloh neighborhood.

The Asheville Planning and Zoning Commission, at their meeting on July 22, 2010, reviewed and unanimously recommended the plan to Council. A few changes to the plan recommended by the commission and by the community have been made since that time.

This plan, while not specifically supporting a goal in the Council's Strategic Plan, was clearly called for in the Asheville City Plan 2025.

Pros:

- Puts forward a strategic plan for an important Asheville neighborhood.
- Plan was created with considerable community input.
- Sets an ambitious agenda.

Cons:

- Some may see plan as controlling and unchangeable.
- Sets an ambitious agenda.

The plan is a guide for future efforts in the Shiloh community. No specific program requiring funding will be undertaken without additional action.

Staff recommends the Asheville City Council review the draft plan, make any amendments, and adopt the Shiloh Community Plan 2025.

When Mayor Bellamy noted that if Council approves the plan, they will be approving the implementation schedule as well, Councilman Bothwell confirmed that this is a commitment of the spirit of implementation with funding to be decided in future budgets.

Ms. Norma Baynes, Shiloh resident and liaison for the Shiloh Community Association, briefly explained the path leading to development of this plan. She supported the plan and looked forward to continuing the partnership with the City and other organizations to implement the plan.

Ms. Marilyn Bass, Shiloh community outreach individual, reiterated Ms. Baynes comments and felt no plan is good unless it's implemented. She said we will need to continue this mutually beneficial partnership hopefully with some resources from the City, understanding the City's budgetary constraints.

In response to Councilman Russell concern about the implementation expense, Ms. Fields said that all along City staff and the Community Association have been cognizant of the City's budgetary constraints and made it very clear that anything with City funds (except City staff) would have to come back to City Council. She said that many goals will rest heavily on the Community Association.

Mayor Bellamy said that the character of Shiloh will be preserved in this plan and as redevelopment occurs, it will be done in tandem to the existing fabric of the neighborhood. She felt that one thing missing in Shiloh is a lead agency to help them and she hoped that Mountain Housing Opportunities can partner with Shiloh to work together. It's also the responsibility of Council to make sure that the goals in the plan are a priority. It is incumbent upon us to implement the plan as we do all our master plans, understanding that the success of the plan will not happen overnight.

Mayor Bellamy closed the public hearing at 6:45 p.m.

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

Vice-Mayor Newman moved for the adoption of Resolution No. 10-204. This motion was seconded by Councilman Smith and carried unanimously.

**RESOLUTION BOOK NO. 33 – PAGE 209**

**B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REDUCE THE SIZE OF THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION FROM 14 TO 12 MEMBERS**

**ORDINANCE NO. 3896- ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REDUCE THE SIZE OF THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION FROM 14 TO 12 MEMBERS**

Mayor Bellamy opened the public hearing at 6:53 p.m.

City Attorney Oast said that this is the consideration of an ordinance amending the Unified Development Ordinance to reduce the size of the Asheville-Buncombe Historic Resources Commission (HRC) from 14 members to 12. This public hearing was advertised on September 3 and 10, 2010.

The HRC is a joint commission of the City of Asheville and Buncombe County organized pursuant to Part 3C of N.C.G.S. Chapter 160A. The HRC currently consists of 14 members, with

each governing body having seven appointments. A proposal has been made to reduce the HRC membership to 12, with each governing body appointing six members.

The proposal under consideration is for each appointing body to reduce its appointees by one member. In order for the City to reduce its appointments, an amendment to City Code Sec. 7-3-4(b)(1) is required. Corresponding amendments to Sec. 38-27 of Buncombe County's Ordinance were adopted by the Buncombe County Commissioners on August 17. Because the HRC and its functions are in the UDO, the proposed amendment should be treated as an amendment to the zoning ordinance, and a public hearing is required. Because there are some vacancies on the HRC, there is no need to phase-in or removal of members. This amendment will be effective for the October meeting.

This proposed amendment and the reasons for it have been discussed with the HRC, which does not oppose it. The Council's Boards and Commissions Committee (August 10) and the Planning and Zoning Commission (September 1) both unanimously approved this proposal.

Pros:

- Reduces membership of HRC to more manageable size.
- Reduces potential for quorum problems/minority decisions.

Con:

- None noted.

Slight reduction in administrative costs.

This action complies with City Council's Strategic Operating Plan in that it (1) Promotes intergovernmental cooperation; and (2) Promotes density and infill development (Smart Growth Plan).

Adoption of this ordinance is recommended.

Mayor Bellamy closed the public hearing at 6:54 p.m.

Councilwoman Manheimer, liaison to the HRC, said that she worked with the HRC in coming up with the number of 12 after looking at other cities across the state. She said that the membership size will again be re-evaluated in the future.

When Mayor Bellamy asked why the membership was an even number, City Attorney Oast said that since the City and County have equal number members there is no way there can be an odd number.

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

Councilwoman Manheimer moved for the adoption of Ordinance No. 3896. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **ORDINANCE BOOK NO. 26 – PAGE**

Due to the anticipated length of the public hearings regarding telecommunication towers, Mayor Bellamy said that the two public hearings will be held after the closed session in order to not break up the public hearing discussion.

**CLOSED SESSION**

At 7:15 p.m., Councilman Smith moved to go into closed session for the following reasons: (1) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authorization is contained in G.S. 143-318.11 (a) (4); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: Market Center, LLC, and City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:40 p.m. Councilman Russell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

**C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGULATING TELECOMMUNICATION TOWERS TO BE MORE CONSISTENT WITH CHANGES IN THE FEDERAL AND STATE LAWS**

**ORDINANCE NO. 3897 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGULATING TELECOMMUNICATION TOWERS TO BE MORE CONSISTENT WITH CHANGES IN THE FEDERAL AND STATE LAWS**

Mayor Bellamy opened the public hearing at 7:42 p.m.

City Attorney Oast said that this is the consideration of an ordinance amending the Unified Development Ordinance (UDO) regulating telecommunication towers to be more consistent with changes in the federal and state laws. This public hearing was advertised on September 3 and 10, 2010.

Telecommunication towers and concealed telecommunication support structures are allowed as a conditional uses in most commercial zoning districts. They are prohibited in residential districts unless located on publicly-owned property supporting a non-residential use, such as schools or fire stations, where they are allowed as conditional uses.

The federal Telecommunications Act was adopted in 1996. This law essentially required local jurisdictions to permit telecommunications facilities, but gave deference to local zoning regulations. However telecommunications towers were not originally included in the first UDO adopted in 1997. At the time, wireless telecommunications was a new and burgeoning industry, and the City hired a consultant to draft and explain the new standards, which were added in 1999. The standards have changed little over the years, despite changes in the federal and state laws and available technology. While these standards largely remain relevant and appropriate, there were a few areas that required updating in order to remain consistent with the changes in the laws. Moreover, in 2007, a State law was enacted to help implement the federal law, and to provide for some consistency across local jurisdictions with respect to zoning decisions involving telecommunications towers.

The proposed UDO text amendment proposes several changes to the conditional use standards for telecommunications towers.

The changes proposed are generally designed to remove some historic barriers to towers that have, through new technology, become less objectionable. Proposed amendments include:

1. Some definitions are amended and some new ones are added to conform to State law.
2. An expedited procedure for collocated facilities is added in order to comply with State law.
3. The requirement for facilities in residential districts to be located only on publicly owned property is removed in order to comply with a prohibition in the State law. Location on publicly-owned property is encouraged, and facilities are still prohibited from locating on property that is in use for residential purposes.
4. Some other non-substantive changes are made in order to use the new terminology

Facilities locating in residential areas are still required to obtain a conditional use permit, which requires submission of a detailed application and a public hearing. The applicant will still be required to demonstrate that there is no better alternative available and that the tower proposed is the least intrusive means for the service providers to provide their service or to close gaps in their services. Therefore, those properties continue to have the safeguards afforded by this process. Council can still impose appropriate conditions on the siting of these towers in order to mitigate their impacts.

The City Council Strategic Operating Plan outlines several goals aimed at improving sustainable growth and development opportunities while ensuring that the City's regulatory environment effectively protect the citizens health, safety and welfare. Wireless telecommunications are a key element to sustainable growth and development and should be supported to the extent that it does not compromise other strategic goals.

At its meeting on August 19, the Planning and Zoning Commission unanimously recommended in favor of this text amendment.

Pro:

- Expands opportunity for a utility, enabling providers to meet the growing demand and provide improved service without undue impact on residential areas.
- Is consistent with state and federal laws

Con:

- Expands the places where telecommunication towers may be located, most notably in residential areas, which has potential for conflict with the surrounding community.

Staff recommends adoption of the ordinance proposed.

Mr. Damien Hoffman, resident in the Hills of Beaverdam Homeowners Association, said that allowing telecommunication towers in residential zones is a substantive change to the law. He opposed the "shock clock" clause in the ordinance to force City Council to decide within 45 days whether the telecommunication tower will be approved or not. The 45 day time period disallows citizens the time to do the research to oppose these types of activities on their land or in their neighborhoods. He noted that in 2006, City Council was presented with an application for an amendment to change the ordinance in an R-16 zone. This time an application is back to allow them in all residential areas.

Mr. Andy Gladstone, resident in the Hills of Beaverdam, spoke against this amendment and urged City Council to look at this amendment in the context of what it will be doing to the neighborhoods.

Ms. Ellen Bluestone, resident on Crescent Lane, spoke against the amendment. She understands that this wording amendment is necessary to make the application for the telecommunication tower for the proposed site at Lincoln Memorial Cemetery a viable application. She discouraged the wording amendment and suggested a buffer zone be established between children and telecommunication towers.

Ms. Patsy Brison, attorney representing US Cellular Corporation NC RS-4 Inc., said that the zoning map shows a number of residential areas that may be located in valleys or in ridges where it is difficult to have cell service provided. The proposed amendment would create still the same amount of protections through the conditional use process. Using a zoning map, she showed the parts in Asheville that are most residentially zoned. In those areas because of our ridge and mountainous terrain there are some physical restrictions on sending signals and locating towers and antenna. In order to provide that service and to comply with the federal law which prohibits City Council from prohibiting providing service it's necessary to open up more areas to provide that. She urged City Council to adopt the proposed amendment.

Mayor Bellamy closed the public hearing at 7:56 p.m.

In response to Councilwoman Manheimer, City Attorney Oast said that the 45-day time period is not for the location of a new tower, but for co-location of an antenna on an existing tower. He noted that the 45-day time period is required by state law. He also noted that there are certain restrictions on antenna co-locations.

When Councilwoman Manheimer asked if the City currently allows free-standing cells towers to be located in residential districts at all, City Attorney Oast said that they are allowed in residential districts on public property not used for residential purposes.

In response to Councilwoman Manheimer, City Attorney Oast said that someone could put an antenna in a church located in a residential district.

Councilwoman Manheimer acknowledged that there are changes in the proposed amendment that are necessary to bring us into compliance with state and federal laws. However, if we were to delete the following proposed language and continue to disallow monopoles and lattice towers in residential districts, would we still be in compliance: "Section 7-16-2 (d) (3) (a) Use Districts ... "In addition, telecommunication towers shall be allowed as a conditional use in residential districts at schools, fire stations, publicly-owned housing complexes, recreation centers, community centers, or other properties not used for residential purposes; provided: (i) said use is not otherwise non-conforming; (ii) the property is not subdivided for the purpose of accommodating a telecommunication tower and, (iii) the application meets the standards set forth in subsections 7-16-2 (c) and (d) of this chapter."

City Attorney Oast said that to delete the language outlined above by Councilwoman Manheimer, we would be in compliance with state law. He said the potential problem is whether the City has to allow monopole cell towers in residential districts. If the effect of not allowing them in residential districts would be to make the service unavailable, then we would not be in compliance. However, it was his opinion that the courts would say that federal law preempts state law or local zoning ordinances in that case.

Councilman Smith clarified that it would be possible to build cell towers elsewhere outside of residential areas and those towers can then service those residential areas. Then, those residential areas wouldn't have been prohibited from receiving service.

When Vice-Mayor Newman asked if it would be easy to provide a map to show where cell towers are located in the City, Assistant Planning & Development Director Shannon Tuch said that it's not difficult to demonstrate where the towers are located, but more of a challenge to

demonstrate their coverage area. What would be significantly more challenging would be to identify all of the locations where we have co-located antennas or concealed antennas.

Vice-Mayor Newman didn't feel that he has enough information of how successful or unsuccessful our current ordinances are in enabling the development of this infrastructure in our community. We are doing everything we can to restrict these developments in places that would be most appropriate – commercial corridors where they blend in. He noted that every cove is not going to have great reception, but we are trying to get as good of coverage as we can reasonably expect a city like Asheville to have.

Ms. Tuch said that co-location has been very successful in limiting the numbers of towers. In the last eight years we have had a lot of co-location applications. That technology has been very valuable. In addition, we co-locate on things other than existing towers, e.g., tall building, water towers, etc.

Vice-Mayor Newman clarified that the City's existing policy is if you are in a residentially zoned area, but it is publicly-owned property (like a city-owned community center), you can build a cell tower. Ms. Tuch responded that is correct, and also noted that a private company could lease space from the city or from the property owner.

Vice-Mayor Newman said that we have commercial corridors going to various parts in the community, but also have roads that were formerly rural and urbanized over time. He asked if it was Ms. Tuch's sense that those are the trickier spots because there is not much commercially zoned property. Ms. Tuch said that is the case and in addition to not having a lot of commercial uses in those areas, they tend to be less densely developed.

Planning & Development Director Judy Daniel said that another reason this is becoming an issue is because more people use cell phones and the cell phones are more complex. Because there are more and more people using the towers, the coverage gets smaller. That is exasperated in Asheville by the topography.

Mayor Bellamy asked if we can limit the areas of the City that would allow cell towers. City Attorney Oast said that we cannot limit them if the effect is to prohibit the service and the only way to know that is from information from the industry whether the service is available everywhere. There is a mandate to these providers and to local governments that regulate them to ensure that service is available, including filling in significant gaps in coverage.

When the Mayor asked if we can prohibit cell towers on school properties, City Attorney Oast said that there are not that many school properties in the City, so he thinks the effect of doing that would probably not prohibit the provision of service in the City.

Mayor Bellamy asked if we permitted a cell tower could we require that there be enough room on there for a public use facility. City Attorney Oast said that we could purchase space on someone else's tower and perhaps as a condition we could ask for some sort of public use space on that tower. In addition, Ms. Tuch said that it's not usual for us to recommend a condition that additional space for other providers be offered. She also noted that there is a provision in a different section in the City's Code that basically requires that when you have tall buildings or buildings of a certain kind of construction material that they have to be equipped with the infrastructure to accommodate internal and external communications and that the City has the rights to require an easement on the building in order to be able to locate a repeater or an antenna or whatever may be necessary.

When Mayor Bellamy asked if it was possible to include a reference to the provision explained by Ms. Tuch above as part of this ordinance, City Attorney Oast said that he would need to research that question but if it's possible he will bring it back to Council. As a general proposition, he thinks we can make it a condition of the erection of any tower.

Councilman Russell felt that if we ask for an amendment to be researched by our City Attorney that it be specific. He asked for clarification on whether the ordinance would be for public good or public safety (fire and emergency rescue). Mayor Bellamy said her thought would be for public good because conceivably if we were to actually provide services to some portions of our community who don't have access to the internet then it's for public good, not just for safety.

When Councilman Russell felt that discussion should be held at the Planning & Economic Development (PED) Committee level, Mayor Bellamy noted that this amendment didn't go through PED and this is the opportunity to discuss these things. Also, City Attorney Oast said that he would have to research it.

Councilman Bothwell said it seems to him that the technology is miniaturizing very quickly and some cities have wireless nodes on telephone poles through downtown. He wondered if towers themselves are headed out and therefore if we eliminated the paragraph outlined above by Councilwoman Manheimer we might not face any legal challenge because the point may be moot. City Attorney Oast said that in the course of the research he has done, that's true. You can do the same thing with more smaller towers that you can do with one big one. He also thinks that the technology has improved that towers are unobtrusive enough that they can be mounted on residential structures (similar to a television antenna).

Councilwoman Manheimer moved to (1) adopt Ordinance No. 3897, updating the standards regulating telecommunication towers, with the following amendments: (a) deletion of paragraph (f) which amends Section 7-16-2 (d) (3) (a); and (b) correct a typographical error that Section 7-16-2 (d) (4) (a) be lettered "(g)", not "(4)"; and (2) send the deleted paragraph (f) which amended Section 7-16-2 (d) (3) (a) to the Planning & Economic Development Committee (PED) for a better examination before a proposed zoning amendment is adopted that includes that language. This motion was seconded by Councilman Bothwell and carried unanimously.

City Attorney Oast said that the paragraph will be brought to the PED Committee just as soon as possible. Since the ordinance Council just adopted will have an effect on the pending conditional use permit application that follows, he requested for a brief recess.

**D. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR THE PROJECT IDENTIFIED AS US CELLULAR TELECOMMUNICATION TOWER, LOCATED AT 415 BEAVERDAM ROAD, FOR CONSTRUCTION OF AN 80' MONOPOLE TOWER**

City Attorney Oast said that with the language amendment being sent to the Planning & Economic Development (PED) Committee and presumably coming back to City Council for consideration, the ordinance amendment is still in play. Therefore, the conditional use permit application is still pending but there is no basis to hear it at this meeting.

Councilman Russell moved to continue the public hearing to consider a conditional use permit for the project identified as US Cellular telecommunication tower located at 415 Beaverdam Road until October 26, 2010. This motion was seconded by Councilman Bothwell and carried unanimously.

Mayor Bellamy explained to the audience that the conditional use permit application for the telecommunication tower is still on the table. However, City Council has asked the City Council PED Committee to review the language which was deleted from the adopted ordinance regulating telecommunication towers at their next meeting. The PED Committee will report their recommendation at the October 26 Council meeting, after which time City Council will consider the conditional use permit application.



## **V. UNFINISHED BUSINESS:**

### **A. MOTION APPROVING THE USE OF REVOLVING FACILITIES FUND OPTION FOR ENERGY EFFICIENCY & CONSERVATION BLOCK GRANT FUNDS**

Energy Coordinator Maggie Ullman said that this is the consideration of three sustainability options to reprogram the remaining \$250,000 of Energy Efficiency and Conservation Block Grant (EECBG) funding

The EECBG program was established by the Department of Energy in 2009 as part of the American Recovery and Reinvestment Act (ARRA). The high level goals of this program include:

- Reduce fossil fuel emissions
- Reduce the total energy use of the eligible entities
- Improve energy efficiency in the transportation, building, and other appropriate sectors
- Create and retain jobs

The City of Asheville was awarded \$804,700 in June 2009 for this program; \$554,700 is currently obligated for municipal facility retrofits and environmental sustainability education. On August 10<sup>th</sup>, 2010 Council asked staff to provide options for how to use the remaining \$250,000 of this grant award. The first two program options are residential renewable and energy efficiency loan programs. The third option is a municipal renewable and energy efficiency bond program to support the annual 2% carbon footprint reduction policy.

**Loan Loss Reserve:** The City of Asheville would solicit services from a lending institution (bank, credit union, etc) to provide a loan product to residents. The City and the lending institution would collaboratively determine lending requirements. EECBG funding would be the Loan Loss Reserve providing security to the partner to then invest their own funds to be loaned out as the primary loan pool. Administration for the life of the loans would be conducted by the lending institution.

**Internally Administered Revolving Loan Fund:** The City of Asheville would design a revolving loan fund in house to offer loan products to residents. The City would determine lending requirements. EECBG funding would be the total pot available for lending. Administration for the life of the loans would be conducted by staff.

**Revolving Facilities Fund:** The EECBG funding would be used to leverage a \$3-5M bond for retrofitting municipal facilities. Retrofits would be focused on energy efficiency strategies that would result in utility budget savings. These savings would support debt service repayment with interest and remain cash flow positive each year. Retrofits to be included in this bond include: LED streetlights, energy management control systems, solar photo voltaics, lighting upgrades, and any other eligible projects that have overlapping facilities maintenance needs and energy savings potential.

She then explained the program comparison matrix for how these actions would tie into the City Council Strategic Operating Plan.

The Sustainability Advisory Committee on Energy and the Environment (SACEE) conducted sub committee meetings to discuss this topic in the absence of time for the full committee to address the issue. The sub committee recommends council consider the Revolving Facilities Fund.

City staff recommends City Council review the options identified and direct staff.

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

Vice-Mayor Newman was disappointed that we don't have the legal authority to move forward on the community based financing initiative but hoped that those issues on the state and federal level around the Property Assessed Clean Energy model will be worked out. In the meantime, he spoke in support of the Revolving Facilities Fund. Asheville can lead by example in showing how an organization can save money by being more energy efficient and reducing our environmental footprint at the same time. He noted that if the City proceeds with the LED streetlight retrofit, it will save approximately \$400,000 per year. If we do a ten year bond, not only will it fully pay for itself, it will generate approximately \$100,000 of cash flow per year. He felt it would be great to hear from staff about their different strategies to achieve a 20% reduction in our energy consumption over the next five years.

Mayor Bellamy said that she had an opportunity to meet with two different companies who manage Revolving Facilities Funds. She was not sure if we would administer this in-house or contract it out, but felt that Council should have an opportunity to hear some in-depth presentations since this is a new endeavor.

Vice-Mayor Newman moved to support using the \$250,000 EECGB funding for the Revolving Facilities Fund to help advance the City's goal of achieving a 4% per year energy savings for municipal facilities along with the associated ideas for issuing bonds to advance those goals as outlined by Ms. Ullman. This motion was seconded by Councilman Bothwell and carried unanimously.

## **VI. NEW BUSINESS:**

### **A. RESOLUTION NO. 10-205 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH RAFTELIS FINANCIAL CONSULTANTS FOR A WATER RATES AND FEES STUDY**

#### **ORDINANCE NO. 3898 - BUDGET AMENDMENT FOR AN AGREEMENT WITH RAFTELIS FINANCIAL CONSULTANTS TO CONDUCT A WATER RATES AND FEES STUDY**

Water Resources Director Steve Shoaf said that this is the consideration of resolution authorizing the City Manager to execute an agreement with Raftelis Financial Consultants, Inc., in an amount not to exceed \$88,750 for the Water Rates and Fees Study; and adopt the associated budget amendment in the amount of \$38,750.

Per City Council's direction, the Water Resources Department solicited proposals in July 2010 from consulting firms to conduct a Water Rates and Fees Study. Thirteen firms responded to the Request for Proposals (RFP), including:

1. Raftelis Financial Consultants, Inc. – Charlotte, NC
2. Municipal and Financial Services Group – Annapolis, MD
3. Lighthouse Utility Consulting – Ocala, FL
4. Utility Advisors' Network, Inc. – Orlando, FL
5. Burton & Associates, Inc. – St. Augustine, FL
6. TischlerBise – Bethesda, MD
7. ENTRIX, Inc. – Raleigh, NC
8. Black & Veatch Corporation – Overland Park, KS
9. Martin-McGill – Asheville, NC
10. Cavanaugh Associates – Asheville, NC
11. C.H. Guernsey & Company – Atlanta, GA
12. Burns & McDonnell – Kansas City, MO
13. Red Oak Consulting – White Plains, NY

A review team, comprised of staff from multiple City Departments, reviewed these proposals and selected the firm of Raffelis Financial Consultants, Inc. Subsequent to this selection, Water Resources staff met with Raffelis representatives and negotiated a Consulting Services Contract in the amount of \$88,750.

This project is part of City Council's strategic plans to explore opportunities to ensure effectiveness and value for water fees charged and to operate the City of Asheville to the highest level of fiscal responsibility.

Pro:

- Approval of the bid award will allow the City to complete the project in time to recommend a water rate structure for future budget planning.

Con:

- Failure to award the bid to the recommended firm will delay completion of the project by the expected deadline.

Currently, \$50,000 is earmarked for the study in the Water Resources Capital Improvement Project (CIP) budget. An additional \$38,750 will be reallocated from another capital project. There have been enough cost savings in the Reynolds Mobile Home Park project to transfer \$38,750 to the Water Rates and Fees Study. The total project budget for the study is \$88,750.

In approving the Fiscal Year 2010-11 budget and related water fees and charges, Council set a goal to comprehensively evaluate water fee structures prior to setting rates in Fiscal Year 2011-12. Completing this study will accomplish the Council goal.

City staff recommends City Council authorize the City Manager to execute an agreement with Raffelis Financial Consultants, Inc., in an amount not to exceed \$88,750, for the Water Rates and Fees Study; and adopt the associated budget amendment in the amount of \$38,750.

Mr. Shoaf explained why he felt this study was necessary when Councilman Davis questioned the Brown and Caldwell study that was conducted several years ago that recommended a fee structure for a certain amount of increase each year.

In response to Councilwoman Manheimer, Mr. Shoaf said that the consultant will provide Council different alternatives for them to consider.

Rev. Christopher Chiaromonte felt Council should use the \$80,000 to put people in housing.

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 Davis moved for the adoption of Resolution No. 10-205. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Mayor Bellamy voting "no".

#### **RESOLUTION BOOK NO. 33 – PAGE 210**

Councilman Russell moved for the adoption of Ordinance No. 3898. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Mayor Bellamy voting "no".

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

#### **B. BOARDS & COMMISSIONS**

### **River District Design Review Committee**

The following candidates applied for the two positions on the River District Design Review Committee; however, none of the candidates meet the requirements of being property owners located within the River District: Philip Ellis, Michael McDonough and Stuart Smith.

Upon recommendation of the Boards & Commissions Committee, it was the consensus of Council to re-advertise for these positions.

### **RESOLUTION NO. 10-206 – RESOLUTION APPOINTING A REGULAR MEMBER TO THE BOARD OF ADJUSTMENT**

The following candidates applied for a position on the Board of Adjustment, noting that current alternates of James Sheeler, Douglas Hattaway, Kristy Carter, and Phillip Hardin are interested in the regular vacancy: Diane Meek, Jeffery Quick, Eugene Britton, Bill Branyon, Richard Fort, Eric Rainey and Nelda Holder.

Vice-Mayor Newman said that the Boards & Commissions Committee recommend appointing Kristy Carter to the Regular position left by Lee McElrath and to re-advertise Ms. Carter's alternate seat in order to find diversity on the board.

Vice-Mayor Newman moved to appoint Kristy Carter (as a regular member) to fill the unexpired term of Mr. McElrath, term to expire January 21, 2011, and then a full three-year term, term to expire January 21, 2014, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Bothwell voting "no."

Councilman Bothwell felt there were good candidates who applied to the Board and felt we should interview those for the alternate seat.

Mayor Bellamy spoke in support of interviewing Richard Fort for the alternate seat; however, would support re-advertising for diversity make-up of the board.

Since there was no motion, due to the need for diversity on the board, the City Clerk was instructed to re-advertise for the alternate seat on the Board of Adjustment.

### **RESOLUTION BOOK NO. 33 – PAGE 211**

### **RESOLUTION NO. 10-207 – RESOLUTION APPOINTING MEMBERS TO THE CITIZENS-POLICE ADVISORY COMMITTEE**

The following candidates applied for positions on the Citizens/Police Advisory Committee: Curry First (Central area), Carol Rogoff Hallstrom (North area), and Allen Brailsford (west area).

Vice-Mayor Newman said that the Boards & Commissions Committee recommend appointing Carol Rogoff Hallstrom (as the north representative) and Allen Brailsford (west representative) to the Citizens-Police Advisory Committee.

When Councilman Bothwell stated that he would like to interview Curry First, it was noted that Mr. First resided in the central area and the vacancies were for the north and west areas.

Vice-Mayor Newman moved to appoint (1) Carol Rogoff Hallstrom (as the north representative) to fill the unexpired term of Angelica Wind, term to expire June 30, 2011, or until her successor has been appointed; and (2) Allen Brailsford (as the west representative) to fill the unexpired term of Cesar Romero, term to expire June 30, 2011, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

**RESOLUTION BOOK NO. 33 – PAGE 212****RESOLUTION NO. 10-208- RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART BOARD**

The following candidates applied for positions on the Public Art Board: Shad D. Marsh, Kathleen Lyons, Jeanna Maines, Jaan Ferree, William F. Meller and Mark Koven.

Vice-Mayor Newman said that the Boards & Commissions Committee recommend appointing Jaan Ferree (to fill the unexpired term of Dr. Barbara Cary) and Mark Koven (to one of the two new seats) to the Public Art Board and re-advertising for the other new seat. Councilman Smith noted that Professor Koven was a recommendation by the Public Art Board.

Vice-Mayor Newman moved to (1) appoint Jaan Ferree, to fill the unexpired term of Dr. Barbara Cary, term to expire June 30, 2011, or until her successor has been appointed; (2) appoint Mark Koven to serve a three-year term, term to expire June 30, 2014, or until his successor has been appointed; and (3) to re-advertise for the other new seat. This motion was seconded by Councilman Smith and carried unanimously.

**RESOLUTION BOOK NO. 33 – PAGE 213****RESOLUTION NO. 10-209 – RESOLUTION APPOINTING A MEMBER TO THE SOIL EROSION/STORMWATER REVIEW COMMITTEE**

The following candidate applied for the positions on the Soil Erosion/Stormwater Review Committee: Pete Hildebrand.

Vice-Mayor Newman said that it was the recommendation of the Boards & Commissions Committee to appoint Pete Hildebrand and to re-advertise for the second seat of a City resident or an individual who resides in the extra-territorial jurisdiction area.

Vice-Mayor Newman moved to (1) appoint Pete Hildebrand to the City resident position for a three-year term, term to expire November 1, 2013, or until his successor has been appointed; and (2) re-advertise for the second seat of a City resident or an individual who resides in the extra-territorial jurisdiction area. This motion was seconded by Councilman Bothwell and carried unanimously.

**RESOLUTION BOOK NO. 33 – PAGE 214****VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Rev. Christopher Chiaromonte asked Council to repeal the panhandling ordinance.

Councilman Bothwell suggested the City Manager investigate the necessity of sending out the non-negotiable checks for people who have direct deposit.

Councilman Davis invited the Council and public to the dedication of the Speedway Memorial on Thursday, September 23, 2010, at 6:00 p.m. at Carrier Park. Mayor Bellamy regretfully could not attend due to two previously scheduled events.

Councilman Smith was proud to acknowledge that Asheville City Schools came in second in SAT scores state-wide.

**VIII. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 8:56 p.m.

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR