

**Tuesday – November 9, 2010 – 3:30 p.m.**  
**Worksession**  
**1<sup>st</sup> Floor North Conference Room**

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

**Unified Development Ordinance amendments according to the recommendations of the Downtown Master Plan.**

Urban Planner Alan Glines showed Council some wall examples of wall streets, along with some street wall alternatives. He then provided some scale comparisons of the larger buildings in the downtown area.

Mayor Bellamy felt that there should be an option for buildings where you see a difference in materials to not have to have a setback.

There was discussion by Council of the setbacks, with Mr. Glines responding to questions while each Council member voiced their opinions.

Mr. Glines then said that at the October 12, 2010 work session to discuss the UDO changes to implement the Downtown Master Plan, the City Council gave staff direction to look at the types of incentives that could be put in place for projects in the Central Business District that support City goals for affordable and workforce housing and sustainable projects. The staff, after considering the Council's request, proposed three options for approaching what we thought was the intent of the Council to integrate Council goals for affordability and sustainability with the downtown development review process.

Those options were sent to the Downtown Commission and the Urban Design Subcommittee, as these were the groups who have been working to get the Downtown Master Plan recommendations implemented. The options were then discussed at a special meeting on Thursday October 28, 2010. The group also reviewed City Council's broader comments on the Master Plan from the work session.

Based on comments made during the meeting and from email responses received before the meeting, there is a feeling by many that the incentives, while important, need additional thought. Most felt that getting the development standards pertaining to the Central Business District (CBD) adopted is the priority, and need not wait for the affordability and sustainability program. There was strong support for that added policy; the concern is timing and the pressing need to get the development standards in place.

There was support for the Sustainable Features List items by some as they represent issues identified by the community; but most others felt that with the current economic downturn requiring these specific features may affect development potential in the City and hurt chances of redevelopment and investment in an already challenging economic environment.

**Option 1** - Of the options presented to the group, the idea of using the City Council proposed Transformational Projects Policy, with added elements specific to the CBD, was reviewed most favorably. The option would follow the proposed *Transformational Projects Policy and Incentives* that is currently being considered by City Council, but add elements specific to the CBD; as have already been suggested by the Council at their September 28 consideration of this

policy such as a smaller lot size and reduced percentages of affordable or workforce housing (reflecting higher land costs). The incentives in this policy would be available to projects of any scale that are able to meet the priority elements identified by City Council once that policy is adopted.

Because the program is voluntary and participation is not limited by the scale of the development, the group felt that it would not add burdens during this time of economic difficulty. The group felt that keeping the policy out of the Unified Development Ordinance (UDO) would maintain flexibility and responsiveness since it can be changed and adapted quickly in response to economic conditions. There was also appreciation of the policy because it could work like a synthetic "TIF" and support the infrastructure needs of the development and downtown in general.

Again, the group felt that the policy could be amended to represent the specific needs of the CBD by recognizing that some projects bring more community benefits than others and so the incentives received could reflect that. The Downtown Commission is willing to help with determining the range of incentives for the CBD if needed but they would like to see the UDO changes move forward and not be delayed.

**Option 2** - This option would adjust project review thresholds for Level II and Level III projects based on desirable, sustainable features as follows:

Level II (base threshold):

20K s.f. – 150K s.f. (down from 175K s.f.) and/or up to 145 feet in height

Level II (adjusted threshold):

20K s.f. – 200,000 s.f. (up from 175K s.f.) and/or up to 200 feet in height (height option only available to those projects in the tallest height zone)

To be eligible for the adjusted threshold, projects would have to achieve a minimum of 5 points from the following list:

**Sustainable Feature List**

- |                 |   |
|-----------------|---|
| <b>3 points</b> | 20% or 10,000 s.f. of office or retail space is offered as a business incubation space at a price meeting affordable rates for a period of 10 years.  |
| <b>3 points</b> | The building meets the bronze level of LEED certification   |
| <b>4 points</b> | The building meets the silver or better level of LEED certification   |
| <b>3 points</b> | 20% of the residential units are priced to meet the affordability standards for workforce housing <sup>^</sup>  |
| <b>4 points</b> | 20% of residential units are priced to meet the affordability standards for affordable units at or below 80% of area median income <sup>^</sup>   |
| <b>2 points</b> | The developer provides a small public park located in the CBD with a design and orientation approved by the Downtown Commission and the Parks and Recreation Advisory Board to be accepted by the COA   |
| <b>1 point</b>  | The developer provides a pocket park of at least 1,000 s.f. located in the CBD accessible to the public and with a design and orientation approved by the Downtown Commission and the Parks and Recreation Advisory Board to be accepted by the COA |

**1 point** Developer provides a fee in lieu of improvements for projects included in areas where an official streetscape plan or small area/neighborhood plan. Fee assessed based on costs associated with specified improvements.

**1 point** The developer provides funds for fee in lieu to the parking fund at a rate to be determined by calculating the parking demand of the proposed building (consulting the parking table based on uses) and providing \$1,000 per space for each space not provided directly in the development.

*^ In calculating residential affordability the operating expenses for each unit may be factored in to the estimate of affordability while noting any energy saving features of the building or unit*

After discussion, many in the group felt that as proposed this proposal would not provide enough incentive to make this a viable option because the economic climate has changed so much. Just avoiding Council approval might not be enough reason for the extra expense incurred by gaining the required “points”. There were suggestions that some of the sustainable features list might be useful to add to the Transformational Projects Policy. There was support for the types of things on the list and some felt that additional ones may be identified from many City adopted master plans.

**Option 3** would require all Level III projects to achieve a minimum of 5 points from the *Sustainable Feature List*. The Level III project review process could be adjusted in a number of ways such as adjusting the scale of Level II and Level III projects (similar to above) or, expanding the area where the conditional zoning (CZ) process is applied.

This proposal received the least amount of support and most attending the meeting felt that this is the wrong time, given the continuing economic weakness, to require all developments to include affordable or sustainable features. Some attendees appreciated the concept of requiring participation for the largest projects since it would bring needed benefits to the most sustainable area of the city, even if it limited the growth potential in the city in the near term.

### **Summary and Recommendation**

The staff supports Option One incorporating the *Transformational Projects Policy and Incentives* as an incentive available to projects proposed in the CBD. As has already been stated, that recommendation includes adding specific incentives to be directed towards needs in the CBD. The Downtown Commission is willing to work to identify community benefits for downtown projects based on the level of the benefit to the downtown CBD. The “pros and cons” of the three options, based on staff input and the thoughts of the Downtown Commission and Urban Design Review Committee, are noted below:

#### **Option 1:**

Follow the program of the proposed *Transformational Projects Policy and Incentives* that is currently being considered by City Council, with certain elements targeted to the CBD, which would be available to projects of any scale that are able to meet a number of priority elements that have been identified by City Council.

#### **Pros:**

- Voluntary, based on the interest of the developer (may be considered a con)
- A variety of incentives may be considered that may be tailored to the proposal
- Applies to specific areas in the City identified as under-developed but with potential for redevelopment, including downtown

- This policy is not a part of the UDO and could be more responsive to the needs of the city and the goals prioritized by City Council

**Cons:**

- Does not require participation in the program
- Participation is not tied to the scale of the development (a potential pro)
- Policy is designed for a number of areas and projects and not tailored to downtown specifically

**Option 2:**

Adjust project review thresholds for Level II and Level III projects based on desirable, sustainable features.

**Pros:**

- Provides a process related incentive for projects meeting community affordability and sustainability goals
- Participation is voluntary
- The incentive is specific to downtown
- Would apply to the largest category of projects (Level II)
- Provides a menu of options to choose from (although somewhat limited)

**Cons:**

- The incentives only apply to Level II projects (may not be necessary for all projects)
- An opportunity to avoid a Level III project review process may not be enough incentive to encourage participation, particularly for those projects outside the traditional core area that would follow the site plan review process
- Alone this may not be enough to affect the pro forma of a project which would assist in securing financing for the development
- Any new park facility will have a fiscal impact on the City for regular maintenance and repair
- Other incentives may also be available (*Transformational Projects Policy & Incentives*) producing an effect of “double-dipping” (may be viewed as a pro)

**Option 3:**

Require all Level III projects to achieve a minimum of 5 points from the *Sustainable Feature List*. The Level III project review process could be adjusted in a number of ways such as adjusting the scale of Level II and Level III projects (similar to above) or, expanding the area where the conditional zoning (CZ) process is applied.

**Pros:**

- All Level III projects would include desirable sustainable features
- May help mitigate the impacts that Level III projects can have on neighboring properties and on downtown as a whole
- Provides a menu of options to choose from (although somewhat limited)

**Cons:**

- Regarded as a requirement and not an incentive (may be amended to include a small incentive; however, incentive is likely to be weak)
- Tighter development rules may come at a difficult economic time and discourage new growth
- There are no incentives set aside for Level II projects
- Opportunity to negotiate specific features may be limited based on the point system

While Mr. Glines responded to various questions/comments from Council, discussion was held regarding the different options, resulting in Council providing guidance to City staff in preparation of the November 23 public hearing on the UDO amendments to the Downtown Master Plan. Mayor Bellamy asked staff to provide examples of what is being proposed, as visualization will make the presentation clear. In addition, Councilman Smith asked that staff underscore the areas of agreement. Councilwoman Manheimer emphasized that this has been worked on by a large number of people for hundreds of hours and they have reached consensus.

At 4:17 p.m., Mayor Bellamy recessed the worksession to go into the formal meeting.

Tuesday – November 9, 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 Burlison

Absent: None

#### **PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

#### **INVOCATION**

Councilman Bothwell gave the invocation.

#### **I. PROCLAMATIONS:**

##### **A. RECOGNITION OF THE WNC NATURE CENTER ASSOCIATION OF ZOOS AND AQUARIUMS RE-ACCREDITATION**

City Manager Jackson invited to the podium for recognition Mr. Jim Maddy, President and CEO of the Association of Zoos and Aquariums; Mr. Chris Gentile, Nature Center Director; Ms. Diane Ruggiero, Superintendent of Cultural Arts; Mr. Roderick Simmons, Director of Parks, Recreation & Cultural Arts; and the WNC Nature Center staff. He said that in early September 2010, the Western North Carolina Nature Center was re-accredited for another 5-year period by the Association of Zoos and Aquariums (AZA). Today we are honored to welcome Mr. Jim Maddy, President and CEO of AZA to Asheville as he presents the AZA accreditation plaque to the City of Asheville for the Nature Center. Mr. Maddy then spoke about the rigorous efforts and standards that needed to be met to achieve this re-accreditation.

Mayor also recognized Friends of the Nature Center, Mr. Simmons, Mr. Gentile and his staff for their efforts in making the WNC Nature Center an excellent facility.

##### **B. PROCLAMATION PROCLAIMING NOVEMBER, 2010, AS "NATIVE AMERICAN INDIAN HERITAGE MONTH"**

Mayor Bellamy proclaimed November, 2010, as "Native American Indian Heritage Month" in the City of Asheville. She said that she would send the proclamation to Ms. Renissa Walker, Manager Kituwah Preservation & Education Program for the Eastern Band of Cherokee Indians, who was unable to attend the meeting.

**C. PROCLAMATION PROCLAIMING NOVEMBER 12, 2010, AS "CITY SCHOOLS CHAMPIONS DAY"**

Mayor Bellamy read the proclamation proclaiming November 12, 2010, as "City Schools Champions Day" in the City of Asheville. She presented the proclamation to Ms. Leah Ferguson and the champions Wachovia Wells-Fargo Bank, Appalachian Sustainable Agriculture Project, Tanya Presha, Susie Jameson, Marjory Jackson Maxwell, and Cheri Torres. Ms. Ferguson then briefed City Council on thanked City Council for their support.

**D. PROCLAMATION PROCLAIMING NOVEMBER 14-20, 2010, AS "NATIONAL HUNGER AND HOMELESSNESS AWARENESS WEEK"**

Vice-Mayor Newman read the proclamation proclaiming November 14-20, 2010, as "National Hunger and Homelessness Awareness Week" in the City of Asheville. He presented the proclamation to Ms. Laura Furey, representing the Key Center for Community Citizenship and Service Learning at UNC-Asheville, and Ms. Amy Sawyer, the City's Homeless Initiative Coordinator, who briefed City Council on some activities taking place during the week.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 26, 2010**

**B. ORDINANCE NO. 3913 - ORDINANCE AMENDING THE FEES & CHARGES MANUAL TO WAIVE THE BURNING PERMIT FEE FOR THE PROPER DISPOSAL OF THE UNITED STATES FLAG AT FLAG DISPOSAL CEREMONIES**

Summary: The consideration of an ordinance amending the Fees & Charge Manual to waive the burning permit fee for the proper disposal of the United States Flag at flag disposal ceremonies.

The City of Asheville requires a permit for open burning within the city limits. Citizens obtain this permit at the Development Services Center and are charged \$52 to cover the operational costs associated with the permit. American Legion Post #2 recently applied for a burning permit for a United States Flag retirement program. They informed us that they hold this program every 6 months and that they retire about 50 flags according to the United States Flag Code procedures for proper disposal during these ceremonies.

Staff would like to recommend that Council waive the burning permit fee for these ceremonies as there is no other way to properly dispose of United States Flags. The operational cost involved in issuing this permit include administration of the permit application and an on site inspection of the open burning. The on site inspection typically takes 30 minutes of one staff members time.

The Finance Committee has reviewed this request and has recommended approval.

This action complies with the City Council Strategic Operating Plan goals within Job Growth and Community Development in that it helps to reduce fees.

Pro:

- Citizens in Asheville will be able to properly dispose of flags according to the United States Flag Code without an associated cost of doing so.

Con:

- None identified

A minor reduction in revenue would occur as these permits would be issued without the \$52 fee. The recent request by the American Legion is the first that we have record of, so we do not anticipate a large number of these permits being issued.

Staff recommends City Council adopt an ordinance amending the Fees & Charges Manual to waive the Burning Permit Fee for Flag Disposal Ceremonies.

**ORDINANCE BOOK NO. 26 – PAGE**

**C. RESOLUTION NO. 10-235 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH URBAN TRANS CONSULTANTS FOR THE DEVELOPMENT OF THE MARKETING PROGRAM FOR THE CITY OF ASHEVILLE TRANSIT SERVICES**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Urban Trans Consultants Inc. for the development of the Marketing Program for the City of Asheville transit services.

The Transit Master Plan (TMP), approved by City Council in October 27 2009, identified the development of marketing – branding strategy as one of the essential elements to promote the use of the transit system. This strategy is developed along with the implementation of the first phase of the TMP that proposes operational changes and increases frequency to 30 minutes in the main corridors and coincides with the delivery of the five new hybrid buses.

The Transportation Management Division, Transportation Department, issued a Request for Proposals (RFP) for the Transit Marketing Program on August 13 2010. The RFP closed on September 8 2010, and seven proposals were received from the following firms:

1. Hornsby BranDesign, Knoxville, TN
2. Urban Trans Consultants Inc., Atlanta, GA
3. B.B. DESIGN Inc., Fort Wayne, IN
4. SmartMaps, Knoxville, TN
5. Task Mania, LLC, Asheville, NC
6. Native Marketing, Asheville, NC
7. Granite Sky Design, Inc., Huntsville, NC

The evaluation committee recommended Urban Trans Consultants Inc. as the firm to provide services for the development of the City of Asheville Transit Marketing Program. The firms were evaluated based on their experience, similar projects completed, team qualifications, quality of proposal and project management plan. This procurement process has followed federal regulations that apply for professional services and geographic preference is not a factor to be considered.

The Transit Commission reviewed this and recommended approval.

The project cost will be approximately \$132,674 and \$17,000 contingency for unforeseen expenses the consultant may incurred during the development of the contract.

The goals of this marketing program are:

1. Improve Asheville Transit's public image.
2. Inform the public of the TMP route changes.
3. Boost ridership by targeting choice riders and tourist.

This action complies with the City Council Strategic Operating Plan, in particular the financial responsibility, pursuing funding opportunities with State and Federal government; and green and sustainable, since this program will contribute to the implementation of the TMP, therefore improving the multi-modal network.

Pros:

- The marketing strategy will give a fresh image to the transit system, promote the implementation of the first phase of the TMP, and highlight the new buses that the City should receive towards the beginning of the next calendar year.
- Improves the experience of passengers through the creation of improved maps, schedules, and website and other way-finding material.
- Federal Funds will provide 80% of the total cost of the marketing task, which equates to \$120,000.

Cons:

- The total maximum cost of the subject project is \$150,000.
- A 20% local match, which equates to \$30,000 is required and it was already budgeted.

The cost of the marketing program will be approximately \$132,674 and \$17,000 contingency. This project is funded 80% by the Federal Transit Administration and 20% by the City. The project is already budgeted in the Transit Capital Fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a contract with Urban Trans Consultants Inc. to develop the Marketing Program for the City of Asheville Transit.

**RESOLUTION BOOK NO. 33 – PAGE 244**

- D. RESOLUTION NO. 10-236 - RESOLUTION AMENDING THE 2010 CITY COUNCIL MEETING SCHEDULE TO ADD A WORKSESSION ON DECEMBER 14, 2010, AT 3:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL TO REVIEW ANNEXATION POLICY DIRECTION AND LEGISLATIVE OBJECTIVES**

**RESOLUTION BOOK NO. 33 – PAGE 245**

- E. ABC BOARD MEMBER COMPENSATION**

Summary: The City Clerk received a letter from Curtis L. Canty, Chief Executive Officer of the Alcoholic Beverage Control Board as follows: “The members of the City of Asheville Board of Alcoholic Control respectfully request that the Asheville City Council approve the following monthly compensation amounts at its November 9, 2010 meeting: Board Chairman - \$300; Each Board Member - \$250. I am providing this request pursuant to North Carolina General Statute 18B-700(g). The Asheville ABC system is very unique as we operate 10 stores with a total of 33 full-time and 33 part-time employees including law enforcement responsibilities, and we generate yearly revenues in excess of \$19 million dollars. In addition, we have distributed to the City and County a total of \$5,408,478 since 2005. We thank the Asheville City Council in advance for it’s consideration of this request.”

Upon inquiry of Councilman Russell, Councilman Davis said the ABC Board manages the revenue stream and they do a credible job. He felt this is a model board and they are very accountable. He noted that some profits are redistributed to the City and County. He felt that even though this is a fairly high amount of pay for volunteer service, it is a minimal amount of compensation for the work they dedicate to the Board and the exposure they receive from their service.



City Attorney Oast said that this request to Council is pursuant to N.C. Gen. Stat. sec. 18B-700 (g).

At the request of Vice-Mayor Newman, City Manager Jackson said that he would provide Council with a memorandum on the extraordinary duties, responsibilities and time commitments of the ABC Board members. Additionally, he would provide them information on how their compensation compares to the compensation of the Airport Authority Board members and the Metropolitan Sewerage District Board members.

**F. ORDINANCE NO. 3914 - ORDINANCE TO PROVIDE FOR AN APPOINTMENT TO THE ASHEVILLE TRANSIT COMMISSION BY BUNCOMBE COUNTY**

Summary: The consideration of an ordinance to provide for an appointment to the Asheville Transit Commission by Buncombe County.

: The Transit Commission consists of seven members serving three year terms. The initial ordinance, adopted in 1999 as a successor to the Transit Authority, provided for all appointments to be made by the City Council. Recently, Council directed that one of the appointments be made by the County. This reflects the fact that the service area for the transit system now extends beyond the City limits, and will likely continue to grow.

The ordinance provides that the Buncombe County Board of Commissioners will make its appointment to the first vacancy occurring as a result of a term expiring after the effective date of the ordinance. This vacancy will occur in December.

This action aligns with the City Council Strategic Operating Plan in that it supports development of a regional transit system.

Pros:

- Supports regional transit system
- Reflects current service beyond City limits
- Establishes another regional partnership with City local government

Cons

- None noted

Adoption of the ordinance is recommended.

**ORDINANCE BOOK NO. 26 – PAGE**

**G. RESOLUTION NO. 10-237 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION FROM THE COMMUNITY ACTION OPPORTUNITIES OF THE ROOF AT THE REID CENTER ANNEX**

Summary: The consideration of a resolution authorizing the City Manager to accept a donation from the Community Action Opportunities (CAO) of the roof on the Reid Center Annex.

In April 2010 City Council authorized CAO to replace the roof on the Reid Center Annex. Since then CAO has successfully met the requirements of the roof installation agreement and the work is complete. CAO is now making a gift of the roof to the City valued at \$59,437.75.

The action complies with the City Council 2010-2011 Strategic Plan in that it supports fiscal responsibility of exploring alternatives 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 resources with alternative funding sources ensuring a high level of service in parks and facilities by addressing capital maintenance of existing parks and facilities to meet community standards.

Pro:

- Further strengthens the partnership between the City and CAO to enhance facility development and programming at the Reid Center Annex.

Con:

- None noted.

There is no net fiscal impact to the City's operating or capital improvement budget in accepting the roof donation.

City staff recommends City Council adopt a resolution authorizing the City Manager to accept a donation from the Community Action Opportunities of the roof at the Reid Center Annex.

#### **RESOLUTION BOOK NO. 33 – PAGE 246**

#### **H. ORDINANCE NO. 3915 - BUDGET AMENDMENT TO ACQUIRE APPROXIMATELY 12 ACRES OF PROPERTY LOCATED AT SHELBURNE AND HOMINY CREEK ROAD, KNOWN AS THE WALLER TRACT**

Summary: The consideration of a budget amendment, in the amount of \$130,285, for action approved by City Council on October 12, 2010, authorizing the acquisition of 12 +/- acres of property located at Shelburne and Hominy Creek Road, known as the Waller Tract.

This budget amendment establishes a project budget within the General Capital Projects Fund for the purchase of 12 acres of undeveloped real property along the Hominy Creek. This property is to be land banked for the future implementation of the Hominy Creek Greenway. Acquisition of this property was approved by City Council in closed session on October 12, 2010, with the purchase price of the property at \$120,000 with estimated \$15,000 in closing costs for legal fees and surveying costs. The purchase will be funded with contributions from the City and Buncombe County, and from third party pledges.

For budgeting purposes, a total estimated project budget has been set at \$130,285, plus additional third party funds held in escrow by the closing attorney in the amount on \$16,715. The City has received \$60,000 from Buncombe County for its share. An additional third party pledge of \$10,285 has been received by the City of Asheville as a donation. The City's contribution of \$60,000 will come from the \$75,000 that was approved for land acquisition as a part of the Parks & Recreation Department's FY2010-11 Capital Improvement Plan (CIP).

In the event that total acquisition costs are less than the budgeted amount plus the amount held in escrow, remaining funds will be dispersed according to the percentage of initial contribution.

This action complies with the City Council Strategic Operating Plan by demonstrating fiscal responsibility through leveraging external partners to pursue master plan implementation. In addition, this action complies with the Greenway Master Plan in that this acquisition serves to land bank a key property for future implementation of the Hominy Greenway.

This item has been reviewed by the Greenway Commission and has received the Commission's endorsement.

Pros:

- Leverage outside funding to implement the Greenway Master Plan
- Buyer’s real estate market has allowed for a favorable purchase price

Con:

- None

As noted above, the City’s contribution to this project will come from the \$75,000 that was approved for land acquisition as part of the FY2010-11 Parks and Recreation Department’s CIP. Revenue sources for the project are summarized below:

City’s Contribution through currently budgeted CIP	\$60,000
County Contribution (already received)	\$60,000
Private Donations (already received)	<u>\$10,285</u>
Total project budget	\$130,285

City staff requests City Council to adopt a budget amendment of \$130,285 for action approved by City Council on October 12, 2010, authorizing the acquisition of 12 +/- acres of property located at Shelburne and Hominy Creek Road, known as the Waller Tract.

**ORDINANCE BOOK NO. 26 – PAGE**

**I. ORDINANCE NO. 3916 - BUDGET AMENDMENT FOR YEAR 5 WEED & SEED FUNDING**

Summary: The consideration of a budget amendment, in the amount of \$155,992, from the U.S. Department of Justice for Year 5 Weed & Seed funding.

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 strategy was introduced to the community, via a series of public meetings, to determine the concerns of residents of the targeted area. The strategy was favorably received 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. Official recognition made the City of Asheville eligible to apply for Weed and Seed funds once a year over a five year period. The first funding application was approved and awarded in August 2006.

On September 15, 2010, Assistant Attorney General, Laurie Robinson, announced the City of Asheville’s application for fifth year continuation funding was approved in the amount of \$155,992. 50% of the funds will be used to support law enforcement and community police programs and 50% will be used to support neighborhood initiatives such as youth services, parenting programs, health and nutrition programs, vocational programs, neighborhood clean-ups, housing services, and the salary of the Weed & Seed site coordinator. No additional city funding will be required to support this fifth year grant.

The West Riverside Operation Weed and Seed steering committee, residents and several agencies such as the Housing Authority of the City of Asheville, Asheville City Schools, Children First/ Communities in Schools of Buncombe County, OnTrack Financial Education and Counseling, Asheville Greenworks, GO Asheville, LEAF in Schools and Streets and others continue to collaborate to improve quality of life for the residents of the West Riverside area of Asheville.

Data collected over the last 3.5 years suggests the initiative is having an impact in the targeted area. When comparing the averages from 2 years before strategy implementation to the 3.5 years since implementation, the following changes have been recorded: a 45% decrease in drug calls for service, a 32% decrease in violent crime and a 24% decrease in weapons offenses. An independent evaluator completed a survey of residents in 2009 and made the following assessment, "data shows that the areas where the Weed and Seed program have dedicated resources are improving, but that there is justification for the continued dedication of resources. Efforts should be continued, as many residents see gains being made in public safety and community appearance in the past two years. However, the respondents [residents of the Weed and Seed area] also provide evidence that there is more room for improvement."

This action complies with the City Council Strategic Operating Plan. It complies with the following goals in the "Safe Focus Area": continue to implement strategies to significantly improve public safety, reaffirm commitment to eliminate open air drug market in Asheville, support recreation and employment alternatives for youth at risk of gang exposure. Finally, it complies with the "Job Growth & Community Development Focus Area" in that it supports small business development and expands partnerships with UNCA, AB Tech and other institutions to achieve goals in health and wellness, workforce development, and economic development.

Pros:

- Significantly reduce violent crime and drug activity in a high crime area
- Provide a comprehensive crime prevention plan to address law enforcement, neighborhood restoration and prevention/intervention/treatment programs with the residents of the targeted area
- Mobilize community residents to collectively improve the conditions in the targeted area
- Provide resources for residents as a means of personal growth and development
- Address the social, educational, economic and cultural issues in the targeted area through multi-agency collaborations
- Leverage resources to sustain the program and replicate the strategies in other challenged areas in the city

Con:

- Some resistance to change by the residents who live in the target area.

Grant revenue of \$155,992 in FY 2011 to implement the comprehensive Weed and Seed strategy which funds police overtime, police equipment, a coordinator position, and community-based resource provider contracts among other things at no additional cost to the city. The goals of the initiative will be sustained by established community efforts after the fifth year of implementation when Weed and Seed funding is no longer available. This program is 100% grant funded; there is no impact on the General Fund budget.

City staff recommends City Council adopt a budget amendment authorizing the City Manager to establish a budget in the amount of \$155,992 for the fifth year of the West Riverside Operation Weed and Seed initiative.

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

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

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

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

#### **A WNC REGIONAL AIR QUALITY AGENCY UPDATE**

Mr. David Brigman, Director of the WNC Regional Air Quality Agency, said that their mission is to monitor and regulate Buncombe County's air quality to safeguard public health and the environment, while preserving the quality of life and economic vitality of the area. He provided a history of the Agency, along with an overview of the board.

He explained that the Agency (1) is responsible for enforcing federal, state, and local air quality regulations (a) permitting of industrial and area sources; (b) compliance and enforcement; (c) asbestos removal and open burning; and (d) monitor air quality for compliance with national ambient air quality standards; and (2) is responsible for education and outreach (a) pollution prevention projects and outreach; and (b) indoor air quality hotline. He explained the planning and rules associated with the Agency, the reduction in Title V revenues, the permitting program – 2009 stationary sources, the inspection program – 2009 stationary sources, and the permitting and inspection program 2009 – demolition and asbestos removal.

He talked about air pollution in WNC, along with national standards and reducing ozone in WNC. Using charts and graphs, he explained the emissions reductions at Progress Energy's Asheville steam plant; the ozone attainment status; ozone design values in Buncombe County from 1999-Present; ozone trends in Buncombe County from 1993-Present; Air Quality Index for Ozone in Asheville from 2003-Present; and Fine Particulate Matter in WNC.

He then explained The Idling Reduction Campaign at local schools, clean burning techniques, radon awareness, and diesel retrofits.

He said that you can (1) conserve electricity (a) use power management on your monitor and computer to reduce energy consumption; (b) buy energy efficient light bulbs and turn off the lights when not in use; and (c) insulate your home; (2) drive less (a) carpool; (b) combine trips; and (c) don't idle your vehicle – turn off your engine; (3) buy more fuel efficient vehicles; (4) participate in NC Green Power (a) choose to pay \$4/month to purchase 100 kilowatts of renewable energy – sign up on your electric bill; and (5) know the air quality forecast.

On behalf of City Council, Mayor Bellamy thanked Mr. Brigman, Chairman Lovin and the entire Board for their efforts on the Board.

#### **B. COMMUNITY ACTION OPPORTUNITIES UPDATE**

Ms. Vicki Heidinger, Executive Director of the Community Action Opportunities, provided Council with a brief history of the agency and their partnership with the City of Asheville. She then explained that their mission is to help people who live on limited income transform their lives. He presented Council with their annual report for 2009-10. In August they received their first American Recovery and Reinvestment Act (ARRA) grant award - \$214,000 for general Head Start operations. In September they received an additional \$740,000 for Life Works. In November of 2009, state authorities approved their largest ARRA-related grant for the Weatherization Assistance Program, \$1.4 Million, which represents 40% of their 3-year allocation. He then explained how those funds were used.

She then explained in detail their programs along with their outcomes (1) Life Works; (2) 21<sup>st</sup> Century Parenting; (3) Black Mountain Family Center; (4) Weatherization Assistance; (5) Heating/Air Repair/Replacement Program; (6) Head Start; and (7) North Carolina Family Development Credential.

On behalf of City Council, Mayor Bellamy thanked Ms. Heidinger, Chairman Schell and the entire Board for their efforts on the Commission.

**C. ECONOMIC STIMULUS PACKAGE UPDATE**

**RESOLUTION NO. 10-238 - RESOLUTION AUTHORIZING THE CITY MANAGER TO WITHDRAW AWARD OF THE CONTRACT WITH MATRIX SYSTEMS FOR A KEY CARD ACCESS AND CAMERA SECURITY SYSTEM FOR THE CITY OF ASHEVILLE**

**RESOLUTION NO. 10-239 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH RHS PROTECTION FOR A KEY CARD ACCESS AND CAMERA SECURITY SYSTEM FOR THE CITY OF ASHEVILLE**

American Recovery & Reinvestment Project Manager Brenda Mills said that as part of city staff's recurring American Recovery & Reinvestment (ARRA) update to Asheville City Council, staff is seeking Council approval of the following:

- A resolution authorizing the City Manager to withdraw award of contract for the Key Card Access and Camera Security System contract with Matrix Systems approved March 9, 2010 due to licensing issues with contractor.
- A resolution authorizing the City Manager to enter into a contract with RHS Protection for the Key Card Access and Camera Security System for the Municipal Building, APD Firing Range, Public Works and City Hall. The total bid estimate is \$260,650. The portion for the Municipal Building and Firing Range is \$178,650 which will be covered by the 2009 JAG ARRA Grant. The JAG ARRA Grant Budget was approved by Council August 11, 2009. The balance of the bid, \$82,000 will cover Public Works and City Hall and will be paid from the budgeted Capital Project for security.

At its March 9, 2010, meeting, City Council adopted Resolution 10-62 authorizing the City Manager to execute a contract for this project with Matrix Systems for the Card Access and Camera Security System for the Municipal Building, APD Firing Range, Public Works and City Hall in the amount of \$239,049.

In the course of reviewing the qualifications of the subcontractors that Matrix proposed to use for the project, staff learned that Matrix did not possess a license, required by the Alarm Systems Licensing Act (ASLA), to engage in the alarm systems business in North Carolina, which includes sales and installation work. Staff consulted the ASLA Board, the State agency that administers the ASLA, as to whether a license was required for the work that Matrix proposed to do. The ASLA Board ruled that Matrix was not properly licensed to complete the contract work specified. As such, Matrix is not the lowest, responsible bidder on the project and staff advised Matrix of this determination by letter dated August 30<sup>th</sup>.

Staff is requesting that City Council approve a resolution to withdraw the award of the bid to Matrix and to award it to RHS Protection as the next lowest, responsible bidder

The Municipal and Firing Range enhancement will be fully covered by JAG ARRA Grant funding. The City Hall and Public Works portions will be funded with money set aside in the Building Security Capital Improvement Project, which was budgeted in a prior year's Capital Improvement Plan (CIP).

The equipment comes with a two year warranty plus an extended warranty through five years. Beyond this period the City of Asheville will be required to maintain the overall operations

and maintenance of the equipment. It is estimated that service extentions would run \$15,000 per year. These costs will be added to the departmental operating budget at the beginning of the sixth year. The expected useful life of these systems are 10-15 years. The replacement costs will be at the expense of the department associated with the security equipment.

Pros:

- Increase safety for City Employees and facilities
- Increased safety for our communities
- Increased security of city property

Con:

- Maintenance cost

City staff recommends City Council (1) adopt a resolution authorizing the City Manager to withdraw award of the Key Card Access and Camera Security System contract to Matrix Systems and (2) adopt a resolution authorizing the City Manager to enter into contract with RHS Protections for same for the City of Asheville.

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 resolutions and they would not be read.

Councilman Smith moved for the adoption of Resolution No. 10-238. This motion was seconded by Councilman Russell and carried unanimously.

#### **RESOLUTION BOOK NO. 33 – PAGE 247**

Councilman Smith moved for the adoption of Resolution No. 10-239. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **RESOLUTION BOOK NO. 33 – PAGE 248**

#### **D. CARBON FOOTPRINT ANNUAL REPORT**

Energy Coordinator Maggie Ullman presented Council with the 2009-10 Carbon Footprint Annual Report. She outlined the following key highlights from the report: (1) tasked with a 6% reduction over 3 years the City delivered an 8.42% reduction; (2) the most significant reductions can be attributed to energy conservation in public buildings, streamlined efficiency in water distribution, and fuel/routing efficiency in transit; and (3) the most significant opportunities for future reductions are in the fleet and streetlight sectors.

Some 2009-10 financial facts include (1) municipal energy spending totaled \$5,349,610; (2) carbon footprint reductions resulted in \$336,216 avoided energy spending which is a 5.91% spending reduction from the previous year; and (3) grant monies awarded to the City in support of carbon footprint reduction totaled \$8,839,345.

External impacts on energy usage includes (1) in Fiscal Year 2008-09, spending in many sectors increased due to an electricity rate increase of 11.5%; and (2) in Fiscal Year 2008-09, fuel spending in many departments decreased due to the brief fuel shortage in September 2008.

The carbon footprint reduction to date is \$2,965 MT eCO<sub>2</sub> which equals (1) annual emissions from 567 four-door sedans; (2) annual energy use of 252 homes; and (3) annual carbon sequestration of 76,026 trees.

In response to Vice-Mayor Newman, Ms. Ullman said that she would be coming back to Council in February to talk about the City's plan to achieve a 4% per year carbon footprint reduction.

In response to Councilman Smith, Ms. Ullman said that we project an annual savings of approximately \$650,000 for the LED street light replacement.

Mayor Bellamy thanked Ms. Ullman for her commitment to this effort.

#### **E. VOLUNTEER SIDEWALK CLEANUPS**

Councilman Bothwell presented a short video explaining the sidewalk clean-ups the volunteer group has done since April 2010. Given the ordinance change at the October 26 meeting, he felt this effort could become a part of the education campaign. They have planned a City-wide clean-up day for Saturday, November 20. He hoped this video would educate the public on the need for people to maintain to sidewalks on their property, and to tell people who are physically limited in their ability to do the work that volunteers are available to help out.

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

##### **A. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF PROPERTY LOCATED AT 301 LONG SHOALS ROAD (INGLES AREA) TO HIGHWAY BUSINESS DISTRICT**

##### **ORDINANCE NO. 3917 - ORDINANCE ZONING 301 LONG SHOALS ROAD (INGLES AREA) TO HIGHWAY BUSINESS DISTRICT**

Mayor Bellamy opened the public hearing at 6:23 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to zone 301 Long Shoals Road (Ingles area) to Highway Business District. This public hearing was advertised on October 29 and November 5, 2010.

The City of Asheville recently annexed (effective September 30, 2010) 3.6 acres (all of one parcel and a portion of another) located at 301 Long Shoals Road. The property is located on the south side of Long Shoals Road at the intersection of Long Shoals Road and CP and L Drive. The property contains a portion of the Ingles grocery store and an Ingles Gas Express facility.

The property is currently zoned Commercial Service by Buncombe County. The portion of the Ingles store that is currently in the City of Asheville is zoned Highway Business. Staff proposes HB zoning for the remainder of the facility.

Pro:

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

Con:

- None noted.

Based on the analysis provided in the report, staff finds this request to be reasonable. At a meeting on October 6, 2010, the Asheville Planning and Zoning Commission recommended approval of this initial zoning (6-0).

Mayor Bellamy closed the public hearing at 6:25 p.m.



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

Councilman Russell moved for the adoption of Ordinance No. 3917. This motion was seconded by Councilman Smith and carried unanimously.

**ORDINANCE BOOK NO. 26 – PAGE**

**B. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF PROPERTY LOCATED ON SCHENCK PARKWAY TO CENTRAL BUSINESS DISTRICT**

**ORDINANCE NO. 3918 - ORDINANCE ZONING PROPERTY ON SCHENCK PARKWAY TO CENTRAL BUSINESS DISTRICT**

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

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to zone property on Schenck Parkway to Central Business District. This public hearing was advertised on October 29 and November 5, 2010.

The City of Asheville recently annexed (effective September 30, 2010) .7 acres of a 10.32 acre parcel on which is sited a convenience store and fast food establishment at 380 Long Shoals Road. The property is located on the west side of Schenck Parkway.

Of the .7 acres, 3,500 square feet was not previously zoned by the City of Asheville. The remainder of the parcel is zoned Central Business District (CBD). Staff proposes CBD zoning for this last portion of the property.

Pro:

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

Con:

- None noted.

Based on the analysis provided in the report, staff finds this request to be reasonable. At a meeting on October 6, 2010, the Asheville Planning and Zoning Commission recommended approval of this initial zoning (6-0).

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

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

Councilman Smith moved for the adoption of Ordinance No. 3918. This motion was seconded by Councilman Russell and carried unanimously.

**ORDINANCE BOOK NO. 26 – PAGE**

**C. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF PROPERTY LOCATED IN THE DEERFIELD AREA AT RACQUET CLUB ROAD/SALISBURY DRIVE TO INSTITUTIONAL DISTRICT**

**ORDINANCE NO. 3919 - ORDINANCE ZONING PROPERTY IN THE DEERFIELD AREA AT RACQUET CLUB ROAD/SALISBURY DRIVE TO INSTITUTIONAL DISTRICT**

Mayor Bellamy opened the public hearing at 6:27 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to zone property in the Deerfield Area at Racquet Club Road/Salisbury Drive to Institutional District. This public hearing was advertised on October 29 and November 5, 2010.

The City of Asheville recently annexed (effective September 30, 2010) 29.3 acres of a 109.76 acre tract that is the site of the Deerfield Retirement Community. The property is located on and north of Salisbury Drive at the intersection with Racquet Club Road.

Of the 29.3 acres, approximately 2200 square feet was not previously zoned by the City of Asheville. The remainder of the parcel is zoned RM-16 and Institutional. The 2200 square feet more closely aligns with the portion of the lot zoned Institutional. Staff proposes Institutional zoning for this last portion of the property.

Pro:

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

Con:

- None noted.

Based on the analysis provided in the report, staff finds this request to be reasonable. At a meeting on October 6, 2010, the Asheville Planning and Zoning Commission recommended approval of this initial zoning (6-0).

Mayor Bellamy closed the public hearing at 6:27 p.m.

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

Councilman Russell moved for the adoption of Ordinance No. 3919. This motion was seconded by Councilman Smith and carried unanimously.

**ORDINANCE BOOK NO. 26 – PAGE**

**D. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF PROPERTY LOCATED AT 1445 TUNNEL ROAD TO HIGHWAY BUSINESS DISTRICT**

**ORDINANCE NO. 3920 - ORDINANCE ZONING PROPERTY AT 1445 TUNNEL ROAD TO HIGHWAY BUSINESS DISTRICT**

Mayor Bellamy opened the public hearing at 6:27 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to zone 1445 Tunnel Road to Highway Business District. This public hearing was advertised on October 29 and November 5, 2010.

The City of Asheville recently annexed (effective September 30, 2010) a 1.5 acre tract on which a dental clinic is located. The property is located at 1445 Tunnel Road.

The property is currently zoned R-2 by Buncombe County. Staff proposes that the property be zoned Highway Business as are the other properties in the area that are in the City of Asheville.

Pro:

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

Con:

- None noted.

Based on the analysis provided in the report, staff finds this request to be reasonable. At a meeting on October 6, 2010, the Asheville Planning and Zoning Commission recommended approval of this initial zoning (6-0).

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

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

Councilman Russell moved for the adoption of Ordinance No. 3920. This motion was seconded by Councilman Davis and carried unanimously.

#### **ORDINANCE BOOK NO. 26 – PAGE**

#### **E. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF ENKA CENTER LOCATED ON SAND HILL ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT, RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT/CONDITIONAL ZONING**

#### **ORDINANCE NO. 3921 - ORDINANCE TO CONDITIONALLY ZONE ENKA CENTER LOCATED ON SAND HILL ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT, RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT/CONDITIONAL ZONING**

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

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone Enka Center located on Sand Hill Road from Commercial Industrial District, RS-2 Residential Single-Family Low Density District and Highway Business District to Commercial Industrial District/Conditional Zoning, including a request for modifications to allow parking within the front setbacks and to modify required transportation infrastructure. This public hearing was advertised on October 29 and November 5, 2010.

She said that the applicant is requesting a Conditional Zoning for multiple parcels located off of Sand Hill Road and Smoky Park Highway from RS-2 (Residential Single-Family Low Density District), HB (Highway Business District) and CI (Commercial Industrial District) to CI - CZ (Commercial Industrial District – Conditional Zoning) in accordance with Section 7-7-8 of the UDO. With this master plan approval, each phase will be reviewed by the Technical Review Committee as a Level II project.

She said that due to the large plan size, overall plan pages have been distributed. Detailed sections are available for review in the Planning Department.

The project site consists of nine separate parcels with a combined area of 191.90 acres, located off Smoky Park Highway and Sand Hill Road. This site comprises a substantial portion of the campus formerly occupied by the BASF plant and is zoned CI (rezoned from IND to CI - January 2009) with a small portion of HB at the northern boundary and a small area of RS-2 in the northeastern corner. Adjacent zoning districts include Industrial, CBII and RS-2; adjacent uses are industrial, commercial, industrial vacant and recreational. Approximately half of the project area is within the Asheville City limits; the other half is within the extraterritorial jurisdiction area (ETJ).

The applicant is proposing a mixed-use development with 509,233 SF of retail commercial space; 19,803 SF of restaurant use; 364,650 SF office/medical/business space; 4,500 SF for a financial institution; 130,000 SF of warehouse/industrial space and additional acreage for recreation/open space/greenway use. Buildings are 1-3 stories with maximum heights between 50 – 80 feet. The appearance of the retail structures/area will be governed by the “Big Box Standards (Section 7-16-2(b)(10) of the UDO)” and will be reviewed in detail with each subsequent phase submittal.

The development plans show build-out over 15 phases, which each phase returning to the TRC as a separate Level II review. Due to the overall timeline for completion as +/-14 years and with the inevitability of changing market conditions over time, there may be some deviation from the master plan in terms of use type and phasing. Staff will bring any significant amendments back to City Council for review.

Primary access to the property will be from a new roadway connection to Smoky Park Highway at the northern boundary of the project site, to be built during the initial phase. The applicant is proposing a new bridge that will span over the Norfolk Southern rail line and Hominy Creek, leading into road “A.” There are two main roadways proposed through the project site and two smaller connector roads. A secondary, narrowed access point is located towards the eastern edge of the site and connects into Jacob Holm Way. Retail buildings “I” and “Z” (Phases 10 & 11) are accessed directly from Sand Hill Road but do not have connections into the larger site at this time. All new roadways are noted as public.

The proposal provides sidewalks on both sides of all roads, including the bridge crossing. Dedicated bike lanes will be provided throughout the development, however, after significant discussion with City staff and incorporating input from the Bicycle and Pedestrian Task Force, the proposal shows dedicated bike lanes ceasing immediately before the bridge. At that point, the outside travel lanes on both sides increase to 13 feet in width (from 11') and bicyclists would merge with vehicular traffic as they approach and/or exit Smoky Park Highway.

According to plans, approximately 4,000 vehicular parking spaces are proposed throughout the project site on various surface lots, incorporating handicapped and van-accessible spaces. There will be a dedicated transit stop at the entrance bridge at Smoky Park Highway for future transit system. Bike parking is dispersed throughout the site.

Significant landscaping will be required throughout the site, including street trees, parking lot landscaping, street buffers, building impact landscaping, dumpster screening and a type “B” property line buffer where the site is adjacent to RS-2 zoning. More than 29 acres of open space will be provided, primarily through the recreational areas and a greenway. The plans include dedication of land for the construction of a greenway along Hominy Creek within the project boundaries.

A large portion of the site (including the closed landfill) has been granted a Brownfield designation by the state and any activity within those limits will be governed by state regulations. This area is indicated for future recreational use in Phase 3. Most of the environmental clean up has been completed and abandoned industrial buildings have been removed. The remediation

work has included removal of asbestos, lead-based paint and other hazardous materials from the site.

The western portion of the project site falls within the City limits, while the eastern portion is within the ETJ. Under the existing conditions, the development layout results in proposed infrastructure (roads and bridge) being situated only partially within the City's jurisdiction – however, the applicant has indicated that the infrastructure would be publically maintained. Any infrastructure that the City maintains must be entirely within the City limits. Additionally, the City limits line bisects a number of proposed structures so a selective voluntary annexation is needed to resolve these issues. The applicant has indicated interest in voluntarily annexing subsequent phases of development as they are built-out, although this is not included as part of this zoning proposal.

The following modifications need approval by City Council:

1. *Parking in Setback* – There are several locations where parking spaces encroach into the front setback, which is 35 feet in this zoning district. The applicant has provided a widened ROW to accommodate sidewalks, bike lanes, driving lanes and a landscaped boulevard, which takes up more space than a standard cross-section. Because of the need for more space for these desired transportation amenities, staff is supportive of this request. Additionally, the applicant has stated that parking will not encroach closer than 15 feet.
2. *Sidewalks and Bike Lanes on the Bridge* – The plans initially submitted included a request for elimination of sidewalk on one side of the bridge from Smoky Park Highway and sub-standard bike lanes. Staff was not supportive of this modification and preferred to see compliance with sidewalk and bike lane standards. Planning & Zoning Commission directed staff and the applicant to works towards an acceptable alternative (see *Required Reviews* below).

After considerable discussion, the current proposal shows sidewalk on both sides of the bridge and widened outside travel lanes to accommodate bicyclists. Although this cross-section still does not technically comply with City standards, staff believes this layout can safely and reasonably accommodate pedestrian, vehicular and bicycle traffic entering and exiting the development and is supportive of the request.

This proposal was recommended for approval with conditions by the Technical Review Committee on September 20, 2010. The approval moved forward without staff support of the proposed reduced width bike lanes and elimination of sidewalks along one side of the bridge from Smoky Park Highway.

The Planning & Zoning Commission evaluated the project at their meeting on October 6, 2010, and recommended unanimous approval, inclusive of the modification to allow a parking encroachment into the front setback. With regard to the bridge cross-section, the Commission suggested that staff and the applicant should work to come up with various alternatives that may meet the intent of the City's goals for safe and adequate bicycle and pedestrian access. The Commission understood the not insignificant cost and time required with extending the width of the bridge because of complications spanning over the rail line but also highlighted the possibilities for transit, sidewalk and bike lane expansion out in this westward direction as well as the current bike and pedestrian needs within the site.

The only public comment received with regard to this project was at the Planning & Zoning Commission meeting, where a member of the community (also the Chair of the Greenways Commission) was present to support the project, especially the inclusion of the greenway along Hominy Creek. He also expressed a desire to see the City's standards for bike lanes and sidewalks met on the bridge cross-section.

Although not required, the Greenways Commission and Bicycle & Pedestrian Task Force included this proposal into their discussions. On September 9, 2010, the Greenways Commission voted unanimously to pass the following resolution: “Resolve that the Greenways Commission supports the plans to include a greenway in the Enka Center property and also supports the following additional details: 1.) Comments entered in the TRC Staff Report by Parks & Recreation Department staff; 2.) Plans should include bike lanes and sidewalks on both sides of all streets; 3.) The City should acquire a permanent easement for the greenway corridor to ensure ongoing public access; and 4.) Plans should incorporate any appropriate stream restoration elements.”

On October 28, 2010, the applicant met with the Bicycle & Pedestrian Task Force to discuss alternatives for the bridge cross-section. The general consensus of the Task Force was that wider outside travel lanes on the bridge would safely accommodate bicycle traffic and may be preferable to dedicated, reduced-width bike lanes.

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

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

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

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

Having been previously developed and used as the former BASF industrial site, the bulk of the project area is graded and flat. The development plan has been crafted to accommodate areas where there are topographic changes – for example, there is a significant variation in grade from Smoky Park Highway down into the site and the new bridge will span over the difference, with the railroad tracks and Hominy Creek protected below. Additionally, the area proposed for the recreational fields are somewhat higher than the western half of the site as this was the former landfill, but this physical separation works in its favor as the sports park activities are distinctly different from the commercial, office and warehouses on the rest of the site. The proposed greenway along the Hominy Creek is integrated into the development with connections to the shopping areas as well as the recreational fields.

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

The development includes multiple components that will greatly enhance and increase the value of adjoining and nearby properties, including brownfield remediation, asbestos and hazardous material removal, construction of a large portion of greenway along the Hominy Creek, the new access bridge from Smoky Park Highway, recreational fields on closed landfill and a variety of potential employment opportunities. These elements are expected to be a benefit to the area.

**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 almost 200 acre site is immediately surrounded by industrial and institutional uses. The proposed mix of retail, restaurant, office, medical, financial, manufacturing and warehouses are all appropriate in this location and have been situated within the site to compliment adjacent uses – i.e. the proposed recreational fields are in the northeastern corner, adjoining the existing Buncombe County Sports Park; the proposed warehouse and manufacturing phases are situated in the southeastern corner, adjoining Jacob Holm Industries and the proposed retail adjacent to the AB Tech satellite campus.

**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.**

Elements of the proposal are directly aligned with the City's goals and objectives, including providing a mix of uses (retail, medical, office, manufacturing, warehouse and recreational) on an infill site; locating a regional commercial center close to transportation facilities; redevelopment of a derelict former industrial site including environmental remediation of a brownfield location; inclusion of community park space and recreational fields on the former landfill; incorporation of a public greenway and a small annexation component.

**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 site is located just off Smoky Park Highway (US 19-23) and is within approximately 1 mile of I-40. Although the City of Asheville transit route does not currently extend this far west, provisions are included for a bus stop location on Smoky Park Highway to accommodate future transit expansion. 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 proposed development is estimated to generate 36,000 vehicle trips per day prior to any trip reduction calculations. This trip generation estimate meets the City of Asheville's threshold of 100 vehicle trips in the peak hour to require a traffic impact study. Due to the nature and size of the project, staff recognizes the inherent uncertainty with identifying each specific use category at the conceptual stage. Therefore, updated studies or technical memorandums will be required as appropriate when these specific use categories are identified. The master plan traffic impact study has been received and reviewed by staff. The corresponding mitigation improvements listed in the study shall be the minimum that the developer is responsible for except as provided in future technical documents as the project phases are identified. The adjacent roadways to the development are maintained by the NCDOT and they will have final approval on the improvements as such.

In consideration of the multimodal standards and goals identified by the City of Asheville, it should be noted that the development's plans are indicating sidewalks on both sides of the road and bicycle lanes on the new street cross-sections. These facilities follow current City of Asheville design standards with the exception of the bridge cross section. Based on the direction given by the Planning and Zoning Commission and the Bike and Pedestrian Task Force, staff has worked with the developer through several potential solutions based on keeping the bridge footprint static. The current bridge cross-section proposal provides 5.5 feet of back of curb sidewalk on each side and wide outside travel

lanes to help facilitate sharing of these lanes between motor vehicles and bicycles. Based on this information, staff has no safety concerns with the current proposal.

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

Pros:

- Provides a mix of uses on an infill site in an appropriate location to be a regional commerce location
- Extensive environmental remediation of a former derelict industrial site (brownfield program)
- Re-use of closed landfill for recreational fields
- Includes a significant portion of the Hominy Creek Greenway (a portion to be constructed by the developer with the remaining length dedicated in an easement)
- Design retains and incorporates the historic ENKA clock tower.

Con:

- Bridge cross-section as proposed does not comply with City standards for bike lanes (however, it is an acceptable alternative).

Staff recommends approval of the conditional zoning request as submitted by the applicant, inclusive of the request to allow parking to encroach into the front setbacks (but not closer than 15') and the modified bridge cross-section. Staff suggests incorporating "Share the Road" type signage on the bridge/roadways for added safety.

Mr. Martin Lewis, developer, gave a brief history of the project and urged City Council for this support.

Mr. Will Buie, representing Lapsley & Associates Engineering, briefed Council on the details of the project, the overall road system and the bridge. He explained (1) the brownfield site – involves redevelopment of abandoned and blighted industrial site; (2) preservation and restoration of Enka clock tower; (3) recreational amenities – property is being donated to Buncombe County for the development of a recreation complex; (4) pedestrian oriented – greenway trail is planned through a portion of the site with dedication of rights-of-way for future trail sections; (5) alternate transportation – bike lanes are being planned for all new roads in the project site; and (6) transit facilities – bus stops are planned for two locations on the project. Regarding sidewalks and bike lanes on the bridge, they worked with City staff for a modified cross-section.

Mayor Bellamy closed the public hearing at 6:42 p.m.

Councilwoman Manheimer moved for the adoption of Ordinance No. 3921, to conditionally zone Enka Center located on Sand Hill Road from Commercial Industrial District, RS-2 Residential Single-Family Low Density District and Highway Business District to Commercial Industrial District/Conditional Zoning, including approval of modifications to allow parking within the front setbacks (but not closer than 15') and approval of the modified bridge cross-section, 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) Incorporation of "Share the Road" type signage on the bridge/roadways for added safety. In addition, she asked that the motion include the following additional conditions, which Mr. Martin Lewis agreed to as well, (1) The developer grant a greenway easement dedicated along Hominy Creek within the boundary of the property owned by this developer, which said exact location to be determined by the developer and the City and/or County (wherever the land lies); (2) The developer will fund the construction of the greenway from the bridge moving in a southwesterly direction to the edge of the Creek where it leaves the developer's property; (3) As a construction permit is applied for each of the phases, that phase be voluntarily annexed into the City; (4) The developer will set aside the land, delineated on the plans, to be used for some recreational purposes, e.g., ballfields. This motion was seconded by Councilman Bothwell.

In response to Councilman Davis, Mr. Lewis said that the County is open to accepting the brownfields area for ballfields. And, the project builds out, Mr. Lewis was amenable to discussing with potential tenants to partner with the public sector in preparing the land for the development of the ballfields.

Mr. Lewis responded to Vice-Mayor Newman when he asked if there was any potential for multi-family or residential development on this site.

The motion made by Councilwoman Manheimer and seconded by Councilman Bothwell carried unanimously.

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

#### **V. UNFINISHED BUSINESS:**

##### **A. CONTINUED CONSIDERATION OF AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGULATING TELECOMMUNICATION TOWERS TO BE MORE CONSISTENT WITH CHANGES IN THE FEDERAL AND STATE LAWS**

##### **ORDINANCE NO. 3922- ORDINANCE AMENDMENT THE UNIFIED DEVELOPMENT ORDINANCE REGULATING TELECOMMUNICATION TOWERS TO BE MORE CONSISTENT WITH CHANGES IN THE FEDERAL AND STATE LAWS**

Mayor Bellamy said that this public hearing was held on October 26, 2010, and the matter continued to this date to allow staff to revise the ordinance per Council's direction.

Assistant Planning & Development Director Shannon Tuch said that 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.

At its meeting on September 14, Council adopted all of the proposed revisions to the telecommunications ordinances except the revision described in subparagraph (a) of the proposed ordinance related to locating of towers in residential areas. Additionally, the Planning & Economic Development (PED) Committee reviewed the proposed changes at their regular meetings on September 21 and October 19 and asked staff to conduct some additional research and to revise the proposed language to exclude towers in residential districts entirely and include stronger criteria related to setbacks/fall zones, minimum lot size, and co-location. This recommendation was carried to the City Council on October 26 where the recommendation failed to be adopted. In lieu of this change, the majority of Council recommended allowing towers in very limited circumstances in residential districts as a Conditional Use, and asked staff to continue to review existing standards regarding: co-location, setbacks and/or fall zones, and minimum lot size and to return with some new recommendations.

The proposed UDO text amendment proposes several changes to the conditional use standards for telecommunications towers. Per the recommendations from the October 19 Planning & Economic Development Committee (PED) meeting and the October 26 Council meeting, the proposed amendments include:

1. 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.
2. Increases the requirement for co-location from one additional user to two additional users.
3. Increases setbacks to a distance equal to the height of the tower, when located in proximity to residential zoning or residential structures.
4. Adds a requirement for a minimum five acre lot size to help address potential impact concerns. Minimum lot size may be reduced to three acres in instances where existing site features mitigate potential impact.

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. Therefore, those properties continue to have the safeguards afforded by this process.

The 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.

Pros:

- 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
- Maintains special standards to mitigate land use conflict with residential properties.

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.

She pointed out the following changes to the proposed ordinance, in addition to those directed by Council: (1) amending Section 7-16-2 (d) (3) (t) 6 to correct a typographical error in a subsection number; (2) amending Section 7-16-2 (d) (3) o. to read "... In addition, for all properties other than city-owned properties, telecommunication towers must be setback from any residentially zoned or residentially used properties a distance equivalent to the full height of the tower being erected. ..."; and (3) amending Section 7-16-2 (d) (3) (o.1) to read "In residential districts, a minimum lot size of five acres is required for properties other than city-owned properties. This requirement may be reduced by the city council if other site features are found to mitigate the impact of the tower but, under no circumstances shall the lot size be reduced to less than three acres."

In response to Councilman Bothwell, Ms. Tuch said that the separation standard reads that "no two telecommunication towers shall be constructed within 1,320 feet of each other unless documentation is provided to the Planning & Development Department to show that co-location on towers within 1,320 feet is not technically feasible."

In response to Councilwoman Manheimer, Ms. Tuch explained the criteria for cell towers. She said any cell tower application would be a conditional use permit. As a conditional use permit, in addition to the approximately 20 special standards, staff also evaluates it with the 7 conditional use permit findings.

In response to Councilman Bothwell, Ms. Tuch said that the applicant would have to verify that they can't co-locate on another tower. Should the City want to verify that information, the City can hire a consultant and the applicant is required to post a \$5,000 bond should we need that to hire a consultant.

In response to Councilman Davis, Ms. Tuch said that the applicant has to show that there is no other option available to them. If there is another tower in that area, they would have to co-locate on it, if there was space on it. If a competitor wants to provide service in the area, the tower owner is required to lease that space at a lease rate that is supported by the market.

Mayor Bellamy said the agenda item is titled "continued discussion of an amendment to the Unified Development Ordinance regulating telecommunication towers to be more consistent with changes in the federal and state laws." She felt that was a little misleading, because this ordinance would also mean that cell towers would also have to apply to local laws as well. Ms. Tuch agreed. She said we are updating our local laws to be consistent with state and federal laws.

Councilwoman Manheimer explained that she is very familiar with the law regarding zoning of telecommunication towers. She was extremely concerned about allowing cell towers to be placed in residential districts. Her concern starts with the basic premise for land zoning – the purpose of land zoning is to help the individual protect the value and enjoyment of their land, so that they have some type of security in knowing how the neighboring lands will be developed. She felt that by allowing cell towers to be placed in residential districts, we will open the door for residential property owners to lose the value of their land and lose the enjoyment of their land and otherwise harm them. Some people have health concerns and visual concerns. We do need to comply with state and federal law but this is not the only option. We can elect to ban cell towers from residentially zoned districts. She understands that could potentially open the door for a legal challenge, but by allowing a conditional use permit process for cell towers to be located in residential districts, she argued that we are opening up the door for a legal challenge every time

we try to deny a conditional use permit in a residentially zoned district. She didn't know if there is a way to make a decision that safeguards us from legal challenges ever.

Councilwoman Manheimer then moved to adopt Ordinance No. 3922, (1) including the amendments regarding setbacks, co-location requirement and the technical amendment outlined by staff; (3) exclude the provisions allowing for cell towers to be located in residentially zoned districts in Section 7-16-2 (d) (3) a ; and (3) exclude the new Section 7-16-2 (d) (3) (o.1)). This motion was seconded by Councilman Davis.

Councilwoman Manheimer noted that her motion defaults the City back to the current zoning ordinance which allows cell towers in residentially zoned districts using a conditional use permit on publicly owned lands, which will still need to be resolved.

The following individuals spoke in support of the amended ordinance (which prohibits cell towers to be located in residentially zoned districts):

Ms. Suzanna Abell, resident on Beaverdam Road

Dr. Marilyn Haas

Mr. Tyler Martin, resident on Skyview Drive (provided Council with information regarding the real estate being devalued when cell towers are erected)

Mr. Andy Gladstone, resident on Skyview Circle

Ms. Ellen Bluestone, resident on Crescent Lane

Mr. Ralph Lambert, resident on Skyview Drive

Mr. Dave Castell, resident on Skyview Circle

Ms. April Hand, resident on Bassett Road

Mr. Kenneth Haas

City Attorney Oast advised Council that under state law the ability to consider public safety shall not include requirements relating to radio frequency emissions of wireless facilities.

Ms. Patsy Brison, attorney representing U.S. Cellular Corporation and North Carolina RSA#4, asked that her letter provided to Council on October 26, 2010, be incorporated into Council's records again at this meeting. That letter stated, in their opinion, that if Council does not adopt the proposed wording amendment, which includes 7-16-2 (d) (3) a, that Council will be in violation of federal law, specifically 47 U.S.C. sec. 332 (c) (7) b.IV and in violation of state law (N.C. Gen. Stat. sec. 160A-400.52 (h)). She also suggested Council members review the conditional use permit procedure which includes for cell towers numerous pages of additional requirements. She then provided Council with a letter dated October 26, 2010, which states "We represent U.S. Cellular Corporation and North Carolina RSA#4, Inc. In the event the City Council does not adopt the amendment to Section 7-16-2 (d) (3) a. of the UDO regarding telecommunication towers, we respectfully request a decision in writing, supported by substantial evidence contained in a written record, on the application we made on July 27, 2010, for a conditional use permit for a telecommunications tower off of Beaverdam Road on property owned by Citadel/Lewis Memorial Park, LLC. We make this request pursuant to federal law (47 U.S.C. sec. 332) and state law (Part 3E of Article 19 of Chapter 160A of the North Carolina General Statutes)." She believed that the other changes made by Council provide even more additional protection to neighborhoods. She felt Council has only heard from one neighborhood tonight, but Council needs to consider the coverage issues all over the corporate limits. That is what federal law prohibits you from doing so by adopting the motion before you, it is her opinion that you will have the effect of prohibiting service. She respectfully requested that Council re-consider the motion or that it should fail.

In response to Councilman Russell, City Attorney Oast said that federal laws are hard to pin down because you don't know if you are effectively prohibiting service until you effectively prohibit it. That law is developed on a permit by permit basis. There are some cities where a ban in residential areas would have no effect because the cities are flat or small and the ban doesn't

affect the ability to provide. It is a location and fact-specific inquiry. With respect to the state law, the city may not require the placement of wireless support structures on city-owned or leased property. Our ordinance says publicly-owned property. He thinks we may have an issue with that in the future. He's not sure how much difference there is between city-owned and publicly-owned property in this particular context. That causes him more concern than federal law, but both matters are of concern.

Councilwoman Manheimer said that under state law, that is our current situation, regardless of whether we were considering an ordinance amendment or not. What we currently have on the books is arguably not in compliance with state law based on this public land vs. city-owned land issue. She felt that if we want to come into compliance with that law, we would still need to amend our current ordinance in some way. She would propose that we delete that we have now with regard to residentially zoned districts.

City Attorney Oast said that if Council were to ban towers or support structures in residential districts, in order to comply with state law, that may have the effect of putting us in violation of federal law.

Vice-Mayor Newman said that our commercially zoned areas are available for development of telecommunication towers in addition to city-owned property. City Attorney Oast read the provision that the opportunity needs to be available across districts.

In response to Mayor Bellamy, City Manager Jackson said that he did not know the immediate answer as to whether the radios we use for the Police Department communicate with radios in other jurisdictions, e.g., Sheriff's Department, County Emergency Medical Services. He said that he would report back to Council.

Mayor Bellamy was concerned if we ban cell towers in all residential districts, we will be saying that it's okay that some parts of our City don't have access to cell service. Because of the topography in the mountains, there are some dead zones in different areas of the City. She noted that some of the cities that have banned complete use of residential cell towers are flat and small. In addition, she felt a lot of people are moving away from land lines to cell phones. She asked for a friendly amendment that this ordinance be revisited in one year. Councilwoman Manheimer and Councilman Davis agreed to the friendly amendment.

In response to Mayor Bellamy, Ms. Tuch said in the use district, it reads: "In addition, where the city council determines that a telecommunication tower disguised as a coniferous tree is a preferable alternative to a concealed telecommunication support structure, it shall be allowed as a conditional use in residential districts at schools, fire stations, publicly-owned housing complexes, recreation centers or community centers when meeting the standards set forth in this subsection 7-16-2 (c) and (d) of this Chapter."

Mayor Bellamy said that the City does own one cemetery, so based upon her understanding, we could put a cell tower in that cemetery. City Attorney Oast noted that if the cemetery is city-owned, the City can just say no to the conditional use permit application.

Councilwoman Manheimer clarified that we don't have an allowance for placement on any publicly-owned properties. It's just those that are listed – schools, fire stations, publicly-owned housing complexes, recreation centers and community centers. It has to be public-owned and one of those types of uses.

Mayor Bellamy wanted to make sure that our residents understand that this is not all residentially zoned areas.

Upon an earlier inquiry of Mayor Bellamy, City Manager Jackson said that the Police and Sheriff Departments are on different frequencies which do not rely on cell tower technology. The

Fire Department is on a state-wide VIPER system, so they communicate on the same frequency. Neither one of those communication issues have to do with telecommunication towers.

As a result of the City Manager's response regarding public service communication, Mayor Bellamy was comfortable in voting in support of this ordinance amendment.

Mayor Bellamy felt it would be appropriate to have staff prepare an educational piece on our website to inform the public about the technology our Police and Fire Departments utilize to communicate between each other and other jurisdictions, such as the Sheriff's Department, Highway Patrol, and County Emergency Medical Services.

Councilwoman Manheimer clarified that the amended motion in the floor will preserve the status quo, which does allow towers in residential districts on a very limited basis to those properties previously listed - schools, fire stations, publicly-owned housing complexes, recreation centers and community centers.

The amended motion made by Councilman Manheimer and Councilman Davis carried unanimously.

At 9:09 p.m., Mayor Bellamy announced a short recess.

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

#### **B. RESOLUTION NO. 10-240 - RESOLUTION ADOPTING A TRANSFORMATIONAL DEVELOPMENT PROJECTS INCENTIVE POLICY**

Planning & Development Director Judy Daniel said that this is the consideration of resolution adopting a Transformational Development Policy, along with the revised elements of said policy.

At the August 24 meeting the City Council directed the staff to prepare a proposal for a new Council policy to support development meeting thresholds that support major elements of the Council's Strategic Plan. These elements include easy access (walkability and transit) to major employment centers and areas proposed for redevelopment with uses that offer jobs as well as affordable and workforce housing elements. The staff had already received direction from the Planning and Economic Development Committee for such a "Transformational Development" policy, and the additional request from the Council that would support "workforce" housing elements was added to that request.

At the September 28 meeting the staff presented to the Council a proposal for such a policy based on that direction. After substantial discussion and questions, the Council directed the staff to return on November 9 after considering certain changes and options. This report presents answers to questions and alternative wording recommendations for the Council's consideration based on that direction.

As before, there are three parts to the policy: elements that must be included before the Council would consider support for a project, elements that are preferred, and the type of assistance the Council would consider extending. A basic tenant of the policy is that meeting the thresholds for Council consideration is not a guarantee that such assistance would be offered – that would remain at the discretion of the Council. The elements provide a threshold for consideration only. The revised policy document reflects the following changes in response to the Council's questions:

The original request of the Council was a new policy to assist development meeting thresholds that support major elements of the Council's Strategic Plan primarily including easy access (walkability and transit) to major employment centers and areas proposed for

redevelopment, and that offer jobs as well as affordable and workforce housing elements. While there was some Council discussion of the potential for the policy to offer an automatic approval if certain thresholds were met, there did not seem to be consensus to pursue that type of process, so the format was not changed. Also, a statement has been added to the beginning of the policy to clarify for potential applicants that a public hearing and Council action are required for approval of any Economic Incentive Grant (EIG).

This policy is intended to provide incentives to encourage infill development projects that are located in urbanized employment centers of the City or that are currently underutilized but are in close proximity to major transit lines. *Approval of any requested Economic Incentive Grant (EIG) will require a public hearing and approval by the City Council.*

The Council discussion of September 28 appeared to support continuing that intent, although changes to individual elements were discussed, as noted below.

Element #1: The majority of the Council seemed to support language that would establish the elements desired in a project, including a requirement for some percentage of affordable or workforce housing if housing is proposed; without making any one element an absolute requirement other than meeting public purposes defined by the Council. A clause was added clarifying that intent. Any one of those elements could, if the Council chooses, be made a baseline requirement.

Demonstrate how it fulfills important public purposes that should include creating jobs, installing desired *elements such as* creating jobs, installing desired public infrastructure, using a substantial level of green building techniques, and if housing is included *it must provide* a percentage of affordable and/or workforce level housing units.

Element #2: The Council expressed no questions and requested no changes to this element.

Demonstrate that it directly addresses annual strategic goals set by the City Council

Element #3: The Council asked how the staff would be able to confirm that “but for the requested support it would not be able to provide the public benefits desired by the City”. The policy has been revised to reflect (as was requested for Montford Commons) that the entity requesting the support would be required to fund an analysis of the financing. Such a document provides an analysis of the financing and is the process most often used for such requests for financial support.

Demonstrate that but for the requested support it would not be able to provide the desired public benefits desired by the City. *This shall include paying for a fiscal analysis by a qualified financial consultant, chosen by the City.*

Element #4: The Council discussed the potential for expanding the areas proposed as designated “redevelopment” areas. The initial list proposed was drafted based on the Council’s desire for this policy to be applicable to areas that have “sustainable” access (walkability and transit) to major employment centers and areas designated for redevelopment at substantial densities, that offer jobs as well as affordable and workforce housing elements. These are generally commercial corridors and nodes that represent enough existing density or zoning that encourage density that support that type of pedestrian/transit friendly environment.

The Council suggested that areas adjoining the Shiloh community should be included, which would entail expanding the applicable corridor along Hendersonville Road from I-40 to the Blue Ridge Parkway (as it extends to the Parkway along Tunnel Road).

Any further extension along Hendersonville Road, Smoky Park Highway, and Leicester Highway would enter areas of primarily low density, suburban scale development. The staff recommends that should the Council desire this change, the intention of the policy would need to be modified; or a new element added requiring existing or requested zoning that supports the creation of "infill development projects that are in close proximity to major transit lines", or projects that meet the criteria for "TIF eligible areas" in NCGS 155-7.3 (c).

Be located in currently active defined "redevelopment" areas; or in areas annually designated by the City Council as priority redevelopment areas that are in or within 1/4 mile of designated urbanized employment centers (see Note 1 below); or in a targeted or voluntary annexation area.

She provided a map of the proposed areas (including the extension to the Blue Ridge Parkway along Hendersonville Road).

Element #5: The Council seemed to support a modification to the policy that would reduce the required project land area from 1 acre to 1/2 acre, except in the downtown CBD where it would be 1/4 acre. That change has been incorporated.

Have a floor area ratio exceeding 1.0 and be located on an area of land larger than *one-half acre, except in the downtown CBD where the size would be one-fourth acre.*

Element #6: The Council expressed no questions and requested no changes to this element.

Have a minimum ratio greater than 3:1 private investment to public assistance.

Element #7: The Council expressed no questions and requested no changes to this element.

Demonstrate a minimum 20% equity participation from the entity requesting the incentive assistance.

Element #8: This is a new requirement. As was required for the Montford Commons project, the staff recommends adding a clause requiring the applicant to assume any financial burden for legal challenges. This clause relates to the interpretation of the EIG legislation for use by a primarily residential project. Because this interpretation has not been tested, the use of the incentive to provide public infrastructure and meeting other strategic objectives benefitting residents of the city would need to be a significant element of a "qualified" residential development proposal.

*Agree to assume any cost related to a legal challenge of the EIG.*

#### **Preferred Elements:**

Element #1: A concern was expressed about the non-residential uses requirement, which would primarily serve to create mixed uses in a residential structure. This element was included because such mixed-use structures are recommended as a preferred development type in urbanized areas in the 2025 Plan and the Downtown Master Plan. This is not; however, a required element for a proposal and the Council would be free to consider a building that has no mix of uses.

There is a concern about the legal intent of the EIG legislation being used for a wholly residential project, which is why the staff has also added a clause (#8 in the required elements) that requires (as is required for Montford Commons) that the applicant assume all legal risk. This is also why in the absence of a development providing employment potential, the provision of



public infrastructure and/or other benefits for the public at large (as noted in Element #1, required elements) would be such an important consideration.

Include a minimum of 20% square feet of non-residential (job creation) uses, such as, but not limited to: office, retail, manufacturing, restaurant, civic, cultural, or entertainment.

Element #2: The Council expressed no questions and requested no changes to this element.

Include pedestrian or open space amenities noted in the appropriate master plan for the location proposed.

Element #3: There seemed to be Council agreement that when "green" building is proposed, the developer could propose meeting the standards without getting the actual certification (due to the cost of actual certification). The staff recommends that while LEED certification is fairly expensive, other programs such as Healthy Built are not that cost prohibitive; so exemption from actual certification should be limited to LEED only. The language of the element has been altered to reflect that direction.

Demonstrate a high level of the use of "green" and sustainable building techniques and products, as determined by meeting an outside agency certification standard (*such as, but not limited to, meeting LEED standards, achieving the Healthy Built certification, using Energy Star appliances, or meeting other standards to the satisfaction of the Council*).

Element #4: There was substantial discussion among the Council members regarding the amount of affordable and/or workforce housing that must be provided when housing is proposed. Some members prefer for the percentage to remain undefined, some wanted to see defined percentage minimums. For those preferring a minimum required percentage suggestions included affordable housing at 10%-30% and workforce housing at 25% to 60%. In both cases there would be reduced requirements for property in the CBD given the higher cost of land. Since there was no apparent consensus from the Council on this element, additional guidance will be needed to make a change to the existing wording of a 10% requirement for affordable housing and 40% for workforce housing.

There was also a Council desire to clarify in the policy that while an EIG would not extend beyond five years, the housing affordability requirement could extend up to fifteen years; given the nature of this support as a grant, not a loan. The language of this element has been modified to reflect that intent.

If housing is provided, the housing element of the project must include a minimum of 10% defined "affordable" housing units and a minimum of 40% "workforce" housing units. *Any affordable or workforce housing provided would be required to remain at the designated level of affordability level for up to 15 years, at the discretion of the Council.*

Mayor Bellamy requested that staff talk to HUD representatives to make sure that the policy we put in place will not disqualify projects from consideration from our partners in the community that use HUD funding. The staff has been assured by HUD that a local requirement for affordability does not disqualify a developer from receiving the 221(4)(d) loan guarantee. Depending on the developer's costs, the amount of development equity invested, and other choices made along the development path it could potentially affect a developer's ability to be approved for the guarantee (if their financial projection does not show sufficient loan repayment capacity). This appears to be the reason that the Montford Commons project developers have stated that they cannot provide any affordable housing.

Element #5: There was a Council inquiry as to whether it is realistic for residential units to be required to be the primary residence of the occupants. This is commonly used criteria for inclusionary zoning ordinances, and can be enforced by agreement. It is usually, however, an issue primarily with condominium units, not apartments; and the staff is recommending that this element be rephrased to reflect that it is pertinent only to condominium residences not rental housing.

Will require residential units *sold as condominium residences* to be the primary residence of the occupants for the length of the life of the incentive.

Element #6: The Council expressed no questions and requested no changes to this element.

Demonstrate that 70% of all permanent jobs created will, for the life of the incentive, pay competitive salaries for similar jobs in Buncombe County. This will be verified in an annual report to be submitted to the City Manager for the life of the incentive.

The staff also suggests that this policy have a “sunset” or “date certain renewal” clause. Since the nature of the policy is related to the excessive difficulties in finding financing for even very marketable projects that meet many Council goals; it may be advisable to consider an annual update and reconsideration of the need for the policy or if certain aspects of it should be changed or eliminated. The annual report would also allow the Council to monitor the performance of the grantees in meeting the requirements established by the Council.

The Council also requested input from other community groups. Staff met with CIBO, and the members present appeared to support the policy. No negative comments were received. The Chamber of Commerce has received a copy of the policy, and to date have not expressed any thoughts on it. The staff has also not received any email comments on the proposed policy to date.

City staff recommends approval of the new Council policy, with any amendment determined by the Council.

Councilman Smith moved to adopt the Transformational Development Projects Incentive Policy, with an amendment to Preferred Element 4 to include the reclamation of brownfields and/or other environmental certifications discussed. This motion was seconded by Councilwoman Manheimer.

Vice-Mayor Newman felt the Required Element 3 is vague and he was not sure what formula we would use to determine if someone has made the case that unless they receive the support they would not be able to provide the desired public benefits. In addition, he felt the requirement for a fiscal analysis by a qualified financial consultant would add additional cost to a small project. He felt that element should be deleted from the policy or set some threshold so that it's clear that it applies to very large projects. Economic Development Director Sam Powers responded that in the cases where this has been used, in the absence of a formal policy, that is the purpose of the independent analysis of the pro forma. There are industry standards of what acceptable rates of return are on the different types of projects. Those are the analyses that we would rely on to determine whether that requirement element has been met or not.

Vice-Mayor Newman also felt Preferred Element 3, which is very important, was unclear regarding the green building requirements. He is open to processes other than LEED certification; however, he felt the language was vague. He felt there should be crisp standards for what it takes to meet that preferred element.

Vice-Mayor Newman observed that Preferred Element 5 is a good idea, but questioned if should be a preferred element because it sounds more like a description of how it would operate.

Councilman Smith and Councilwoman Manheimer supported amending their motion to delete Required Element 3.

Councilman Bothwell agreed with Vice-Mayor Newman on Preferred Element 3. He too felt it was unclear and wondered if a developer could buy one Energy Star appliance and meet this requirement.

Mayor Bellamy noted the example that UNC-Asheville met LEED certification standards in one of their buildings, but did not apply for LEED because of the expense. They used the money they would have had to apply for those standards towards the green building. If we get the elements we want, we should not have to require LEED certification.

City Attorney Oast said there is a statute that is applicable to Asheville regarding local energy efficiency incentives. The City can offer incentives to developers "based on generally recognized standards established for such purposes and makes a significant contribution to reduction of energy consumption." That does not mean Council can't be more specific than that, but the authorization is fairly general.

It was the consensus of Council to obtain the Sustainable Advisory Committee on Energy & the Environment's (SACEE) input on Preferred Element 3.

Vice-Mayor Newman suggested Council act on the policy at this meeting and let SACEE insert whatever level of LEED they think is appropriate for this policy. When SACEE makes their recommendation, the policy would be brought back to Council on the Consent Agenda.

Mayor Bellamy said that when you look at transportation corridors and opportunities for redevelopment, she asked for a friendly amendment to the policy for the map to be extended at least to the Ingles we just brought into the City on Long Shoals Road. Councilman Smith and Councilwoman Manheimer accepted the friendly amendment.

After further discussion about the corridors, Mayor Bellamy asked the friendly amendment be amended to extend the map to all of the major transportation corridors to the edge of the City limits. Councilman Smith and Councilwoman Manheimer accepted the amended friendly amendment.

Vice-Mayor Newman felt that the initial discussion around this policy was the idea of transit orientation and walkability to key employment centers. There is a lot of advantage of putting higher density infill development in places where people can literally walk to work. He had mixed feelings about providing these strong incentives to almost all new commercial development in the City vs. a more targeted area in the areas we really feel we most strongly want to encourage infill development, e.g., close to the heart of the City.

Mayor Bellamy felt we are saying that we want the type of development in our corridors that would meet these basic principles. Since City Council will see all the projects that apply for this, if they don't meet the criteria, they would not receive the assistance.

Councilman Davis wondered if we are engineering this policy to the point that we might discourage good organic development. Where this policy is at this point and where we started is different and he's not comfortable with it. He felt having the Required Element 3 was important to have in the policy but agreed that it should not apply to small projects.

City Manager Jackson said that regarding the deletion of Required Element 3, staff is not interpreting that to mean that we won't do financial analysis or require sufficient financial analysis to evaluate the pro forma to ensure these are viable projects. We have an obligation to perform

financial analyses. For complicated, complex major scale projects, that might require outside advisors.

Vice-Mayor Newman felt that if someone meets these requirement, we need to give the incentive, and because of that, he was still concerned whether the language in the Preferred Elements are refined enough.

At Mayor Bellamy's suggestion, it was the consensus of Council that (1) the policy be approved at this meeting; (2) SACEE will provide their input on Preferred Element 3; and (3) suggest Vice-Mayor Newman insert language the he would feel comfortable with. Then, once we have SACEE's input and Vice-Mayor Newman's refined language, the policy can come back to Council for a vote on the Consent Agenda.

Councilman Bothwell has an underlying concern of granting tax breaks to developers.

The amended motion as follows made by Councilman Smith and seconded by Councilwoman Manheimer carried on a 4-3 vote, with Councilman Bothwell, Councilman Davis and Councilman Russell voting "no.": Adopt the Transformational Development Projects Incentive Policy, subject to SACEE's input and Vice-Mayor Newman's refined language in the Preferred Elements, (1) with an amendment to Preferred Element 4 to include the reclamation of brownfields and/or other environmental certifications discussed; (2) deletion of Required Element 3;; and (3) extend the map to all of the major transportation corridors to the edge of the City limits.

Mayor Bellamy said that this policy will be brought back to Council on the Consent Agenda once SACEE has provided their input and Vice-Mayor Newman has refined the language in the Preferred Elements.

#### **RESOLUTION BOOK NO. 33 – PAGE 249**

##### **Closed Session**

At 7:47 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 authority is contained in N.C. Gen. Stat. sec. 143-318 (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 potential litigation. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:05 p.m., Councilwoman Manheimer moved to come out of closed session. This motion was seconded by Councilman Russell and carried unanimously.

##### **B. UPDATE OF NEW COMMUNITY CENTER AT LIVINGSTON STREET PARK**

At the request of Mayor Bellamy, it was the consensus to postpone this presentation.

#### **VI. NEW BUSINESS:**

## A. DISCUSSION OF STATE LEGISLATIVE AGENDA

City Attorney Oast said that this report is to begin discussion of the City's legislative agenda for the 2011 Session of the North Carolina General Assembly.

The 2011 Session of the North Carolina General Assembly begins on January 26; this will be a regular or "long" session. Usually, one of the first orders of business after the legislature convenes is to establish rules regarding special or local legislation. The deadline for submitting local bills for consideration is usually mid to late March, and there are fewer restrictions on the subject matter that may be included in such bills.

Council usually finalizes its legislative agenda in January, after the retreat. The agenda includes local initiatives, for which local bills are requested, as well as positions on matters of State-wide concern, with respect to the general legislation is introduced. Matters likely to be of general importance to the legislature this year include annexation, sustainability, and budget/finance. Other issues will come up, and Council may wish to take an official position on them as well.

As a starting point on State-wide issues, he provided Council with a copy of the N.C. Metropolitan Mayors Coalition 2011 Advocacy Agenda. In developing this part of our agenda we also review information from other organizations, such as the N.C. League of Municipalities and the Asheville Chamber of Commerce, as it becomes available.

As to local legislation, a good place to start is with last year's agenda, which he provided to Council, as well as a previous summary of what happened with our requests. Matters left unresolved from last year include adjusting the boundary of Woodfin, and the disposition of the City's institutional network (I-Net).

- (1) We worked with Woodfin and UNC-A last year, and believe that we are in a good position to finally conclude this long-standing issue. Unless directed otherwise by Council, we will continue to proceed as we have been, finalizing boundary descriptions, and contacting affected residents.
- (2) As to the I-Net, the bills that the City proposed to amend the Video Service Competition Act of 2006 was referred to a study committee. We have not made much progress in our negotiations with Charter on this issue, legislative solution may still be needed.
- (3) Although not taken up in the 2010 short session, Council may wish to continue pursuing legislation to obtain more flexibility with regard to the water system and voluntary annexation.

He wondered if Council would be interested in getting legislative authority to reserve an easement for greenways whenever we close a road.

Although the beginning of 2011 Session of the General Assembly is still months away, and Council has not yet adopted its agenda, it is not too early to begin making contacts with our legislators. Based on the recently concluded elections, our local delegation is:

Senators: Martin L. Nesbitt, Jr.  
Tom Apodaca

Representatives: Susan C. Fisher  
Tim Moffitt  
Patsy Keever

Ms. Keever and Mr. Moffitt are new to the delegation.

In order to establish an orderly process and provide appropriate direction to staff, Council may want to establish its own schedule for development of the legislative agenda, bearing in mind that the agenda can be amended or supplemented during the course of the long session, based on new information.

He asked Council to provide him ideas on matters of local legislation and recommendations on matters of general policy by November 23 so he can incorporate them into a tentative agenda that Council can adopt on December 14, as talking points for conversations with legislators. He noted that November 23 is not the end of the time to suggest things, it's just a starting point. Things come up during the year that other cities propose that Asheville might want to join in.

Mayor Bellamy noted that adoption of the legislative agenda on December 14 was a goal so we could talk to our legislators before the session begins. She felt it was important that the agenda is well thought out and has strong unified support.

Councilman Russell felt the Council may need to talk about some of these issues at the December 14 worksession.

Mayor Bellamy suggested City Attorney Oast send out the preliminary items received by Council to all Council members after November 23 in order to begin review.

**B. UPDATED PROCESS FOR APPOINTING MEMBERS TO THE PLANNING & ZONING COMMISSION**

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the Committee recommended City Council adopt an updated process for appointing members to the Planning & Zoning Commission, similar to the process used for School Board appointments, with interviews in Council Chamber, televised.

Councilman Smith moved to use an appointment process, similar to the School Board appointments, for the appointments to the Planning & Zoning Commission. This motion was seconded by Councilwoman Manheimer and carried unanimously.

**C. PLAN FOR THE LOCATIONS OF FUTURE COUNCIL COMMUNITY MEETINGS**

**RESOLUTION NO. 10-241 - RESOLUTION AMENDING THE 2010 CITY COUNCIL MEETING SCHEDULE TO ADD A COMMUNITY MEETING ON NOVEMBER 30, 2010, AT 6:30 P.M. AT THE REID CENTER**

City Manager Jackson presented City Council with a list of prior community meeting locations and asked for direction on setting future meeting locations. He asked for direction to pre-determine their community meetings in which areas of the City, as they have previously been held north, south, east, west and central. He would schedule the meeting in an Americans With Disabilities Act (ADA) accessible location inside and out, make sure the facilities have the audio visual and sound capabilities; will have the capacity to handle Council's agenda, and will have adequate parking. Staff will look for other locations, other than those used in the past, as directed by Council.

Mayor Bellamy said that earlier this year she received a request by Livingston Street area residents for the November 30 community meeting at the Reid Center. They requested an

update on what is happening in the area. She has also received a request from residents in the south area of the City to hold a community meeting.

Councilman Russell felt the south community meeting should be held further south than the Shiloh Recreation Center.

In response to Councilwoman Manheimer, Mayor Bellamy said that she will contact Buncombe County Commissioner David Gantt on the status of the joint meeting with the Buncombe County Commissioners.

Vice-Mayor Newman liked the format used for the east Asheville meeting and hoped they would be structured similar to that in the future with items of interest for that neighborhood.

Mayor Bellamy was pleased with the east Asheville format as well. Specifically for the Reid Center area agenda, we should include the new Riverfront Area Redevelopment Commission, update on the Livingston Street Park, update on Walton Street Park, the Hospital construction and road status, and other things impacting our community in that area. In the south area, stormwater continues to be an issue.

Councilman Smith moved to adopt Resolution No. 10-241, setting the location for the November 30, 2010, community meeting at the Reid Center, and setting the future community meetings on March 29, 2011 – far south; May 31, 2011 – West; August 30, 2011 – North; and then continue east, central, etc. This motion was seconded by Councilman Bothwell and carried unanimously.

City Manager Jackson said that he would have a staff report at the December 14, 2010, meeting to set the locations for future community meetings in 2011.

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**D. RESOLUTION NO. 10-242 – RESOLUTION APPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD**

The following candidates applied for a position on the Alcoholic Beverage Control Board: Rick Fornoff and Jeremy Gillespie.

Vice-Mayor Newman said that it was the recommendation of the Boards & Commissions Committee to reappoint Bill Lack.

Councilwoman Manheimer moved to reappoint Bill Lack to serve a three-year term, term to expire November 13, 2013, or until his successor has been appointed. This motion was seconded by Councilman Russell and carried unanimously.

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**E. RESOLUTION NO. 10-243 – RESOLUTION APPOINTING A MEMBER TO THE RIVER DISTRICT DESIGN REVIEW COMMITTEE**

The following candidates applied for a position on the River District Design Review Committee: Phillip Ellis, Michael McDonough, Stuart Smith, Darren Green and Randy Shull.

Vice-Mayor Newman said that it was the recommendation of the Boards & Commissions Committee to appoint Randy Shull.

Councilwoman Manheimer moved to appoint Randy Shull to serve a three-year term, term to expire September 1, 2013, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

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

Mayor Bellamy invited the public to the Veterans Day Ceremony at the VA Hospital on November 11, 2010, at the VA Hospital beginning at 11:00 a.m. Councilman Bothwell noted that there will also be a Veterans Day recognition at the Memorial in Pack Square Park at 2:00 p.m. as well.

**VIII. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 9:44 p.m.

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CITY CLERK

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MAYOR