

Tuesday – January 25, 2011 - 5:00 p.m.

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

Students from Asheville Catholic School led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Newman gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF DR. HANK DUNN, PRESIDENT OF ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE

Mayor Bellamy was pleased to recognize Dr. Hank Dunn, President of Asheville-Buncombe Technical Community College. Dr. Dunn became the fifth President of A-B Tech on March 1, 2010. Prior to coming to A-B Tech, he served as Chancellor of Ivy Tech Community College in downtown Indianapolis for four years. Dr. Dunn is a dynamic educational leader with more than 30 years of experience in higher education and various business settings. He sees his role in the community as providing high quality educational opportunities and economic development to the residents of western North Carolina.

Dr. Dunn was pleased to be in the Asheville-Buncombe community and spoke about some of their programs.

B. PROCLAMATION PROCLAIMING JANUARY 30-FEBRUARY 5, 2011, AS "NATIONAL CATHOLIC SCHOOLS WEEK"

Mayor Bellamy read the proclamation proclaiming January 30-February 5, 2011, as "National Catholic Schools Week" in the City of Asheville. She presented the proclamation to Mrs. Donna Gilson, Principal of Asheville Catholic School, and students from Asheville Catholic School, who briefed City Council on some activities taking place during the week.

C. PROCLAMATION PROCLAIMING FEBRUARY, 2011, AS "BLACK HISTORY MONTH"

Mayor Bellamy read the proclamation proclaiming February, 2011, as "Black History Month" in the City of Asheville. She presented the proclamation to Mr. Ron King, Mr. Dan Johnson and Mr. Richard Fort from the YMI Cultural Center, who briefed City Council on some activities taking place during the month along with the YMI history and mission statement.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 14, 2010

B. RESOLUTION NO. 11-1 – RESOLUTION AMENDING THE MEMBERSHIP OF THE CITIZENS/POLICE ADVISORY COMMITTEE

Summary: Councilman Bill Russell be and he is hereby appointed as the ex-officio non-voting City Council representative on the Citizens/Police Advisory Committee to serve a term according to the length of his Council term of office.

Section 1 (h) of Resolution No. 94-186 be amended to read as follows: “Two ad hoc seats to be temporarily filled and appointed by committee members for a specific problems, incident, or event – to be voting members.”

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C. RESOLUTION NO. 11-2 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO DEVELOP THE LONG RANGE TRANSPORTATION DEMAND MANAGEMENT PLAN

ORDINANCE NO. 3935 - BUDGET AMENDMENT TO DEVELOP THE TRANSPORTATION DEMAND MANAGEMENT PLAN

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation (NCDOT) to develop the Long Range Transportation Demand Management (TDM) Plan and consideration of a budget amendment, in the amount of \$100,000, to set up the funds for the above-mentioned project.

TDM is the application of policies and strategies that attempt to optimize existing transportation resources and infrastructure by mitigating single occupancy vehicle use in a defined area. TDM programs have the potential to deliver better environmental outcomes, lower parking demands, improved public health, stronger communities, and a more prosperous and livable city.

The TDM program has been hosted by the city since Fiscal Year 2005 and has focused in promoting alternatives to single occupancy vehicle mainly inside the City limits. The NCDOT has expressed the need to set regional goals to improve the quality of life for the citizens of Western North Carolina by providing education, support and resources that enhance and promote alternatives to driving alone. In order to evaluate the adequacy of these goals to the current program being managed by the city and to continue funding it, the NCDOT wants to perform an analysis and provide new strategies that will allow TDM to grow accordingly to regional needs.

The City of Asheville will hire a consultant to develop this plan and will be responsible for completion. The estimated cost is \$100,000 and will be funded by Section 5307 of the Federal Transit Administration (FTA), with existing funding that will otherwise be lost, in the amount of \$80,000. The 20% or \$20,000 match is provided by NCDOT.

This Long Range TDM Plan supports the City of Asheville’s 2010/11 Strategic Plan by helping to promote emission-reducing options, as well as supporting the Asheville Transit System through programs such as the *PASSport* program. It also complies with fiscal responsibility, leveraging funding from Federal and State agencies.

Pros:

- The project will be completely funded by the FTA in the amount of \$80,000 and the NCDOT in the amount of \$20,000.
- No city funds will be used to develop the Plan.

- This plan will address NCDOT and City concerns about the future of the TDM program.
- This plan will provide guidance for future TDM initiatives regarding regional needs.

Cons:

- City staff will manage this project. The TDM coordinator position is currently funded 50% by the NCDOT and 50% by the city.

City staff will be used to develop this plan; this task is already part of the current budget for this fiscal year. The plan will be funded 80% or \$80,000 by FTA and matched by NCDOT with 20% or \$20,000. There is no impact to the General Fund budget.

City staff recommends City Council to adopt a resolution authorizing the City Manager to enter into an agreement with the NCDOT to develop the TDM Plan and the associated budget amendment, in the amount of \$100,000, to set up the funds for the above-mentioned project.

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D. RESOLUTION NO. 11-3 - RESOLUTION IN SUPPORT OF AN ECONOMIC BENEFIT ANALYSIS FOR A COMMUNITY IMPROVEMENT DISTRICT

Summary: Update by the Downtown Management Subcommittee on its activities and consideration of a resolution supporting an economic benefit analysis for a Community Improvement District (CID).

The Downtown Master Plan, adopted by City Council in May 2009, strongly recommended a downtown management entity for Downtown Asheville. A subcommittee was formed by the Downtown Commission to explore this idea, and it has been meeting for the past year. In the United States and many parts of the world, these entities are funded by a special assessment district, and are often called a Business Improvement District (BID). The Downtown Master Plan recommends a Community Improvement District (CID) as our downtown has so many residents as well as businesses. These districts can be found in all sizes of cities and towns. In North Carolina, there are over 40 of them ranging from Chimney Rock to Waynesville to Charlotte.

As a part of its work, the subcommittee has been doing several things: learning about improvement districts, gathering information on current city services to downtown and analyzing the downtown tax base. Currently, the subcommittee has put together a survey for property owners to be carried out in the first quarter of 2011. The purpose of the survey is to find out what additional services property and business owners would be interested in as a part of the improvement district. In January 2011, the subcommittee will also begin a series of meetings with property owners in different areas of downtown to explain how districts function, but mainly to hear their thoughts about a potential district for Downtown Asheville. The subcommittee is working towards a goal of coming to City Council in June 2011 for approval of the district. However, this process is somewhat organic, and the end date may change.

The group has also been discussing an Economic Benefit Analysis that would show property and business owners what economic impact an improvement district would likely have for properties and businesses in Downtown Asheville. These studies are required in some places as a pre-requisite to district approval. They are not required in North Carolina, however our subcommittee thought it would be a good idea given the current economic climate and hesitancy of some property owners.

There are details concerning the economic benefit analysis in the documents provided to Council, including an RFP that will be released to solicit proposals. Currently, the Asheville

Downtown Association has promised \$7000 in funding, a request of \$1000 is being made to the downtown residents, and the committee feels confident that the county will fund another \$3500. The Subcommittee is requesting a matching \$3500 from the City of Asheville to help fund the economic impact study along with the survey. The funding ratios acknowledge that downtown stakeholders must be in the lead of this process.

The subcommittee is requesting that the city help fund the Economic Impact Analysis as a partner. This would be accomplished within the existing budget of Economic Development.

This item was reviewed by the City Council Planning & Economic Development Committee on December 21, 2010, and they recommended approval.

City Council has adopted the goal of completing the Downtown Master Plan and implementing it. The Downtown Management Subcommittee has determined that an economic benefit analysis is important in implementing Chapter 7 of the Downtown Master Plan.

Pros:

- An economic benefit analysis will show what benefits property owners and business owners can reasonably expect from a Community Improvement District downtown.
- The city's contribution can be made using existing funding.

Con:

- None noted.

The City's contribution towards the study can be funded out of the existing Office of Economic Development budget and does not require a budget amendment.

Staff recommends that City Council support the funding plan for the Economic Benefit Analysis, which includes \$3,500 of city funds.

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E. RESOLUTION NO. 11-4 - SETTING A PUBLIC HEARING ON FEBRUARY 22, 2011, TO CLOSE SEVERAL PORTIONS OF UNOPENED RIGHTS-OF-WAY AND CITY STREETS WITHIN THE MONTFORD COMMONS DEVELOPMENT AREA

Summary: The consideration of a resolution of intent to permanently close several portions of unopened rights of way and City streets within the Montford Commons Development area, which includes; an unopened portion of Woodside Place; an unopened unnamed right of way between Gudger Street and the unopened portion of Woodside Place; an unopened portion of Bay Street; all of the unopened portion of Jason Street and a portion of City maintained Jason Street; all of City maintained Michael Street; and all of the unopened unnamed right of way located near Jason Street.

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

Pursuant to this statute, adjoining property owners, Frontier Syndicate LLC; Rhesa Read Tull Jr., Dorothy Tull Mothershead, and Margaret Tull Davis (heirs of Farrar G. Parker) have requested the City of Asheville to permanently close several portions of unopened rights of way and City streets within the Montford Commons Development area, which includes; an unopened portion of Woodside Place; an unopened unnamed right of way between Gudger Street and the unopened portion of Woodside Place; an unopened portion of Bay Street; all of the unopened portion of Jason Street and a portion of City maintained Jason Street; all of City maintained Michael Street; and all of the unopened Elizabeth Place. Adjacent property owners Asheville

Board of Education and did not join the petition, a copy of this resolution of intent shall be sent by registered mail.

The Greenway Commission met on November 11, 2010. They voted unanimously to support the street closures and strongly recommended that any future development plan include the greenway connection as discussed in the site master plan.

This closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use. The Strategic Plan Goals most closely aligned with the Montford Commons Development closure requests is the Job Growth and Community Development Goal in that it will provide sustainable high density infill growth that makes efficient use of existing resources.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close several portions of unopened rights of way and City streets within the Montford Commons area and set the public hearing for February 22, 2011.

RESOLUTION BOOK NO. 33 – PAGE 300

F. ORDINANCE NO. 3936 - BUDGET AMENDMENT FOR AN ASHEVILLE PARKS & GREENWAYS FOUNDATION DONATION

Summary: The consideration of budget amendments authorizing the City Manager to increase the budgets for 1) Aston Park by \$900, 2) the Park Maintenance Division by \$4,171, 3) Special Projects budget by \$70,580, and 4) to revise the Festivals Fund operating budget by \$14,461.

The City of Asheville has received contributions totaling \$90,112 from the Asheville Parks and Greenways Foundation to support various programs and special projects within the Parks, Recreation & Cultural Arts Department. The Asheville Parks and Greenways Foundation is a 501(c)3 non-profit organization whose purpose is to support programs and special projects related to parks, greenways and recreation programs within the City of Asheville Parks, Recreation & Cultural Arts Department.

The budget and description of each project supported by the Asheville Parks and Greenways Foundation contribution is listed below:

\$900 to increase the operational budget to support Aston Park

\$4171 to increase the operational budget to support the Hanging Flower Basket program in the Park Maintenance Division

\$14,461 to revise the Festivals Fund operational budget to reduce the City of Asheville General Fund subsidy of the Festivals Fund

\$430 to increase the special projects budget to support land acquisition related to greenway development

\$25,000 to increase the special projects budget to support public art projects at Riverbend Park

\$20,150 to increase the special projects budget to support public art projects at Reed Creek Greenway

\$25,000 to increase the special projects budget to support the Public Artist of the Year project

This action complies with the Parks, Recreation, Cultural Arts & Greenway Master Plan in that it makes use of diverse funding sources for successful implementation in the delivery of parks, recreation and cultural art services.

Pro:

- Provide funds to support parks, recreation and cultural arts programming enhancements

Con:

- None

These donations enhance parks services at no impact to the General Fund operating budget.

Staff recommends City Council to approve the budget amendments authorizing the City Manager to increase the budgets for 1) Aston Park by \$900, 2) the Park Maintenance Division by \$4,171, 3) Special Projects budget by \$70,580, and 4) to revise the Festivals Fund operating budget by \$14,461.

ORDINANCE BOOK NO. 26 – PAGE 414

G. ORDINANCE NO. 3937 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF FEDERAL DRUG SEIZURE FUNDS TO PURCHASE EQUIPMENT AND TRAINING FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a budget amendment, in the amount of \$131,167, to authorize the use of Federal Drug Seizure Funds to purchase equipment and fund improvements and training for the Asheville Police Department (APD).

The federal drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the federal government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 20% going to the federal agency adopting the seizure and 80% going to the local law enforcement agency initiating the seizure. The City of Asheville Police Department has received \$131,167 in federal drug seizure funding. This proposed budget amendment would authorize the use of this funding for critical improvements, training, and equipment purchases for the Asheville Police Department.

Among the items slated for purchase with this funding include: 1) Replacement of Emergency Response Team Rifles; 2.) Forward Looking Infrared (FLIR) Surveillance Equipment; 3.) TASERS; 4.) Mobile Data Terminal Computers; 5.)LED Flashlights; 6.) Child Pornography Training, Computer Forensics Training and other uniforms and equipment not covered by the APD operating budget.

This action conforms to the City Council's Strategic Operating Plan under 1) Fiscal Responsibility in that we are using drug seizure monies to enhance the APD's equipment and training needs that would otherwise not be funded, and 2) Safe City in that providing the various equipment and training allows our employees to be more professional and more effective in proactively enforcing and preventing criminal activity.

Pro:

- Federal seizure revenues to cover the cost of equipment and training related to street level drug enforcement and community policing activities

Con:

- None noted

The increase of \$131,167 for training and equipment. Accepting these funds is a significant financial benefit to the APD allowing us to better train and equip our employees without impacting the General Fund budget.

City staff recommends City Council adopt the budget amendment, in the amount of \$131,167, to authorize the use of Federal Drug Seizure Funds to purchase equipment and training for the Asheville Police Department.

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H. ORDINANCE NO. 3938 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF NORTH CAROLINA STATE DRUG SEIZURE FUNDS TO PURCHASE EQUIPMENT AND FUND TRAINING FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a budget amendment, in the amount of \$88,325, to authorize the use of North Carolina State Drug Seizure Funds to purchase equipment and fund training for the Asheville Police Department.

The North Carolina State drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the North Carolina State government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

The City of Asheville Police Department has received \$88,325 in North Carolina State drug seizure funding. This amendment will authorize the use of that funding to purchase drug enforcement equipment and training not covered by the APD operating budget. Items to purchase include: 1) Radar Speed Detection Units; 2) LIDAR Speed Detection Units; 3) Radar Speed Trailer; 4) Drug Surveillance Equipment; 5.) Police Bicycles; and 6.) Training related to Police Management, Hazardous Devices Training, Crowd-Control Training, Crash Data Retrieval Training or other training for employees.

This action conforms to the City Council's Strategic Operating Plan under 1) Fiscal Responsibility in that we are using drug seizure monies to enhance the APD's equipment and training needs that would otherwise not be funded, and 2) Safe City in that providing the various equipment and training allows our employees to be more professional and more effective in proactively enforcing and preventing criminal activity.

Pro:

- North Carolina State drug seizure revenue used to fund drug enforcement equipment, training, and improvements at no cost to city taxpayers.

Con:

- None noted

The increase of \$88,325 for training and equipment. Accepting these funds is a significant financial benefit to the APD allowing us to better train and equip our employees without impacting the General Fund budget.

City staff recommends City Council adopt a budget amendment, in the amount of \$88,325, authorizing the use of North Carolina State Drug Seizure Funds to fund drug enforcement equipment, training and other improvements for the Asheville Police Department.

ORDINANCE BOOK NO. 26 – PAGE 422

I. ORDINANCE NO. 3939 - BUDGET AMENDMENT FROM THE INSURANCE FUND PROGRAM TO PAY CLAIMS EXPENSES THAT HAVE EXCEEDED THE APPROVED BUDGET AMOUNT

Summary: The consideration of a budget amendment, in the amount of \$200,000, from the Insurance Fund program reserves to pay claims expenses that have exceeded the approved budget amount.

The City's Fiscal Year 2010-11 adopted budget for the liability insurance program, which includes funding for premiums, claims and administrative expenses, totaled \$1,460,270.

The budget is established each year to pay regular and routine claims; however, previously incurred claims are often paid in later budget years when they are settled or when additional costs are incurred. As a result, the budget needs to be increased by \$200,000.

Pro:

- The City maintains adequate funds in the Insurance Fund to cover costs in high claim years.

Con:

- A few number of serious incidents have caused the timing of claim costs to be above staff's initial budget projections for the year.

Budget authorization for this increase will come from reserves already set aside in the liability insurance program. Currently, the City has \$5,034,884 set aside in the Insurance Fund for claims that have been incurred but not yet paid. The budget amendment provides authorization to appropriate \$200,000 from this reserve to pay the claims. This budget amendment will not impact the General Fund or any of the other operating funds.

City staff recommends City Council approve the budget amendment appropriating \$200,000 from the liability insurance program reserves.

ORDINANCE BOOK NO. 26 – PAGE 424

J. RESOLUTION NO. 11-5 - RESOLUTION AMENDING THE 2011 CITY COUNCIL MEETING SCHEDULE TO ADD CITY COUNCIL'S ANNUAL RETREAT ON FEBRUARY 4, 2011, AT WARREN WILSON COLLEGE IN CANON LOUNGE IN ASHEVILLE NORTH CAROLINA

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K. RESOLUTION NO. 11-6 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH COMMUNICATION SERVICE INCORPORATED FOR THE INSTALLATION OF WIRELESS NETWORKING EQUIPMENT AT THE ASHEVILLE CIVIC CENTER

ORDINANCE NO. 3940 – BUDGET AMENDMENT FOR THE INSTALLATION OF WIRELESS NETWORKING EQUIPMENT AT THE ASHEVILLE CIVIC CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract on behalf of the City of Asheville with Communication Service Incorporated, for the installation of wireless networking equipment at the Asheville Civic Center, and the associated budget amendment, in the amount of \$62,669.

The Asheville Civic Center lacks the ability to provide reliable wireless internet connectivity to event organizers and patrons of the facility. As part of the Civic Center renovation project funded through a grant from the Tourism Product Development Fund of the Buncombe County Tourism Development Authority, this equipment is being installed to provide improved service to national media outlets, event organizers, staff and visitors to the facility. This equipment will also provide added revenue generating opportunities for the Civic Center with the ability to offer secure wireless internet access to event organizers as a purchase option during facility use.

This project was advertised for bids and Communication Service Incorporated, located in Asheville, N.C., was the lowest responsive/responsible bidder for the required project elements. Bids have also been received for the installation of wireless networking equipment at City Hall. This contract does not include the installation of equipment at City Hall as funding has yet to be identified.

This action complies with the City Council Strategic Operating Plan in fully leveraging external partnerships for pursuing capital improvements and infrastructure projects.

Pros:

- Will greatly improve network and internet access at the Civic Center.
- Adds value to the Civic Center as a facility of choice.
- Creates additional revenue opportunities through service fees.

Con:

- Project management, contract administration, and integration with existing equipment and security protocols will consume staff time.

The contract amount for the project totals \$62,668.13. The budget amendment authorizes the contract to proceed and be rolled into the SoCon renovations financing.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract on behalf of the City of Asheville with Communication Service Incorporated, for the installation of wireless networking equipment at the Asheville Civic Center, and the associated budget amendment.

**RESOLUTION BOOK NO. 33 – PAGE 303
ORDINANCE BOOK NO. 26 – PAGE 426**

L. RESOLUTION NO. 11-7 - RESOLUTION SETTING A PUBLIC HEARING ON FEBRUARY 22, 2011, TO CLOSE COOPER BOULEVARD

Summary: The consideration of a resolution of intent to permanently close Cooper Boulevard.

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

Pursuant to this statute, adjacent property owner Ingles Market Inc., represented by Preston Kendall, Real Estate Property Manager, has requested the City of Asheville to permanently close Cooper Boulevard.

The Greenway Commission met on January 13, 2011, and recommended an existing foot path (goat path) be improved and paved. However this is located within the buffer area and the planning staff is researching if it can be done. Planning will provide information to the Greenway Commission which may change their recommendation. Additionally there is a topographic concern which will also be addressed by Planning Staff. Final comments from the Greenway Commission will be provided in the staff report for the public hearing on February 22.

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

Pros:

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

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close Cooper Boulevard and to set the public hearing on February 22, 2011.

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M. RESOLUTION NO. 11-8 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MEDALLION ATHLETIC PRODUCTS INC. TO INSTALL NEW BACKSTOP NETTING AT MCCORMICK FIELD

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Medallion Athletic Products, Inc. to install new backstop netting at McCormick Field.

The lease agreement between the City of Asheville and DeWine Seeds-Silver Dollar Baseball for the Asheville Tourists at McCormick Field includes a capital improvement program which is funded via the lease revenue. Each year the funds are used to make facility improvements to McCormick Field. The City and DeWine Seeds-Silver Dollar Baseball work together to identify and prioritize improvements. This year the priority project is to replace the backstop netting.

The City conducted a competitive bid process for the backstop netting replacement project.

Medallion Athletic Products, Inc., located at 150 River Park Road in Mooresville, North Carolina, is the lowest responsive and responsible bidder not to exceed \$63,000 and is proposed to be selected to replace the backstop netting at McCormick Field.

This action complies with the City's Strategic Operating Plan in that it supports making timely capital reinvestments that improve the infrastructure of a City facility. It is also consistent with the Parks, Recreation, Cultural Arts and Greenways Master Plan in that it provides ongoing maintenance and care for the City's park system.

Pros:

- Capital investment to maintain and care for McCormick Field, a City-owned asset.
- Provide timely capital reinvestment to prevent additional deferred maintenance costs.
- Fulfill commitment for maintenance of park system.

Con:

- None

The \$63,000 to support the backstop netting replacement contract is budgeted in the Fiscal Year 2010-2011 Parks, Recreation and Cultural Arts Department capital improvement budget for McCormick Field. The budget receives revenue from DeWine Seeds-Silver Dollar Baseball as part of the lease agreement to support the budget and the cost associated with backstop net replacement.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Medallion Athletic Products, Inc., not to exceed \$63,000 to install new backstop netting at McCormick Field.

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N. RESOLUTION NO. 11-9 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE CONVEYANCE OF REAL PROPERTY AT 75 SHELburnE ROAD, KNOWN AS THE FORMER NORTH CAROLINA NATIONAL GUARD ARMORY, FROM THE STATE OF NORTH CAROLINA

Summary: The consideration of a resolution authorizing the Mayor to accept the conveyance of real property at 75 Shelburne Road, known as the former North Carolina National Guard Armory, from the State of North Carolina.

On August 25, 1960, the City of Asheville conveyed property at 75 Shelburne Road (PIN # 963709498100000) to the State of North Carolina for the purpose of operating a National Guard Armory. This conveyance was subject to the condition that if property is no longer required by the State of North Carolina for this military purpose, the property would revert back to City of Asheville ownership. The NC National Guard Armory facility has relocated to a site at Richmond Hill and no longer occupies the property at 75 Shelburne Road. The State of North Carolina has requested that the City of Asheville accept the property in its current condition and accept the liability and responsibility for the site.

The site consists of approximately 9.18 acres and is improved with buildings associated with the former use, including a large gymnasium, offices, garage and secured parking. Most of the improvements were constructed in the 1960s, apart from a small office building addition that was constructed in the 1980s.

Staff has conducted due diligence on the property, including environmental review, and multiple site inspections. The recognized environmental conditions on site include: (1) presence of asbestos in boiler tank insulation and pipe elbows, floor tile and mastic, building caulk and chalkboard mastic, (2) elevated levels of lead dust in indoor firing range, (3) below-ground oil-water separator associated with vehicle wash bay area, (4) unregulated underground storage tank (500 gallon capacity) containing heating oil. Soil samples collected at the underground tank site indicate a potential diesel fuel release. Upon acceptance of the property, the City would be

responsible for remediating these issues at a potential cost of \$25,000 to \$50,000, including lead and asbestos abatement, underground storage tank removal and associated soil remediation.

Overall, these upfront costs are fairly low considering the inherent value of the property. The current zoning is Institutional and offers a wide variety of land uses, with excellent access to Shelburne Road and I-240. Staff has identified several short-term uses for the property, to include utilizing the existing wash bay area for city fleet vehicles, operating existing buildings for Parks Maintenance function and off site storage. Discussions regarding long-term use will commence once the reversion process is final. The State of NC process for the property conveyance may take up to 6 months.

This action complies with the City Council Strategic Operating Plan by demonstrating fiscal responsibility through accepting a conveyance of prime real property for relatively minimal costs.

Pro:

- 9.18 acres of prime property will be under City of Asheville ownership

Con:

- Environmental issues including asbestos, lead dust and an underground fuel storage tank must be mitigated at the sole cost to the City

Costs associated with building operation (utilities) and costs to remediate environmental concerns will be reviewed in the upcoming budget cycle.

City staff recommends City Council approve a resolution authorizing the Mayor to accept a conveyance of real property at 75 Shelburne Road from the State of North Carolina.

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

III. PRESENTATIONS & REPORTS:

A. PRESENTATION OF THE EXTERNAL AUDIT OF THE FISCAL YEAR 2010 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Interim Finance Director Kai Nelson said that at the conclusion of each fiscal year, an annual audit of the city's financial statements is conducted. The purpose of the audit is to obtain reasonable assurance that basic financial statements are free of material misstatement; to examine evidence supporting the amounts and disclosures in the financial statements; and to assess accounting principles used and the overall presentation of the financial statement.

In connection with the General Fund, he was pleased to report that the City finished the fiscal year with roughly \$11-12 Million in Fund Balance, representing approximately 15% of the current year's expenditures.

In connection with the Civic Center Enterprise Fund and the Parking Enterprise Fund, they improved in 2010 compared to 2009. Regarding the Transit Enterprise Fund and the Water Enterprise Fund, their financial performance remained largely unchanged. The Golf Enterprise Fund showed a slight decline in their performance.

Regarding compliance matters, the external audit noted no question costs in connection with federal and state expenditures. In connection with internal control matters, the external audit firm noted two internal control matters, noting that by the time the audit report was completed in December, those had been fully addressed by staff. They are noted in the audit report that they have been corrected.

Finally, the fiscal year that the audit covers is July 1, 2009 – June 30, 2010. That was a particular difficult year for the Finance Department in several respects. One is that there was a substantial amount of turnover in various levels of the Finance Department operation. Secondly is there was a major financial conversion in connection with the City's financial systems which contributed to the delay in the presentation of the audit report.

The City Council Finance Committee heard earlier today a report that the Local Government Commission (LGC) has issued once they received the audit report. The LGC issued a report in which they requested the City to address three matters – (1) Fund Balance matter; (2) two compliance matters earlier referred to; and (3) the lateness in the filing of the audit report. The LGC has subsequently amended their communication to the City today and deleted the Fund Balance matter. That letter has been provided to Council members. The response has been drafted.

Mr. Brian Broom, Director of Dixon Hughes, PLLC, summarily reviewed with Council the annual audit. He said that the following is the audit and financial statement summary: "Our report for the 2010 audit expresses an unqualified opinion on the fair presentation of the basic financial statements in all material respects, in conformity with accounting principles generally accepted in the United States of America. Our report can be found on Page 1 of the Comprehensive Annual Financial Report (CAFR). Our reports on compliance and internal control, in accordance with Government Auditing Standards, OMB Circular A-133, and the State Single Audit Implementation Act, disclosed two material weaknesses in internal controls and no instances of non-compliance in the administration of federal and state awards programs. Our compliance reports and a summary of the results can be found in the Compliance Section of the CAFR. The City converted its accounting software during the year, which required a major time commitment from the City's accounting staff. Also, we noted some areas for improvement in the City's accounting function that we have communicated to management in a separate letter dated December 28, 2010."

In response to Mayor Bellamy, Mr. Nelson explained in more detail that there are three factors that contributed to the delay in filing the 2010 audited financial statements as follows: (a) employee turnover in the Finance Department in critical senior and technical level positions; (b) conversion of the City's business and financial applications from a legacy accounting system to an enterprise resource planning system; and (c) redesign and required new mapping of the City's entire financial accounting structure. The latter two factors were completed in 2010 and will not be impediments to completing the 2011 audit report in a timely fashion. With regard to the first factor of employee turnover, the City is currently recruiting for several key positions in the Finance Department, including the Director's position, and will have the necessary resources in place to ensure the timely completion of the 2011 audit.

Mr. Nelson said that the second concern related to the auditor's communication regarding two internal control matters – the accounting and financial reporting of notes receivable for the Housing Partnership Fund and bank reconciliations. The City has already instituted procedures to correct both matters.

He said that the City Finance treasury staff are current with the main bank statement reconciliation and are presently working on December 2010's statement. Financial activity in the Housing Trust Fund for 2011 has been recorded in accordance with appropriate accounting standards. In connection with the Housing Trust Fund finding, it is important to note that this fund first appeared on the City's financial statements in 2005 and until 2010, the manner in which the City was recording the transactions was never questioned. During the course of the audit, he inquired about the appropriateness of the accounting treatment which resulted in the change for 2010.

Mr. Nelson also responded to Mayor Bellamy regarding the City's Fund Balance and the importance that there be a plan to retain the 15% of Fund Balance.

Mayor Bellamy was very much concerned regarding the lateness of the audit. She felt the public trust and the LGC relies on City government to meet their deadlines. She expressed concern to the independent audit firm about the need to stay on schedule and to communicate to Council in a timely manner regarding the potential for future delays and other matters of a material nature.

Mayor Bellamy said it is an important part of the Council's responsibility to address our external auditors about the City's finances, and noted that she would respond to the correspondence by the LGC outlining each of the concerns raised.

B. ECONOMIC STIMULUS PACKAGE UPDATE

RESOLUTION NO. 11-10 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO INCREASE THE CONTRACT WITH HICKORY CONSTRUCTION COMPANY FOR THE NORTH FORK WATER TREATMENT PLANT PUMPING SYSTEMS IMPROVEMENTS PROJECT

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 a resolution authorizing the City Manager to execute a change order in the amount of \$3,161 to increase the construction contract for Hickory Construction Company from \$328,474 to \$331,635 for the North Fork Water Treatment Plan (WTP) Pumping Systems Improvements Project.

The Water Resources Department applied for and was awarded ARRA funding in the amount of \$510,000 for the North Fork WTP Pumping Systems Improvements project through NCDENR's Drinking Water State Revolving Fund (DWSRF). This loan is a 50% grant with a 50% loan requirement. Since applying for ARRA Funding, the project scope has changed to reduce the amount of work to be done and subsequent cost. Therefore, the total project cost is significantly less than the approved \$510,000.

Water Resources issued formal bids in August 2009 for construction services relating to this project. The bid was awarded to the lowest responsible bidder, Hickory Construction Company, in the amount of \$328,474.

In order to close out the project, a change order is needed to increase the contract amount by an additional \$3,161 for a total contract amount of \$331,635. The change order is needed to accommodate: (1) additional conduit and handholes to the North Fork WTP front gate and (2) the lack of existing wiring at the pump skids.

This project is part of City Council's strategic plans to improve city infrastructure and receive ARRA Funding to aid in economic recovery and operated in a fiscally responsible manner.

Pros:

- Approval of this action will allow the city to close out the North Fork WTP Pumping Systems Improvements project.
- This project is 50% funded from ARRA Funding, including the additional \$3,161.00 needed for the change order.

Cons:

- Without approval of the change order, the project will not be completed.
- The Water Resources Department will have to fund 50% of the change order cost which will come from the Water Capital Projects fund.
- The change order will require staff to complete additional paperwork for the State when requesting reimbursement.

The City will be responsible to pay the loan amount not covered by ARRA Funding, which is 50% of the total project cost including the change order amount of \$3,161. The funds needed for the change order are available in the ARRA capital project. The construction of the projects are substantially complete, and when these new pumps are in service an 80% reduction in power consumption will be realized.

Staff recommends approval of the resolution authorizing the City Manager to execute a change order in the amount of \$3,161 to increase the construction contract for Hickory Construction Company from \$328,474 to \$331,635.

Mayor Bellamy asked for public comments, none were received.

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

Vice-Mayor Newman moved for the adoption of Resolution No. 11-10. This motion was seconded by Councilman Russell and carried on a 6-1 vote, with Mayor Bellamy voting "no".

RESOLUTION BOOK NO. 33 – PAGE 307

C. 12-MONTH REVIEW OF REVISION TO THE SIDEWALK ORDINANCE

Public Works Director Cathy Ball said that the purpose of this report is to provide a 12 - month update to City Council regarding the changes to the sidewalk ordinance approved by City Council on December 15, 2009.

On December 15, 2009, City Council amended the Unified Development Ordinance (Section 7-11-8) pertaining to sidewalks. Council also approved a resolution amending the Fees and Charges Manual to allow developers eligible for the fee-in-lieu of construction to pay 50% of the fee if sidewalk is only required on one side of the street.

The specific changes included the following:

1. Consolidate the geographical areas where the fee-in-lieu of construction funds can be spent.
2. Allow developers eligible for the fee-in-lieu of construction to pay 50% of the fee if sidewalk is only required on one side of the street.

3. Provide the ability for the fee-in-lieu of construction amount not to exceed 15% of construction costs even if the sidewalk is shown as a needed linkage on the Pedestrian Thoroughfare Plan.

Unfortunately due to the low amount of development that has occurred over the past year, we do not have much to report. During the past 12-months we have only received a total of \$57,806 in the citywide fee-in-lieu-of fund with most of the money (\$54,091) coming from the Thoms Estate project in North Asheville.

We do not feel that enough development as occurred for us to evaluate the impact of the change. We have not received any negative comments from the public regarding these changes.

This action complies with the City Council Strategic Operating Plan of sustainability by reforming and streamlining the development review process.

Pros and Cons:

- We have not had enough development activity to provide a complete assessment of the changes.

During the past 12-months we have only received a total of \$57,806 in the citywide fee-in-lieu-of fund with most of the money (\$54,091) from the Thoms Estate project in North Asheville.

It was the consensus of Council to have staff provide another update in two years.

D. UPDATE ON HANDICAPPED ON-STREET METERED PARKING IN DOWNTOWN ASHEVILLE

Director of Transportation Ken Putnam said that the purpose of this memorandum is to update City Council on recent action that has occurred since October 26, 2010 regarding handicapped on-street metered parking in downtown Asheville.

At the October 26, 2010, meeting, City Council directed staff to proceed with requiring meter activation by all users effective November 12, 2010, provide Battery Park Apartment residents a discounted monthly parking rate at the Civic Center Parking Garage (50% discount), provide an update in January 2011 with feedback from residents and staff on how the changes are going, continue negotiations with AT&T to secure parking spaces for public use on their surface parking lot, allow the Battery Park Apartment residents a one month fee waiver to park free in the Civic Center Parking Garage until December 19, 2010, look at our parking meters for ADA compliance, and continue discussions with the management of Battery Park Apartments.

Following is a summary of recent action steps that have been accomplished and/or are in process:

- 700+ educational flyers were placed on vehicles giving notice of the subject change between October 28, 2010 and November 11, 2010 (averaged 65 flyers per day).
- 92 warning citations with educational flyers were issued between November 12, 2010 and November 18, 2010 (averaged 15 citations per day for 6 days).
- 2,060 overtime citations were issued between November 19, 2010, and December 31, 2010 (averaged 90 citations per day for 23 days).
- Five percent of the overtime citations issued (101 citations) involved vehicles displaying a handicapped placard and/or license tag (Educational flyers were included with the citations).
- As of January 1, 2011, the educational flyers are no longer placed on windshields.
- Staff met with the Battery Park Apartment management company on November 5, 2010, to update them on the City's action plan and to ask them directly if they planned on doing

anything to ease the burden on their residents. They responded in writing on December 15, 2010, and stated that their first-come, first-served 24-space off-street surface parking lot would continue to be available as in the past. In addition, their property manager and service coordinator continually work on a case-by-case basis with the residents to link them with public and medical transportation services. They offered no other suggestions to help.

- Staff met with a group of the Battery Park Apartment residents on November 8, 2010, to discuss concerns and various options to help ease the burden.
- The Mayor and staff met with a concerned citizen on November 23, 2010, to discuss the overall policy decision and possible implications.
- Staff met with Bart Floyd on December 2, 2010, to discuss various options to make it easier to “feed” the parking meters.
- Six Battery Park residents have taken advantage of the discounted monthly parking rate in the Civic Center Parking Garage.
- Negotiations with AT&T continue. Staff is currently pursuing a project that includes taking down two existing buildings that are located at 68 and 76 Haywood Street due to their age and constructing a paved, surface parking lot that meets current Unified Development Ordinance standards. When the project is completed, staff hopes to have at least 75 parking spaces that could be used for hourly parking controlled by a pay-by-space machine. This action should provide much needed parking relief in the Grove Arcade area. The target completion date of the subject project is July 2011.
- The Building and Safety Department is reviewing our existing parking meters for ADA compliance.

Since the actual enforcement began, staff has not received very much feedback, positive or negative, regarding the changes. In addition, we have not received any appeals of parking citations involving handicapped placards and/or license tags. Staff continues to look for ways to improve any additional burdens that the changes have placed on people with disabilities including meeting with citizens and listening to their suggestions.

In the memorandum dated October 26, 2010, he suggested that monthly on-street parking permits along the area immediately adjacent to the Battery Park Apartment building (includes 14 on-street metered parking spaces) could be considered and the current rate ranges from \$30 to \$45 per month. Once the memorandum became public record, there was some resistance from the business community. Another suggestion would be to create up to four designated handicapped parking spaces in the same area. Although we could not guarantee these parking spaces for Battery Park residents, it would provide more opportunities for a “close by” parking space.

City staff recommends City Council direct staff to pursue creating up to four designated handicapped parking spaces along the area immediately adjacent to the Battery Park Apartment building.

Ms. Raelin Hansen, speaking on behalf of the Battery Park Apartment residents, said that since the City has made parking available for the Battery Park residents at the Civic Center Parking Garage at a reduced cost, two elderly individuals have fallen walking from the Civic Center to the apartments. She explained how the incline from the Parking Garage has a slight grade and in inclement weather it is difficult to walk that distance. She felt there should be more handicapped designated parking spaces close to the Apartment Building (designated for Apartment Building residents), noting that they have 50-60 people who have cars with only 24 parking spaces provided by the Apartment Building. Also, she asked if the City could discuss with apartment management to limit the number of residents living there under HUD guidelines.

In response to Mayor Bellamy, Mr. Putnam said that he will continue to meet with citizens and listen to their comments.

Councilman Bothwell asked how many of the 50-60 people who live in Battery Park Apartments who have cars are handicapped. Mr. Putnam said that he has requested that information from the Battery Park Apartment management company but has not been furnished with that information. Councilman Bothwell suggested he speak with some of the residents in the Apartment Building who may be able to provide that information to him.

Councilman Russell moved to direct City staff to create up to 4 designated handicapped parking spaces along the area immediately adjacent to the Batter Park Apartment Building, with two of those spaces currently designed as motorcycle parking. This motion was seconded by Councilman Davis and carried unanimously.

In response to Mayor Bellamy, Mr. Putnam said that the money for the signs would come from the Parking Enterprise Fund.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER FINANCING OF A NEW PARKING FACILITY LOCATED AT 51 BILTMORE AVENUE

RESOLUTION NO. 11-11 - RESOLUTION RE-SCHEDULING PUBLIC HEARING FOR 51 BILTMORE PARKING DECK FINANCING

RESOLUTION NO. 11-12 - RESOLUTION AUTHORIZING EXECUTION OF SECOND AMENDMENT TO DOWNTOWN DEVELOPMENT AGREEMENT

RESOLUTION NO. 11-13 - RESOLUTION APPROVING AN INSTALLMENT FINANCING CONTRACT AND A DEED OF TRUST REGARDING A NEW PARKING FACILITY LOCATED AT 51 BILTMORE AVENUE

City Attorney Oast said that in connection with the City's participation in the 51 Biltmore Parking Deck Project, two ancillary resolutions should be considered.

The first resolution is a procedural resolution acknowledging the circumstances that led to the public hearing on the proposed financing not being held on January 11, 2011, as originally scheduled. This resolution simply reschedules the public hearing, and ratifies the actions taken by staff to reorganize and re-advertise the public hearing for January 25, 2011.

The second resolution authorizes the amendment of the Downtown Development Agreement to extend certain time periods set out therein, including the options for the purchase of the property and the "Decision Period." The previous extension was until December 31, 2010. This resolution recognizes that the parties have made significant progress in furtherance of the Project, including progress towards securing financing (public and private), obtaining construction bids, and developing legal documents. Because the financial, legal, and construction arrangements have not yet been finalized, this proposed second amendment is contemplated as an interim extension. A final amendment to the Downtown Development Agreement will be considered at or near the time of closing, after the legal and financial arrangements have been finalized, which will be more comprehensive.

Adoption of the resolution rescheduling the public hearing is recommended prior to proceeding with the public hearing. Adoption of the resolution authorizing the Second Amendment to the Downtown Development Agreement is recommended in order to allow staff to continue its work on the Project, and to extend several time periods in the Agreement. Action on this resolution may be taken after the public hearing.

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

Mayor Bellamy said that members of Council have previously received a copy of resolution rescheduling the public hearing for 51 Biltmore Parking Deck financing and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 11-11. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 308

City Clerk Bureson reported to the City Council that notice of a public hearing to receive public comments on the proposed execution and delivery by the City of (a) an Installment Financing Contract to pay the capital costs of acquiring and constructing a new parking facility located at 51 Biltmore Avenue in the City and (b) a Deed of Trust and Security Agreement to create a security interest in the real property on which the parking facility will be located and the improvements thereon was published on January 14, 2011, stating that the City Council would hold a public hearing thereon on January 25, 2011 at or about 5:00 p.m.

Director of Administrative Services Lauren Bradley said that this public hearing is to receive public comments on the proposed execution and delivery of an installment financing contract to construct a new parking facility located at 51 Biltmore Avenue, and for Council to consider a resolution authorizing the installment financing contract for the project.

Under the provisions of Section 160A-20 of the General Statutes of North Carolina, installment financing contracts that involve land require a public hearing in which the public may comment on the proposed financing and project. On December 14, 2010, City Council approved a Resolution authorizing the negotiation of an installment financing contract for the construction of a new parking facility at 51 Biltmore Avenue and set the public hearing date for January 11, 2011. Due to a legal advertising error and the cancellation of the January 11, 2011, meeting because of inclement weather, all public hearings scheduled for that date were rescheduled to January 25, 2011.

Ms. Bradley said that her presentation will include an overview of the project, the proposed financing and the feasibility of paying for the project.

She showed a rendering of the proposed project. The "51 Biltmore Project" includes both public and private development components on one shared site. The site will house a city-owned public parking garage, a privately-owned and operated Aloft hotel, and privately-owned commercial retail space along the front of the property. The City is responsible for constructing and operating the public parking garage. A private developer, McKibbin Hotel Group, is responsible for construction and operating the hotel and retail space. What makes this project a "partnership" is the mixed-use nature of the site. Part of the hotel will sit above the city's parking garage, and the retail space will wrap around the garage façade. The third component of the project is some land and air rights that are being retained by the property owner, Public Interest Projects (PIP), for a potential future workforce housing development.

She explained why the City pursued a shared site for the parking garage. Stand alone parking garages tend to deactivate street-level activity around the structure since people only enter and exit the structure for one reason: parking. This can have a negative impact on surrounding businesses and an area's overall economic growth. Stand alone garages are often less attractive than surrounding buildings, and they also limit the tax base potential of the property on which they sit since public parking garages don't pay property taxes. By mixing uses on a parking garage site, a community can make efficient use of limited resources (like land and infrastructure). At the same time, the community can promote economic development and tax base growth by incorporating other types of development (like residential units, offices, retail, etc.) into the parking garage design. The 51 Biltmore parking garage site accomplishes those objectives. The City is not paying for any portion of the hotel or the hotel's parking needs. The

Developer is paying for the increased structural costs in the garage to support the hotel above it. No economic incentive deals for the developer.

She briefly reviewed the project history. In 2006 City Council adopted a Parking Action Plan that included an item to pursue a parking garage in the area of Biltmore Avenue and directed staff to look at a public/private partnership to do that. Prior to 2006 we had heard from the community and stakeholders downtown that there was a need for Council. By adopting the Plan, Council wanted to put some actionable items for staff to work on. In May of 2008, the City commissioned a parking study that evaluated the demand for parking versus the supply in the Central Business District. The study determined that the area around Biltmore Avenue had a peak deficit of parking in the amount of 622 spaces and a normal deficit of 476 parking spaces. The proposed location of the 51 Biltmore parking garage is a surface parking lot with approximately 100 parking spaces. Given economic conditions and related project extensions, staff updated the original parking demand study data in 2010. The updated study suggests that the deficiencies in this zone are not drastically changed in the new projections, and that the parking system demands are generally consistent with the original study. The City has not commissioned a study to determine how other transportation alternatives, like a downtown shuttle, would impact parking demand in the Central Business District.

She reviewed the following parking garage specs:

Total Number of Spaces:	<u>412</u>
Number of Full-Time Spaces Utilized by Hotel	<u>35</u>
Monthly Rate Paid by Hotel for Full-Time Spaces	<u>\$140/month per space</u>
Number of Part-Times Spaces Utilized by Hotel	<u>80</u>
Monthly Rate Paid by Hotel for Part-Time Spaces	
	<u>(4:30 pm – 10:00 am) - \$70/month per space</u>
	<u>(7:00 pm – 10:00 am) - \$60/month per space</u>

Using a map, she showed a footprint of the property. PIP owns the property at 51 Biltmore. Cascade Mountain Properties owns an adjacent piece of property where the Hot Dog King is currently located. The City is purchasing a portion of 51 Biltmore from PIP, subjacent (i.e., underground) rights under adjacent property, and the Hot Dog King property from Cascade Mountain Properties for the parking garage. The City's portion of the property at 51 Biltmore is about 2/3 of the parcel. McKibbon Hotel Group is purchasing a portion of the 51 Biltmore property and air rights from PIP for the hotel and retail development. PIP is retaining a portion of the 51 Biltmore property and air rights for a potential future workforce housing development. After the parties close on the land, the site and its structures will become part of a condominium where each party owns its respective share. In other words, the City will own and operate the garage; McKibbon will own and operate the hotel and retail space, and; PIP will own its property and air rights.

She explained the history of how the transaction was negotiated to know how we arrived at the purchase price for the land. When PIP, the owner of the property at 51 Biltmore Avenue, approached the City with this partnership, they wanted to have joint ownership in the operations of the parking garage. They proposed that they would invest in the property, the City would build the parking garage and both parties would share in the revenues. The City was not open to this proposal because the majority of the risk was on the City, not PIP. As a second option, PIP offered to lease the property at 51 Biltmore Avenue for sixty years for \$180,000 per year. Following financial analysis, the City determined that it saved the City approximately \$1 million dollars over the projected life of the deck to purchase the property rather than lease it. PIP agreed to sell the property for \$3,110,000. The purchase price of the land is higher than the appraised value. After the City determined that it was a better financial decision for the City to

purchase the property, the owner agreed to sell but with the restriction that they recoup the capital gains taxes.

Staff later determined that the addition of the Hot Dog King property adjacent to 51 Biltmore Avenue might save the City significant construction costs by avoiding further excavation at the 51 Biltmore site. Engineering estimates indicated that the City would save about \$5,200 per parking space or \$2,272,400 by utilizing the Hot Dog King property. In light of the potential savings to the City, PIP sought and obtained a contract for the Hot Dog King property in the amount of \$1,450,000. Although this is higher than the appraised value, the net construction cost savings after purchasing the Hot Dog King property is approximately \$800,000.

In the case of the 51 Biltmore parking garage, the City believed the negotiated price of the land was a fair price because of the savings it yielded in construction costs and long-term lease costs. In addition, the City had to consider if it was feasible to purchase enough land to construct a garage in another suitable location, and what those associated costs might be. Based on the availability of land and downtown parking needs, the City pursued the project at 51 Biltmore because it believed it was best suited to meet the public's needs for parking and could provide a mixed-use public parking garage.

She said that the total costs projected for the construction is \$14,100,000, which is lower than the \$14,800,000 reported in December.

She explained that the private placement installment financing contract consists of (1) construction draw-down financing; (2) 1% interest rate, two-year term; and (3) longer-term financing would likely be timed to include integration with other large projects (i.e., City Hall).

Using a chart, she explained the project feasibility. In North Carolina, local governments can establish separate enterprise funds for any activity for which a fee is charged to external users for goods or services. For these types of enterprise funds, fees and charges are established to cover the operating and capital expenses of the activity so that the fund is self-sufficient and does not require support from other sources. Using this model, Asheville operates a Parking Services Enterprise Fund for parking. This fund uses the fees and fines captured from on-street metered parking, parking garages and surface lots to cover the operating and capital expenses of the parking system. The fund does not rely on property tax dollars for support.

The new parking garage at 51 Biltmore would be financed over a period of 25 years. The debt service would be paid for from the parking revenue generated by the new garage along with the positive cash flow from the existing Parking Services Enterprise Fund. Detailed financial projections anticipate that these revenues are more than sufficient to cover these debt service payments as well as other capital expenses incurred by the parking system over the life of the loan.

The chart illustrates a financial projection for the Parking Services Enterprise Fund including operation of the 51 Biltmore parking facility. One column shows the pro-forma for the facility in year 5 of its operation. In that year, the parking garage at 51 Biltmore is expected to generate \$546,000 in revenue over expenses before the debt service payment. Over the life of the loan, the annual debt service payment (principal and interest) for the garage is anticipated to be \$1,105,000. All of the revenue generated by the facility at 51 Biltmore would be applied toward the debt service payment.

Columns on the chart show the audited results of the Parking Services Enterprise Fund during the last three years. From 2008-2010, the Parking Services Enterprise Fund generated an average of \$1.3 million annually in operating income. Over this period of time, the City made the last of its debt service payments on its existing parking garages and transferred \$248,000 each year to the Transit Fund. In 2011, the transfer to the Transit Fund increased to \$375,000. At the same time, in anticipation of building a new parking garage, the City invested significant capital

dollars in its existing parking garages to allow for future cash flow to support a new facility. These expenses, considered one-time or infrequent expenses, are not expected to occur again at those levels within the next ten years.

Taking this into consideration, one of the columns shows what the performance of the Parking Services Enterprise Fund would look like if the system performed at 2010 levels and included the 51 Biltmore parking garage and associated debt service payment. Factored into this analysis is an annual amount that would be set aside in the fund's reserves for future capital maintenance on all four garages (Rankin, Wall Street, Civic Center and 51 Biltmore). Under this scenario, the Parking Services Enterprise Fund would have experienced \$411,451 in revenue over expenditures.

As the garage operates beyond year 5, the facility's operating revenue improves in an anticipation of parking rate increases. As the facility's revenues improve, and if the parking system's performance remains consistent, it is expected that the positive cash flow in the Parking Services Enterprise Fund will also improve.

Over a 50-year period, the parking facility at 51 Biltmore is projected to generate \$23 Million in positive cash flow. Positive cash flow begins after year 25, with the debt service is paid. Fund balance in the Parking Fund at Fiscal Year 2009-10 year-end was \$2.7 Million.

Other financial considerations (estimates) include (1) City property taxes: \$94,000 annually (currently receives \$7,000 in taxes); (2) County property taxes: \$118,000 annually; (3) City sales taxes: \$13,500; and (4) Occupancy taxes: \$200,000.

In addition to the increase in city property tax revenue, the Asheville City School System is expected to receive \$33,750 in additional property tax revenue. Buncombe County is anticipated to receive an additional \$118,125 in property tax revenue. The sales tax impact to the State of North Carolina is estimated to be \$368,736, \$13,500 of which will be returned to the City of Asheville, and hotel occupancy taxes will yield \$200,250 to the Buncombe County Tourism Development Authority.

The project during construction is anticipated to support 405 jobs and \$15.3 million in personal income. This income will generate \$4.3 million in income tax, \$2.9 million in Federal collections and \$1.4 million in State collections. After construction is complete, it is expected the project will support 118 jobs and \$3.2 million of personal income. This income will generate \$1.6 million in income tax, \$795,000 in Federal collections and \$860,000 in State collections.

Staff is asking Council to consider (1) a resolution extending the "decision period" in the Downtown Development Agreement to June 2011 and options on the property until March 2011; and (2) a resolution approving an installment financing contract for the construction of a parking facility at 51 Biltmore Avenue.

Staff said that if the resolutions are approved by City Council, the next steps would be (1) LGC consideration in February of 2011; (2) loan and land closing in mid-February; and (3) construction to begin in March, 2011.

Mr. John McKibbon, representing McKibbon Hotel Group, said that he has 30 years experience in the hotel business. He felt this project will bring in tourism and is a good way to grow the community. He looked forward to working on this public/private partnership.

Mr. Pat Whalen, President of PIP, explained the wisdom of prior city councils in constructing parking garages. This project costs zero tax dollars, pays for itself over time, creates badly needed jobs, increases density, increases tax revenues and will create tax value around it. The site will pay more in City property taxes in its first year than it paid over the previous 25 years. This project has been worked on and analyzed by staff in numerous public meetings over

the last four years. The project fulfills numerous plans to address the parking shortage on south side of Patton. He urged Council to support this project.

Mayor Bellamy opened the public hearing at 6:47 p.m.

The following individuals spoke in support of the 51 Biltmore Avenue parking facility for various reasons, but basically due to the need of parking in that area (also acknowledging the need for other transportation alternatives):

Ms. Laurie Masterson, downtown property owner (Laurie's)
An Asheville resident
Mr. Ed Byers, downtown property owner (Ariel Craft Gallery)
Mr. John Cram, downtown property owner (Blue Spiral 1)
Ms. Kim McGuire, Asheville resident
Mr. Jim Samsel, downtown property owner (Samsel Architects)
Mr. Jimi Rentz, downtown property owner (Barley's)
Ms. Leslie Anderson, Asheville resident
Mr. John Ellis, Director of Diane Wortham Theatre at Pack Place
Mr. Dwight Butner, downtown property owner (Vincenzo's) and Chairman of the
Downtown Commission
Mr. Harry Weiss, Asheville resident
Ms. Karen Tessier, Asheville resident
Mr. David Nutter, resident on Flint Street
Mr. Bill Griffin, downtown property owner (Four Corners)
Mr. Joe Minicozzi, Executive Director the Downtown Association
Mr. Eberhard Heide, downtown property owner (Asheville Wine Market)
Mr. Charlie Ball

The following individuals were opposed to the 51 Biltmore Avenue parking facility, for various reasons, but basically wanting to look at other transportation alternatives that will reduce the need for automobiles downtown and reallocation of parking revenue for other needs:

Mr. Robert Eidus, resident on Albemarle Place
Ms. Linda Brown, Asheville resident
Ms. Laura Brano, resident on Highland Street
Mr. Donald Warren, Kenilworth resident
Mr. Mark Bloom, Asheville resident
Mr. Bruce Emory
Mr. Karl Caterjohn, resident on Von Ruck Court
Mr. Jay Quinn, North Asheville resident
Mr. Chris Pelly, President of the Haw Creek Community Association and member of the
East Asheville Sidewalk Initiative
Ms. Kimberly Kabicki
Mr. James Sheeler, Asheville resident
Mr. Bill Maloney, Asheville business owner
Ms. Megan Maloney, Asheville resident

At 8:07 p.m., Mayor Bellamy closed the public hearing.

Throughout discussion, Ms. Bradley, Transportation Director Ken Putnam, Public Works Director Cathy Ball, Downtown Master Plan Project Manager Sasha Vrtunski, responded to various questions/comments from Council, some being, but are not limited to: do we have the data showing how the construction of the Buncombe County parking deck on College Street has changed the parking deficit; what is the occupancy that is assumed over the life of the deck; what kind of prospects do we have that the prices will not inflate over the course of the project; has any thought gone into using the Business Improvement District as an assessment base for financing

the project; and how much will McKibbon be paying to reinforce the parking deck to support the hotel.

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

Councilman Russell moved to adopt Resolution No. 11-12, authorization of the second amendment to the Downtown Development Agreement. This motion was seconded by Vice-Mayor Newman.

Vice-Mayor Newman believed the single greatest threat to the environmental integrity of Buncombe County and our region is the pattern of sprawl development. A single solution is promoting a successful pattern of development downtown of mixed use. He is very strong supporter of greater investment in transit and continues to support using some of the Parking Funds for transit. He noted that even the very conservative financial analysis shows if we move forward with this project we will still have a net positive source of revenue in our Parking Fund of over 400,000 a year and that number will grow every year. This project will not consume all of the funds that we have that could be contemplated for other transportation projects in Asheville. He felt this project represents a very sound investment for Asheville. He hoped we would discuss at our retreat ways to implement other approved plans, while focusing on other key steps for multi-modal transportation in Asheville.

Councilwoman Manheimer was disappointed to see the dissemination of information that compares funding this project vs. sidewalks, for example. There are projects that generate their own revenues and pay for themselves and this is one of them. Sidewalks do not generate anything. Sidewalks need to be funded in a different way. She also noted that if we were to back out of the contracts (option to purchase, commercial realty purchase agreement and partnership agreement) already signed with McKibbon and PIP, we would be breaching those agreements and that is bad business conduct. She agreed with Vice-Mayor Newman about discussing how other funds could be used to support sidewalks, greenways, etc.

Councilman Smith felt there are many positive aspects this project can bring to Asheville; however, he was concerned about spending priorities. If we already had committed dedicated funds for sidewalks, bike lanes, greenways, etc. he could support the project. However, we have not. Therefore, he could not support the project. He looked forward to finding a way to fund these priorities next year.

Councilman Bothwell felt the only facts everyone agrees on is the price tag of \$14.1 Million and 412 parking spaces. Beyond that everything involves assumptions and points of view. The truth is if we are paying \$1 Million per year in debt service, that is \$1 Million that could be spent somewhere else. Arguments have been that this project will bring substantial economic benefit to the City, but sidewalks raise the value of every house in the neighborhood, and businesses who look to locate here might want other modes of transportation, such as bike lanes, sidewalks, etc. He has asked repeatedly for a study for a shuttle system, noting that the Downtown Master Plan says it should be a short-term project to create a circulating shuttle. Those circulating shuttles will ease up City parking city-wide. In these uncertain financial times, he felt it would be appropriate to hold off and don't borrow that money for the parking deck.

Councilman Davis agreed with Councilwoman Manheimer that this is not a about funding one thing or another. He did invest in downtown over 26 years ago and felt this is a good investment now. He is very supportive of this partnership in a part of town that will grow.

The motion made by Councilman Russell and seconded by Vice-Mayor Newman carried on a 5-2 vote, with Councilman Bothwell and Councilman Smith voting "no."

Councilman Russell moved to adopt Resolution No. 11-13, approving an installment financing contract and a deed of trust regarding a new parking facility located at 51 Biltmore Avenue. This motion was seconded by Vice-Mayor Newman.

Mayor Bellamy reiterated that there are no property taxes in any scenario being put forth in the parking deck. If taxes are increased, it won't be because of the deck. We are constructing the deck from fees from people who use our decks, meters, and those who pay their fines. She pointed out that the City of Asheville has been conscious on where we place our parking meters. We don't put meters in neighborhoods, and we have heard from businesses in Biltmore Village and West Asheville that if the City places meters in front of their businesses it will negatively impact their businesses. That leaves getting all the money from the parking decks, the parking meters and the parking tickets from downtown. It makes sense to her that we use money collected from downtown back into parking for downtown. She, too, supports subsidizing transit every year. Seventy percent of the individuals who use transit in our community do so as it's their only means of transportation. City Council has made a commitment to fund transit and every year Council continues to increase how much goes toward transit. We also make as many incremental improvements as we can afford. Through the many, many hours of developing the 2025 City Plan, this site called for a deck. We need to meet the needs of the growing economy by keeping some of the old paradigm and bringing in the new. Thinking about the Sullivan Acts, City Council does not want to start taking money from the Parking Enterprise Fund without clearly defining what the funds will be used for. She supported the parking facility. She encouraged the community to talk with our legislators, with the same level of passion as they do for sidewalks, to ensure that as they look to trim their budget, they don't hurt our budget, i.e., by taking away our Powell Bill Funds, Safe Walks to School funds, etc.

The motion made by Councilman Russell and seconded by Vice-Mayor Newman carried on a 5-2 vote, with Councilman Bothwell and Councilman Smith voting "no."

RESOLUTION BOOK NO. 33 – PAGE 314

At 9:00 p.m., Mayor Bellamy announced a short recess.

B. PUBLIC HEARING TO CONSIDER REZONING 13 ACRES ON ORCHARD STREET FROM INDUSTRIAL DISTRICT TO RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT

ORDINANCE NO. 3941 - ORDINANCE TO REZONE 13 ACRES ON ORCHARD STREET FROM INDUSTRIAL DISTRICT TO RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT

Mayor Bellamy opened the public hearing at 9:12 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone 13 acres on Orchard Street from Industrial District to RM-6 Residential Multi-Family Low Density District. This public hearing was advertised on January 14 and 21, 2011.

He said that this 13-acre site is located near the very westernmost limits of the City's Extraterritorial Jurisdiction (ETJ), in an area marked by a mix of sparse development and higher-intensity development. This part of the ETJ was established in May of 2001, and the subject property, along with the adjacent land to the northwest, north, and northeast, was zoned Industrial. The combined area, totaling roughly 100 acres, was identified to have potential for industrial development owing to its largely vacant condition, as well as its proximity to Interstate 40 and Smoky Park Highway.

According to the Unified Development Ordinance (UDO)'s Article 8, the purpose of the Industrial District is to "reserve land for existing and future industrial activities and for land uses that support industrial activities. Development standards are established to ensure that land uses located outside the Industrial District are not adversely affected by the negative impacts of industrial uses. Industrial Districts shall be located to capitalize on existing infrastructure where possible, such as transportation facilities and utilities. Supporting land uses are characterized as providing supplies, raw materials, transportation, or storage services to industries or providing services to industrial employees."

In 2005 the owner of the 31 industrially zoned acres off Dogwood Road closest to the interstate petitioned for rezoning to RS4. The rezoning was approved, though City Council and City staff recognized that such a rezoning went against a Comprehensive Plan policy stating that Industrially zoned land should be preserved for industrial uses, a policy further emphasized in the Sustainable Economic Development Strategic Plan. The 31 acres were subsequently conditionally zoned to RM-6 in 2007, and are currently under development as the Vistas of Westfield planned (residential) community.

The subject site of this report is 13 acres of the remaining 70+ industrially zoned acres owned by members of the Roberson family. The properties have been in the family for a number of generations. Phillip Roberson, one of the petitioners, is interested in developing the property in such a way that family members will continue to be able to enjoy and appreciate the family property. Namely, he would like to build a residence, but residential uses are not permitted in the Industrial District. Accordingly, he is seeking a rezoning to RM-6 (Residential Multi-Family Low Density), a district which would allow such development.

The stated purpose of the RM-6 district is "to permit a limited range of low density multi-family housing types along with single-family detached and attached residences. [...] This district is also intended for areas where low density multi-family development is appropriate but where environmental constraints and infrastructure limit development potential."

The particular 13 acres included in this petition can aptly be described as having environmental constraints. The center of the site is a knoll, which is surrounded on three sides by creeks and drainages requiring aquatic buffers and associated with flood hazard areas. Further, a sewer line bisects the site, and the high ground of the site is separated from Dogwood Road (the only adjacent paved road) by Pole Creek, a significant perennial stream in a substantial gully.

As is noted above, the requested rezoning would not be consistent with a Comprehensive Plan policy stating that Industrially zoned land should be preserved for industrial uses. However, there are multiple recent precedents for City Council approval of similar zoning changes. At the August 2009 meeting of Asheville City Council's Planning and Economic Development Committee, City staff discussed these cases, and reviewed its practice of considering each such rezoning petition on a case-by-case basis, under close consultation with the Office of Economic Development. This approach was adapted following earlier stakeholder discussions acknowledging changing views about the future of this region's economy.

Staff does feel that the 56-acre area to the northeast of the subject site still retains potential for industrial development, particularly in light of N.C. Dept. of Transportation's (DOT) recent initial steps to examine the ramifications of an I-40 interchange at Liberty Road, which borders the eastern edge of this property. One scenario would involve the construction of a new road through this area to provide a more direct connection to Smoky Park Highway. Even under this scenario, however, the environmental constraints of the 13-acre subject area make it a less suitable site for an industrial tenant.

Staff has received two communications from neighboring property owners. One was simply seeking information and did not express any objection. The second owner was primarily concerned with whether the rezoning might have an impact on the potential future DOT project

mentioned above. DOT staff has indicated that the zoning designation of this property would not affect the implementation of the interchange project.

At their December 1, 2010, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning. The public hearing involved no speakers other than the applicant.

When City Council voted to approve the downzoning of the 31-acre Vistas of Westfield property to the north of the subject site on October 12, 2005, staff noted that it could be appropriate to reconsider a downzoning of some of the remaining industrially zoned property, based on the additional anticipated residential presence. The petitioner's request has prompted just such a reconsideration, and staff feels it is justified for the specified fraction of the property.

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

Pros:

- Proposed zoning district is compatible with the surrounding zoning.
- Environmental constraints make this site less than ideally suited for Industrial tenants.
- The subject area is removed from the potential future interchange at Liberty Road.

Con:

- The Comprehensive Plan, as well as the Sustainable Economic Development Strategic Plan, includes a stated policy to preserve Industrially zoned land for industrial uses.

Staff has concerns about rezoning Industrially-zoned land, due to the policies against such action stated in the Comprehensive Plan and other plans. Both the Planning and Zoning Commission and City Council have, however, supported similar rezoning in the recent past, and since 2006 stakeholders have not expressed significant concern about the rezoning of such land for other uses. If the City Council wishes to consider this rezoning independent of the existing policies, staff feels a good case can be made for recommending approval.

Mr. Phillip Roberson, property owner, explained how the properties have been in the family for a number of generations and hoped Council would approve the rezoning.

Mayor Bellamy closed the public hearing at 9:17 p.m.

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

Vice-Mayor Newman moved for the adoption of Ordinance No. 3941. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE 428

- C. PUBLIC HEARING TO CONSIDER A CONDITIONAL ZONING REQUEST FOR THE PROJECT IDENTIFIED AS BARNES DUPLEX LOCATED AT 12 WINCHESTER PLACE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT FOR AN EXISTING DUPLEX, AND A MODIFICATION REQUEST TO ALLOW AN ENCROACHMENT INTO THE FRONT SETBACK**

ORDINANCE NO. 3942 - ORDINANCE TO CONDITIONALLY ZONING REQUEST FOR THE PROJECT IDENTIFIED AS BARNES DUPLEX LOCATED AT 12 WINCHESTER PLACE FROM RM-8 RESIDENTIAL MULTI-FAMILY

MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT FOR AN EXISTING DUPLEX, AND A MODIFICATION REQUEST TO ALLOW AN ENCROACHMENT INTO THE FRONT SETBACK

Mayor Bellamy opened the public hearing at 9:17 p.m.

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone the project identified as Barnes Duplex, located at 12 Winchester Place, from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District for an existing duplex, and a request for a modification to allow an encroachment into the front setback. This public hearing was advertised on January 14 and 21, 2011.

Ms. Bernstein said that the applicant is requesting a Conditional Zoning for one parcel located at 12 Winchester Place from RM-8 (Residential Multi-Family Medium Density District) to RM-16 (Residential Multi-Family High Density District) in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO). When the new property owner applied for permits to split the utilities in this existing duplex, it was discovered that the multi-family use was never legally established. The conditional zoning will remedy this non-conforming situation.

The site consists of a single parcel located at 12 Winchester Place with an area of approximately .21 acres. The lot and surrounding area is currently zoned RM-8. The immediate neighborhood is residential but commercial uses along Haywood Street are proximate (approximately 300 feet to the north – zoned CBII).

The site contains a two-story residential structure (approximately 1,389 square feet) and two detached accessory structures (116 and 238 square feet). The structure was built circa 1950 as a single family house and at some point was converted into a duplex. The applicant is proposing to maintain the use as a duplex and is not proposing any changes to the site. Access to the structure will remain in the current location from Winchester Place, where a gravel driveway leads to space behind the house for two parking spaces.

Although no sidewalks exist, Winchester Place is not identified as a needed linkage so none is required. No new landscaping or open space requirements apply.

Modification

- The structure has a small existing covered front porch that encroaches into the front setback. Front setback in RM-16 is 15 feet and this porch is 10.3 feet from the street. Staff is supportive of this request.

The parcel is approximately 9,148 square feet in area and a duplex in RM-8 would require 10,000 square feet as the minimum lot size to accommodate the two units. Rather than maintain the current zoning designation and seek a modification to reduce lot size, RM-16 will allow for the multi-family use on adequate acreage. However, RM-16 would allow for a total of four residential units. Staff recommends a condition limiting the number of residential units on this site to two only (present conditions).

This proposal was recommended for approval with conditions by the Technical Review Committee on November 15, 2010 and unanimously recommended for approval by the Planning and Zoning Commission on December 1, 2011. No public comment has been received.

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.
The site has existed in its presently developed state for many years and there are no physical changes are proposed to the site. There are no significant natural or topographic features on the site or in the immediate vicinity.
3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.
The proposal is not expected to injure the value of adjoining or abutting properties. Since there are no physical changes to the site and because the site has been operating as a duplex for decades, there should be no impact to abutting properties. Additionally, there are apartments in the immediate vicinity, establishing a multi-family presence in the neighborhood.
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 two-story residential structure was built in the 1950s and is visually similar to the other residential structures in the immediate neighborhood. The parking area and small accessory structures are comparable to typical single-family lot configurations. Although the dwelling was converted into a duplex many years ago, there is only one entrance visible from the front, giving the appearance of a single-family home. No physical changes are proposed on the site and it will remain in harmony with the scale, bulk, coverage, density and character of the area.
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.
Objectives throughout the *Asheville City Development Plan 2025* are based upon encouraging a mix of residential options, especially providing higher density in close proximity to walkable, bikable commercial corridors served by transit (such as this location along Haywood Road in West Asheville).

Additionally, City Council's goal for *affordability* is to "create and preserve affordable rental and home ownership opportunities in Asheville so that all citizens have access to safe, sufficient and affordable housing." This proposal legally establishes a duplex that will provide safe, code-compliant rental housing in West Asheville.
6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
The project site is located just off of Haywood Street (transit Rte. 1) in West Asheville in an established residential neighborhood where adequate infrastructure exists. In addition, preliminary review by other service providers has not revealed any problems for continued service to the site.
7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

No traffic congestion or traffic hazard is anticipated. The use is existing and adequate off-street parking is provided on the site.

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

Pro:

- The conditional zoning legally establishes a long-existing duplex use on the site.

Con:

- None noted.

Staff recommends approval of the conditional zoning request as submitted by the applicant, including the porch encroachment into the front setback. Although the RM-16 zoning designation would allow for a total of four units, staff suggests a condition restricting the site to only two units.

Mr. Dale Roberts, adjoining property owner, explained that this is a busy street and due to parking concerns he hoped that they would limit the renters to single people.

Mayor Bellamy closed the public hearing at 9:21 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. 3942, to conditionally zone the project identified as Barnes Duplex, located at 12 Winchester Place, from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District for an existing duplex, and approval of a request for a modification to allow an encroachment into the front setback, 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; (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) Density shall be limited to only two units on this site. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE 430

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO MODIFY BOARD OF ADJUSTMENT VARIANCE FINDINGS

ORDINANCE NO. 3943 - ORDINANCE TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO MODIFY BOARD OF ADJUSTMENT VARIANCE FINDINGS

Mayor Bellamy opened the public hearing at 9:21 p.m.

Assistant Director of Planning & Development Shannon Tuch said that this is the consideration of an ordinance amend the Unified Development Ordinance to modify Board of Adjustment variance findings. This public hearing was advertised on January 14 and 21, 2011.

She said that at the recent Board of Adjustment retreat on October 5, 2010, City staff presented a proposal to modify the Board of Adjustment findings to be more consistent with the state enabling legislation that authorizes the Board to grant relief to a city's development standards. As described in the statutes, there are three main conclusions that must be made, and many cities have expanded on the first conclusion to include three separate "tests", typically resulting in a total of five findings that must be made before a variance can be granted. Asheville has seven findings for basic requests and six, slightly different, findings for sign variance requests. After some consideration and discussion, the current board of adjustment members, both regular and alternate, voted unanimously to amend the findings as proposed by staff.

It is unclear why the City's findings have evolved to include more findings than the state statutes require. It has also been noted that the findings, as currently listed, confuse some applicants with their redundancy, overlap and phrasing. Before a Board of Adjustment can issue a variance, the courts require that it make certain findings. These findings must be included in the record of the case and must be broad enough to indicate not only the conclusions that the Board draws but also the factual reasons on which they are based. Essentially, these findings must indicate to the courts that the Board has complied with the requirements and applied the standards set forth in the state enabling act and the zoning ordinance. North Carolina's enabling act calls for three main findings. Those findings include:

- 1) That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance;
- 2) That the variance is in harmony with the general purpose and intent of the ordinance and preserves it's spirit; and
- 3) That in granting the variance the public safety and welfare have been assured and substantial justice has been done.

The terms "practical difficulties" or "unnecessary hardships" in the first finding are not strictly defined and are typically satisfied through three tests. Those tests are:

- a) If made to comply with the provisions of the ordinance, the property owner cannot secure a reasonable return from, or make reasonable use of their property,
- b) The hardship of which the applicant complains results from unique circumstances related to the applicant's land, and
- c) The hardship is not the result of the applicant's own actions.

If incorporated into the other findings this results in a series of five (5) questions presented to the applicant that, when properly supported provides justification for granting a variance. Staff proposed reorganizing the findings in such a way that it is clear that the three tests belong to finding #1 and that the other two findings will stand on their own.

This action complies with city adopted goals and plans by improving the clarity of our standards for the public's benefit.

Pro:

- Reduces confusion and redundancy when addressing the findings

Con:

- None identified

This wording amendment was reviewed by the Planning & Zoning Commission at their December 1, 2010, meeting where the proposal was supported unanimously (6:0).

City staff concurs with the Planning & Zoning Commission and recommends that the City Council adopt the ordinance as proposed.

Mayor Bellamy closed the public hearing at 9:22 p.m.

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

Councilwoman Manheimer moved for the adoption of Ordinance No. 3943. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE 435

E. PUBLIC HEARING TO CONSIDER A SIGNAGE PLAN FOR MISSION HOSPITAL AND SURROUNDING CAMPUS LOCATIONS

ORDINANCE NO. 3944 - APPROVAL OF A SIGNAGE PLAN FOR MISSION HOSPITAL AND SURROUNDING CAMPUS LOCATIONS

Mayor Bellamy opened the public hearing at 9:22 p.m.

Technical Review Manager Kim Hamel said that this is the consideration of an ordinance approving a signage plan for Mission Hospital and surrounding campus locations. This public hearing was advertised on January 14 and 21, 2011.

Mission Health Systems (MHS) is currently undergoing a comprehensive evaluation of their Campus Master Plan to address growth and ongoing construction projects occurring at multiple campuses within the area. The two most recent and substantial of projects occurring within MHS are the Hospital Drive road extension project and construction of the new Cancer Center. The Hospital Drive project is ahead of schedule and is slated for completion early this summer.

Although MHS had hoped to present one complete and comprehensive Master plan to the City for their review, the changes brought about by the Hospital Drive road project and its impending completion prompted MHS to instead address the immediate need for appropriate signage for routing emergency vehicles, patients, and visitors to appropriate hospital entrances and campus locations.

The initial phase of the MHS plan comes in the form of a signage plan that specifically addresses primary and secondary campus identification signs, wayfinding and directional signage, and regulatory and traffic control signs. The plan proposes a combination of both new signage and modifications to existing directional signage. Some existing identification signs (attached and freestanding), however, will remain in current locations and will be addressed in future phases of the comprehensive master plan.

For the purposes of this review staff identified a “Development Area” for Mission Health Systems that includes: the Memorial Mission and St. Joseph’s Campus drives and entrances along Biltmore Avenue, the new Hospital Drive and Victoria Road connections and MHS mini campus locations on the NE and SW sides of the street (445-495 Biltmore Avenue and Cancer Center), and the Mission Hospital entrances along McDowell Street.

The properties associated with this application are all zoned Institutional (INST). Given the size of the “development area” and the desire to ensure reasonable compatibility with signage in the vicinity but outside of the study area, the staff compared the single tenant and multi-tenant sign allowances permitted for Institutionally zoned properties specified in Section 7-13-4 and the Directional signage allowance in Section 7-13-2 of the Unified Development Ordinance (UDO).

Campus Identification Signs:

Three primary "Campus Entrance" identification signs are proposed within the development area. Two of the three signs will be equipped with an electronic changeable copy (LED) component:

- Location O1a (with LED): St. Joseph's Campus entrance off of Biltmore Avenue
- Location 140 (with LED): Not specifically associated with a campus, more of a gateway sign; proposed at the corner of McDowell Street and Hospital Drive
- Location 51: New Mission Hospital Campus entrance off of Victoria Road

In addition to the primary identification signs noted above, one secondary campus identification sign (141) is proposed for the new Cancer Center and is located on the corner of Hospital Drive and Hamilton Street.

The specific sign dimensions for each of the identification signs proposed for the development and a comparison of the proposal with the City's sign ordinance is provided in the table below.

** The sign ordinance typically allows for one free-standing sign and an allowance for attached signage per parcel.*

CAMPUS IDENTIFICATION SIGNS

SIGN TYPE/ LOCATION	WHAT IS PROPOSED	WHAT IS PERMITTED	AMOUNT EXCEEDED
Primary ID sign: 01a, 140 Free Standing Ground Sign w/ Electronic (LED) Changeable Copy	Height: 13 feet Size: 100 sqft LED: 25% of sign face	Height: 8 feet Size: 90 sqf LED: < 50% of sign face	Height: 5 feet Size: 10 sqft LED: N/A
Primary ID sign: 51 Free Standing Ground Sign	Height: 10'-4" Size: 73 sqft LED: 34% of sign face	Height: 8 feet Size: 60 sqft LED: < 50% of sign face	Height: 2'-4" feet Size: 13 sqft LED: N/A
Secondary Campus ID: 141 Free Standing Ground Sign	Height: 8 feet Size: 50 sqft	Height: 8 feet Size: 60 sqft	N/A

Vehicular Directional Signs:

As noted above, the significant changes resulting from the Hospital Drive road project have prompted MHS to modify their existing wayfinding program to address the directional complexities of a hospital with multiple campus locations. The modifications proposed include providing a variety of vehicular directional signs to direct and route emergency vehicles, patients and visitors to the correct hospital and entrance. The table below provides the location and type of directional signage proposed for each location point identified on the map.

The primary differences between the various directional signs are reflected in the height, square footage and branding (name/logo) provided. The larger signs (DV-3) are designed to comply with the DOT cap heights standards (letter size) that address higher vehicle speeds on

roadways with multiple traffic lanes. As a result, while larger signs are located primarily on the main corridor roads (Hospital Drive, and Victoria Road); they are also proposed in a few strategic but less visible locations on internal driveways located within the campus hospital.

Smaller directional signs (DV-5 and DV-5a) are proposed within the development area primarily at street intersections and in locations where the directional signage is only visible from and provides direction to a single view-point (i.e. location 87 is visible only to drivers heading south on Victoria Road - the backside of the sign will be blank and not visible from any other vantage point). It should be noted that smaller signs are also located at a few internal sites within the campus boundary where there are higher levels of vehicle and pedestrian activity.

**The Directional signage allowance in the UDO is intended to provide direction to visitors within a multi-tenant development (i.e. shopping center). The signage is exempt from formal review (a permit is not required) as long as the signs do not exceed 4 square feet per face, and do not exceed 3 feet in height; the number of signs per lot is also limited to 4 signs.*

VEHICULAR DIRECTIONAL SIGNS

SIGN TYPE/ LOCATION	WHAT IS PROPOSED	WHAT IS PERMITTED	AMOUNT EXCEEDED
DV1.3 01 3-Sided Directional Sign- No logo	Height: 8'-11" Size: 42 sqft Modify the existing sign to include a third face.	Height: 3 ft Size: 4 sqft Four signs permitted per site; Two faces per sign	Height: 5'-11" Size: 36 sqft 1 extra sign face
DV-2 64 Secondary Entrance Directional Sign w/ Name & Logo	Height: 9'-11" Size: 47 sqft	Height: 3 ft Size: 4 sqft Four signs permitted per lot; Two faces per sign	Height: 7'-11" Size: 43 sqft
DV-3 17, 36,105,105a, 110 Direction Sign w/ Name & Logo	Height: 11'-1/2" Size: 52 sqft	Height: 3 ft Size: 4 sqft Four signs permitted per lot; Two faces per sign	Height: 8'-1/2" Size: 48 sqft
DV-5 87, 102 Directional Sign w/ Name and Logo	Height: 8'- 6" Size: 28 sqft	Height: 3 ft Size: 4 sqft Four signs permitted per lot; Two faces per sign	Height: 5'-6" Size: 24 sqft
DV-5a 129,142 Directional Sign – No logo	Height: 7'-6" Size: 21 sqft	Height: 3 ft Size: 4 sqft Four signs permitted per lot; Two faces per sign	Height: 4'-6" Size: 17 sqft
RT 145, 146 Directional Sign – 445 Biltmore - Staff Parking - No logo	Height: 6ft Size: 5 sqft	Height: 3 ft Size: 4 sqft Four signs permitted per lot; Two faces per sign	Height: 3 ft Size: 1 sqft
IB-4s 143, 144	Height: 7'-6" Size: 15 sqft	Height: 3 ft Size: 4 sqft	Height: 4'-6" Size: 11 sqft

Cancer Center Parking Deck – No logo		Four signs permitted per lot; Two faces per sign	
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Traffic control signs:

These include sign types SN-4, SN-6, and SN-O. Once completed, Hospital Drive and Victoria Road will be public and standard City street name signs (SN-6) will be installed. MHS is proposing custom street name signs (SN-4, SN-O) that include the Mission Hospital logo/pictogram on privately maintained streets and driveways within the campus.

Findings:

The stated purpose of allowing the consideration of a separate signage plan is as follows:

The purpose behind this section is to permit creativity in sign design and placement to address site issues and constraints associated with topography, pedestrian-orientation, way-finding and other conditions unique to the subject development.

MHS has proposed a sign program that appears to meet the intent and purpose of the signage plan. The signs have been creatively designed and customized to exclusively identify multiple MHS campus locations and parking areas by providing visible cues that are consistent in color, layout, branding (pictography), and structural form (stone bases).

Two gateway signs enhanced with LED messaging capabilities are also incorporated into the plan to provide limited Public Informational messages and alerts to visitors and patients approaching the campus. For hospitals, utilizing this type of technology is a rather new and unique approach for relaying important information to the public and visitors traveling to the campus.

The Directional (wayfinding) signage is also customized and complements the common design elements featured in the identification signs (noted above) visually informing motorists that they are still within the hospital campus area. The signs are strategically located throughout the development area and provide clear direction to visitors and patients traveling to specific campus destinations.

Pros:

- Comprehensive, graphically consistent signage
- Presents an intuitive and simple wayfinding (directional) approach

Con:

- Electronic messaging components (LED) often result in creating unnecessary distraction to drivers of motor vehicles

City staff supports MHS efforts to create a unique and consistent identity and our review indicates that this approach is satisfactory and recommends City Council approval with the following list of conditions: (1) All signs shall meet site distance triangle and building code requirements, including clearance requirements for pedestrian and vehicular traffic; (2) Traffic control and street name signs shall meet MUTCD standards in terms of location, size, color, message, shape, and height. All poles supporting any of these signs shall meet the breakaway standards for such poles. A maintenance agreement acceptable to the City shall be required from the developer to place maintenance and replacement on the developer for perpetuity; (3) Signs that include a changeable copy LED component are: 1) limited to two messages within a 24 hours period; and 2) are only permitted for display of Public Information and must comply with all LED signs standards as outlined in Section 7-13-4(a)(14) of the UDO; (4) All signage must

comply with illumination standards as outlined in Articles 11 and 13 of the UDO; and (5) All signs in the project area shall comply with the proposed standards and no exceptions or variances are permitted.

Mayor Bellamy closed the public hearing at 9:25 p.m.

Upon inquiry of Councilman Davis of the equity of these signs compared to other businesses, it was the consensus to instruct the Planning & Development Committee to begin review of some possible amendments to the sign ordinance and to report back to Council via memorandum.

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

Councilman Davis moved for the adoption of Ordinance No. 3944 with the following conditions: (1) All signs shall meet site distance triangle and building code requirements, including clearance requirements for pedestrian and vehicular traffic; (2) Traffic control and street name signs shall meet MUTCD standards in terms of location, size, color, message, shape, and height. All poles supporting any of these signs shall meet the breakaway standards for such poles. A maintenance agreement acceptable to the City shall be required from the developer to place maintenance and replacement on the developer for perpetuity(3) Signs that include a changeable copy LED component are: 1) limited to two messages within a 24 hours period; and 2) are only permitted for display of Public Information and must comply with all LED signs standards as outlined in Section 7-13-4(a)(14)of the UDO; (4) All signage must comply with illumination standards as outlined in Articles 11 and 13 of the UDO; and (5) All signs in the project area shall comply with the proposed standards and no exceptions or variances are permitted. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE 437

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 11-14 - RESOLUTION TO SUPPORT THE W.C. REID CENTER GRANT PROPOSAL BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AND TO AUTHORIZE THE MAYOR TO DISPOSE OF CITY-OWNED REAL PROPERTY KNOWN AS THE W.C. REID CENTER, LOCATED AT 133 LIVINGSTON STREET, BY PRIVATE SALE

Community Development Director Jeff Staudinger said that this is the consideration of a resolution authorizing approval granting to the Housing Authority of the City of Asheville an option to purchase the Reid Center, and other financial commitments to the project.

As was reported at the December 14, 2010, City Council meeting, the Housing Authority of the City of Asheville is exploring a recently announced grant opportunity that would preserve and rehabilitate the Reid Center as a community education and training center. In November, the US Department of Housing and Urban Development announced a national capital grants competition for public housing authorities. The Housing Authority of the City of Asheville is eligible to apply for as much as \$5 million to purchase, construct or renovate property for a community education and training center.

The grant requirements directly align with the existing uses now at the Reid Center, and may represent a unique opportunity to meet Council, neighborhood, and community-wide public service goals. The grant funding is specifically for public housing authorities to develop facilities to provide early childhood education, adult education, and/or job training programs for public housing residents. Each of the current users of the Reid Center is directly engaged in those activities:

- Community Action Opportunities operates their Head Start program in the “annex” building;
- Green Opportunities now runs their green job training and placement program from the Reid Center;
- Partners Unlimited provides training and remediation services to keep students in school and for out-of-school youth.

The Housing Authority uses part of the Reid building space for management and maintenance of its public housing developments in the area. The Reid Center is located adjacent to or nearby Erskine, Walton and Livingston Street public housing communities, and residents of those communities and other public housing communities directly benefit from the activities at the Center. All of these community partners would commit to a plan to renovate the Center, enhancing the energy efficiency and sustainability of the existing buildings, and using the renovation itself as a training opportunity for underemployed community residents.

From a community and neighborhood perspective, preserving the Center as an important historical resource has been voiced as a key community priority. The Housing Authority would incorporate Asheville's African-American heritage in its vision for the facility.

The use of the facility as a community education and training center would help meet Council strategic goals for sustainable development and job creation. Council currently funds (both through Outside Agency and through federal funds distributed by the City) Green Opportunities and the Housing Authority.

Additionally, if successful, the grant would allow the City to sell the property to the Housing Authority for its appraised value, potentially contributing significantly to the next phase of construction at the new Livingston Street Center.

The key commitment required at this time from the City for this project to be eligible for funding, would be the commitment from the City to provide the Housing Authority with long term site control of the property (sale or long term lease), contingent only on grant approval.

Other commitments the Housing Authority has requested the City consider making are:

- Subgrant of the HUD Special Purpose Grant of \$137,200 to the Housing Authority for renovations, contingent on the new HUD grant award. This grant was made to the City as a part of a package of congressional earmarks, and can only be used for the Reid Center.
- Subgrant of some portion of the recently awarded TIGER II Planning Grant. \$100,000 of this grant has been reserved for development assessment and planning on City-owned property in the “East of the Riverway” target area. The Housing Authority has asked for consideration of the use of \$50,000 of these funds, again contingent on the award of the new HUD grant.
- Payment by the City of Asheville of some percentage of utility costs for the building for the three years of the project The Housing Authority has suggested 50%.

The deadline for the grant application is in February, 2011. Prior to that date, the Housing Authority will need to prepare a preliminary plan for renovation, gain commitments from not only existing partners but also from other education and training partners in the community, and provide commitments for five percent of the grant in matching funds.

The Housing and Community Development Committee considered the Housing Authority's proposal at their January 5, 2010, meeting and they recommended adoption of the resolution.

These changes directly support the City's Strategic Operating Goals as follows: (1) *Fiscal Responsibility*: If successful, the return from the sale would yield funds to support the City in pursuing other projects, and remove from the City expense the operation of an inefficient building; (2) *Sustainable*: The proposed project would create opportunities for City residents to learn sustainable job skills; and would be an important component of the East of the Riverway project; (3) *Job Growth and Community Development*: The project would support diversified job growth through "green" jobs training; expand partnerships for economic development; and create local labor pool development opportunities; and (4) *Safe*: The project would support ongoing recreation and employment alternatives for youth at risk of gang exposure.

Pros:

- Ensure continued operation of neighborhood-based employment education and training center;
- Existing organizations to operate those programs are in place there;
- Renovations would be a training opportunity, helping create skills while keeping costs down;
- City would sell building for appraised value;
- HUD Capital Grant sought is available only to Housing Authorities;
- No other funding identified for building renovation;
- Neighborhood has identified saving building as important;
- Use of gym by City could be continued until new gym is constructed.

Concerns:

- Construction could possibly interfere with recreation programming;
- Other use possibilities have not been thoroughly explored;
- Structural, other existing conditions could impact cost;

If the Housing Authority was awarded the HUD Capital Grant, the City would be able to sell the Reid Center for appraised value. Continued operation of the gym would be an ongoing expense, but at a percentage of the cost needed to operate the entire Center now.

City staff recommends City Council adopt the resolution to support the Reid Center Grant proposal by the Housing Authority of the City of Asheville.

Mr. Staudinger responded to Mayor Bellamy when she asked what would happen if the Housing Authority does not receive the grant.

Mr. David Nash, Chief Operations Officer of the Housing Authority of the City of Asheville, and City Attorney Oast responded to Mayor Bellamy about the commitment of the partnership and the continued use of the building for a community based education and training center.

At Mayor Bellamy's request, Mr. Nash said that he would meet annually with the community in order for them to continue to be involved in the Reid Center.

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

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

Vice-Mayor Newman moved for the adoption of Resolution No. 11-14. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 317

B. CIVIC CENTER RENOVATION UPDATE

RESOLUTION NO. 11-15 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT AMENDMENT WITH PBC+L AND BETSCH ASSOCIATES FOR PHASE II ARCHITECTURAL AND ENGINEERING DESIGN SERVICES FOR THE CIVIC CENTER RENOVATIONS

ORDINANCE NO. 3945 - BUDGET AMENDMENT FOR CIVIC CENTER RENOVATIONS

RESOLUTION NO. 11-16 - RESOLUTION DECLARING THE CITY OF ASHEVILLE'S INTENT TO REIMBURSE ITSELF FOR CAPITAL EXPENSES INCURRED WITH CONNECTION WITH THE RENOVATION, CONSTRUCTION AND EQUIPPING OF THE CIVIC CENTER FROM THE PROCEEDS OF AN INSTALLMENT FINANCING CONTRACT TO BE EXECUTED IN FISCAL YEAR 2012

Economic Development and Civic Center Director Sam Powers said that this is the consideration of a (1) a resolution authorizing the City Manager to sign a contract amendment for architectural and engineering design services for the preparation of construction drawings, receipt of bids, and administration of the construction contract for Phase II renovations to the Asheville Civic Center to meet requirements for the Southern Conference Basketball Tournament; (2) a budget amendment in the amount of \$480,000 from existing Civic Center capital project funds to establish a project budget for the design contract; and (3) a reimbursement resolution, which officially declares the intent of the City to be reimbursed for costs associated with the project from the proceeds of the installment financing contract.

A project timeline, preliminary estimate of probable project costs, and source of funds have been provided to City Council. It is anticipated that the project financing will be done through an installment financing contract conducted through the City's finance department and reviewed by the NC Local Government Commission (LGC), similar to the process used with other recent City building projects. A Reimbursement Resolution, which officially declares the intent of the City to be reimbursed for costs associated with the project from the proceeds of the installment financing contract, is also provided to Council for consideration. The project timeline anticipates that construction will begin in June 2011, and be completed by December 2011.

The action supports current and prior Strategic Operating Plan Goals: Fiscal Responsibility, by leveraging internal and external partnerships for pursuing capital improvement projects and infrastructure projects; Green and Sustainable, by taking the City's sustainability program to the next level, which will include HVAC improvements to the Banquet Hall, increased recycling, and energy efficient lighting improvements; and the Job Growth and Community Development Focus Area, by creating more collaborative and effective working partnerships between the City of Asheville, the business community, and other key organizations to effectively manage the City's regulatory environment while accomplishing economic development goals.

The action complies with the Civic Center Commission's Strategic Plan, as well as recommendations of the 2006 Civic Center Task Force. The action supports the Downtown Master Plan, which calls for a near-term action step to maintain and upgrade the existing Civic Center and Thomas Wolfe Auditorium to serve for at least the next five to ten years.

City Council's Planning & Economic Development Committee reviewed and supported the SoCon bid as an event with a substantial economic impact of over \$16 million for the initial three-year bid period.

Pros:

- Action meets the requirements to facilitate the Southern Conference, and the resulting \$16 million economic impact.
- Action will support improved visitor experience and increased revenue capabilities for the Civic Center by increased seating, more points of sale, and increased opportunities for promoter use of the renovated facility.
- Action leverages significant partnership funding to allow for greater levels of renovation.

Con:

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

Funding already approved by the TDA and Buncombe County, along with existing Civic Center capital funds and planned FY 2011-12 CIP funding as outlined in the five-year Capital Improvement Program totals approximately \$3 million. The total cost of Phase II renovations, including the professional services contract, will likely be \$4.8 million. The City will therefore need to finance \$1.8 million. The financing will be structured such that debt service payments will begin in FY 2012-13. Based on discussions with City finance staff, the projected debt financing payback would be 5-6 years with annual debt service of \$400,000, which will be covered by future CIP allocations and TDA payments. In addition, staff and Civic Center Commission members continue to explore additional revenue sources.

City staff recommends City Council (1) adopt a resolution authorizing the City Manager to sign a contract amendment with PBC+L Architecture and Betsch Associates for Phase II architectural and engineering design services for the preparation of construction documents, receipt of bids, and administration of the construction contract; (2) approve a budget amendment in the amount of \$480,000 from existing Civic Center Capital Project funds to establish a project budget; and (3) adopt the reimbursement resolution, which officially declares the intent of the City to be reimbursed for costs associated with the project from the proceeds of the installment financing contract.

Mr. Mike Burke, Chairman of the Civic Center Commission, said that in 2009, the City of Asheville led a successful collaborative partnership initiative which resulted in Asheville being named the official host of the NCAA Southern Conference (SoCon) Men's and Women's Basketball Championships for 2012-14. The award of the SoCon Tournament 2012-14 formed the nucleus of the City's application to the Buncombe County Tourism Development Authority (TDA). In July 2009, the TDA awarded the Civic Center \$2 million in Product Development Grant Funds for renovations to the Civic Center arena. In addition, Buncombe County Commissioners partnered with the City by approving \$320,000 for the project. City Council has continued to include the Civic Center as a priority in the City's Capital Improvement Program (CIP). UNC Asheville will host the preliminary women's games in the new Kimmel Arena. The ABC Board will partner with the Civic Center in an alcohol awareness public educational campaign utilizing the new messaging infrastructure. The newly created Regional Sports Commission is leading the SoCon Local Organizing Committee, whose responsibilities include raising sponsorship funds for the event.

After the TDA grant award, the Civic Center Commission developed a Request for Qualifications (RFQ) process for architectural services for the required renovations. An evaluation committee comprised of Civic Center Commissioners, local design professionals and City staff, conducted an extensive public RFQ process. As a result, the design team of PBC+L Architecture and Betsch Associates was selected. PBC+L Architecture has an office in Asheville and has designed many public assembly facilities. Betsch Associates has designed several arena projects for SoCon institutions. The design team was contracted to provide the preliminary architectural report refining the project scope, timeline, and an updated estimate of probable project costs to meet SoCon commitments. On December 29th, the Civic Center Commission unanimously endorsed the preliminary concept provided by the architectural design team, and voted to recommend to City Council that the City Manager be authorized to execute a contract

amendment for Phase II architectural and engineering design services for the preparation of construction drawings, receipt of bids, and administration of the construction contract.

Mr. Chad Robertson, representing the PBC+L, briefly explained the proposal and what the Civic Center Commission wanted them to achieve with the funding available.

Mr. Ken Betsch, represent Betsch Associations, reviewed in detail the drawings, construction schedule and project budget in order to make the Civic Center more competitive.

Councilman Davis, liaison to the Civic Center Commission, was pleased with the active role of the Civic Center Commission and Mr. Powers in this process. He felt there will continue to be good events in the building during the construction phase.

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

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

Councilman Davis moved for the adoption of Resolution No. 11-15. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 319

Councilman Davis moved for the adoption of Ordinance No. 3945. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 26 – PAGE 444

Councilman Davis moved for the adoption of Resolution No. 11-16. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 320

C. RESOLUTION NO. 11-17 - RESOLUTION ADOPTING THE CITY OF ASHEVILLE'S LEGISLATIVE PROGRAM FOR THE 2011 SESSION OF THE N.C. GENERAL ASSEMBLY

RESOLUTION NO. 11-18 – RESOLUTION SUPPORTING THE N.C. METROPOLITAN MAYORS COALITION 2011 ADVOCACY AGENDA

RESOLUTION NO. 11-19 – RESOLUTION SUPPORTING A STATEWIDE INDEPENDENT ENERGY EFFICIENCY PROGRAM

City Attorney Oast said that this is the consideration of a resolution approving the City's State Legislative Agenda for the 2011 Session of the North Carolina General Assembly. This matter was continued from Council's December 14, 2010 meeting.

At its meeting of November 9, 2010, Council initiated discussion of the State Legislative Agenda for 2010. He provided Council with the December 14 Staff Report for details. He divided this report into three major areas.

I. Continuing Local Issues. Based on direction received at the November 9 meeting, and on information received since then, a resolution has been prepared requesting legislative action with respect to several issues, some of which are carried over from previous years, and some of which are of persistent local concern.

- A. Adjustment of Woodfin/Asheville boundary and UNC-A area and Merrimon Avenue. This is a renewal of the request developed last year. We have identified with more particularity the location of the boundary, and have reviewed the matter with the affected governmental and educational agencies. Of particular importance is that a method was developed for allowing privately owned properties currently located in Woodfin to remain subject to Woodfin's jurisdiction, at their option.
- B. Clarification of the Video Service Competition Act of 2006. This was also carried over from last year. We sought introduction of a bill to preserve the status quo with respect to features of local cable television franchises (such as intranets) that were not addressed by the Video Service Competition Act. The bill that was introduced was referred to a study committee.
- C. Authorization for Asheville to condition provision of water service on annexation for developments of a certain size. This request has been made in the past, and has taken several forms. This was last considered in 2009.
- D. Clarify authority to use property assessment process to finance certain energy efficiency projects. This continues efforts begun in 2009. While legislation has been adopted that implements parts of this authorization, questions remain as to the effect of such assessments on home mortgage financing, and restrictions on the sources of revenue available for such programs. The School of Government has been working with stakeholder parties on clarification of these issues.

II. New Matters. Since the November 9 meeting, we have received several other items for potential inclusion on the legislative agenda:

- A. Structure of State ABC system. In recent years, there have been discussions regarding changes to the structure of the State ABC system. These discussions have centered on privatizing parts of the system, which would have the affect of diminishing local control and local revenue. The local ABC Board has asked Council to consider a resolution supporting the current structure.
- B. School system consolidation. There have been indications that the topic of school system consolidation may come up in this legislative session, particularly in view of the State economic situation. Asheville and Buncombe County currently operate separate school systems, so the impact of potential legislation on this subject is of particular interest on a local level.
- C. Assistance for Water Lines in Mills Gap Road Area. Residents of this area around the closed CTS electroplating facility have inquired about obtaining City water to help them with ground water contamination problems. Last year, Council voted to request State and federal elected officials for assistance to obtain the materials needed to perform this work, and such other assistance as may be available.
- D. Parks District. Council has expressed interest in legislation that would allow for formation of a parks district, with the possibility of participation by two or more local governments. While a similar arrangement may be possible through an inter-local agreement, legislation allowing for a parks district would likely encompass some powers that typical inter-local agencies do not have.

III. State Municipal Policy Matters. We have now received the North Carolina League of Municipalities Proposed Advocacy Goals. The League has scheduled a conference for January 20, 2011, at which the agenda will be narrowed down and prioritized. Each member municipality is entitled to one vote in this process.

If Council desires for Asheville to participate in this process, Council should select a delegate, and should provide voting direction on the major issues. Council's attention is directed to the following items of particular interest.

- A. Page 1, Item 1B. Municipal broadband authorization. With the termination of local cable television franchises by operation of the Video Service Competition Act (VSCA), the ability of local governments to build and operate fiber-optic systems has been a matter of interest across the State.
- B. Page 3, Item 2A. Local control over ABC operations. This is consistent with the local ABC Board's request, summarized above.
- C. Page 3, Item 2B. More influence for cities in ABC permitting decisions. This has been an issue over the years for Asheville and other municipalities. Currently, local involvement is advisory only, which can lead to repeated permitting of problem locations.
- D. Page 4, Item 3A. Sales tax distribution process. The method of sales tax distribution has been a matter of interest to the City for several years.
- E. Page 5, Item 3D. Prepared meals and beverage tax. This has been considered by Council in the past. The proposal would be for a State-wide local option authorization.
- F. Page 8, Item 5A-E. Transportation infrastructure. This proposal is highlighted because of consistent local interest in transportation issues in general, including: (1) Passenger rail service; (2) Alternative nodes of transportation; and (3) Sidewalks.

He also provided Council the NCLM information package is a description of the policy development process, along with a form and method for submission of new items for legislative consideration. In lieu of or in addition to participating in the NCLM Advocacy Goals Conference, Council may by resolution support individual proposals.

He provided Council with the previously received the N.C. Metro Mayors legislative agenda.

We have received a proposed resolution supporting a Statewide Independent Energy Efficiency Program. This resolution anticipates a legislative proposal by the NC SAVE\$ ENERGY alliance to fund energy efficiency programs to assist low income households. Council may adopt this resolution separately, and it can be included with information submitted to the legislature.

As covered in previous staff reports, Council has usually reviewed the legislative agenda of other civic and governmental organizations for items to include in its own legislative agenda, or for opportunities for mutual support and collaboration. The Asheville Area Chamber of Commerce is one of the organizations whose legislative agenda is of interest to us, for self-evident reasons.

Since the December 14, 2010, Council meeting, we received information from the Governmental Affairs Task Force (GATF) regarding the State and Federal legislative priorities for the Asheville Area Chamber of Commerce. That information was forwarded to Council last month. The Chamber's and GATF's stated approach is to have a "concise and powerful" legislative agenda. With this in mind, the GATF voted on January 4, 2011, to recommend the following three State legislative priorities to the full Chamber Board for consideration:

- Support programs and state legislation to help small businesses create and maintain jobs, including tax incentive strategies, grants and an expansion of the small business preference for companies seeking contracts with state government.
- Support the “Fund Schools First” statewide campaign to fund schools and preservation of state funding for cooperative high school programming (Huskins, Learn and Earn Online, dual enrollment).
- Support incentives and programs to enhance green building and energy conversation efforts.

These priorities were presented to State legislators at the Chamber’s legislative luncheon on January 14.

Staff’s recommendation is as follows:

1. Continuing local issues. Adoption of the Resolution regarding the State Legislative Agenda for 2011 is recommended. Adoption of this resolution will enable staff to assemble information in support of each request for submission to our legislative delegation. It is important to note that this is a starting point; there will be many opportunities to identify and act on other legislative proposals.
2. New matters. At Council’s direction, appropriate resolutions can be prepared for either of the other listed items, or those items can be added to the State Legislative Agenda resolution.
3. State Municipal Policy Issues. There is a lot of information in the League’s proposal, and Council may desire more information on some of the items. Representatives of the League have offered to come to Asheville to discuss these matters. With this in mind, Council may wish to defer action on this item until its meeting in January.

It was the consensus of Council to have a standing topic on the 2nd meeting agenda each month to discuss additional legislative items.

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

Vice-Mayor Newman moved for the adoption of Resolution No. 11-17, adopting the following legislative program for the 2011 Session of the North Carolina General Assembly (1) Introduce a local bill to adjust the boundaries of Asheville and Woodfin to: (a) Eliminate pockets of unincorporated area between the two municipalities; (b) Resolve jurisdictional confusion in the area of UNC-A (including land set aside for future growth), and Broadway/I-26/River Road interchange; and (c) Authorize agreements regarding service delivery to affected private properties; (2) Introduce a local bill or support general legislation to clarify status of local intranet facilities in connection with the Video Service Competition Act of 2006; (3) Introduce a local bill providing for annexation agreements for certain developments that receive city water service; and (4) Support legislation to clarify authority and sources of revenue for implementation of Property Assessed Clean Energy (PACE) programs. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 322

Mayor Bellamy moved for the adoption of Resolution No. 11-18, resolution supporting the N.C. Metropolitan Mayors Coalition 2011 Advocacy Agenda. This motion was seconded by Vice-Mayor Newman and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 324

At Mayor Bellamy's request, Vice-Mayor Newman moved for the adoption of Resolution No. 11-19, supporting a statewide independent energy efficiency program. This motion was seconded by Councilwoman Manheimer and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 326

D. CONSIDERATION OF SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT'S RECOMMENDATION REGARDING THE TRANSFORMATIONAL DEVELOPMENT PROJECTS INCENTIVE POLICY FOR THE CITY OF ASHEVILLE

Planning & Development Director Judy Daniel said that this is the consideration of revised elements proposed by the Sustainability Advisory Committee for Energy and the Environment (SACEE) for the Transformational Development Policy adopted in November 2010.

At the November 23, 2010, meeting the City Council adopted a resolution supporting the creation of a "Transformational Development Policy". That action followed several other considerations of the policy (in August, September, and November) where the Council directed the staff to modify certain aspects of the policy. The Council adopted the policy, but after discussion also directed the Sustainable Advisory Committee for Energy and the Environment (SACEE) to consider certain elements of the policy and provide their thoughts and recommendations to the Council.

Also of interest, on January 4, 2011, the Buncombe County Commission adopted a policy to support the creation (through new construction or rehabilitation) of workforce housing (limited to rental housing). She provided Council a copy of that policy, a summary of its provisions, and a comparison of the two policies. It differs from the City Transformational Development Policy in scope, detail, and process; but is directed to the same goal of incentivizing the creation of workforce level rental housing.

The staff suggests that a "sunset" or "date certain renewal" clause be added to the policy. 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 may wish to consider adding certain elements that are in the County policy such as requiring annual proof of income or requiring residents to be full time County residents.

Mr. Matt Raker, Chairman of SACEE, said that SACEE considered the policy at a meeting on November 17. After a substantial discussion they determined that they needed additional time to review the policy elements. They formed a subcommittee to consider the policy and requested that the Council allow them until the end of January to provide comments (given the difficulty of convening meetings in December). The Council granted that extension, and the subcommittee met on December 15 to consider the policy and its relationship to and potential impact on the Sustainability Bonus policy recently adopted by the Council. In their review of the Transformational Policy the SACEE subcommittee also requested, received, and included input from the Affordable Housing Working Group (AHWG), understanding their interest in protecting the intent and elements of the Sustainability Bonus policy. SACEE notes that the AHWG comments were largely consistent with SACEE's thoughts, and thus the memo reflects the concerns and recommendations of both groups.

He provided Council with the memo with their comments, along with an annotated copy of the policy elements adopted by the Council indicating the changes recommended by SACEE (including the thoughts of the Affordable Housing Working Group). In summary, SACEE recommends:

- Limits to the geographic scope of the policy to be consistent with the Sustainability Bonus
- Requiring Energy Star or higher green building standard
- Substantial changes to the green building elements
- Requiring 20% affordable housing, rather than 10%
- Adding a better definition of what open space elements should be expected
- Clarification of the specific number of “preferred” elements required
- Changing the policy title to: Sustainability Incentive Grant

Mr. Raker strongly encouraged Council to adopt the recommendations as they believe the policy will effectively serve Council’s strategic goals, complement the recently enacted Sustainability Bonus, be a strong economic development tool, and yield public benefits appropriate for the level of public involvement.

Councilman Russell recalled Council requesting SACEE’s input on the green and sustainability building techniques in preferred element 3 and was a little confused at the overall review and recommended changes in the entire policy. Vice-Mayor Newman agreed; however, they felt they felt it was important to have the policy be consistent with other adopted Council’s incentives (e.g., commercial corridors). He felt we should have sent the draft policy to SACEE before adopting it in November of 2010.

Mr. Raker said that they wanted to make sure there were green building components in the policy but they also wanted to reinforce the other City’s goals and practices.

After a brief discussion, it was the consensus of Council (1) to ask City staff to take the adopted policy and show the SACEE’s recommendation with strike-outs and SACEE’s comments to the side so Council can see clearly their input; (2) to have options presented when changes are recommended; (3) that the revised policy be sent to the Council of Independent Business Owners for review; and (4) to place this item on the February 22, 2011, agenda consideration.

VI. NEW BUSINESS:

A. ORDINANCE AMENDMENT TO REQUIRE PAWNBROKERS AND SECOND-HAND DEALERS TO SUBMIT THEIR DAILY PAWN AND/OR PURCHASE TRANSACTIONS TO THE ASHEVILLE POLICE DEPARTMENT ELECTRONICALLY

Mayor Bellamy said that there has been a request by property owners to delay this item. Therefore, Councilman Davis moved to delay action on this item. This motion was seconded by Councilman Russell and carried unanimously.

B. BOARDS AND COMMISSIONS

Regarding the Asheville-Buncombe Community Relations Council, Councilman Bothwell moved to postpone taking action on the vacancy left by Ms. Kate Pett for six months. This motion was seconded by Councilman Smith and carried unanimously.

Regarding the Tree Commission, Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the terms of Robert Oast Sr. and Parker Andes, as members on the Tree Commission, expired on December 31, 2010. Both individuals are not eligible to

serve another term. It was the consensus of Council to interview the two applicants who have applied for the Commission: Debbie Emmons and Mike Kenton.

RESOLUTION NO. 11-20 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the terms of Douglas Hattaway (Alternate) and David Brown (Regular) as members on the Board of Adjustment expire on January 21, 2011. In addition, there currently exists a vacancy, left by Juma Jackson, whose term will expire January 21, 2012.

The following individuals applied for vacancies on the Board of Adjustment: Bill Branyon, Eric Rainey, Nelda Holder, Ron King and David Nutter.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Douglas Hattaway (Alternate), David Brown (Regular) and appointing Nelda Holder (Alternate).

Vice-Mayor Newman moved to (1) reappoint Douglas Hattaway (Alternate) and David Brown (Regular) to each serve a three-year term respectfully, terms to expire January 21, 2014, or until their successors have been appointed; and (2) appoint Nelda Holder to serve the unexpired term of Mr. Jackson, term to expire January 21, 2012, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 328

RESOLUTION NO. 11-21 - RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the terms of Melanie Brethauer, Duncan McPherson and Gary Hamrick (as the Progress Energy representative), as members on the Sustainable Advisory Committee on Energy & the Environment (SACEE), expired on December 31, 2010.

The following individuals applied for vacancies on the Sustainable Advisory Committee on Energy & the Environment: Benjamin Colvin, Mandy Broderick, Aaron Sarver, Eric Rainey, Peggy Dror, Sherry Ingram, Charles Rosenblum, Parker Spears, Jeremiah Smith and Hobie Orton.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Melanie Brethauer and Duncan McPherson. As to the Progress Energy seat, SACEE has expressed an interest in converting this to a regular open seat (rather than an ex-officio for Progress Energy). It was the consensus of the Boards & Commissions Committee that Vice-Mayor Newman talk with Chairman Matt Raker to discuss this request prior to taking any action. The Boards & Commissions Committee will report their recommendation to Council after their next meeting.

Councilman Bothwell moved to reappoint Melanie Brethauer and Duncan McPherson to each serve a three-year term respectively, terms to expire December 31, 2013, or until their successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 329

RESOLUTION NO. 11-22 - RESOLUTION APPOINTING A MEMBER TO THE

ASHEVILLE-BUNCOMBE FAIR HOUSING COMMISSION

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the terms of Paul Ford, Geraldine Melendez and Jeff McMickens, as members on the Asheville-Buncombe Fair Housing Commission, expired on December 31, 2010.

No one has applied for the vacancies on the Fair Housing Commission.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Jeff McMickens and to re-advertise for the remaining seats.

Councilman Smith moved to reappoint Jeff McMickens to serve an additional three-year term, term to expire December 31, 2013, or until his successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 330

RESOLUTION NO. 11-23 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Newman, Chair of the Boards & Commissions Committee, said that the term of Leesa Gibbs, as a member on the Firemen's Relief Fund, expired on January 1, 2011.

The following individual has applied for a vacancy on the Firemen's Relief Fund: Christopher James Bradford.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Leesa Gibbs. He noted that Ms. Gibbs has served 3 2-year terms; however, the board only meets twice a year.

Councilwoman Manheimer moved to reappoint Leesa Gibbs as a member to the Firemen's Relief Fund to serve an additional two-year term, term to expire January 1, 2013, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 331

RESOLUTION NO. 11-24 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE GREENWAY COMMISSION

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the terms of Stephen Jones and Marcia Bromberg, as members on the Asheville Greenway Commission, expired on December 31, 2010.

The following individuals applied for vacancies on the Greenway Commission: Sandy Taratino, Eric Rainey, Philip A. Ellis, Mary Weber, Charles Rosenblum, Robert Roepnack and Ally Donlan.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Stephen Jones and Marcia Bromberg.

Councilman Bothwell moved to reappoint Stephen Jones and Marcia Bromberg to each serve a three-year term respectfully, terms to expire December 31, 2013, or until their successors have been appointed. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 332**RESOLUTION NO. 11-27 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD**

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the term of Louis Bisette, as a member on the Metropolitan Sewerage District Board (MSD), expires on January 19, 2011.

The following individuals applied for this vacancy: Eric Rainey and Barbara Field.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended extending Mr. Bisette's term until June 30, 2011.

Councilman Russell moved to extend Louis Bisette's term until June 30, 2011, pending City Attorney verification that City's appointment of an MSD Board member can be extended. This motion was seconded by Councilwoman Manheimer and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 335**RESOLUTION NO. 11-25 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION**

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the terms of Joe Ferikes and Robert Camille, as members on the Asheville Area Riverfront Redevelopment Commission, expired on January 1, 2011. Both positions must be a riverfront or business property owner.

The following individuals applied for vacancies on the Riverfront Redevelopment Commission: Chris Joyell, Gail McCarthy, Eric Rainey and Philip A. Ellis.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Joe Ferikes and Robert Camille.

Councilman Smith moved to reappoint Joe Ferikes and Robert Camille to each serve a three-year term respectfully, terms to expire January 1, 2014, or until their successors have been appointed. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 333**RESOLUTION NO. 11-26 - RESOLUTION APPOINTING MEMBERS TO THE TRANSIT COMMISSION**

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the terms of Kevin Jenkins and David Erb, as members on the Transit Commission, expired on December 31, 2010.

The following individuals applied for vacancies on the Transit Commission: Brett A. McCall, Joan A. Gryscavage, Kevin D. Cross, Pamela K. Fisher and Dennis Wayne Miller, and Flora Marr.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Kevin Jenkins and David Erb.

Councilman Smith moved to reappoint Kevin Jenkins and David Erb to each serve a three-year term respectfully, terms to expire December 31, 2013, or until their successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 334

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Kyle Ross presented her research from 2000-2010 about the justice system in Buncombe County, specifically related to the Police Department. Specifically she spoke about the terminated police officer Roger Aly. She also presented Council with the Police Department's mission statement and guiding principles and asked Council hold the Police Chief accountable to those guiding principles. City Attorney Oast said that Council cannot discuss personnel in open session.

Councilman Bothwell complimented Public Works Director Cathy Ball and Assistant City Manager Jeff Richardson on their creative approach to use drug rehab workers to clear snow from sidewalks.

The following claims were received by the City of Asheville during the period of December 3-30, 2010: Geoff Alexander (Transit), Kathryn Assoian (Police), Michael S. Wyatt (Transit), James L. Brown (Parks & Recreation), Julie Dill (Transit), Elvis M. Pinkney (Transit), Frank Huggins (Water), Garret Burnett (Streets), Charter Communications (Water) and Jim Johnson (Fire). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 10:34 p.m.

CITY CLERK

MAYOR