

Tuesday – September 25, 2012 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: Vice-Mayor Esther E. Manheimer (Yom Kippur)

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilman Pelly gave the invocation.

**I. PROCLAMATIONS:**

**A. RECOGNITION OF THE ASHEVILLE TOURISTS WINNING THE 2012 SOUTH ATLANTIC LEAGUE CHAMPIONSHIP**

Mayor Bellamy was pleased to recognize Mr. Brian DeWine, President of the Asheville Tourists, Mr. Larry Hawkins, General Manager of the Asheville Tourists, and the entire Asheville Tourists team in winning the 2012 South Atlantic League Championship. Mr. Hawkins proudly presented their trophy, provided Council with their Championship T-shirts and thanked City Council for their support.

**B. PROCLAMATION PROCLAIMING OCTOBER, 2012, AS "FIRE PREVENTION MONTH"**

Mayor Bellamy read the proclamation proclaiming October, 2012, as "Fire Prevention Month" in the City of Asheville. She presented the proclamation to Fire Chief Scott Burnette, who briefed City Council on some activities taking place during the month.

**II. CONSENT AGENDA:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 11, 2012; AND THE SPECIAL MEETING HELD ON SEPTEMBER 18, 2012**

**B. RESOLUTION NO. 12-217 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND, IF AWARDED, ENTER INTO A GRANT AGREEMENT WITH THE N.C. PARKS & RECREATION TRUST FUND FOR CONSTRUCTION OF THE DR. WESLEY GRANT SR. SOUTHSIDE CENTER**

Summary: The consideration of a resolution authorizing the Mayor to apply for and, if awarded, enter into a grant agreement with the North Carolina Parks and Recreation Trust Fund for construction of the Dr. Wesley Grant, Sr. Southside Center.

Funds are available through the North Carolina Department of Environment and Natural Resources, Division of Parks and Recreation in the North Carolina Parks and Recreation Trust Fund (PARTF) to assist with the development of parks, recreational facilities, and greenways. The City of Asheville wishes to submit a grant application not to exceed \$500,000. If awarded,

grant funds will be used to reimburse the City of Asheville for future expenses related to construction at the Dr. Wesley Grant, Sr. Southside Center.

The grant application requires a dollar for dollar cash match not to exceed \$500,000. The cash match is available through a combination of funds currently budgeted in existing approved capital projects.

The development of the Dr. Wesley Grant, Sr. Southside Center is one of the top capital project priorities for the city in the Parks, Recreation & Cultural Arts Department. The first part of the Cultural Phase was completed in October 2011 consisting of an auditorium, three classrooms, office, storage, spray ground mechanical room, restrooms and parking.

The next construction in the Cultural Phase includes the spray ground, playground and a section of the Town Branch Greenway. The PARTF grant application will support construction of these elements.

The construction concept plan for the Dr. Wesley Grant, Sr. Southside has been endorsed by the Recreation Advisory Board. A public input session regarding the project will be held with the community prior to submitting the grant.

This action complies with the City Council 2012-2013 Strategic Operating Plan in the area of Fiscal Responsibility in that it provides alternatives for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. This action also complies with the Parks, Recreation, Greenways, and Cultural Arts Master Plan in that it increases department funding with alternative funding via grants and ensuring a high level of service in parks and facilities by addressing capital maintenance of existing parks and facilities to meet community standards.

Pro:

- If awarded, the grant will reimburse the City for future construction expenditures up to \$500,000.

Con:

- The grant application process is competitive and a grant award is not guaranteed.

If awarded, the grant is for one-time facility construction cost at the Dr. Wesley Grant, Sr. Southside Center that will increase the budget not to exceed \$500,000. This increase is funded by a grant from the State of North Carolina in the Department of Environment and Natural Resources. As noted above, the grant application requires a dollar for dollar cash match not to exceed \$500,000, which is already available through a combination of funds currently budgeted in existing capital projects. Thus, there is no impact to the City's General Fund budget.

City staff recommends City Council to adopt a resolution authorizing the Mayor to apply for and enter into an agreement for grant funds through the North Carolina Parks and Recreation Trust Fund not to exceed \$500,000 for reimbursement of future construction costs for the Dr. Wesley Grant, Sr. Southside Center.

#### **RESOLUTION BOOK NO. 35 – PAGE 93**

#### **C. RESOLUTION NO. 12-218 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE**

#### **RESOLUTION NO. 12-219 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT SYMPHONY IN THE PARK**

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Blue Ridge Pride on October 6, 2012, and Symphony in the Park on October 14, 2012.

- Blue Ridge Pride, Inc. has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at Blue Ridge Pride and allow for consumption at this event.

Blue Ridge Pride will be held on Saturday, October 6, 2012 from 12:00 p.m. to 7:30 p.m. within the boundaries Pack Square Park's Roger McGuire Green, Reuter Terrace, City-County Parking Lot, and Spruce Street between College Street and Court Plaza as per the area limits referenced on the accompanying site map.

- The Asheville Symphony Society in conjunction with Arts2People has requested through the City of Asheville Development Services Center that City Council permit them to serve beer and/or unfortified wine at Symphony in the Park and allow for consumption at this event.

Symphony in the Park will be held on Sunday, October 14, 2012 from 12:00 p.m. to 9:00 p.m. within the boundaries Pack Square Park's Roger McGuire Green, Reuter Terrace, City-County Parking Lot, and Spruce Street between College Street and Court Plaza as per the area limits referenced on the accompanying site map.

These actions have no direct connection with the City of Asheville Strategic Operating Plan.

Pro:

- Allows fundraising opportunities for Blue Ridge Pride, Inc. and Arts2People.

Con:

- Potential for public safety issues

There is no fiscal impact.

City staff recommends City Council adopt the resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Blue Ridge Pride and Symphony in the Park.

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**RESOLUTION NO. 12-219 - RESOLUTION BOOK NO. 35 – PAGE 97**

**D. RESOLUTION NO. 12-220 - RESOLUTION SETTING A PUBLIC HEARING FOR OCTOBER 9, 2012, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH PLASTICARD-LOCKTECH INTERNATIONAL**

Summary: The consideration of a resolution authorizing a public hearing to be held on October 9, 2012, to consider an economic development incentive grant for Plasticard-Locktech International (PLI).

Plasticard-Locktech International (PLI) was founded in 1988 in Asheville, NC. From that beginning, PLI has grown to become the world's largest hotel keycard manufacturer and a leading specialty printer of plastic and paper products.

The company is planning a \$4.6 Million expansion on its South Asheville campus and has requested consideration for a performance based incentive grant under the City of Asheville

Economic Development policy. The company will create 42 new jobs within three years, with an average wage of \$12.50 and offers comprehensive benefits to its employees. The City of Asheville is considering offering a performance-based grant totaling \$67,000.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

The economic development incentive grant for PLI supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in existing industry in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of 75% of value of property tax revenue for a 5 year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive approximately 25% of the new incremental property tax revenues from the project. After 5 years, the City will henceforth receive 100% capture of new city taxes.

City staff recommends Council approve a resolution authorizing a public hearing to be held on October 9, 2012, on an economic development incentive grant agreement to support the expansion of PLI.

#### **RESOLUTION BOOK NO 35 – PAGE 100**

#### **E. RESOLUTION NO. 12-221 - RESOLUTION AUTHORIZING THE MAYOR TO MODIFY AN AGREEMENT WITH THE WNC REGIONAL AIR QUALITY AGENCY REGARDING COLLECTION OF PERMIT FEES**

#### **ORDINANCE NO. 4120 - ORDINANCE AMENDING THE FEES & CHARGES MANUAL INCORPORATING THE ASSOCIATED FEES**

Summary: The consideration of (1) a resolution amending the Interlocal Agreement with WNC Regional Air Quality Agency (WNCRAQ) to authorize the City of Asheville to collect permit fees on behalf of WNCRAQ; and (2) an ordinance amending the City's Fees and Charges Manual to incorporate the associated fees.

The City's Development Service Center (DSC), was created to streamline the customer service experience by bringing together regulatory activities from across numerous City and partner agencies to lead and manage plan review, permitting and inspection services.

An integral part of the one-stop permitting process has been cooperation with WNCRAQ. The DSC has been accepting applications for permits requiring WNCRAQ approval for several years. WNCRAQ has assessed a fee associated with their applications and has requested that the City collect such fees. Collection of such fees is consistent with DSC's one-stop permitting process. The City will remit the fees to WNCRAQ on a monthly base retaining up to 3% as an administrative fee.

This action supports the City of Asheville Strategic Operating Plan by leveraging internal and external partnerships and creating collaborative and effective working partnerships.

Pros:

- The City permitting process will include WNCRAQ application and fees in a one-stop permitting location.
- Customers may pay for all permit fees with one credit transaction or with one check rather than making separate payments or trips.

Con:

- Some customers may not recognize the additional fee is not associated with City of Asheville permits.

The fees associated with WNCRAQ permitting will generate between \$90 - \$150 in administrative fees per year.

City staff recommends City Council adopt (1) the resolution authorizing amendment to the interlocal agreement creating the WNCRAQ to collect the associated permit fees; and (2) the ordinance amending the City's Fees & Charges Manual to budget ordinance amendment to create an administrative fee for collection of the permitting fees for WNCRAQ.

In response to Councilman Smith, City Manager Jackson said that the bills would be itemized to show that this fee is being collected for the WNC Regional Air Quality Agency for clean air.

**RESOLUTION BOOK NO. 35 – PAGE 101  
ORDINANCE BOOK NO. 27 - PAGE**

**F. ORDINANCE NO. 4121 - BUDGET AMENDMENT FOR THE WNC NATURE CENTER**

Summary: The consideration of a budget amendment in the amount of \$88,593 for a grant from the N.C. Dept. of Commerce for the WNC Nature Center.

Each year the State of North Carolina in the Department of Commerce allocates funds to 25 to 30 member museums, science centers and nature centers in North Carolina. The WNC Nature Center is a member of the collaborative. Funds will be used to make improvements to the facility and animal exhibits at the WNC Nature Center.

The grant is intended to support the first phase of the 20/20 vision master plan for the WNC Nature Center. The funding from this grant will go towards supporting a new visitor's front entrance which was identified as the highest priority in the plan.

This action complies with the City Council 2012-2013 Strategic Operating Plan in the area of Fiscal Responsibility in that it provides alternatives for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. This action also complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it increases department funding with alternative funding via

grants and ensuring a high level of service in parks and facilities by addressing capital maintenance of existing parks and facilities to meet community standards.

Pros:

- Provides funds to support capital improvements at the Nature Center
- Provides funds to enhance special projects and services to Nature Center visitors
- Provides funds to assist in fulfilling standards and maintaining Nature Center accreditation with the Association of Zoos and Aquariums

Con:

- None

The project budget for one-time facility improvements at the Nature Center will increase by \$88,593. This increase is funded by a grant from the State of North Carolina Department of Commerce. Thus, there is no impact to the City's General Fund budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to accept funds from the North Carolina Department of Commerce and establish a budget of \$88,593 for projects at the WNC Nature Center.

#### **ORDINANCE BOOK NO. 27 – PAGE**

#### **G. RESOLUTION NO. 12-222- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HENDERSON COUNTY TO LEASE THE CNG VAN**

#### **ORDINANCE NO. 4122 - BUDGET AMENDMENT TO PURCHASE A CNG VAN FOR HENDERSON COUNTY'S TRANSIT SYSTEM**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease the CNG van; and (2) a budget amendment, in the amount of \$14,527, to increase the budget set to purchase a Compressed Natural Gas van for Henderson County's transit system, originally funded by the American Recovery and Reinvestment Act (ARRA) received by the City in March 5, 2009, Federal Register Volume 74, No. 42, page 9675.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with their share of the Federal funds.

The estimated total cost of the subject project is \$95,368, \$14,527 more than what was budgeted originally. Federal funds will provide \$92,462, \$80,841 are part of the ARRA apportionment and don't require a match; and \$11,621 are covered with grant NC-90-X439; this grant requires a match of \$2,906 provided by Henderson County. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. A State contract is in place and City staff will order the van as soon as the budget is amended.

This action complies with the current City Council 2012-13 Strategic Operating Plan within the fiscal responsibility focus area by operating the City of Asheville to the highest levels of fiscal responsibility.

Pros:

- The CNG van will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 96% of the total estimated project cost.
- Henderson County provides 4% of the total estimated project cost.
- There is no cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is \$95,368, with 96% or \$92,462 coming from Federal funds, 4% or \$2,906 coming from Henderson County. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one CNG van and to adopt the associated budget amendment.

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ORDINANCE BOOK NO. 27 – PAGE**

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

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

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

**III. PRESENTATIONS & REPORTS:**

**A. UPDATE ON THE 10-YEAR PLAN TO END HOMELESSNESS**

Ms. Heather Dillashaw, Homeless Initiative Coordinator, briefly updated City Council on the 10-Year Plan to End Homelessness. The chronically homeless statistics looking backward: 2006 – 134; 2007 – 105; 2008 – 181; 2009 – 180; 2010 – 187; 2011 – 75; and 2012 – 80. The 2012 Point-In-Time count shows 523 total homeless, approximately 100 were veterans and 423 formerly homeless are in permanent supportive housing. The average rent in Asheville is 717 for a one-bedroom without utilities. The fair market rent for Fiscal Year 2012 is \$617 for a one-bedroom including utilities. The Housing Authority has 461 one-bedroom units available, 877 on one-bedroom waiting list, and 119 annual turnover rate. She provided good news statistics for the Respite Beds Project, the SOAR Project, HUD-VASH, SAMHSA Agreement and ESG Funds Transition.

For Project Connect 2012, 200 were served, 49 City and Mission Hospital volunteers, 30+ providers and VA Stand Down.

Next steps include the Housing Crisis Response System (1) coordinated intake; (2) rapid re-housing; (3) jobs; (4) adequate medical and mental health care; and (5) housing for all.

Mayor Bellamy felt the beauty of what we are seeing today is because of the homeless network and the continuous looking at benchmark data and the cross-pollination of information sharing between the non-profits and for-profits.

Ms. Dillashaw responded to various questions/comments from Council.

On behalf of City Council, Mayor Bellamy welcomed Ms. Dillashaw in her new position with the City and looked forward to future updates.

## **B. TREE COMMISSION UPDATE**

Mr. Bill Hascher, Chairman of the Tree Commission, briefly discussed the Asheville Tree Map; anti-tree topping and leaf collection; Bee City USA; planting lists; Alternative Compliance Subcommittee activity and Technical Review Committee seat; Tree Tenders Program and Blue Ridge Arborist Association; and appreciation of support for the City's Arborist Program.

Councilman Bothwell, current liaison to the Tree Commission, and Councilman Davis, former liaison to the Tree Commission, both expressed their appreciation for the dedication and work of the members.

On behalf of City Council, Mayor Bellamy thanked Mr. Hascher and the entire Tree Commission for their hard work on the Commission.

## **C. ABC BOARD UPDATE**

ABC Board Chairman Jim Ellis briefly updated Council on their new staff; finances, and grants and education from outside agency funding.

General Manager Mark Combs then updated Council on their community alcohol education efforts (Clear Channel Radio Group, Prom Promise and discretionary funds); their updated website; and their focus on store appearance. Their goals and objectives will be focused on innovative alcohol education – "Drink Responsibly."

On behalf of City Council, Mayor Bellamy thanked Mr. Ellis and the entire ABC Board for their time and effort on the Board.

## **D. WATER/SEWER MERGER UPDATE**

Project Manager Phil Kleisler updated City Council on the Water Resources process update from September 11-25, 2012. The internal financial analysis for Phase 2 is underway. At an MSD meeting today, it was noted by the consultants for MSD that a draft of the Phase I MSD study will be presented to the MSD Planning Committee in late October with the full and final draft being presented to the MSD Board on November 14. Internal communications consist of small and large staff meetings and legal communication. External communications consist of the project website and meetings with consultants representing MSD and the City of Hendersonville. There will be a progress report on the governance model on October 16 at 5:00 p.m. in the Council Chamber. Asset value is still ongoing with Raftelis. A joint meeting was held with our state legislators on September 18 in the US Cellular Center and a pending item is the invitation to area governments.

After Mr. Kleisler provided council with a request for information sheet, City Manager Jackson pointed out that these requests for information is exhaustive and time-consuming on both City and MSD staff. He said that because MSD has provided the City with 65% of the information we have requested, Raftelis is going to have to evaluate how far they can get in terms of their work on the financial side in time for the October 16 worksession.



After a brief discussion and because Representative McGrady felt that all area municipalities need to be participating in the good faith efforts, it was the consensus of Council to extend an invitation to all area municipalities that have water/sewer services to the October 16 worksession to hear firsthand what is happening and how they are part of this process. City staff can furnish them a copy of the legislation, the minutes of the September 18, 2012, meeting with the state legislators so they can see what Representative McGrady represented and some information about the City's consultant Raftelis. After that worksession, City Council can then invite them again to join in the good faith discussions between the City and MSD.

In response to Councilman Pelly, City Attorney Oast said there are several stand alone water systems in Buncombe County that are potentially covered including Woodfin, Black Mountain, Weaverville, Biltmore Forest, and possibly others. Councilman Davis felt that even water producers in the region like Hendersonville should be invited.

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

##### **A. CONTINUATION OF PUBLIC HEARING TO CONSIDER A MUNICIPAL SERVICE DISTRICT FOR DOWNTOWN ASHEVILLE (BUSINESS IMPROVEMENT DISTRICT)**

At the request of the Interim Business Improvement District Board due to the absence of Vice-Mayor Manheimer, Councilman Davis moved to continue this public hearing until October 9, 2012. This motion was seconded by Councilman Smith and carried unanimously.

##### **B. PUBLIC HEARING TO AMEND THE 2012-13 ANNUAL ACTION PLAN TO DE-ALLOCATE \$40,000 OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE ON-TRACK HOME-BASE PROGRAM AND ASSIGN THOSE FUNDS TO CONTINGENCY**

##### **RESOLUTION NO. 12-223 - RESOLUTION AMENDING THE 2012-13 ANNUAL ACTION PLAN TO DE-ALLOCATE \$40,000 OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE ON-TRACK HOME-BASE PROGRAM AND ASSIGN THOSE FUNDS TO CONTINGENCY**

Community Development Director Jeff Staudinger said that this is the consideration of a resolution amending the 2012-2013 Consolidated Annual CDBG and HOME Action Plan regarding the OnTrack for Home Base Program. This public hearing was advertised on September 14 and 21, 2012.

OnTrack was awarded \$40,000 in CDBG housing services funds to support staff and management costs for the HomeBase homelessness prevention program. In July, OnTrack informed the Community Development Division of its decision to discontinue the HomeBase program. On Track had originally "inherited" this program from another agency that discontinued operations. As On Track participated in the Homeless Initiative, and retooled what had originally been a renters' financial literacy assistance program to the Housing First model, it determined that other agencies were better suited to provide rapid rehousing and homelessness prevention assistance. This was a well-considered decision by that organization, as it examined the fit of this program with its mission and resources. OnTrack has assured the City and provided evidence that the program's existing clients have been given access to similar assistance available at other Asheville organizations. OnTrack continues to operate many other programs, including its CDBG funded Financial/Housing Education and Counseling Program. This decision does not affect that program, and CDBG funds remain allocated to its support.

As a result of this decision, On Track will not be granted \$40,000 of CDBG allocated this year for that program. At this time, the Housing and Community Development Committee

recommends placing these funds into contingency, as it considers the future disposition of these funds.

This action meets the Council Strategic Goals of Affordable, Job Growth and Community Development, as these funds are returned to the CDBG pool for future allocation to projects meeting these goals and relevant objectives.

Pro:

- The proposed action will enable the City to allocate CDBG funds for most effective programs to meet the needs of low and moderate income persons.

Con:

- Program clients who have developed a working relationship with OnTrack for these services will need to have their needs met elsewhere.

Because no contract was executed for the use of these funds, all of the CDBG funds allocated will be returned to the CDBG fund for future allocation. No City general funds have been allocated to this program.

Staff recommends that the 2012-2013 Action Plan be amended to allocate the \$40,000 of CDBG funds originally allocated to OnTrack's HomeBase program to Contingency, for reserve and future allocation to CDBG eligible activities.

Mayor Bellamy opened the public hearing at 6:21 p.m. when no one spoke, she closed it at 6:21 p.m.

Councilman Davis said the Housing & Community Development Committee felt it would be prudent to hold the funds in Contingency at this time.

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

Councilman Davis moved for the adoption of Resolution No. 12-223. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **RESOLUTION BOOK NO. 35 – PAGE 103**

#### **C. PUBLIC HEARING TO CONSIDER A SIGNAGE PLAN TO ALLOW FOR THE INSTALLATION OF IDENTIFICATION AND WAYFINDING SIGNAGE TO BE LOCATED ON A PORTION OF THE PROPERTY LOCATED AT 110 LYMAN STREET**

#### **ORDINANCE NO. 4123 - ORDINANCE APPROVING A SIGNAGE PLAN TO ALLOW FOR THE INSTALLATION OF IDENTIFICATION AND WAYFINDING SIGNAGE TO BE LOCATED ON A PORTION OF THE PROPERTY LOCATED AT 110 LYMAN STREET**

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance approving a signage plan to allow for an off-premise commercial subdivision sign located at 110 Lyman Street. This public hearing was advertised on September 14 and 21, 2012.

The applicant is negotiating the purchase of a small 6,700 square foot portion of a larger, commercial property located at the corner of Lyman St. and Depot St. that is a little over an acre in size (PIN 9648.06-5506). The small subdivided portion would be located at the corner and

have frontage on both streets, while the larger remnant parcel would have frontage on Lyman St. only where the existing access is currently located.

The parent parcel was created in 1985 from the Housing Authority's disposal of many smaller lots that had originally been part of the East Riverside Urban Renewal Area. The properties appear to have been purchased and recombined into a commercial subdivision with five separate commercial properties. These lots were subsequently sold and developed for light manufacturing and include the following properties:

|               |              |                    |
|---------------|--------------|--------------------|
| 110 Lyman St. | 9648.06-5506 | (subject property) |
| 120 Lyman St. | 9648.06-9462 |                    |
| 122 Lyman St. | 9648.16-3565 |                    |
| 121 Lyman St. | 9648.06-9697 |                    |
| 123 Lyman St. | 9648.06-5757 |                    |

In addition to the individual properties' signage, commercial subdivisions are permitted a separate sign, typically free-standing, identifying the subdivision and sometimes the tenants as well. The sign must also be located on either one of the commercial lots with an easement, or on common open space for the development. Normally, there is also an accompanying legal vehicle such as a deed or an easement that provides all the parcels some limited rights to the sign. In 1988, an easement was created for a new commercial subdivision sign to be placed on the property at 110 Lyman St., with rights conveyed to the other four property owners. This sign is currently located near the corner, on the portion of the property that the applicant is seeking to subdivide and purchase.

Subdividing the corner from the rest of the property effectively removes this portion of the property from the commercial subdivision and conceptual development plans require the removal of the sign to make way for a new mixed-use building. In order to respect the original easement, the applicant is seeking to relocate the existing sign but has not been able to find a location suitable to all the parties who desire to maintain wayfinding visibility from the nearby 5-points intersection. As an alternative, the applicant is proposing to install a new sign on the wall of their proposed building that would creatively provide identification and directional cues for those searching for the businesses that are part of the Lyman Hollow subdivision.

Analysis: The subject property is 1.13 acres, from which a small .154 portion is proposed to be divided off. The subject property is also part of a larger commercial subdivision of five separate lots totaling 8.56 acres, all zoned Commercial Industrial (CI). The *Unified Development Ordinance* (UDO) currently allows commercial subdivisions to obtain individual sign allowances for each lot that includes up to two business signs at 125 square feet each. In addition to this individual signage, a separate subdivision sign is also permitted and can be up to 60 square feet and, if free-standing, up to eight feet tall with a maximum of two faces.

The applicant is seeking to redesign and relocate the existing sign to the wall of their proposed building. While this building and portion of the property would not be part of the commercial subdivision, it would provide the desired visibility for the remaining businesses that cannot be seen from the main road intersection. The new building is proposed to be a mixed-use or multi-tenant building and would also be permitted up to 125 square feet of attached signage and separate individual tenant signage. This proposal seeks to simply add the commercial subdivision sign to what would normally be allowed for the building. No other special considerations are being requested.

Staff 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.*

This request, while modest, more appropriately represents the value of the signage plan application process. Through the creative placement of a sign, the applicant is able to provide valuable wayfinding to neighboring properties that would otherwise not be visible from the main intersection. The character and design of the sign would be complementary to the building but would also be distinct enough to not be confused with the signage for building itself.

Pros:

- Provides clear directional signage to an existing commercial subdivision.
- Does not result in a net increase in signage.

Con:

- Sign would be located off-site and may confuse some visitors.

Staff recommends that the signage plan for the Lyman Hollow Commercial Subdivision be approved, subject to the following conditions: (1) All signs shall meet the zoning district dimensions, setbacks, the site distance triangle requirements and all applicable building code requirements; (2) Any changes to the signage included in this plan may require a new review by City Council; and (3) All signs shall comply with the proposed standards and no exceptions or variances are permitted.

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

Ms. Hedy Fisher, petitioner, explained their request and asked for Council support.

Mayor Bellamy closed the public hearing at 6:32 p.m.

Mayor Bellamy asked Ms. Tuch to look at an old manufacturing warehouse near this property to see if any action needs to be taken if it is abandoned.

Councilman Smith asked Ms. Tuch verify that the small lot to the north of this property encompasses the school property and is zoned Institutional.

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

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4123, to approve the signage plan for the Lyman Hollow commercial subdivision sign to be located at the development project located at the corner of 110 Lyman St. subject to the following conditions: (1) All signs shall meet the zoning district dimensions, setbacks, the site distance triangle requirements and all applicable building code requirements; (2) Any changes to the signage included in this plan may require a new review by City Council; and (3) All signs shall comply with the proposed standards and no exceptions or variances are permitted. This motion was seconded by Councilman Pelly and carried unanimously.

#### **ORDINANCE BOOK NO. 27 – PAGE**

#### **D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO UPDATE OUTDOOR LIGHTING STANDARDS**

At the request of City staff, Councilman Bothwell moved to continue this public hearing until November 27, 2012. This motion was seconded by Councilman Pelly and carried unanimously.

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**A. RESOLUTION NO. 12-224 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH POPE GOLF ASHEVILLE LLC FOR THE OPERATION AND MANAGEMENT OF THE ASHEVILLE MUNICIPAL GOLF COURSE**

Parks, Recreation & Cultural Arts Director Roderick Simmons said that this is the consideration of a resolution authorizing the City Manager to execute a Lease Agreement with Pope Golf, LLC (dba Pope Golf Asheville, LLC) for the purpose of operating and managing the Asheville Municipal Golf Course which is city-owned real property at 226 Fairway Drive, Asheville, NC.

On August 28, 2012 City Council at the formal meeting took the following actions: (1) City Council adopted a resolution authorizing the City Manager to enter into a seven (7)-year management agreement with Pope Golf, L.L.C to manage the operation of the Asheville Municipal Golf Course; (2) City Council authorized staff to offer a severance package to impacted employees who do not obtain employment in either another City position and/or a position with Pope Golf; and (3) City Council authorized the lease to be brought before City Council at its September 25, 2012, meeting.

The property at 226 Fairview Drive consists of approximately 121 acres and existing buildings and is located off of Swannanoa River Road across from the Recreation Park complex. The current uses of this property are: (1) The City of Asheville Parks, Recreation and Cultural Arts Department operates a Clubhouse/Pro-Shop, Maintenance Facility and 18-hole golf course for the general public use.

The proposed lease terms are as follows:

- Initial term of seven (7) years with the option to renew for one (1) additional three (3) year period, subject to the mutual consent of the parties.
- Tenant responsibilities: Installation of all improvements, subject to zoning standards. Must maintain cleanliness of property, improvements, clearing of debris.
- All utilities to be paid by the Tenant.
- Maintenance: All maintenance to be performed by Tenant.
- Mutual rights to terminate lease.
- Rental: As consideration for the lease, Pope Golf Asheville, LLC Inc. will pay to the City a flat fee of \$72,000/year for the first three (3) years of the lease agreement. After the initial three years, the flat fee will be calculated as 10% of the average adjusted gross revenues (minus golf shop and food and beverage sales) earned during the first three years of the agreement. Pope Golf Asheville, LLC will pay the City an additional 1% if annual adjusted gross revenues are between \$1,200,000 and \$2,199,999. Pope Golf will pay the City an additional 2% if annual adjusted gross revenues are \$2,200,000 or greater. Payments will be due quarterly.
- Standard provisions of all City leases (e.g. insurance, indemnity, etc.) will also apply.

The Notice of Intent to enter into a Lease Agreement with Pope Golf, LLC was published on September 14, 2012 in the Asheville Citizen-Times. Ten days have passed since the publication and authorization to execute the Lease Agreement is being requested

On September 17, 2012, staff conducted a public meeting with citizens, community stakeholders and representatives of Pope Golf, Inc. in an effort for citizens to learn more about Pope Golf, Inc.

Pope Golf Inc. provided an overview of their company and information on their golf course operational philosophy. At the end of the presentation they took comments and allowed Citizens to ask questions about any concerns about the change in management of the Municipal Golf Course. There were approximately forty-five citizens and community stakeholders in attendance during the 2 hours meeting.

This action complies with the City Council Strategic Operating Plan of Fiscal Responsibility in that it supports a stronger, more prosperous community by making smart investments that accomplish lasting, tangible returns. It leverages an external partnership to enhance the City's financial commitment to master plan implementation, infrastructure maintenance, capital improvements and public facilities. This action also complies with the Parks, Recreation, Cultural Arts and Greenway Master Plan in that it maximizes the level of service available to the community by using partnerships.

Pros:

- Eliminate the general fund subsidy for golf course operations.
- Elimination of financial risk for the City.
- Provide a reliable funding stream to support maintenance and operation of the Municipal Golf Course.
- Sets the standards of operation to assure quality maintenance practices and meet community expectations.

Con:

- The City has no prior experience with private management of the course.

As consideration for the lease agreement, Pope Golf, LLC Inc. will make an annual payment to the City as outlined above.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the lease agreement with Pope Golf Asheville, LLC. on behalf of the City of Asheville.

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

Mr. Simmons confirmed for Mayor Bellamy that the current tournaments that have a 10+ year history will continue to operate at the golf course; that all City staff at the Golf Course have been interviewed to potentially become Pope Golf employees; and that all covenants and restrictions are in place for this land to remain a Golf Course. Mr. Simmons pointed out that the Golf Course is still a City asset.

In response to Mayor Bellamy, Mr. Simmons reiterated that on September 17, 2012, staff conducted a public meeting with citizens, community stakeholders and representatives of Pope Golf, Inc. in an effort for citizens to learn more about Pope Golf, Inc. Councilman Pelly said that there were about 40 people in attendance and the meeting was very positive.

Councilman Smith pointed out that Pope Golf will pay the City a flat fee of \$72,000 a year for the first three years of the lease agreement. After the initial three years the flat fee will be calculated as 10% of the average adjusted gross revenues. He said this is an agreement the City is entering with the knowledge that the City will be able to see some money returned for other purposes out of this initiative.

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

Councilman Hunt moved for the adoption of Resolution No. 12-224. This motion was seconded by Councilman Pelly and carried unanimously.

**RESOLUTION BOOK NO. 35 – PAGE 104**

**B. RESOLUTION NO. 12-225 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO CONSTRUCT MULTIPLE WATER LINES WITHIN A ONE MILE RADIUS OF THE FORMER CTS FACILITY ON MILLS GAP ROAD**

Water Resources Director Steve Shoaf said that this is the consideration of a resolution authorizing the Mayor to enter into an interlocal agreement with Buncombe County to extend water lines to approximately 129 locations currently supplied with well water in the area of the former CTS Facility on Mills Gap Road.

For several years, Buncombe County has worked with residents living in the area of the former CTS Facility on Mills Gap Road. The well water of those residents may be impacted by ground water contaminants, including trichloroethylene, found near the former CTS Facility. The water filtration devices provided to the residents may not provide sufficient public health protection from possible well water contamination.

Pursuant to the Federal Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005, Buncombe County is seeking a 3+ million dollar loan to finance the extension and construction of City water lines to the approximately 129 locations currently supplied with well water. As part of the application for such loan, an interlocal agreement with the City is required to be submitted.

The interlocal agreement requires the County to pay back the loan, design and construct the water system, and pay all fees and costs except as set forth herein. The City is responsible for all inspections at no cost to the County, accepting the lines and waiving all plan review, development, and account set up fees for new customers connecting to the system at the time of completion of the project. When the project is complete, the City will accept ownership of the new lines along with responsibility for operating and maintaining them.

This action complies with the City Council's Strategic Operating Plan in that it promotes making the Asheville community one of the safest communities for all citizens while relying on partnerships to enhance infrastructure and capital improvements.

Pros:

- Opportunity to partner with Buncombe County to resolve a public health concern in the community.
- Supports Buncombe County's efforts to leverage State resources to improve public infrastructure.
- Addition of 129 new customers onto the City of Asheville's water system at a minimal cost.

Con:

- None noted.

As a condition of the agreement, Buncombe County has requested that the City of Asheville waive all development, plan review and account set up fees associated with the project. The value of these fees is:

- Set up fees: \$55 fee x 129 accounts = \$7,095
- Plan review and technology fee = \$468
- Develop review fees: \$1,125 x 129 = \$145,125
- Total fees waived: \$152,670

The addition of 129 new water accounts will generate \$33,901 annually in revenue. Therefore, the value of the fee waiver will be recovered in about 4.5 years.

Staff recommends that City Council approve the resolution as presented.

Mayor Bellamy was excited to offer 129 new customers and families the opportunity to tap onto our system so they can have safe drinking water. This has been in the works for many years and was proud that Buncombe County has taken the leadership.

On behalf of the 129 families, Mr. Tate McQueen thanked City Council for their support through this process. He said that this has been a long-time coming but there is still a lot of work to be done. He said this is a part of several steps as they still have air quality issues, the school bus issue with air quality and contamination that Dr. Jeff Wilcox from UNC-Asheville has said there can be upwards of hundreds, if not thousands, of barrels that were dumped on location. Providing this relief, the City has gone a long way to demonstrate that at the end of the day it's about cooperation. He said this is an excellent example of good governance.

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

Councilman Smith moved for the adoption of Resolution No. 12-225. This motion was seconded by Councilman Bothwell and carried unanimously.

**RESOLUTION BOOK NO. 35 – PAGE 105**

**C. RESOLUTION NO. 12-226 – RESOLUTION DIRECTING INITIATION OF ZONING MAP AMENDMENT FOR PROPERTY LOCATED ON CALEDONIA ROAD AND FINALEE STREET**

A staff report on the summary of previous petitions and applicable Code provisions was provided to City Council.

Councilman Pelly said that he will be making a motion to request a re-examination of a current designed zoning that is assigned to three Kenilworth properties on Caledonia Road, totaling approximately 9 acres. This follows a request from the Kenilworth Residents Association (KRA) received by City Council at their August 28, 2012, meeting. He said that Section 7-7-2 of the City Code allows for the Asheville City Council to initiate a zoning map amendment. The reason the KRA has requested this map amendment is because they remain concerned about steep slopes, unstable slope conditions, limited site distances and narrow road surfaces in and around the three properties in question. The surrounding residential neighborhood is largely single family and zoned RS-8. Additionally, there is a project application for a 50-unit housing development on adjoining property which is scheduled to come before the Planning & Zoning Commission in October which, if approved, will mean further significant growth in the immediate area. His motion will not include the land associated with the 50-unit proposed development. Taken together, these facts make the case to re-examine the current zoning designation on the 3 parcels in question. The goal of his proposed motion is not an immediate rezoning of this property, but instead to direct the Planning & Zoning Commission and Planning staff to study the situation and make an appropriate recommendation to City Council.

Mr. Mike Stevenson, Mr. Briggs Sherwood and Ms. Mary Evers, board members of KRA, urged Council to support Councilman Pelly's proposed motion for various reasons, including, but



not limited to the incompatible uses, steep slope with unsafe soil conditions, and traffic and safety concerns. He said that over 900 residents in this area.

Councilman Pelly moved to adopt the following resolution directing the initiation of a zoning map amendment for property located on Caledonia Road and Finalee Street: "Whereas, the Asheville City Council is authorized, pursuant to N.C.G.S. 160A-381, 160A-384 and Sec. 7-7-2 of the Asheville City Code to initiate amendments to the official zoning map of the City of Asheville; and Whereas, the City Council has determined that it is in the public interest to consider the rezoning of property located on Finalee Street and Caledonia Road in the City of Asheville. Now, therefore, be it resolved by the City Council of the City of Asheville that (1) The City Manager be, and is hereby directed to cause a zoning study to be performed on the property identified on Exhibit A, and to formulate an appropriate recommendation for consideration in the manner prescribed by ordinance; and (2) The City Manager, or his designee, be and is hereby authorized to execute any documents necessary to give effect to this resolution. City Attorney Oast provided the Council with a copy of the affected property identified as Exhibit A.

Mr. Alan Ditmore explained why he was opposed to single family construction.

Councilman Hunt clarified the motion that it does not specifically direct this to RS-8 for all properties, but simply opens a review and consideration and study that might lead us to a rezoning away from Institutional to something different.

Councilman Hunt was concerned of an outcome that would have lots of disbursed buildings that would be disruptive to the landscape and a lot of opportunity for erosion and landslides. He hoped as staff reviews this for ways the property might be rezoned that his concerns would be taken into account. He did not think Institutional is appropriate for those properties.

Councilman Bothwell said that at the Planning & Economic Development Committee meeting they nudged toward extending steep slope protection at the bottom of the hills everywhere. He felt we need to protect our mountains.

Councilman Davis agreed that the land is not appropriately zoned as Institutional; however, when we start initiating zoning without the owner of the property being involved, it's not a good step. He felt we are setting a dangerous precedence to start zoning other people's properties without their involvement in it. He felt it sends the wrong message. He acknowledged a letter received from Mr. Howington's attorney who expressed some willingness to meet with the KRA. He felt that getting City Council involved at this point makes it more difficult to get to a good place.

Mayor Bellamy said this has been a concern for years and they have not reached a good point, citing the extensive legal fees for all parties. She will support the review, but would not support an RS-8 zoning. She hoped Mr. Howington and the KRA will meet and look comprehensively at this transitional property going into the neighborhood and future development. City staff will not only look at this, but will talk to the neighborhood and property owner. She did not want to start a precedent but dialogue needs to happen to move forward to a better place.

Councilman Pelly said that reality check is that if the Planning & Zoning Commission recommends any kind of rezoning the property owner will be able to file a protest petition. A valid protest petition will require 6 out of 7 Council members support the rezoning. It's incumbent upon the community to work in good faith to craft a proposal that meets the needs of all the parties involved.

Councilman Bothwell recalled when there was a vote on this and was disturbed that Mr. Howington hired Vice-Mayor Manheimer's law firm in order to force her to recuse herself.

City Attorney Oast reminded Council that this vote is only to give staff direction. It does not bind Council with respect to any future votes and any past votes on this project should not be considered at this time.

Councilman Pelly moved for the adoption of Resolution No. 12-225. This motion was seconded by Councilman Bothwell and carried on a 5-1 vote, with Councilman Davis voting "no".

#### **RESOLUTION BOOK NO. 35 – PAGE 106**

#### **D. RESOLUTION NO. 12-227 - RESOLUTION APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION**

Councilman Smith, member of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Civic Center Commission.

The term of George Keller expired on June 30, 2012.

The following individuals have applied for a vacancy: Deanna Reeder, Grant Millin, Angela Rutledge, Chris Bubenik, Antonio Hinton, Arthur Ollendorff, Elizabeth Franks and Suzanne Rice

On August 14, 2012, City Council instructed the City Clerk to arrange interviews for Chris Bubenik, Antonio Hinton and Arthur Ollendorff.

After Council spoke highly of the candidates, Mr. Bubenik received 4 votes, Mr. Ollendorff received 1 vote, and Mr. Hinton received 1 vote. Therefore, Chris Bubenik was appointed as a member to the Civic Center Commission, to serve a three-year term, term to expire June 30, 2015, or until his successor has been appointed.

When Mayor Bellamy suggested changing the name of the Civic Center Commission to the US Cellular Center Commission, it was the consensus of Council to have the Civic Center Commission review this item on their agenda (pointing out pros and cons) and forward their recommendation to the Boards & Commissions Committee for their recommendation to the full Council.

#### **RESOLUTION BOOK NO. 35 – PAGE 108**

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

Ms. Patricia Dockery asked why the noise ordinance was not on the agenda as it was discussed at the September 24, 2012, Public Safety Committee. After hearing from Assistant City Manager Jeff Richardson (staff liaison to the Public Safety Committee), about the need for staff to flesh out several issues that arose from that Committee meeting, it was the consensus of Council to place the noise ordinance on the November 13, 2012, agenda.

Mayor Bellamy announced the following board/commission vacancies: Community Action Opportunities; Homeless Initiative Advisory Committee; and the Transit Commission. She also noted that there will be vacancies on the ABC Board in November. She encouraged those interested to contact City Clerk Maggie Burleson for an application form.

#### **Closed Session**

At 7:20 p.m., Councilman Pelly moved to go into closed session for the following reasons: (1) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or initial employment of an individual prospective public officer or employee. The

statutory authorization is contained in G.S. 143-318.11 (a) (3); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11 (a) (6); and (2) To prevent the disclosure of information that is privileged or confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The laws that make the information privileged or confidential are N.C. Gen. Stat. sec. 143-318.10 (e) and N.C. Gen. Stat. sec. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in N.C. Gen. Stat. sec. 143-318.11 (a) (1). This motion was seconded by Councilman Smith and carried unanimously.

At 8:02 pm., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 8:02 p.m.

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CITY CLERK

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MAYOR