

Tuesday – May 7, 2013- 5:00 p.m.
Council Chamber - 2nd Floor, City Hall

Special Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; 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: None

Mayor Bellamy opened the special meeting at 5:00 p.m. She said that the purpose of this special meeting will be to consider authorizing legal action regarding NC House Bill 488, and other matters relating to the City's water system and the effects of House Bill 488. At the meeting, it is anticipated that Council will into closed session, for the purpose of consulting with an attorney employed by the City about matters with respect to which the attorney–client privilege between the City and its attorney must be preserved, including potential litigation. The statutory authorization for the closed session is contained in N.C.G.S. 143-318.11(a)(3).

At 5:01 p.m., Councilman Pelly moved to go into closed session, for the purpose of consulting with an attorney employed by the City about matters with respect to which the attorney–client privilege between the City and its attorney must be preserved, including potential litigation to challenge House Bill 488. The statutory authorization for the closed session is contained in N.C.G.S. 143-318.11(a)(3). This motion was seconded by Councilman Smith and carried unanimously.

At 5:19 p.m., Councilman Bothwell moved to come out of closed session and return to the special meeting. This motion was seconded by Councilman Hunt and carried unanimously.

RESOLUTION NO. 13-88 - RESOLUTION AUTHORIZING LEGAL ACTION TO CHALLENGE HOUSE BILL 488, RATIFIED MAY 2, 2013, SHOULD IT BECOME LAW

City Attorney Oast said that the imminent effectiveness of House Bill has the potential to affect the health, sanitation and safety of the City of Asheville, and the users of the water system, and has the potential to affect the City's financial soundness. He presented Council with a resolution which directs the City Attorney to take appropriate legal action to: (a) challenge the validity of House Bill 488, should it become law, (b) have said law declared invalid, (c) obtain appropriate injunctive or other relief to prevent said law from becoming effective, (d) seek compensation for the forced transfer of the water system and (e) such other or further relief as necessary or appropriate; and to employ such attorneys or other persons as may be needed to assist in said legal action.

Councilman Hunt moved for the adoption of Resolution No. 13-88. This motion was seconded by Councilman Bothwell and carried unanimously.

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Mayor Bellamy said City Council has made the decision to sue the State of North Carolina in order for us to keep our water assets. She did not believe we should have to sue the State over our water system because we are effectively running our system. Over the last seven years, we have invested almost \$17 Million into the system, made tough decisions about rate increases, established replacement lines, and have been transparent of the Capital Improvement Program. This is not the time to stop moving. We will continue to move forward to aggressively meet the needs of our citizens in the city limits and those who are outside the city limits.

At 5:24 p.m., Mayor Bellamy adjourned the meeting.

City Clerk

Mayor