

Tuesday – May 28, 2013- 5:00 p.m.

Regular 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 Burseson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Bothwell gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF CITY OF ASHEVILLE YOUTH LEADERSHIP ACADEMY STUDENTS

Mayor Bellamy said that six years ago this June, she and the members of the Asheville City Council welcomed the inaugural class of the City of Asheville Youth Leadership Academy – better known as CAYLA. Since that very first day, CAYLA students have exceeded our highest expectations – as role models, as future leaders, as contributors to our greater community. CAYLA was designed to introduce Asheville’s young people to professional careers, to assist them in their quest for college, and to develop their leadership skills through volunteering. It is without question that by this definition, CAYLA is a success – but only because the CAYLA students have made it so. Since 2007, more than 100 Asheville High School students have been selected to participate in the nationally-recognized City of Asheville Youth Leadership Academy. CAYLA places its students in prestigious, paid summer internships, and provides year-round workshops that emphasize leadership development and college preparation. This year’s graduating CAYLA seniors have all been accepted to colleges across the state and region, including UNC-Chapel Hill, UNC-Greensboro, North Carolina A&T, Winston-Salem State, Johnson & Wales, Johnson C. Smith University, Berea College and Howard University. Collectively, Class of 2013 CAYLA students completed more than 30 community service projects representing more than 400 hours of service. Highlights of the CAYLA year include attending the first annual Me2We Conference on social justice and participating in a semester-long partnership with UNC-Asheville that explored the challenges of teen relationships through the creation of a public art installation.

The City of Asheville has gained much from their contributions, and we recognize and challenge them as they keep striving for excellence in the months and years to come.

As Mayor she was so proud of the young people who are being recognized today – the CAYLA Class of 2013.

With that, she read the names of the CAYLA students who were in the meeting this evening: Omar Alvarado, Nieva Arana, LaBrea Baird, Briana Bunn, Brandy Burgin, Jonaca Crooks, Brianna Crudup, Michael Davis, Emmanuel Figaro, Jalyn Folston, Monique Gaines, Caleah Hallum, Jaquell Hines, Ashare' Jefferson, Tyshaun Johnson, Tiffany Jones, Abel Lomeli-Garcia, Emmanuel Lomeli-Garcia, Terrence Lynch, Diana Marquez, William Middleton, Destiny

Nelson, Asia Porter, Kayla Reynolds, Owen Ruth, Symone' Simmons, Quanteria Sitton, Fiona Taylor, and Takidra Young.

Mayor Bellamy praised Erika Germer for her hard work on this program.

B. PROCLAMATION PROCLAIMING MAY 25 - JUNE 1, 2013, AS "ASHEVILLE BEER WEEK" IN THE CITY OF ASHEVILLE

Councilman Smith read the proclamation proclaiming May 25 - June 1, 2013, as "Asheville City Beer Week" in the City of Asheville. He presented the proclamation to Ms. Caroline Forsman, representing the Asheville Beer Week organization committee, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 14, 2013; AND THE BUDGET WORKSESSION HELD ON MAY 17, 2013**
- B. MOTION SETTING A PUBLIC HEARING ON JUNE 11, 2012, TO CONSIDER THE FISCAL YEAR 2013-14 ANNUAL OPERATING BUDGET**
- C. RESOLUTION NO. 13-109 - RESOLUTION SETTING A PUBLIC HEARING ON JUNE 11, 2013, FOR ECONOMIC DEVELOPMENT INCENTIVES (PROJECT X)**

Summary: The consideration of a resolution setting a public hearing for economic development incentives.

The City proposes to enter into an economic development incentive agreement with respect to an economic development project known as Project X. State law, N.C.G.S. 158-7.1, requires that a public hearing be held before cities make appropriations for expenditures for economic development purposes. Council's rules provide for public hearings to be set at Council's direction.

The resolution sets a public hearing in this matter for the regular Council meeting on June 11, and directs the publication of the required notice. The usual rules for public hearings will apply.

Adoption of the resolution is recommended.

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- D. RESOLUTION NO. 13-110 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SUN LIFE ASSURANCE COMPANY FOR SPECIFIC STOP LOSS INSURANCE**

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement for Specific Stop Loss Insurance Sun Life Assurance Company for specific stop loss insurance.

The City of Asheville is self-insured for medical and prescription drug expenses less than \$150,000 paid during a contract year on behalf of all participants in the City's medical plan. The City purchases Specific Stop Loss Insurance to cover the cost of large or catastrophic claims paid during the contract period that exceed \$150,000.

Premiums for Stop Loss Insurance are based on the Medical and Prescription Drug Benefits, demographic make-up of the participants, prior claims experience, industry standards, medical trends / inflation, the claims accumulation period and any known on-going medical conditions.

In an effort to promote Council's employer of choice strategic goal by providing the best and most cost effective insurance, the City of Asheville requested that our brokerage firm, The Ferguson Employee Benefit Agency, initiate a formal bidding process for Specific Stop Loss Insurance. The City received 6 proposals in response to our Request for Proposals. The Ferguson Employee Benefit Agency worked with staff to review these proposals.

After a thorough review the vendor selected is Sun Life Assurance Company.

This action aligns with City Council's Strategic Operating Plan in that it is an effort to promote Council's employer of choice strategic by providing the best and most cost effective benefit plan for our employees.

Pro:

- Specific Stop Loss insurance rates and terms were the most competitive when including the additional fees charged by BCBSNC for utilizing an outside stop loss insurance carrier.

Con:

- Increases the length of time between the City's payment of claims and Stop Loss Carrier reimbursement for claims that exceed \$150,000 during the contract year by approximately 1 month.

This is a one year \$761,000 Contract and funds have been budgeted and will be encumbered from the Health Care Fund to cover the cost of this contract.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign an agreement for Specific Stop Loss Insurance Sun Life Assurance Company.

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E. RESOLUTION NO. 13-111 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH BUNCOMBE COUNTY FOR THE CTS WATERLINE INSTALLATION PROJECT

ORDINANCE NO. 4191 - BUDGET AMENDMENT FOR THE CTS WATERLINE INSTALLATION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a Memorandum of Understanding (MOU) with Buncombe County for the CTS Waterline Installation Project and to execute any and all contracts up to \$155,000.00 to implement the terms of the MOU; and a budget amendment in the amount of \$155,000.00 from savings in other capital projects that were completed under budget.

Buncombe County is expecting to receive a grant to install waterlines in the areas surrounding the CTS site on Mills Gap Road. The County approached the City to request that they provide construction administration and oversight for the project. The County and City have agreed to a Memorandum of Understanding (MOU), which outlines the purpose, scope, schedule, and resources needed to ensure a successful project that will provide safe, potable water to residents within a one-mile radius of the CTS site.

The scope of the City's involvement will require the allocation of resources to: (1) review engineering plans and other documents necessary to bring the project to fruition; (2) oversee the acquisition and recordation of property easements required to construct and maintain the new water line; (3) oversee the construction bidding phase; (4) address all construction-related questions or concerns; and (5) other construction-related management activities as required for successful completion of the project and assumption of ownership and maintenance by the City.

If approved, the MOU should be executed by the City within a week of Council adoption. It will take another three to four weeks to advertise and award the construction administration contract. The construction administration will continue throughout the life of the project, which is expected to be completed by fall 2013.

This project is part of City Council's strategic plan to create a more collaborative and effective working partnership with Buncombe County.

Pros:

- This project will provide safe, potable water to residents within a one-mile radius of the CTS site.
- The County will reimburse the City for all construction administration expenses relating to the project.

Con:

- The Water Resources Department's involvement is not necessary in order for the waterline installation to occur. The department will be the liaison between Buncombe County and the Construction Administrator.
- The project will utilize Water Resources staff time for meetings, permit acquisitions, inspection services, payment processing, and documentation compilation even though an outside Construction Administrator will be hired to oversee the project.

The funds needed for this project will be transferred from other Water Resources capital projects that were completed under budget. In order to use the funds from the other project budgets, a budget amendment is necessary.

Current Amount in CTS Waterline Installation Project	\$ 0.00
<u>Budget Amendment Amount Needed</u>	<u>\$155,000.00</u>
Total Amount	\$155,000.00

The amount remaining in Water Capital Reserves will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council approval of the City Manager to execute an MOU with Buncombe County for the CTS Waterline Installation Project and to execute any and all contracts up to \$155,000.00 to implement the terms of the MOU; and a budget amendment in the amount of \$155,000.00 from savings in other capital projects that were completed under budget.

**RESOLUTION BOOK NO. 35 - PAGE 310
ORDINANCE NO. 28 - PAGE**

**F. RESOLUTION NO. 13-112 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO SIGN A RENEWAL OF THE ADOPT-A-PARK AGREEMENT
WITH JUST FOLKS**

Summary: The consideration of a resolution authorizing the City Manager to sign a renewal of the Adopt-a-Park Agreement with Just Folks including a waiver for park use fees for Triangle Park for FY 2013-2014.

Just Folks is a local non-profit organization whose primary purpose is to support community-building activities in the Eagle/Market Street area. The members of the Board of Directors are all residents who grew up in the area and are actively engaged in efforts to improve the environment in Triangle Park by providing more positive uses of the park. Their focus on Triangle Park began eight (8) years ago when they were encouraged to produce cultural events in the park by a past City of Asheville Cultural Arts Superintendent. Last year City Council authorized the City Manager to sign an amended Adopt-a-Park agreement with Just Folks that included a waiver of park use fees and permit waivers for up to \$2,500 for FY 2012-2013 to allow them to hold events in the park including music festivals, community cookouts and other community-building events in the park May to December on Saturdays and Sundays.

During FY 2013-2014, Just Folks has fulfilled the terms of the amended Adopt-a-Park agreement through activities that included:

- Conducting regular clean-ups
- Weeding and maintaining the planted beds
- Mulching paths and planting beds
- Providing volunteers to participate in these and other projects
- Providing the tools and materials to carry out regular maintenance and special approved projects
- Participating in the development of a mural project for the walls of the park assisted by the Asheville Design Center and city staff and scheduled to be implemented in the fall of 2012.
- Holding a minimum of two (2) events each weekend during the course of the year, including music events and community cookouts that were free and open to everyone in the community.

The presence of Just Folks members and their programming in the park have continued to contribute to the reduction of nuisance behaviors in and around the park and improved appearance of the park, which has made the park more attractive to downtown visitors and community members and meeting specific City Council goals for economic and community development

Just Folks is requesting that their Adopt-a-Park agreement with the city be renewed for FY 2013-2014 and include waivers for park usage and event permitting fees at the same level of \$2,500 approved for FY 2012-2013.

This action addresses City Council Strategic Goal for Asheville to be one of the safest and most secure communities compared to similar cities. The events held by Just Folks in Triangle Park proactively promote positive community interactions in the area and have significantly improved public safety in "The Block".

Pros:

- Strategic partnerships allow the city to leverage programming and events to reach a wider and more diverse audience.
- Provides additional quality cultural programming and diversity in a park that is generally not used for this type of event.
- Reduces staff time in processing fee waiver requests related to this group's events.
- This action is consistent with other partnerships the City has entered into for park programming in key community development areas.

Con:

- The reduction in permit fees result in lost revenue for the city; however, the city has not budgeted for this revenue.

The estimated value of the waived park usage fees is \$2,500; however, this revenue has not been included in the budget.

Staff recommends that City Council authorize the City Manager to sign an Adopt-a-Park Agreement with Just Folks including a fee waiver for park usage fees associated with programming in Triangle Park.

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G. ORDINANCE NO. 4192 - BUDGET AMENDMENT TO FUND SAFETY IMPROVEMENTS AND SITE ENHANCEMENTS AT HERB WATTS PLAYGROUND

Summary: The consideration of a budget amendment in the amount of \$7,487 to fund safety improvements and site enhancements at Herb Watts playground.

The Herb Watts Foundation donated \$7,487 to the City for safety improvements and site enhancements at Herb Watts playground. The Parks, Recreation, and Cultural Arts Department will spend the funds on re-mulching the playground, sub-surface drainage improvements, and equipment replacement.

This action complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it strengthens partnerships with funding partners, and increases revenue opportunities through sponsorships.

Pro:

- Provides funding to increase playground safety

Con:

- None

The budget amendment will increase the operating budget in the Parks, Recreation and Cultural Arts Department by \$7,487. The amendment is fully funded with proceeds from the donations.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to increase the Parks, Recreation and Cultural Arts Department budget in the amount of \$7,487 to fund safety improvements and site enhancements at Herb Watts playground.

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H. ORDINANCE NO. 4193 - BUDGET AMENDMENT TO PURCHASE EQUIPMENT AND FUND PERSONNEL COSTS AND TRAINING FOR MEMBERS OF THE ASHEVILLE HIGH INTENSITY DRUG TRAFFICKING AREA

Summary: The consideration of a budget amendment, in the amount of \$99,000 to authorize the use of Federal High Intensity Drug Trafficking Area (HIDTA) Funds to purchase equipment and fund personnel costs and training for members of the Asheville HIDTA.

The High Intensity Drug Trafficking Areas (HIDTA) program was authorized by the Anti-Drug Abuse Act of 1988 and is administered by the Office of National Drug Control Policy (ONDCP). The original designation of five HIDTA sites in 1990 has expanded into more than thirty areas around the country. The HIDTA's mission is to reduce drug trafficking in the most critical areas of the country, thereby reducing the impact of illegal drugs in other areas. The Asheville HIDTA will serve as a key drug trafficking reduction effort, critically positioned between

the Atlanta HIDTA and the Appalachia HIDTA. The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration (DEA), Asheville Police Department, Buncombe County Sheriffs Office, Henderson County Sheriffs Office and McDowell County Sheriffs Office. The Asheville HIDTA has received yearly funding from the ONDCP since 2010. The Asheville HIDTA is a component of the Asheville DEA Task Force. The City of Asheville will serve as the fiscal agent for the Asheville HIDTA. The Asheville HIDTA has received authorization for \$99,000 in federal HIDTA funding. This proposed budget amendment would authorize the use of this funding for equipment purchases, personnel costs and training for members of the Asheville HIDTA.

This action conforms to the City Council's Strategic Operating Plan under 1) Fiscal Responsibility in that we are using federal HIDTA monies to enhance the Asheville HIDTA's equipment, personnel and training needs that would otherwise not be funded, and 2) Safe City in that providing the various equipment and training allows the Asheville HIDTA to be more professional and effective in proactively enforcing and preventing illegal drug trafficking.

Pros:

- Federal HIDTA monies to cover the cost of equipment, personnel and training related to reducing illegal drug trafficking in our region.

Cons:

- None noted

The increase of \$99,000 is for equipment, personnel and training. Accepting these funds is a significant financial benefit to the Asheville HIDTA by allowing the task force to better equip and train the task force employees. There is no impact to the City's General Fund budget.

City staff recommends City Council adopt the budget amendment in the amount of \$99,000, to authorize the use of Federal HIDTA funds to purchase equipment and fund personnel costs and training for the Asheville HIDTA.

ORDINANCE BOOK NO. 28 - PAGE

I. RESOLUTION NO. 13-113 - RESOLUTION AUTHORIZING THE STANDARDIZATION PURCHASE OF THE ICS COMMUNICATIONS UNIT SUPPORT TRAILER FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY

Summary: The consideration of a resolution authorizing the Asheville Fire Department to purchase an ICS Mobile Communications Unit Support Trailer based on standardization needs.

The City of Asheville Fire Department has grant funds available through the Fiscal Year 2010 North Carolina Homeland Security Grant Program for the procurement of a Communications Unit Support Trailer. This equipment will enhance the ability of COA Police and Fire Departments and other regional Emergency Responders to communicate during a disaster or other emergency that requires coordination and communication between multiple jurisdictions. The equipment will also provide a vital resource that will aid in establishing an alternate Emergency Operations Center for the City of Asheville enhancing the continuity of operations. The procurement of standardized equipment will allow for interoperability of similar resources from multiple jurisdictions in NC. This interoperability provides certain efficiencies and eliminates duplications of efforts.

This action complies with the City Council Strategic Operating Plan by better equipping emergency responders to communicate during an emergency or disaster and by providing redundant means of emergency wireless communications.

Pros:

- An increased ability to communicate with responders from other jurisdictions.
- Increases responder safety and accountability of COA resources when responding mutual aid to other jurisdictions.
- Provides interoperability among similar resources throughout North Carolina.

Con:

- None identified

This purchase is funded by a grant previously approved by Council. Annual maintenance costs are minimal and will be supported by the State of NC and recurring grant opportunities.

City staff recommends City Council authorize the City Manager to receive grant money from the State of North Carolina Homeland Security Grant Program.

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

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

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

III. PRESENTATIONS & REPORTS:

A. APPROVAL OF THE BY-LAWS FOR THE ASHEVILLE DOWNTOWN IMPROVEMENT DISTRICT INC.

Ms. Ruth Summers, Co-Chair of the Asheville Downtown Improvement District, Inc., said that they feel the Business Improvement District (BID) is a collaboration between the Board and the City and as such she requested City Council approve their by-laws. They understand that if the by-laws are adopted, the BID will continue to move forward in a grassroots effort. In fact on July 1 the BID, along with a lot of other corporations, will sponsor a clean-up day.

Councilman Davis said that a lot of work has gone into developing the by-laws in an effort to develop the BID. The Interim and Permanent Board have put in a lot of hard work and thousands of hours into this effort. However, in the economy we find ourselves in, City Council felt it would not be prudent to move forward with the taxing authority. He felt it is important to recognize the work done and the potential for the future. The efforts of the Board have made Council and citizens aware that there should be special emphasis on the needs in the downtown. Approving these by-laws is a way to say that we understand there is that need and in the future if a BID is established, the by-laws will be in place.

Councilman Bothwell appreciated all the efforts gone into the BID. He felt at this point the BID Board is a volunteer group like any other neighborhood group and he couldn't see why the City would approve the by-laws of a neighborhood group. Absent knowing where the downtown residents stand on a BID he would have to vote against approving the by-laws.

Councilman Smith agreed that we have to maintain our downtown vibrancy. He thanked everyone who contributed to that realization. Unfortunately with the big tax shift and financial uncertainties, we would not be able to move forward with the BID taxing authority. He noted that over the next five years approximately \$8.5 Million is included in the City Manager's budget for the downtown. He didn't think this is the right time to approve the by-laws and not fund it. He

didn't want to give the impression that we will be approving the BID any minute. He agreed that the by-laws will probably form the basis of a future BID, but now is not the right time.

Councilman Hunt viewed this request as not an indication that City Council is committed to a BID, but for the corporate structure to move forward. He also noted that there are clean and green services provided in our coming budget. He felt it was appropriate to acknowledge the work of the BID Board and approve their by-laws.

Mayor Bellamy said that we are not establishing a taxing authority. She will support the approval of the by-laws in order for them to achieve 501 (c) (3) status and allow them to apply for foundation grants. Because the City Council makes appointments to the Board, she felt it was important to have a say in how it's governed and formatted.

Councilman Davis moved to approve the By-Laws for the Asheville Downtown Improvement District Inc. This motion was seconded by Councilman Hunt and carried on a 5-2 vote, with Councilman Bothwell and Councilman Smith voting "no."

B. WNC REGIONAL AIR QUALITY AGENCY UPDATE

Dr. Deal Kahl, Vice-Chair of the WNC Regional Air Quality Agency, briefed Council on their activities of the past year and goals for the upcoming year.

Dr. Kahl and Executive Director of the WNC Regional Air Quality Agency David Brigman responded to various questions from Council.

On behalf of City Council, Mayor Bellamy thanked Dr. Kahl for his leadership and the entire Board for their dedication.

C. LEGISLATIVE & WATER UPDATE

Deputy City Manager Jeff Richardson highlighted the following legislative issues of interest: House Bill 488 - Transfer Control of the City of Asheville's Water System to a Regional Entity; House Bill 252 - Asheville Transfers; House Bill 418 - Park Authority; House Bill 224 - Asheville Extraterritorial Jurisdiction and Annexation; House Bill 568 - Asheville Deannexation; Senate Bill 394 - Lower Tax Rates for a Stronger North Carolina Economy; Senate Bill 363 - Business Tax Reduction and Reform; House Bill 708 - Study Public Enterprise Systems/Use of Funds; House Bill 962 - Municipal Sales Tax; House Bill 94/Senate Bill 112 - Amendment to Environmental Laws 2013; Senate Bill 612 - Regulatory Reform Act of 2013; House Bill 664 - Cell Tower Deployment Act; Senate Bill 677 - Local Government Regulatory Reform; House Bill 937 - Amendment to Various Firearms Laws; and House Bill 714/Senate Bill 443 - Disposition of Abandoned Firearms.

D. ASHEVILLE METRO AREA ZERO ENERGY DISTRICT

Councilman Bothwell said that the Asheville Metro Area Zero Energy District (AMAZED) explained that the Zero Energy District (ZED) is a place where residents and businesses aim to produce as much energy as they use. A ZED can be (1) a specific geographic area; or (2) a virtual "district" in which anyone can participate. The long term goal is to make Asheville energy-independent and to keep more money in our pockets. AMAZED aims to educate people about affordable energy solutions, to encourage residents to take action today, and to make bigger steps tomorrow.

The present solution is that today Asheville derives most of its electricity from the coal-fired power plant at Lake Julian. This requires train-loads of coal blasted from mountaintops in Kentucky. It pours pollution into our air. It also creates tons of toxic coal ash. It sends our dollars to Duke Energy/Progress and Peabody Coal.

Progress so far has been that the City of Asheville has been reducing City energy use by 4% per year since 2007. Asheville residents have cut their water use significantly in recent years and they are recycling champions. Ashevilleans also have the highest per capita ownership of hybrid cars in North Carolina.

Potential alternatives include (1) teach AMAZED participants three simple things they can do today to save money (a) unplug your microwave, stereo, television and other appliances when they aren't in use - "vampire" loads cost \$10-30 per year; (b) never leave a television or radio on when you aren't home - average television cost 20-cents per hour; and (c) always do laundry with cold water - save 40-cents per load. Plus you can join the Duke EnergyWise Program and save \$75 per year; (2) create short classes to teach AMAZED participants the next three steps and encourage them to share those ideas; (3) create a competition between neighborhoods on who can save the most energy; and (4) help establish funding streams for more ambitious retrofit and solar projects.

A FortZED was established in Fort Collins, Colorado, in 2011 and it's attracting new industry to the City. In Fort Collins, (1) more than 7,000 customers participate - residential and commercial; (2) reduce peak demand by 20-30%; (3) expanding to include thermal energy and transportation; and (4) New Belgium Brewery produces over half the electricity it uses during peak solar hours.

Preliminary participants include Asheville Green Opportunities, Asheville Independent Restaurant Association, Blue Ridge Sustainability Institute, EarthFare, EvolveEnergy, New Belgium Brewery, Sierra Club Beyond Coal Campaign, Smith Mill Creek Premaculture School and WNC Green Building Council.

He invited those that wish to learn more to the meeting on May 30 at the Dr. Wesley Grant Sr. Southside Center.

E. QUARTERLY REPORTS

Committee Chair Reports

Vice-Mayor Manheimer, Chairman of the Finance Committee, provided Council with a brief update on some major accomplishments during this quarter.

Councilman Bothwell, Chairman of the Public Safety Committee, provided Council with a brief update on some major accomplishments during this quarter.

Strategic Operating Plan

Deputy City Manager Jeff Richardson provided Council with an updated table of the quarterly updates on key strategic initiatives associated with the five six areas of the City of Asheville's Strategic Plan for the first three quarters July 1, 2012 – March 31, 2013. He also provided Council with the quarterly updates for Economic Indicators and Crime Index.

Financial Report

Budget Manager Tony McDowell provided Council with the following financial information which reflects the City's overall financial position for the fiscal year through March 2013.

Amendments. The General Fund budget presented in the third quarter report reflects the adopted budget of \$89,922,437 along with eleven budget amendments approved by Council that totaled \$1,264,612. A summary of the amendments is presented below. The only amendment that involved an appropriation from fund balance was the \$650,000 approved for employee

bonuses. The \$63,000 for the firing range mitigation project was appropriated from unexpended capital funds that were being held in reserve.

Adopted Budget	\$89,922,437
Budget Amendments:	
NC Arts Council Grassroots Arts Grant	50,431
Linamar ED Incentive	200,000
Firing Range Mitigation Project	63,000
Public Housing Police Unit Partnership	217,000
RENCI Grove Arcade Lease	36,096
Plasticard Locktech ED Incentive	13,400
Employee Bonus**	650,000
Community Center Grants	7,834
Energy Rebates	21,801
Bicycle Wayfinding Grant	1,050
Bojangles Easter Eggstravaganza Sponsorship	<u>4,000</u>
3/31/2013 Budget	<u>\$91,187,049</u>
** Fund Balance Usage	

Revenues. Through March 31, 2013, the City has collected \$74,680,403 in General Fund revenue, which represents approximately 82.5% of the total General Fund revenue budget. Revenue collections through the first nine months of the previous fiscal year were at 83% of budget, so collections this year are almost identical to the previous year's percentage through three quarters. The City has received nine months of sales tax revenue, and collections are up 5.9% compared to the prior year. Sales tax revenue is now projected to exceed budget by \$175,000. Property tax and state utility tax revenue continue to lag behind budget. Overall, staff is currently estimating that total FY 2012-13 General Fund revenue will come in under budget by \$272,000 or 0.30%.

Expenditures. General Fund expenditures through March 31, 2013 total \$60,412,963 or 66.3% of the budget. One year ago expenses were at 68.2% of budget at this same point in the fiscal year. As discussed during the recent budget worksessions, to hedge against uncertainty in next year's budget, staff has set aside \$1 million in unexpended funds from the current fiscal year in unassigned fund balance to be used as contingency in FY 2013-2014. The General Fund year end estimates on page 3 of this report reflect the additional savings that been identified toward this budget savings target.

Fund Balance. The City ended FY 2011-12 with available fund balance of \$13.63 million, which equated to 15.9% of FY 2011-12 expenditures. At the November 13th meeting, Council approved the use of \$650,000 in fund balance for one-time employee bonuses. *Factoring in the savings mentioned above, staff estimates that available fund balance at June 30, 2013 will be \$14.5 million or 16.2% of estimated expenditure, which will be approximately \$1.0 million over the 15% fund balance policy target.*

F. PRESENTATION OF THE FISCAL YEAR 2013-14 ANNUAL OPERATING BUDGET

Executive Director of Finance and Strategic Planning Lauren Bradley said that the budget goals were to enhance Asheville's economic prosperity and quality of life by addressing the City's long-term financial sustainability (1) Seek opportunities to restructure services to gain efficiencies; (2) Invest resources in core services and infrastructure to achieve strategic goals and build tax base; (3) Maintain affordability for citizens and businesses in Asheville; (4) Invest in our workforce and continue to recognize and reward innovation; and (5) Build a budget based on financially sound principles to ensure stability in an uncertain economic and legislative environment. She

then showed a chart of inflation adjusted General Fund spending and an illustration of structural gap.

Legislative assumptions include (1) Disposition of the City of Asheville's water system: The budget assumes continued operation and management of the system since the length and outcome of the legal challenge is unknown. The budget proposes to defer some expenses and set aside fund balance as a contingency; (2) State-wide Tax Reform: Because the final outcome of tax reform is not yet quantifiable, the proposed budget assumes a \$1 million decrease in State revenues, the net difference between assuming the loss of utility taxes and a partially off-setting increase in sales tax revenue. The proposed budget plans to make up this loss with mid-year savings generated by the creation of the Culture and Recreation Authority; and (3) Creation of a county-wide Culture & Recreation Authority (CRA): The city's proposed budget assumes all parks, recreation and cultural arts services except for community centers would be transferred to the authority effective January 1, 2014. This move would reduce expenditures in FY 2013-2014 by \$2.5 million

Regarding the revenue neutral tax rate, she said the revenue-neutral tax rate, as defined by G.S. 159-11(e), is the rate that is estimated to produce revenue for the next fiscal year equal to the revenue for the current fiscal year if no reappraisal had occurred. For Fiscal Year 2013-2014, the City of Asheville has calculated the revenue neutral tax rate to be 43 cents per \$100 valuation.

Regarding General Fund Revenues: (1) Revenue Neutral Tax Rate of 43 cents per \$100 valuation; (2) Revenues projected to increase by .6% (a) 1.5% growth projected in property tax revenue; (b) 8.5% growth projected in sales tax revenue; and (c) \$1.9 million decrease in revenues as a result of proposed legislation; and (3) No fund balance appropriation; \$1 million above 15% policy requirement held as contingency. Revenue Enhancements - \$7.00 monthly solid waste fee replaces \$3.50 recycling fee. She then showed a breakdown of the General Fund revenues.

Regarding General Fund Expenditures: (1) 3% cost of living adjustment for city employees; (2) General Fund expenditures up only 0.6% over FY 2012-2013 (a) Assumes transfer of parks and recreation services January 1; (b) Includes contracting out street and sidewalk construction services; (c) \$500,000 in savings from frozen positions; and (d) \$500,000 in savings from line item reductions; and (3) General Fund contribution to pay-as-you-go Capital Improvement Plan (CIP) remains flat but includes the issuance of additional debt. She then showed a breakdown of the General Fund expenditures.

She then reviewed the other funds: (1) Water Fund (a) Water rate increases expected to generate \$300,000 in new revenue (1% on residential, multi-family and small commercial consumption; 3% on large commercial consumption); (b) Expenditures adjusted down to reflect actual; and (c) Contribution to capital is increasing by \$9.8 million as a result; \$18.2 million in CIP; (2) Stormwater Fund (a) Stormwater fees remain unchanged; and (b) Budget includes \$641,000 in capital funding for rolling stock replacement & capital maintenance projects; (3) Transit Fund - The proposed budget includes an expected \$100,000 reduction in State funding for transit. The General Fund transfer to the Transit Fund has been increased by this amount to offset this loss in State funding; (4) Parking Fund (a) Budget includes 25 cent increase in the hourly rate for parking meters and garages; expected to produce approximately \$400,000 in additional revenue from parking fees; and (b) Revenue used for central service expenses and CIP; (5) US Cellular Center Fund - Early event bookings indicate that operating revenues will likely increase in FY 2013-14. Revenues are expected to be similar to what was collected in FY 2010-11. Nonetheless, the Center will hold two FTE positions in the concessions division vacant in FY 2013-14 as a budget balancing strategy; (6) Golf Fund - Budget includes lease of municipal golf course to Pope Golf, Inc., a move that had a positive financial impact of approximately \$210,000 by eliminating the General Fund subsidy and providing for a lease payment to the city. The proposed budget includes a lease payment of \$75,000; and (7) Internal Service Fund (a) City's

and employees' contributions to health care remain flat in FY 2013-2014; (b) Includes a reallocation of workers compensation and property/casualty costs across all funds based on actual claims history; and (c) Proposed FY 2013-14 budget includes the second year contribution (\$400,000) from the General Fund of a step-up plan to meet the City's annual required contribution for Other Post Employment Benefits (OPEB) to the State Treasurer's OPEB Investment Fund.

She then showed breakdowns of Fiscal Year 2013-14 CIP Revenues and CIP Expenditures.

Regarding the Economic Development CIP Fund (1) Revenues (a) Debt Proceeds (\$11.45 Million); and (b) Land Sales (\$150,000); (2) FY 14 Possible Projects include: RADTIP, Affordable/Workforce Housing, Parking Deck Construction, Multi-Modal Improvements, Underground Utilities, and Asheville Art Museum Renovations; and (3) If CRA is not implemented, tax increase may be needed in FY 15 to fund debt service.

Looking ahead (1) The economic crisis of the last several years has required us to re-evaluate the paradigms that have been governing the public sector for several decades; (2) Asheville has charted a course for achieving long-term financial sustainability by reinventing the way we deliver services, investing in our workforce and making smart investments in job creation and infrastructure that promise to build tax base; (3) These actions will allow Asheville to continue to support our community's quality of life while implementing our strategic goals for the future; and (4) Must remain adaptive to change given the uncertainty in the economic and legislative environments.

Staff will continue to work with Buncombe County on formalizing the Culture & Recreation Authority. June 11 will be the budget public hearing with adoption on June 25.

Ms. Bradley responded to various questions from Council regarding the budget, some being, but are not limited to: why there is no allocation in Fiscal Year 2014 for the downtown clean and green initiative; what is the green part of the "clean and green" initiative; explanation of the Affordable Housing Trust Fund allocations; and what kind of investments will be in the South Slope.

On behalf of City Council, Mayor Bellamy thanked Ms. Bradley for her work with the City of Asheville and hoped her success in her future endeavors.

Closed Session

At 7:04 p.m., Councilman Pelly moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: State of North Carolina; City of Asheville; and Metropolitan Sewerage District of Buncombe County. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(11); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 7:20 p.m., Vice-Mayor Manheimer moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF ASHEVILLE ACADEMY, LOCATED AT 1709 HENDERSONVILLE ROAD, TO FACILITATE THE DEVELOPMENT OF AN 8,215 SQUARE FOOT DAYCARE FACILITY

ORDINANCE NO. 4194 - ORDINANCE TO AMEND THE CONDITIONAL ZONING OF ASHEVILLE ACADEMY, LOCATED AT 1709 HENDERSONVILLE ROAD, TO FACILITATE THE DEVELOPMENT OF AN 8,215 SQUARE FOOT DAYCARE FACILITY

Urban Planner Julia Fields said that this is the consideration of an ordinance to amend the conditional zoning of Asheville Academy, located at 1709 Hendersonville Road, to facilitate the development of an 8,216 square foot daycare facility. This public hearing was advertised on May 17 and 24, 2013.

Ms. Fields said that this is a request for an amendment to the conditional zoning approval for Weirbridge Village to allow for child care centers as a permitted use on the commercial portion of the development.

In 2006, 20.66 acres of property located at the corner of Hendersonville Road and Racquet Club Road were conditionally zoned from RM-6 (Residential Multi-Family Low Density Development) District to HBCZ (Highway Business Conditional Zoning) to allow for the development of a major multi-family housing development (originally proposed as 336 units) with commercial outparcels along Hendersonville Road. As proposed, the commercial portion of the development was shown as suburban commercial outparcels abutting Hendersonville Road. As opposed to traditional suburban commercial outparcels where there are separate curb cuts for each outparcel, however, the developer proposed access for all commercial parcels off of an interior road (Weirbridge Drive) that runs parallel to Hendersonville Road.

The commercial development was restricted under this approval to no more than five commercial parcels with no commercial parcel being greater than 3 ½ acres in size. No big box stores, night clubs, bars, adult uses or dance clubs are allowed and commercial uses are limited to: financial institutions, pharmacies, restaurants, professional offices, retail sales, bakeries, barber shops and salons, bookstores, medical clinics, delicatessens, florist, gift shops, grocery stores, and health and fitness facilities. No 24-hour uses were permitted other than bank ATMs and pharmacies. Architectural standards were required to be placed on the commercial buildings to require them to mirror the materials in the residential architecture of the residential buildings. No commercial building can be greater than 25,000 square feet GFA in size or greater than 30 feet in height. Outdoor storage is not permitted.

Since the initial conditional zoning approval, four amendments have been approved for the project. One reduced the number of dwelling units from the originally approved 336 to 280 and reconfigured the location and reduced the number of the buildings housing the dwelling units. A second amendment approved a comprehensive sign package for the development. Subsequently, two outparcels (financial institutions) have been developed with access off of Weirbridge Drive. A third amendment provided for a right-turn in/right turn-out access point to the undeveloped portion of the commercial parcel. A fast food restaurant is being developed at this location. A fourth amendment approved by City Council on April 9, 2013, added menu board signage to the originally approved sign package.

The applicant is now requesting an amendment to the conditional zoning approval to allow child care centers on the commercial portion of the property. This use was not included in the originally approved permitted use listing.

Planning staff concludes that the use itself is very compatible with other uses approved for this development. The central issue for the proposed use is related to traffic – both traffic

impact and safe maneuvering. To address that concern, a traffic study has been conducted for the proposed use and adjoining fast-food restaurant.

On May 1, 2013, the Planning and Zoning Commission reviewed and approved this matter 7-0. The only comments provided were those of the developer and the development team. The Commission recommended approval with the following conditions agreed to by the developer: (1) The conditions recommended in the TRC staff report; (2) All standard conditions being met; (3) The recommendations found in the traffic study; and (4) The developer considers providing an additional pedestrian crosswalk at some area conducive to pedestrian traffic coming from the residential area. She explained that developer has already addressed condition 4 with the City's Transit Engineer, who felt another pedestrian crosswalk would be unsafe, therefore; staff recommends condition number 4 not be a condition imposed on the developer.

Pros:

- The proposed amendment allows for the compatible use of child care centers at Weirbridge Village.
- A traffic study and recommendations have been completed for this use with recommended traffic patterns and practices.

Con:

- Even with the recommended traffic patterns, traffic congestion could be a problem although perhaps no more congestion than would result from other uses already allowed.

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

Mayor Bellamy opened the public hearing at 7:28 p.m.

Mr. Clay Mooney, representing the developer, requested this amendment to utilize the day care use. He explained this day care center is a relocation of an existing day care within one-half mile of this location. The day care will operate from 7:30 a.m. - 5:30 p.m. Monday through Friday. This facility will have 180 children. They did perform a traffic study and because they had real world counts, they came up with recommendations on how to improve circulation, noting that the developer agrees with all the conditions. He also noted that parents of the children in the child care center will have an orientation meeting and they will be given a map of the traffic pattern which they must agree to.

Mayor Bellamy closed the public hearing at 7:32 p.m.

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

In response to Councilman Pelly regarding earlier concerns of access for Crowfields residents, Mr. Mooney said that Crowfields is moving forward with survey work to get the location surveyed and the hiring of an engineer.

Councilman Pelly 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. 4194 to amend the conditional zoning of Asheville Academy, located at 1709 Hendersonville Road, to facilitate the development of an 8,215 square foot daycare facility, subject to the following conditions: (1) The conditions recommended in the TRC staff report; (2) All standard conditions being met; and (3) The recommendations found in the traffic study. This motion was seconded by Councilman Hunt and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF BILTMORE HILL, LOCATED AT 63 BROOK STREET, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 24,958 SQUARE FOOT MIXED USE BUILDING AND A 7,707 SQUARE FOOT SEVEN UNIT MULTI-FAMILY HOUSING BUILDING

ORDINANCE NO. 4195 - ORDINANCE TO CONDITIONALLY ZONE BILTMORE HILL, LOCATED AT 63 BROOK STREET, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 24,958 SQUARE FOOT MIXED USE BUILDING AND A 7,707 SQUARE FOOT SEVEN UNIT MULTI-FAMILY HOUSING BUILDING

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone the project identified as Biltmore Hill Project, located at 63 Brook Street from RS-8 Residential Single-Family High Density District and Community Business II District to Community Business II District/Conditional Zoning for the development of a 24,958 square foot mixed use building and a 7,707 square foot seven unit multi-family building. This public hearing was advertised on May 17 and 24, 2013.

Ms. Bernstein said that the applicant is requesting a Conditional Zoning for four parcels located at 63 Brook Street and 2 Warren Avenue from CBII (Community Business II) and RS-8 (Residential Single-Family High Density District) to CBII – Conditional Zone in accordance with Section 7-7-8 of the UDO, for the construction of a mixed use development.

The project site consists of four separate parcels with a combined area of approximately 1.66 acres with frontage on Brook Street, Reed Street and Warren Avenue in Biltmore Village. The two parcels fronting on Brook and Reed Streets are zoned Community Business II (CBII) and are within the Biltmore Village Historic District Overlay. One parcel along Brook Street is entirely CBII and the other has frontage on both Brook Street and Warren Avenue and is split-zoned with both CBII and RS-8. The rear parcels along Warren Avenue are entirely zoned RS-8. Nearby and adjacent zoning districts include CBII, CBI, CI, Institutional and RS-8.

The site along Brook Street is currently the location of a mostly-vacant single-story commercial strip building (location of Old School Subs & Deli and an auto repair shop) and the site accessed from Warren Avenue contains a single-story residential structure and shed. All existing structures are to be demolished.

With this conditional zoning, the applicant is proposing the construction of two new buildings. Due to the existing grade change dividing the project area, the building sites will function as two separate developments on one parcel. There is no interaction between the two structures and each has separate parking and access.

The larger development is a two-story building placed at the corner of Reed and Brook Streets. This structure is proposed for retail uses along the ground level with six (6) residential units on the second-story (five 2BD units; one 3BD). The building is 30 feet tall (46'5" to tallest roof peak) and has a total area of 24,958 square feet (14,872 square feet is retail use – approximately 4-5 separate retail spaces, depending on final tenants). This building falls under the Historic Resources Commission's (HRC) design review.

The second structure is located above (rather than behind) the mixed-use building and is accessed from Warren Avenue, due to a grade change of approximately 50 feet from Brook Street up to the rear end of the project site. This building is exclusively residential and contains seven (7) two-bedroom units on three levels (four levels when viewed from Brook Street) and a building height of 30 feet – 42'2" to the tallest roof peak. Because of the continuing grade change, the single-family dwelling across the street from the structure will be approximately at the level of the third floor. This building does not require compliance with Biltmore Village design guidelines.

The project site currently consists of both RS-8 and CBII zoning classifications. The area zoned RS-8 is just under one acre, which would permit a maximum of eight residential units (although not in a multi-family configuration). With the rezoning, seven units are proposed in this area. The parcels along Brook Street are already zoned CBII, an area approximately 1.1 acres in size, and would be allowed to have 17 units. The maximum density allowed for the entire rezoned project site is 26 units – 13 are proposed. While a greater number of residential units would be permitted, the topographic challenges are a limiting factor. Also, limiting the number of units in the residential structure will result in a development that is more compatible with the single-family neighborhood across Warren Avenue.

There are two driveway cuts proposed on Brook Street to access the mixed-use building; one provides an entrance only and the second allows for both right and left-turn exit movements. New five-foot wide sidewalks are shown along Brook and Reed Streets. The new sidewalks will be brick, according to HRC design guidelines. There is no access provided within the site between the two buildings, pedestrian or otherwise.

The applicant is proposing improvements within the right-of-way of Brook Street/Sweeten Creek Road with traffic calming and crosswalks similar to what is already in place further east (in front of 10 Brook Street). Additionally, the proposal includes pedestrian crosswalks along the route to the off-site parking

Access to the residential building is from a single driveway off of Warren Avenue. No sidewalks are proposed for Warren Avenue (fee-in-lieu requested). The street is not identified as a needed linkage and proceeds to a dead-end shortly beyond the building side. Additionally, the topography would make construction difficult.

A minimum of 49 spaces is required for the mixed-use building. Plans show parking 21 parking spaces (2 HC accessible) and indicate that 28 additional spaces will be made available at an off-site location (2 Fairview Road) through a shared parking agreement. Bike parking is included.

The separate parking lot for the residential building includes 10 spaces (1 HC accessible) as well as a bike rack in this location as well.

Landscaping is required on the site and includes a property line buffer along Warren Avenue, street trees on Brook, Reed and Warren, parking lot and building impact landscaping, street buffer and dumpster screening. The property line buffer can be administratively approved for a width reduction due to the existing vertical separation on the lot, according to Section 7-11-3(e)(1).

Since the proposal functions more as two separate developments, open space will be split for this project. The Brook Street portion of the property will be subject to "urban open space" requirements, which is provided via the hardscaped elevated walk as well as green space (five percent or 2,897 square feet required - 4,302 square feet shown on plans). The residential building along Warren Street is subject to "suburban open space" requirements of fifteen percent; provided via the walking path and open area in front of the building (2,157 square feet required – 2,380 square feet provided).

There are significant retaining walls included with for development, up to 26 feet tall in areas, according to conceptual plans. All walls over 8 feet in height will need to comply with aesthetic requirements. Landscaping is required when walls are taller than 6 feet in height and closer than 35 feet to the road (Warren Avenue) and for any portions taller than 20 feet, regardless of proximity to the road (several locations). The appearance of the walls along the lower portion of the site will be reviewed by the HRC.

Because this is a through-lot, a 30 foot, type B property line buffer is required along Warren Avenue as the "secondary frontage." The UDO allows for *administrative approval* of alternative compliance in the event of a vertical separation on the lot greater than 15 feet. The buffer width will be reduced to 15 feet.

The proposal was approved with conditions by the Technical Review Committee on April 1, 2013. A (voluntary) community meeting with representatives from the Biltmore Village Merchants Association was held on April 11, 2013.

The Planning & Zoning Commission reviewed this project on May 1, 2013, and recommended approval with a 6-1 vote. There were concerns expressed regarding the sharp, steep curve to access Warren Avenue from Reed Street when heading south from Biltmore Village. The City Transportation Engineer stated that it would not be considered to be a dangerous intersection. Staff followed up with Public Works as well, and the Assistant Director noted that while it is a tight curve, it would not be considered as a safety concern from their perspective especially given that there are multiple other access points to Warren Avenue.

Staff has spoken with two of the three property owners across Warren Street. One was favorable of the proposal and the other had concerns regarding loss of view, increased traffic and ensuring completion of the project.

Because the portion of the property along Brook Street is within the Biltmore Village Historic District Overlay, design review for compliance with all district guidelines is required. The applicant had a preliminary review with the Historic Resources Commission (HRC) on January 9, 2013, and preliminary comments have been addressed. Upon receiving approval of the conditional zoning request by City Council, the applicant will return to the HRC for final design review.

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.

This site has a +/- 50 foot grade change from Brook Street up to Warren Avenue which lends itself to dividing the site, as it is in its currently developed state, with retail at the bottom and residential at the top. The proposed improvements will require significant retaining structures to secure the slope, including lower walls around the rear of the

Brook Street parking area (the aesthetics of which are subject to design approval by the Historic Resources Commission). There will be larger retaining walls and building foundation walls below the residential building. These retaining structures will be subject to technical review during the building permitting process.

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

The development is expected to complement the adjacent shops and uses and add to the fabric of Biltmore Village in a valuable way. Roadway improvements will visually extend the Biltmore Village Historic District and will enhance and improve the pedestrian experience. While the apartment building is not entirely consistent with the development pattern in the immediately surrounding neighborhood, the edges of this neighborhood contain larger structures such as office buildings and hotels. The residential use is complementary and is not expected to injure the value of abutting properties.

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 mixed-use building and associated improvements proposed along Brook Street are aligned with nearby development in terms of scope, scale and use. Adherence to the Biltmore Village Design Guidelines ensures visual harmony and compatibility. The residential building is not subject to compliance with the design guidelines, however, like materials and a similar style have been incorporated.

The scale of the residential building on Warren Avenue is greater than the single-family homes immediately across the street. The building is proposed to be three stories in height (when viewed from Warren Avenue) which is 30 feet per UDO definition of building height (and below the maximum height in residential zoning districts). The confronting homes will, however, be approximately at the visual level of the third floor due to the grade change along Warren Avenue. The tallest point on the structure is shown as 42'2" to the highest roof peak.

The potential impact of a taller structure in this location is mitigated by the continuous elevation gain heading south across Warren Avenue. At 2 Warren Avenue (project site), the existing elevation is approximately 2050 feet. Across Warren, the elevation is approximately 2075 feet at the rear of that parcel, gaining 25 feet. Moving further south to the Biltmore Inn property, the elevation is approximately 2105 feet, a gain of more than 50 feet.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

Elements of the overall project are directly aligned with the City's goals and objectives including multi-modal transportation elements (sidewalks, bike racks, transit shelter), economic development and residential infill development.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

This site in Biltmore Village place the project in an easily accessible location by car, foot, bicycle and is along an Asheville transit route (SI). The project has been reviewed by the Technical Review Committee and has been found to have adequate access to infrastructure.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

This project proposes offsite parking along Fairview Road and extending the traffic calming medians along Brook Street. A traffic study is being conducted to address the functionality of the additional traffic calming devices and ability of the highway to handle the traffic with them installed. It will also determine if an ADA accessible route can be achieved from the project to the proposed offsite parking location. The project is not expected to create a traffic hazard or undue congestion, pending the results of the traffic study.

Pros:

- City goals support mixed-use development, especially providing residential uses in a walkable location proximate to transit
- Streetscape and roadway improvements will improve the pedestrian experience
- Design review of the Brook Street building by the HRC ensures historic appropriateness to Biltmore Village and aesthetic cohesiveness, extending the “look” of the Village to this eastern edge

Con:

- The residential building along Warren Street is a larger scale than the single-story homes immediately across the street (although there are larger, taller structures a couple of blocks within the residential neighborhood).

Based on the above findings, staff recommends approval of the conditional zoning request as requested by the applicant. While the residential building is larger than the homes immediately across Warren Avenue, there are larger structures both within this residential neighborhood as well as larger, non-residential uses along other edges (hotels, offices) and the elevation gain moving into the neighborhood mitigates the visual impact.

Mayor Bellamy opened the public hearing at 7:43 p.m.

Mr. Bryan Moffit, representing the developer, asked for Council's support of the conditional zoning and explained that they have cited the residential building at the end of Dodge Street as far as possible so it was not directly across from any of the houses along Warren Street.

Mayor Bellamy closed the public hearing at 7:43 p.m.

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

Councilman Hunt 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. 4195 to conditionally zone the project identified as Biltmore Hill Project, located at 63 Brook Street from RS-8 Residential Single-Family High Density District and Community Business II District to Community Business II District/Conditional Zoning for the development of a 24,958 square foot mixed use building and a 7,707 square foot seven unit multi-family building, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) Any deviation to building design, construction materials and orientation on site from the conceptual site plan and building elevations presented with this application can only be through requirements by the Historic Resources Commission's review (based on Biltmore Village Design Guidelines). Any other deviation from these plans may result in reconsideration of the project by the reviewing boards;

(6) Compliance with the Biltmore Village Design Standards for the portion of the property within the overlay is required prior to issuance of a zoning permit; (7) Review and approval of the off-site parking lot (2 Fairview Road) is required prior to final zoning approval (and is required prior to CO); and (8) The building along Warren Avenue is residential only and may not be used for any commercial purposes. This motion was seconded by Councilman Davis and carried unanimously.

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C. PUBLIC HEARING TO CONSIDER REZONING PROPERTY ON THOMPSON STREET FROM RIVER DISTRICT TO URBAN PLACE DISTRICT

ORDINANCE NO. 4196 - PUBLIC HEARING TO REZONE PROPERTY ON THOMPSON STREET FROM RIVER DISTRICT TO URBAN PLACE DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone property on Thompson Street from River District to Urban Place District. This public hearing was advertised on May 17 and 24, 2013.

Mr. Esselstyn said that the subject area is bounded and bisected by noteworthy pathways: the north and south property lines abut the Swannanoa River and the Norfolk Southern Railroad Lines, respectively; Stoner Road abuts the western edge, intersecting Thompson Street, which divides the property. The land between Thompson Street and the river lacks significant development potential, as it is entirely in the floodway, hence the analysis will focus on the area south of Thompson Street.

Despite the higher ground south of Thompson Street, the vast majority of the subject parcel still is identified on the current FEMA flood maps as 100-year floodplain. The applicant has modified the property grades subsequent to the capture of the data on which the current maps are based, but has not yet requested flood map amendments, preferring to wait until the outcome of the rezoning petition and final land configuration have been determined.

The applicant's request to rezone the property from River District to Urban Place District stems from an interest in a zoning classification that would allow higher residential density (64 units per acre for UP, compared to 16 for River), as well as the other higher-intensity development options that the latter district provides.

The Urban Place District is designed to encourage higher density mixed-use development that is pedestrian friendly and includes special building design considerations similar to other mixed-use districts. The district is expected to foster development and redevelopment of areas with sufficient infrastructure in place to support the uses. Urban Place is expected to be applied to areas faced with blight and neglect and for areas that may have special environmental considerations. The range of permitted uses is broad enough to support compatible infill redevelopment.

The River District is developed to encourage redevelopment of the river areas in a manner that complements the natural environment of the river. The River District is unique in that it allows any use that is not prohibited in the list of uses. The residential density of the River District is relatively low for the nature of the district and the fact that most housing will be multi-family in style.

In early 2007, more than a dozen properties were rezoned from either River or CI (Commercial Industrial) to Urban Place, as an effort to begin implementing the Dykeman Plan by providing the appropriate zoning for the area. These rezoning processes were also accompanied by an ordinance amendment to the Urban Place District section of the ordinance to add environmental standards. About half of the properties involved in the rezoning neighbored the

French Broad, but a similar number of the properties were along the Swannanoa, five of them in the vicinity of the subject parcel. The subject property was originally included in one of these rezoning processes, but then withdrawn at the applicant's request.

Three of the parcels rezoned from River to Urban Place were recently rezoned back to River again for the New Belgium project. In that specific case, the reversion was for a specific project (now underway), but there are multiple examples of other speculative zoning requests in recent years elsewhere in Asheville that have had to be later "undone" because they never attracted a buyer/developer. (It should be noted that the successfully completed Mica Village project is on one of the nearby parcels rezoned to Urban Place in 2007.)

In 2007, when the subject parcel was included in the proposed rezoning, the staff recommendation was for approval, and staff maintains the supportive stance today. The proposal is consistent with adopted plans, and the Urban Place district is compatible with surrounding uses. Some capacity for industrial and other high-impact uses would be lost, but staff sees that as a tolerable downside, given the upside of potential for sought-after higher density development of an urban nature.

At their May 1, 2013, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the proposed rezoning.

Stephanie Monson Dahl, the City's Riverfront Redevelopment Coordinator, has also reviewed the analysis and raised no objection.

As of this writing, staff has received no communications from the public regarding the petition in question.

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

Pros:

- Is suitable for the subject area and consistent with other adjacent and nearby zoning.
- Supports the goals of the City Development Plan 2025 related to river-area land use, smart growth concerns, transportation opportunities, potential for economic growth and greenway and environmental features.
- Consistent with the Wilma Dykeman Riverway Master Plan.
- Could encourage private investment and redevelopment in the subject area.

Con:

- High-density development in the flood hazard area, given the undetermined status of future flood maps for this property, could prove to be a challenging proposition.

Staff feels that the proposed zoning change is in keeping with other comparable rezonings in the riverfront areas in the recent past, and is also consistent with current City goals and interests in these areas. Hence, staff recommends approval.

Mayor Bellamy opened the public hearing at 7:47 p.m.

Ms. Lisa Stevens, representing the applicant Mr. George Morosani, explained that they have modified the property grades and have performed all the background work to determine the exact amount of grading that would be necessary to bring the property out of the floodway area. After the outcome of their rezoning request and final land configuration, they will be requesting a flood map revision from FEMA.

Mayor Bellamy closed the public hearing at 7:48 p.m.

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

Councilman Smith 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. 4196. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 13-114 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville-Buncombe Historic Resources Commission.

Ms. Ashley Gaylord has resigned from the Commission, thus leaving an unexpired term until July 1, 2013; Ms. Hillary Cole has resigned from the Commission, effective July 1, 2013, thus leaving an unexpired term until July 1, 2014; and the term of Mr. David Nutter expires on July 1, 2013.

The following individuals have applied for the vacancies: Grant Millin, Ronald E. Burgin, Aixa Wilson, David Carpenter, Sue Russell, William S. Eakins and Woody Farmer.

On May 14, 2013, City Council instructed the City Clerk to arrange interviews for Sue Russell, William Eakins and Woody Farmer. Also on May 14, it was the consensus of Council to reappoint Mr. Nutter to serve an additional three-year term.

After Council spoke highly of the candidates, Sue Russell received 6 votes, William Eakins received 1 vote and Woody Farmer received 5 votes (Mayor Bellamy was not in the room). Therefore, (1) Woody Farmer was appointed as a member of the Asheville-Buncombe Historic Resources Commission, to serve the unexpired term of Ms. Gaylord, term to expire July 1, 2013, and then a full three-year term, term to expire July 1, 2016; (2) Sue Russell was appointed as a member of the Asheville-Buncombe Historic Resources Commission, to serve the unexpired term of Ms. Cole, term to begin July 1, 2013, and term to expire July 1, 2014; and (3) David Nutter was reappointed to serve an additional three-year term, term to expire July 1, 2016. All appointments are until their successors have been appointed.

RESOLUTION BOOK NO. 35 – PAGE 313

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler spoke to Council about the need for a formal request to the Asheville Police Department for a dollar amount for marijuana enforcement, and also the need for transit service on Sundays.

City Manager Jackson responded to Council regarding making our transit system more viable.

VIII. ADJOURNMENT:

Vice-Mayor Manheimer adjourned the meeting at 8:00 p.m.

CITY CLERK

MAYOR