

Tuesday – March 8, 2011 – 3:30 p.m.
First Floor North Conference Room

Worksession

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

Absent: None

Strategic Operating Plan

Director of Administrative Services Lauren Bradley said that this is a continuation of the Strategic Operating Plan review from Council's February 4 retreat. Staff compiled the goals and objectives into a word document, highlighting changes. The new "Multimodal Transportation" focus area has not been wordsmithed by staff, pending Council's review.

Throughout discussion, Council reviewed the draft Strategic Operating Plan which goals and objectives were confirmed, amended or deleted.

It was the consensus of Council, at the Mayor's suggestion, to add an approximate dollar amount necessary to achieve each objective, and to bring that analysis back to Council at the April 12 worksession.

Councilman Smith hoped to have the next City Council Retreat longer than one day to make sure that they are not rushed in compiling their Strategic Operating Plan and not devote the entire retreat to goal-setting. He volunteered to be on the next Retreat Committee.

Budget Calendar

Director of Administrative Services Lauren Bradley reviewed the Fiscal Year 2011-12 budget planning calendar.

Council discussed (1) the next Finance Committee meeting which will be to discuss the fees and charges; (2) regarding new census numbers, an analysis to be provided by Ms. Bradley regarding the per capita costs for services; (3) regarding new census numbers, seats on the Metropolitan Sewerage District Board which City Attorney Oast would provide to Council; (4) the difference between the October Capital Improvement Plan mini-retreat and the information to be presented at the budget briefing on April 12 (which will be sent out in advance to Council); (5) information regarding ridership on the buses due to the increase of gas prices; and (7) update on the new MAHEC building on Hendersonville Road's request for transit service.

At 4:31 p.m., Mayor Bellamy recessed the worksession until the 5:00 p.m. formal meeting in the Council Chamber.

Tuesday – March 8, 2011 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith;

City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Manheimer gave the invocation.

Mayor Bellamy asked for a moment of silence in memory of the passing of Mr. Robert P. "Bob" Ingle.

I. PROCLAMATIONS:

A. RECOGNITION OF UNC-A MEN'S BASKETBALL TEAM

Mayor Bellamy and Councilman Davis were very pleased to announce that UNC-Asheville has won six games in a row and captured its third Big South Conference championship with a 60-47 victory over Coastal Carolina Saturday night on Coastal's homecourt. The Bulldogs have a 19-13 overall record this year. Asheville has qualified for the NCAA Tournament for the second time in school history.

UNC Asheville had three players make the All-Tournament team. They are Matt Dickey, John Williams and J.P. Primm. John Williams set a Big South record with six blocked shots in the championship game victory over Coastal Carolina. Matt Dickey was named Tournament Most Valuable Player.

The Bulldogs made their final season a winning one in the final season of play at Justice Center. UNC-Asheville went 10-5 at Justice and won the final game ever played there last Tuesday night over Charleston Southern, 72-63.

UNC-Asheville had three players scored their 1,000th career point this season in John Williams, Matt Dickey and J.P. Primm.

Matt Dickey was a first team Big South All-Conference selection, while J.P. Primm was a second team all-conference selection. Matt also made the Big South All-Academic team.

UNC-Asheville head coach Eddie Biedenbach recorded his 200th win as Bulldog head coach this season. He is the Big South's all-time winningest head coach for both overall wins and conference victories.

Mayor Bellamy presented Coach Biedenbach with a key to the City, along with Asheville ballcaps to members of the team and staff. She acknowledged that the team worked hard for their accomplishments and was proud for them to represent the City of Asheville well.

Coach Biedenbach and Director of Athletics Janet Cone commended the players for their teamwork as they are great student athletes. They presented City Council with a T-shirt.

The following individuals were recognized: Janet Cone, Director of Athletics; Mike Gore, Associate Director of Athletics; Head Coach: Eddie Biedenbach; Assistant Coaches: Nick McDevitt, Brett Carey, Kotie Kimble; Players: John Williams, Eric Stubbs, Matt Dickey, J.P. Primm, Chris Stephenson, Quinard Jackson, D.J. Cunningham, Madison Davis, Jeremy Harn, Jaron Lane, Josh Seligson, Toles Hartman, Trent Meyer, and Chew-dee-ah Pal.

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 22, 2011**
- B. RESOLUTION NO. 11-44 - RESOLUTION CONFIRMING CITY COUNCIL SUPPORT OF PARTICIPATION IN THE YWCA'S "STAND AGAINST RACISM" EVENT ON APRIL 29, 2011**

Summary: The consideration of a resolution for City Council support for the City's participation in the YWCA's "Stand against Racism" effort on April 29, 2011.

The YWCA of Asheville is participating in a nationwide "Stand against Racism" event to be held April 29, 2011, and has requested community organizations plan events in support of the overall effort to acknowledge racism still exists in our community.

A walking diversity tour of downtown is being proposed as a supplement to an ongoing collaborative diversity campaign between the City of Asheville and Buncombe County Health and Human Services. Approximately 15 -20 employees from the City of Asheville would receive training prior to the event from the Center for Diversity Education. City employees would use their lunch hour to sign up for time slots throughout the day in which they would walk the predetermined .5 mile route, led in groups by the trained peer guides, through downtown Asheville.

The tour will examine areas within a short distance of City Hall that are significant to the stories of women's suffrage, the history of slavery and civil rights, the impact of Native Americans, Jewish business and the Scots-Irish in the growth of Asheville as a center of commerce, how the LGBT, Hispanic, Asian and eastern European/Slavic communities contribute to the economic and cultural health of our community and why the changing face of our city, county and region is important to and impacts each of us as citizens and/or employees.

Buncombe County employees would be invited to participate with their City of Asheville colleagues. A virtual version of the tour will be made available to employees who are not able to participate due to physical or scheduling limitations.

Short video interviews in which participants share what standing against racism means to them would be taped as groups complete their walk. The interviews would then be posted on City of Asheville websites.

Pros:

- Participation in the event will allow individuals the opportunity to express their desire to stand against racism during their lunch hour.
- The walk and associated videos will make a visual statement about the City's support of YWCA of Asheville's mission of ending racism.
- The walk also meets Asheville Balanced Choices (ABC's) employee wellness goals for increased physical activity opportunities.
- The event is an expression of the City of Asheville's core value of Diversity.
- The walking tours are planned to continue beyond the Stand against Racism throughout the year to highlight the City of Asheville's year-round commitment to value and highlight diversity in our community.

Con:

- Eradicating racism involves much more than making a visual statement.

As participation in the event would take place during employee lunch hours, there is no fiscal impact involved in organizing the walk. The training and subsequent walking tours are part of an ongoing diversity training initiative that is supported by management as an important component of employee training and development.

City staff recommends City Council adopt a resolution of support for a City of Asheville walking diversity tour in support of the YWCA's "Stand against Racism" effort.

RESOLUTION BOOK NO. 33 – PAGE 353

C. RESOLUTION NO. 11-45 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO PURCHASE UP TO 900 LED ROADWAY STREET LIGHT FIXTURES

Summary: The consideration of a resolution authorizing the City of Asheville to purchase up to 900 LED Roadway street light fixtures not to exceed \$290,000.

City Council previously approved using grant funds approved through the Energy Efficiency and Conversation Block Grant (EECBG) for the procurement of up to 900 LED Roadway streetlights. The purpose of the grant is to reduce energy consumption, increase energy efficiency and reduce carbon footprint.

Upgrading 900 LED fixtures will reduce the municipal carbon footprint by an estimated 223 tons per year. As a result of the City of Asheville purchasing and owning these streetlights Progress Energy Carolinas (PEC) will provide a reduced electricity rate, which will result in \$48,492 annual savings. Those savings will be reinvested into additional carbon footprint reduction efforts for the municipality. The purchase of the initial 900 fixtures will be considered Phase 1 in a larger program to upgrade all municipal streetlights with LEDs. Funding for the subsequent phases will be determined through the annual budget process. Phase 1 installation will be concentrated in the East of the River Way neighborhood otherwise know as the River District.

In order to receive the reduced electricity rate, the City of Asheville is required to purchase a PEC approved fixture. Currently the LED Roadway manufactured by BETA is the only approved fixture. Therefore, the City needs to pursue a single source provider purchase order with BETA. This is allowable as per N.C.G.S. 143-129(e) which states that "the governing body of a political subdivision of the state shall approve the purchase of apparatus, supplies, material or equipment without formal bidding when "(ii) a needed product is available from only one source of supply or (iii) standardization or compatibility is the overriding consideration"

This action complies with the Strategic Operating Plan by supporting Council's efforts to reduce the municipal carbon footprint reduction efforts by 4% each year and leverage internal and external partnerships for pursuing capital improvements and infrastructure projects.

Pros:

- Phase 1 of this program will reduce the municipal carbon footprint 0.7%
- The City of Asheville will lead the state with Phase 1 being the largest LED street light installation to date.
- The savings from phase 1 street lighting will financially support future investments in carbon reduction measures.

Con:

- The City of Asheville will be responsible for streetlight replacement

The purchase of this equipment will use the remaining \$290,000 of EECBG grant funds. No other city funds will be required for the project. The installation will reduce utility operations costs in the General Fund by \$48,492 annually.

City staff recommends City Council adopt a resolution authorizing the City of Asheville to purchase up to 900 LED Roadway street light fixtures not to exceed \$290,000.

RESOLUTION BOOK NO. 33 – PAGE 354

D. RESOLUTION NO. 11-47 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE EXTENSION OF CONTRACT WITH THE N.C. DEPT. OF CRIME CONTROL & PUBLIC SAFETY FOR REGIONAL HAZARDOUS MATERIALS RESPONSE FOR REGION 6

Summary: The consideration of a resolution authorizing the City Manager to renew the extension of contract with the N.C. Dept. of Crime Control & Public Safety for regional hazardous materials response for Region 6.

The N.C. Dept. of Public Safety and Crime Control is in the process of extending contracts from the dates of July 1, 2011, to June 30, 2012, with seven North Carolina governmental units in North Carolina for provision of regional hazardous materials emergency response. The City of Asheville has been a regional hazardous materials provider since Fiscal Year 1994-1995. The State of North Carolina provides funding that fully supports the operational costs of the program.

North Carolina is divided into seven geographical regions for the purpose of hazardous material emergency response. The North Carolina Department of Crime Control and Public Safety contracts with municipalities across North Carolina to respond into the geographical regions and provide technician level hazardous materials emergency response. The region six areas encompass the westernmost twenty counties.

Due to the time requirements of this contract, this action has not been presented to the Asheville City Council Public Safety Committee.

This action complies with the Strategic Operating Plan by assisting in making Asheville a safer city, based on appropriate metrics for similarly sized cities.

Pros:

- The State of North Carolina provides the hazardous materials response apparatus, all response equipment and provides for administrative costs of operating the team. In addition, the state funds extensive training for members of the Asheville Fire Department to enable us to competently handle hazardous materials emergencies.
- The City of Asheville has full use of the apparatus and all specialty equipment within the City of Asheville. Without the state hazardous materials contract, Asheville taxpayers would need to provide much of the resources necessary to properly respond to emergencies within Asheville. With the contract, the equipment and resources are funded at the state level, rather than at the local level.
- During the seventeen years that we have provided regional hazardous materials response services, we have not experienced difficulties or disadvantages with the program.
- Firefighter and citizen safety will be enhanced.

Con:

- None have been identified or known at this time.

The State of North Carolina provides funding that fully supports the operational costs of the program; therefore there is no impact to the City's General Fund budget.

City staff recommends City Council authorize the City Manager to enter into the one year extension of an agreement with the N.C. Dept. of Crime Control and Public Safety to provide regional hazardous materials emergency response for region 6.

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E. RESOLUTION NO. 11-48 - RESOLUTION OPPOSING HOUSE BILL 129 AND SENATE BILL 87 ENTITLED "LEVEL PLAYING FIELD/LOCAL GOV'T COMPETITION"

Summary: The consideration of a resolution opposing the North Carolina House Bill 129 and Senate Bill 87.

The above bills are entitled, "Level Playing Field / Local Government Competition." This analysis refers to "Edition 1" of the bills, both dated 2-21-11.

The stated purpose of the bills is to protect jobs and promote investment in North Carolina. The mechanism for protection is structured as restrictions on local government on engaging in what governing boards deem to be public-purpose communication and/or broadband projects. While one might assume that the bill's target of communications services that deliver broadband and other services "to the public, or any sector of the public, for a fee" would rule out Asheville, this is not necessarily the case. The City of Asheville owns and operates assets that support a public safety radio system, a critical need for our officers in the field. Over the lifetime of the communications system, the City has leased surplus communications system assets to the private sector in order to underwrite a cost savings plan for the operations of the system, thus saving citizens from an additional tax burden.

Restrictions of the bills include limiting permanent or temporary subsidy of a broadband enterprise fund by other enterprise funds, as well as making cities liable for taxes that, normally, only private telecommunications corporations would have to pay. The bills state that cities "shall not subsidize provision of communications services with funds from any noncommunications service", and would rule out a private/public partnership (such as a potential partnership with Google Fiber) or grant funding (such as ARRA or other Federal funding). Such restrictions would significantly harm Asheville.

The restrictions also forbid the financing or leasing of real property (which could be rights-of-ways for a communication network or tower sites) per NCGS 160A-19 and 160A-20. Asheville's ability to build new public safety telecommunications towers, or relocate them, would be affected. Finally, the bills apply these restrictions to interlocal agreements. While the bills exempt facilities that are "within the city's jurisdictional boundaries for the city's internal governmental purposes," it is not always clear-cut what an "internal governmental purpose" is, and whether a city that partners with a county or other local government would be subject to these restrictions. It is worth noting that not all of the City of Asheville's critical public safety telecommunications towers are within the City's jurisdictional boundaries.

Other Feedback to Bills

Sources such as the Southeastern Telecommunications Officers and Advisors Association (SEATOA), a coalition of state and local telecommunications workers, have stated that these bills will harm public safety networks. They say, "public safety networks are typically regional communication networks of Counties, Cities, and Towns who pay fees and receive federal grants to cover operational costs. This bill would shut them down by limiting their service

areas and imposing restrictive rate-setting and financial limitations; it will also make them ineligible for Homeland Security, ARRA and Farm grants.”

The NC League of Municipalities states, “both of these bills are designed to restrict the ability of cities to own and operate cable, video programming, telecommunications, and broadband services. The League is opposed to the legislation.”

Telecommunications industry leaders and trade associations have also spoken out against the bills.

While Asheville does not have any current plans to pursue municipal broadband, these bills may have unintended consequences that could impact operations or cause fiscal harm. Given Asheville’s recent experiences with legislation with unintended consequences that caused significant potential expenses and led to the loss of a critical public safety asset valued at \$4.5M in today’s dollars to rebuild (Video Service Competition Act of 2006), staff recommends that this legislation be opposed.

These bills could have a negative fiscal impact in two ways. First, the City’s ability to accept grant dollars or engage in communication system interlocal agreements would likely be negatively impacted because of the City’s practice of underwriting public safety communications expense with leases to the private sector. Second, if City Council wished to engage in broadband economic development activities to boost the tax base, such as a public-private partnership to build a high speed broadband system similar to Google Fiber, such an action would be significantly more difficult to accomplish than it is today.

City staff recommends City Council adopt a resolution opposing House Bill 129 and Senate Bill 87.

RESOLUTION BOOK NO. 33 – PAGE 357

F. RESOLUTION NO. 11-49 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A COMPREHENSIVE ANTI-GANG STRATEGIES AND PROGRAM GRANT FROM THE OFFICE OF JUVENILE JUSTICE DELINQUENCY PREVENTION OF THE U.S. DEPT. OF JUSTICE

Summary: The consideration of a resolution authorizing the City Manager to apply for a 36 month Comprehensive Anti-Gang Strategies and Program grant totaling \$750,000 funded by the Office of Juvenile Justice Delinquency Prevention of the U.S. Department of Justice.

In October 2004, elected officials, City staff and Asheville citizens mobilized to develop comprehensive strategies to address issues of law enforcement, neighborhood restoration, and prevention/intervention/treatment programs and activities in the West Riverside area of Asheville as part of a Weed and Seed initiative. The strategy was introduced to the community, via a series of public meetings, to determine the concerns of residents of the targeted area. The strategy was favorably received with the understanding that residents would be integrally involved in the planning and implementation of the initiative. In July 2006, the U.S. Department of Justice announced the designation of Asheville as an “Officially Recognized” site for the federal Weed and Seed initiative aimed at reducing crime and improving quality of life. Official recognition made the City of Asheville eligible to apply for Weed and Seed funds once a year over a five year period. The last funding award was accepted by the Council on November 9, 2010.

Crime data collected over the last 3.5 years suggests the initiative is having an impact in the targeted area. This grant would allow the City of Asheville to expand the success and coverage of Weed and Seed goals into areas experiencing higher crime. This program creates greater access to the law enforcement community with the intent of building stronger relationships based upon mutual trust. The use of funds would enhance existing evidence-based gang

prevention, intervention, and suppression programs such as: Gang Resistance Training for both youth and families, Truancy Intervention Court for Asheville City School District students, direct suppression of violent group or gang related crime, and Police Activities League programming. Organizations, agencies, and programs, will work in partnership to deliver complementary services to at risk or gang-involved youth. Proposed activities meet many of the needs identified by Weed and Seed, Changing Together, RICH Task Force, Ready by 21, Listening to our Teens Network, Asheville Police Department crime data and Western Carolina Gang Task Force.

This action complies with the City Council Strategic Operating Plan in the "Safe Focus Area" goal. It make Asheville the safest city in America based on approved metrics for similarly sized cities, continue community policing initiatives; support recreation and employment alternatives for youth at risk of gang exposure

Pros:

- Continue to address violent group and gang related crime in affected areas
- Increases and expands community policing efforts
- Enhances existing proven gang prevention, intervention, and suppression programs.
- Program works with community resources to affect change
- Provides a comprehensive crime prevention plan to address law enforcement and prevention/intervention programs for at-risk or gang-involved youth in high crime areas.

Con:

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

The City of Asheville will be positively impacted in the amount of \$750,000 by accepting federal funds available through the grant if awarded. No local matching funds required.

City staff recommends City Council adopt the resolution authorizing the City Manager to apply for the Fiscal Year 2011 Comprehensive Anti-Gang Strategies and Program grant funded by the Office of Juvenile Justice Delinquency Prevention of the U.S. Department of Justice.

RESOLUTION BOOK NO. 33 – PAGE 358

G. ORDINANCE NO. 3951 - BUDGET AMENDMENT TO USE FEDERAL HIGHWAY INTENSITY DRUG TRAFFICKING AREA FUNDS

Summary: The consideration of a budget amendment, in the amount of \$300,000, 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. 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 this \$300,000 and ongoing \$150,000 annual funding after more than four years of competitive process for the HIDTA designation. The Asheville HIDTA will be 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 \$300,000 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.

Pro:

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

Con:

- None noted

The increase of \$300,000 is for equipment, personnel and training. The City of Asheville will directly receive \$150,000, and the remaining \$150,000 will be passed through to the Piedmont HIDTA. 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 \$300,000, to authorize the use of Federal HIDTA funds to purchase equipment and fund personnel costs and training for the Asheville HIDTA.

ORDINANCE BOOK NO. 26 – PAGE 458

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

III. PRESENTATIONS & REPORTS:

A. UPDATE ON BLOCK AREA REDEVELOPMENT AND FUTURE PERFORMANCE CENTER

Mr. James Baudoin, Director of the Performing Art Center, explained the wonderful economic impact of the proposed Performing Art Center, especially around the surrounding neighborhood. He explained The Block study area. The Center's components will consist of 2,000 theatre seats, a black box studio and a multi-purpose rehearsal room. The site will accommodate mixed use and commercial development. They will continue in the design phase until 2013 which will begin the construction phase. Because of the economic impact, they engaged the Asheville Design Center (ADC) to work with them.

Mr. Chris Joyell, Executive Director of ADC, reviewed the recently issued 73-page report titled "The Block: Expanded Site Analysis and District Design Considerations" is intended to serve as a guiding document for the neighborhood's future. He outlined the shape of The Block and explained the public process.

In establishing the goals for the project, it was emphasized from the outset that the end report is not a plan – it is a tool for planning. Major goals of the project include: (1) empowering residents and businesses in the decision-making process; (2) exploring opportunities to attract investment and leverage community improvements; (3) discovering avenues to reconnect The

Block with the East End Neighborhood and downtown; (4) assisting in the implementation of the Downtown Master Plan; and (5) promoting the idea of community-based considerations for The Block.

The key objective is to meet the demands of growth while preserving the community's historic legacy. Everyone should recognize the significance of balancing development, history, culture and ecology in The Block Area:

- History and Culture – To ensure that the existing historic and cultural integrity of the neighborhood and ecologically significant landscapes are restored.
- Key Places – To recognize key places which have historical, cultural and aesthetic values and strive to preserve them for a lasting foundation of redevelopment.
- Site Analysis – To establish a framework from which successful design considerations can be made.
- Creation of district-wide design coordination for revitalization – To agree that all proposed district development must account for the neighborhood and its users and strive to preserve the integrity of The Block.
- District Design Considerations – To establish design considerations which reflect a sound understanding of initial community goals, and suitable approaches to revitalizing The Block.

The ADC report is provided as a “living document” to be continually shaped through public dialogue and community demands. A balance of development, history, culture and ecology will be a continuing theme. Ongoing attention to sustainable green building practices, creative multi-modal transportation and other factors will inspire a dynamic “live-work-play” community.

The future Performance Center offers a unique opportunity to build the creative economy of Asheville and also have a significant impact on the greater Block area.

On behalf of City Council, Mayor Bellamy thanked Mr. Baudoin and Mr. Joyell for their informative update.

C. ARTS & CULTURE SUBCOMMITTEE OF DOWNTOWN MASTER PLAN UPDATE

Project Manager for the Asheville Downtown Master Plan Sasha Vrtunski said that the Arts and Culture Subcommittee wanted to give Council a brief update on their efforts, highlighting the upcoming Asheville Buncombe Creative Sector Summit. Arts are a major economic engine for downtown as well as for our city and larger community. The Strategy 1 of the plan highlighted the importance of strengthening the arts community in Asheville to ensure that it continues to thrive and even grow. As an arts destination, having strong arts organizations are essential to funding and supporting our many arts non-profits, artists and businesses. The Subcommittee is currently concentrating on four items from the Plan: (1) creative sector summit; (2) coordinating arts calendars; (3) exploring Cultural Arts Commission; and (4) creative sector asset map/audit. Many of the other items in the Plan will flow from the summit and the resulting alliance.

Mr. Graham Hackett, Interim Executive Director for the Asheville Arts Council, said that the Downtown Master Plan calls for an “Arts Audit” to be carried out, then to be followed by a summit. The committee carefully considered these steps, and felt strongly that the summit needed to happen first before the audit, or assessment, could be completed. The summit has been planned and will enable the committee to follow up with participants for the assessment. He provided the brief summary of the committee's work.

Asheville Buncombe Creative Sector Summit

The Arts and Culture subcommittee has been working over the past four months to put together a summit of creative professionals, leaders of community organizations, and key stakeholders. Asheville-Buncombe's 1st Annual Creative Sector SUMMIT is a 2-day conference bringing these stakeholders together for networking, education, and collaboration.

At the summit, participants will learn about the objectives from the master plan, the Americans for the Arts Economic Impact Study; current City of Asheville programs and resources; Asheville Area Arts Council grants, initiatives, and facilities and the Arts 2 People's Artist Resource Center. Janet Kagan, a nationally known arts advocate, will give the keynote address, "The Role of the Creative Sector in Community and Economic Development". Participants will also take part in break-out sessions. Follow-up will include correspondence articulating the Summit's findings, continuing online and in-person forums, and action steps to enhance the Creative Sector's community engagement.

Because the creative sector is an important economic engine for the city and the county, this summit is an important opportunity for community leaders to engage with the arts community to foster its growth. The Arts & Culture subcommittee is encouraging local leaders to attend the summit.

Artist's Resource Center

In the Downtown Master Plan, an Artists Resource Center (ARC) was identified as a needed resource for local artists. Arts 2 People has taken the lead on this project and received several grants as well as funds raised through their Lexington Avenue Arts and Fun Festival (LAAFF). Arts 2 People is preparing to open the doors of the Artist Resource Center in the historic YMI Building, in one of the retail suites facing South Market Street. The ARC offers a curriculum of core business management classes geared toward creative professionals. The ARC is designed to support the economic development of the creative sector by enhancing the ability of individual creative entrepreneurs to manage their businesses. Classes will include such topics as bookkeeping, social networking, production issues, marketing and more. Additionally, visitors to ARC can access difficult to afford hardware and software tools, professional development mentoring, networking opportunities and more.

Arts Calendar

A smaller working group has been meeting to discuss the need for a centralized arts and events calendar. Although several online calendars already exist (including ExploreAsheville.com and LiveWireAsheville.com), no calendar covers all of the arts disciplines in our area. The primary challenge is to identify an organization with the resources to manage and promote such a calendar. The task force believes that the Creative Sector Summit will be a natural springboard for this kind of collaboration, and therefore has decided to table the calendar discussion until after the Summit.

Potential Cultural Arts Commission

Through the discussions of the Arts & Culture subcommittee, it became apparent to committee members that there is not a natural home for the arts and culture in the current city boards and commissions structure. Discussions led to the idea of a Cultural Arts Commission, which would serve to advise City Council on the cultural arts sector of the community. Committee members are still researching other communities' approaches and best practices for supporting the creative sector, and plan to have a proposal to bring forward in the coming months.

On behalf of City Council, Mayor Bellamy thanked the leadership of the Arts & Culture Subcommittee.

C. QUARTERLY REPORTS

Planning & Economic Development Committee

Councilman Davis, Chairman of the Planning & Economic Development Committee, thanked his fellow Committee members Councilwoman Manheimer and Councilman Smith and City staff. He then updated Council on some major accomplishments during the 2nd quarter of the Committee as follows: (1) Substantive Projects Affected by Permit Extension Act: Planning staff reviewed list of projects affected by Permit Extension Act; (2) Downtown Parking Study, Completed May 2008: Reviewed staff recommendation to update the Downtown Parking Study completed in May 2008 during the month of December, and forwarded to City Council; (3) Further Research on Permitting Telecommunication Towers in Residential Zoning Districts: Reviewed information gathered from other North Carolina municipalities on permitting telecommunication towers in residential zoning districts. Committee directed staff to revise current zoning amendment and present to City Council; (4) Policy Direction for Legislative Agenda and Action Plan: Staff directed to issue RFP for federal representation and gather information from other North Carolina peer cities on best practices for these agreements; (5) Table of Uses: Planning staff outlined changes to UDO necessitated by creation of unified "Table of Permitted Uses;" and (6) Downtown Management Subcommittee for the Downtown Master Plan – Update & Economic Impact Analysis Funding Request: Committee supported recommendation that Council meet the requested funding for economic impact analysis contingent on funding as structured in the staff report; forwarded to City Council.

Strategic Operating Plan

Assistant City Manager Jeff Richardson said that the Asheville City Council identified short and long term goals at the January 2010 strategic planning retreat and staff is providing its quarterly updates on progress of the five key focus areas.

City Council has asked City staff to provide quarterly updates on key strategic initiatives associated with the five primary focus areas of the City's Strategic Plan. Staff has tracked projects using performance indicators and measurement through the Fiscal Year 2010-11. Similar to the previous quarter, this update will be presented in the form of a video. In addition, staff provided Council with the Economic Development Key Indicator Report.

He then showed Council a video showing the staff's progress on the key strategic areas for this quarter.

This information is to update City Council on key operational initiatives specific to City Council's Strategic Operating Plan. No action is necessary at this time.

Mayor Bellamy thanked Mr. Richardson for providing the update in a video format. She asked that the Therapeutic Recreation Program be highlighted in the next update. She also thanked the Police Department Gang Suppression Unit for their work in reducing incidences related to gang activities.

Financial Report

Director of Administrative Services Lauren Bradley provided Council with a dashboard view of revenue and expenditures. For Fiscal Year budget 2011-12, the outlook remains manageable for continuation budget. The assumptions consist of no property tax increase; no fund balance appropriation; continuation of core services; and savings strategies with a focus on workload metrics.

The executive summary of the City's overall financial position for the fiscal year through December 2010 is as follows:

Amendments. The General Fund budget presented in the second quarter report is unchanged from the budget that was presented in the first quarter report. There were no General Fund budget amendments adopted in the second quarter. A summary of the budget changes since July 1 is presented below.

Adopted Budget	\$ 91,635,962
Health Care Technical Adjustment	(3,553,000)
Budget Amendments:	
City Hall Repairs*	450,000
Annexation Revenue & Expenses	<u>166,757</u>
12/31/2010 Budget	<u>\$ 88,699,719</u>

* Fund balance appropriation

Revenues. Through December 31, 2010, the City has collected \$50,589,353 in General Fund revenue, which represents approximately 57.3% of the total General Fund revenue budget. Staff received property tax data from Buncombe County in January which showed that the FY 2010-11 tax base grew by 0.7%, which is the slowest growth in more than ten years. As a result, staff has revised downward the property tax revenue estimate for the current year. Sales tax revenues are up 3.2% compared to the prior fiscal year and remain on track to meet budget. As noted in the first quarter report, the only major revenue variance to report is in the investment earnings category, where low interest rates will result in lower than anticipated revenues in this category. Overall, staff is currently projecting that *total FY 2010-11 General Fund revenue will come in under budget by \$1.2 million.*

Expenditures. General Fund expenditures through December 31, 2010 total \$42,135,677 or 47.5% of the budget, which is typical for this point in the fiscal year. As noted in the 1st quarter report, staff has implemented several management strategies to curb expenditure growth during the current year in order to address the projected under performance in revenues. *These savings, representing roughly 1% of the overall budget, are expected to come from a combination of strategies that have minimal impact on public services. These strategies include further selective hiring, line item reductions, deferring capital expenses where possible, and seeking opportunities to maximize efficiency in operations.*

Fund Balance. The City ended FY 2009-10 with available fund balance of \$12.3 million, which equated to 14.2% of FY 2009-10 expenditures. *With implementation of the savings strategies mentioned above, FY 2010-11 expenditures are expected to roughly equal revenues, which means available fund balance will remain at \$12.3 million or 14.2% of estimated expenditures.*

In response to Mayor Bellamy, Ms. Bradley gave a general summary of investment earnings and how the City invests.

Mayor Bellamy stated that we are building up Fund Balance, noting that there is no property tax increase proposed.

D. ECONOMIC STIMULUS PACKAGE UPDATE

American Recovery & Reinvestment Project Manager Brenda Mills said that the following is part of the City staff's recurring American Recovery & Reinvestment (ARRA) update to Asheville City Council on projects and job creation.

On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009, a bill that included \$789 billion in funding for programs and tax relief for the purpose of stimulating the U.S. economy in its current state of recession.

The recovery measure contained more than \$150 billion for public works projects for transportation, energy and technology, and \$87 billion to assist states in meeting rising Medicaid costs.

The federal stimulus package provided over 10.5 billion in direct aid to North Carolina to create jobs and rebuild infrastructure, including highways and schools. The recovery program would also inject additional funding into the state through targeted tax cuts, additional grants from federal agencies and direct funding for specific federal programs in the state.

The City of Asheville's funding came from entitlement and grant funding with some grant funding through cooperation with other governmental agencies. The report will provide as much detail on each area of funding and status of the projects approved.

The table below shows the city's funding by entitlement (based on median incomes, crime statistics, population of urbanized area, etc. for funding eligibility) and grants (and sub-grantee awards). Entitlement funding totaled \$6,077,152.00 and a receipt of grants in the amount of \$1,984,960.00 all total funding in the amount of \$8,062,112.00. *For the completed projects and/or those almost complete, we have a count of 16.18 jobs created.* For the surface transportation projects, construction companies typically have general layoffs for the winter so they used their own workforce in the performance of these particular contracts.

The status of projects follows with job creation data as available. Additional information will be available later for projects that have recently started and/or have been delayed in starting at our next report.

Entitlement Funding	Agency	Amount
Homeless Prevention Fund	Housing & Urban Development	\$509,460
CDBG-R	Housing & Urban Development	\$332,942
Energy Efficiency & Conservation Block Grant (EECBG)	Dept. of Energy	\$804,700
Edward J. Byrne Justice Assistance (JAG) Grant	Dept. of Justice	\$265,466
Transit Capital	Federal Transit Administration	\$2,500,000
Surface Transportation (STP-DA)	NC Dept. of Transportation	\$1,664,584
Grant and Sub-Grantee Funding	Agency	Amount
Drinking Water SRF (NCDENR)	NC Dept of Environmental and Natural Resources	\$510,000
Clean Water SRF	NC Dept of Environmental and Natural Resources	\$454,500
Mobile Source Emissions	NC Dept. of Air Quality	\$30,000
Local Energy Assurance Planning (LEAP)	Dept. of Energy	\$209,940

Clean Cities: Carolina Blue Skies & Green Jobs Initiative (Sub-grantee with Triangle J in Raleigh)	Dept. of Energy	\$779,020
Summer Internship Grant for Engineering Division	NC Dept. of Health and Human Services (NC DHHS)	\$1,500

Community Development Block Grant-R (CDBG-R) - \$332,942.00

- **Tier II Emergency Home Repair (\$75,000).** The sub-recipient was Mountain Housing Opportunities (MHO) who performed extensive repair on five homes owned by very-low and low-income, special need households. Maximum investment per home was \$15,000. Repairs facilitated enabled weatherization activities to be allowable and effective. This project has a 100% LMI benefit and is complete.
- **Weed and Seed Weatherization Program (\$75,000).** The sub-recipient was Western North Carolina Green Building Council (WNCGBC). Funding used to market and facilitate weatherization for 60 low-income households in the West Riverside area of Asheville. WNCGBC partnered with Community Action Opportunities Weatherization program. This project has 100% LMI benefit and is complete awaiting final completion reports from Community Action Opportunities.
- **Mountain BizCapital (\$26,000).** Funding used as a revolving loan fund for two micro-businesses. To date, \$14,000 expended and this project has 100% LMI benefit.
- **City of Asheville Louisiana Street Phase 1 (Budgeted \$123,648).** This project is the construction of sidewalk serving this lower-income neighborhood in the city and is an LMI Area under 570.208(a)(1). It was completed for less cost than original budget with the remainder of funds will be used in Phase 2.
- **City of Asheville (\$33,294).** Ten percent allowable for program administration.
- **Job Creation.** To date, *3.37 full time jobs have been created* with this funding.

Homeless Prevention and Rapid-Rehousing Program (HPRP) - \$509,460

The funding supports the City of Asheville's Homeless Prevention and Rapid Re-Housing Program (HPRP). It is designed to prevent homelessness or rapidly re-house households (individuals and families) who would be homeless, but for, this assistance and who, after the maximum 18 months of support, indicate an ability to maintain housing. The goal of HPRP is that households that would otherwise be homeless will maintain housing or obtain housing as a result of participating in HPRP.

HPRP provides funds for: administration (5%), outreach (3%), housing stabilization for case management and housing location services (24%), financial assistance for arrears, rent, utilities, and some moving costs (57%), legal services (8%), and data collection (4%). No less than 60% of the funds will be used within the first two years of the grant, and 100% of HPRP funds will have been spent at the end of three years.

HPRP provide for HMIS data entry, provide client point-of-entry information and referral services, provide case management/housing stabilization services, evaluate progress of HPRP and provide implementation oversight. Awarded to a joint application, this includes the following local non-profit agencies: Pisgah Legal Services, Western North Carolina Aids Project, United Way's 2-1-1, Eblen Charities and Asheville Buncombe Community Christian Ministry.

To date, for Homelessness Prevention 180 persons and 72 households with this program through December 2010. For Rapid-Rehousing, 91 persons and 44 households have been assisted. *This funding has created 2.32 jobs.*

Energy Efficiency and Conservation Block Grant (EECBG) - \$804,700

The City of Asheville has implemented energy retrofits to municipal buildings with the completed installation of two solar thermal units, lighting retrofits to city hall and pending upgrades to the HVAC system at the city's civic center complex later this year.

With the funding, the city implemented an education and outreach program for sustainability and is still exploring the use of funds for the establishment of a competitive community sub-grant program for energy efficiency and conservation. We intend on saving at minimum 321,195 BTUs of energy and 26,084 tons of green house gas emissions. *This funding has created 3.89 full time jobs.*

Local Energy Assurance Planning (LEAP) Grant - \$209,940

This initiative funding will focus on building regional energy assurance capability to allow the region (*23 cities and counties participating*) to better coordinate and communicate local and state-wide on energy security, reliability, and emergency response issues. The objectives of this initiative are to: (1) strengthen and expand local government energy assurance planning and resiliency, (2) reduce the impacts from energy supply disruptions, and (3) create jobs and save jobs in energy assurance planning at the city level. The City of Asheville is contracting with the Land of Sky Regional Council to provide oversight and regional planning for this grant. *This funding has created one job for a LEAP Regional Planner who began August 2010.*

To date, there is a timeline of actions for this planning, the regional partners are meeting and now working on a template for their individual plans and a website has been created for the regional partners as a tool for their planning needs. A survey is being finalized to find the baseline for all participating agencies. Work Groups for conservation and acquisition have been created and will begin meeting mid-February.

City staff and the LEAP Regional Planner participate in quarterly regional calls through the Public Technology Institute (PTI) with LEAP grantees across the country.

Transit Capital (\$2,590,439)

The City of Asheville shares this funding with Henderson County, NC (\$585,841) since being reclassified as an urbanized area as part of the 2000 Census. The City of Asheville will use its funding to purchase five (5) clean diesel buses and ten (10) bus shelters and Henderson County is purchasing two CNG buses and one CNG Van.

To date, bid out ten (10) shelters and have received and getting ready to install three. The specifications for the buses are being developed and the bid will be release in the next 30 days.

Edward J. Byrne Justice Assistance Grant - Awarded \$372,630

Funding shared through a memorandum of understanding with Buncombe County, North Carolina with their portion being \$107,164. The city's funding (\$265,466) will be combined with budgeted city funds to upgrade and install a key card access and camera security system for the Municipal Building, Asheville Police Dept. Firing Range, Public Works and City Hall areas.

City Council approved change in contract to RHS at your regular meeting on November 9, 2010. Project began late December 2010. Information Technology Department is currently working with vendor to identify needs in the Municipal and City Hall Buildings.

NC Department of Transportation (\$1.2 million):

City managed five (5) projects with this funding which will have the following outcomes and impact:

1. Paving and creating bicycle lanes with the *Coxe Avenue/South Slope Milling, Paving, Re-striping Project*. Project completed at a cost of \$203,234.30.
2. *Downtown Asheville Corridor Enhancements Project* involves new plantings and tree replacements in the downtown area. Project completed at a cost of \$75,447.16.
3. Improved pedestrian safety will be the result of the Signal upgrades, *Fairview Road at Onteora Boulevard/Baldwin Street Project*. Project completed at a cost of \$58,814.14.
4. The *Kimberly Avenue Re-surfacing and Re-Striping Project* will provide a new asphalt surface in this area from Evelyn Place to Gracelyn Road. Project completed at a cost of \$475,151.35.
5. The *Asheville Sidewalk Improvements Project* will close gaps in the existing city of Asheville sidewalk system. Project 85% complete with spending at \$310,077.77. Resumed project this week with change in weather.

NC Department of Environmental and Natural Resources (NCDENR)

- **Drinking Water State Revolving Loan (\$510,000)**
Funds used on the North Fork Pumping Systems which went into service the first week of October. The city will be provided formal training and manuals by the contractor, Hickory Construction. This upgrade reduces the power consumption at the North Fork Water Treatment Plant by 80% (94k W instantaneous or 2200kW/h per day). There should be some savings in chemical usage as well. *There were 3.8 jobs created in the third quarter 2010.* Project completed with approval of the City Council for a change order to increase the contract in the amount of \$3,161.00 to accommodate: (1) additional conduit and handholes to the North Fork WTP front gate and (2) the lack of existing wiring at the pump skids. Total cost of the project is under the loan amount at \$331,635.00.
- **Clean Water State Revolving Loan (\$454,500)**
Funds used to apply to the master plan for the Dingle Creek Watershed with a final cost of the project of \$260,964. The project created one acre of stormwater wetland which will treat storms up to the 10-year return period and will help reduce flows in the existing creek channel and settle out sediment and nutrients while reducing the temperature of the water. It will stabilize the existing channel. The project treats and improves the quality of the runoff produced by the bulk of the Dingle Creek Watershed. *Funding for this project created 1.8 FTEs.*

Carolina Blue Skies Green Jobs Funding (\$779,020)

These funds will allow the city to increase capacity of the current Compressed Natural Gas (CNG) Station, convert 11 current fleet vehicles to CNG and purchase and upgrade 11 vehicles to CNG. The current status of the funding is as follows:

- Hiring of a project manager to oversee CNG station upgrade which will begin in March and projected for completion in summer 2011.
- The first round of vehicle retrofits will begin in April.
- The second and last round of vehicle retrofits will occur next fall.

NC Division of Air Quality (Emissions Grant) - (\$30,000)

These funds are being used to pay for the incremental cost to use biodiesel fuels for our Public Works fleet.

NC Department of Health & Human Resources (NCDHHS) - (\$1,500)

Provided for a summer intern for the Engineering Division to support research and project assistance.

There are no current changes to fiscal impact of any of the ARRA projects approved by City Council. We are continuing to have work completed under budget and on schedule.

City Manager Jackson made it clear that the \$8 Million in ARRA funds are not being used to balance the budget, but to address strategic goals and capital improvement projects. This has been an excellent supplement for our programs.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CLOSING SEVERAL PORTIONS OF UNOPENED RIGHTS-OF-WAY AND CITY STREETS WITHIN THE MONTFORD COMMONS DEVELOPMENT AREA

Mayor Bellamy opened the public hearing at 6:19 p.m.

Assistant Public Works Director David Foster said that this is the consideration of a resolution of to permanently close several portions of unopened rights of way and City streets within the Montford Commons Development area, which includes: an unopened portion of Woodside Place; an unopened unnamed right of way between Gudger Street and the unopened portion of Woodside Place; an unopened portion of Bay Street; all of the unopened portion of Jason Street and a portion of City maintained Jason Street; all of City maintained Michael Street; and all of the unopened unnamed right of way located near Jason Street. This public hearing was advertised on January 28, February 4, February 11 and February 18, 2011. On February 22, 2011, City Council approved a continuance to this date, at the request of the applicant.

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

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

Adjacent property owner Asheville City Schools did not join the request to permanently close several portions of unopened rights of way and City streets within the Montford Commons Development area and were advised by certified letter returned receipt. Asheville City Schools did not respond.

Dana Parker contacted the City of Asheville as a part property owner along with Rhesa Read Tull Jr., Dorothy Tull Mothershead, and Margaret Tull Davis (all heirs of G. Farrar Parker) stating she is against permanently closing several portions of unopened rights of way and City streets within the Montford Commons Development area as she would not be afforded ingress and regress to her property. Information provided by the applicant indicates there is access to her property from an unopened right of way, not included in the closure area.

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

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

Pros:

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

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of to permanently close several portions of unopened rights of way and City streets within the Montford Commons area.

Ms. Dana Parker, one of the four heirs of the G. Farrar Parker parcel, was not opposed to the development, but was opposed to closing the 51 foot road access to her property. He developer wants to close her current access and give her only 15-foot access from the rear of her property, which is also a ravine. In addition, the proposed access is only 35 feet from the entrance to a school. The plan also shows the developer's building on her property. She spoke with the developer and he explained that he would resubmit a new plan for approval which did not include her property. She suggested that the new plan allow her the same driveway option she currently has, which will tie her road into the front entrance of his development on Hill Street. She also noted that prior to the title search, the other 3 heirs signed the purchase contract, but during the title search it was discovered that she was also an heir. The developer then contacted her about selling the property but they have not come to an agreement at this time.

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

In response to Councilman Bothwell, City Attorney Oast said that that it must appear to the satisfaction of Council that no individual owning property in the vicinity of the street or alley or subdivision would be deprived of reasonable means of ingress and egress to his property. He felt that as long as some satisfactory alternative access was available, then Council could close the road.

In response to Councilwoman Manheimer, Mr. Foster noted that both the proposed and existing access are only platted roadways.

In response to Councilwoman Manheimer, Mr. Foster said that the when the developer first requested the City to close the streets, they were under the impression that all the adjacent property owners were in agreement with the closure. He even had a signed contract to purchase the subject property. Then the title search revealed another heir to the subject property.

When Ms. Manheimer asked if there were any other adjacent parcels of land to the road closures that are not owned by the developer, Mr. Foster believed they are, but none directly in the development area.

In response to Councilman Russell regarding a time issue, Mr. George Gabler, representing Frontier Syndicate, said that they have been expecting to hear about their HUD funding by now. They cannot get funding for the project on a piece of land they don't own. They have acted in good faith in that they thought they had a valid contract, noting it was their title search that showed another heir. They did notify her and they hope to get to an arrangement to buy the land. If they do not, they will have to redesign a corner of their building. He did note that the roads do not exist in any meaningful way.

In response to Councilwoman Manheimer, Ms. Parker said she is 50% owner and the other three heirs own 16.6% respectively.

When Councilman Russell asked if staff has looked at the proposed access to see if it was reasonable, Mr. Foster said they have not looked at it from that prospective, but they did make sure the property was not land-locked.

In response to Vice-Mayor Newman, Mr. Gabler said that according to their surveyor, there is adequate access to the parcel.

After a short discussion and in hopes for the parties to reach a solution, Councilman Russell moved to continue this matter until April 12, 2011, with the following information being presented at that time (1) staff to identify the parcels not owned by the developer with reference to notification and if they are not a parcel to be purchased how will it be accessed or maintained or if the parcel is under contract; and (2) surveyor or engineer's explanation of the adequacy of access. This motion was seconded by Councilman Bothwell and carried unanimously.

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 11-50 - RESOLUTION AMENDING THE TRANSFORMATIONAL DEVELOPMENT PROJECTS INCENTIVE POLICY (LAND USE INCENTIVE POLICY) FOR THE CITY OF ASHEVILLE

Mayor Bellamy said that on February 22, 2011, City Council continued this matter to this date at the request of the Housing & Community Development Committee.

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

In November, the Asheville City Council adopted a new "Transformational Development Policy", designed to assist development of projects that meet certain important goals set by the Council that are facing financing constraints. The Council deferred implementation of the new Policy until they had heard comments from the Sustainable Advisory Committee on Energy and the Environment (SACEE) regarding the "green" elements of the policy.

In January, the SACEE report was presented to the City Council. The report contained a number of recommendations, and went somewhat beyond the scope originally requested by the

Council. After discussion, the Council asked the staff and SACEE for some additional information, and for the recommended changes to be considered by other interested groups as well; and to report back to the Council on February 22.

The Council also requested that staff provide a copy of the Policy indicating where the requested modifications were to be inserted.

In response to the request for added input, the staff gave a review of the proposed modifications to the Council of Independent Business Owners (CIBO) on Friday, February 11. There were a number of comments, all generally stating that any changes to restrict the Council in awarding these grants should be avoided. There were also comments expressing that open space was already required in the Unified Development Ordinance (UDO), and there were already enough supports for energy saving elements.

The staff also gave a presentation on the proposed changes to the Downtown Commission on Friday, February 11. They generally reflected the same sentiments as heard at CIBO, indicating a preference for a less restrictive policy.

The staff gave a similar review to the Coalition of Asheville Neighborhoods (CAN) on Monday evening, February 14. That group was generally in support of the modifications. The prevailing sentiment was that if tax revenues were to be affected for any length of time, the incentive should be narrowly focused toward projects that meet multiple Council goals.

The staff also sent a copy of the Policy and suggested changes to the Economic Development Council. To date, no response has been received.

The staff presented the Policy and suggested changes to the River Development Commission.

Vice-Mayor Newman said that the Housing & Community Development Committee, and others, discussed this policy and based on those discussions, he provided Council with a proposed revised Land Use Incentive Policy. Said policy reads:

“Every 10 points earn one year of economic incentive (i.e., equivalent to property taxes for one year). Every 10 points earns a 10% reduction in the following fees and charges: Zoning Permit, Building Permit, Driveway, Grading Permit, Plan review fees and Water service connection fee. Required elements (these are the same as the current policy except with Energy Star certification):

- Energy Star Certification
- Inside city limits, within 1/8 mile of a major highway
- Assume legal costs if challenged
- 20% equity participation by party requesting incentive
- Residential units sold as condos must be primary residence of occupants for the life of the incentive.

<u>Public Benefit Element</u>	<u>Points</u>
Green Building/Energy	
Energy Star Certified	5
Leed Bronze or HB Silver	10
Leed Silver or HB Gold	20
Leed Gold or HB Platinum	30
Leed Platinum	40

Affordable Housing – For rental projects, just agree to 10 year affordability criteria for rents at 80% of area medium income.

10%+affordable	10
20%+affordable	20
30%+affordable	30
40%+affordable	40

Workforce Housing – Must agree to 10 year affordability criteria for rents at 120% of area medium income.

25%+workforce	5
50%+workforce	10
75%+workforce	15

Mixed Use and Location

Includes a minimum 20% non-residential	5
Within the Sustainability Bonus area	5
Brownfield Redevelopment	5”

Vice-Mayor Newman moved to adopt the Transformational Development Projects Incentive Policy (now to be called the Land Use Incentive Policy) just presented. This motion was seconded by Councilman Bothwell.

When Mayor Bellamy asked for comments, no one spoke.

At Councilwoman Manheimer’s request after a brief discussion, Vice-Mayor Newman agreed to amend his motion to delete the required element entitled “residential units sold as condos must be primary residence of occupants for the life of the incentive.” Councilman Bothwell agreed to the amendment as well.

In response to Councilman Russell regarding whether the policy Council adopted in November, 2010 is effective, City Attorney Oast said that when Council considered the policy, it was subject to revisions regarding green and sustainable practices. He understands that to mean that the policy has not been finalized. The vote at that time was 4-3, with Councilman Bothwell, Councilman Davis and Councilman Russell voting “no.”

While responding to various questions from Council, Vice-Mayor Newman stated that this revised policy contains clear, objective criteria.

At Councilman Davis’ request, Vice-Mayor Newman and Councilman Bothwell agreed to revise the amended motion that this policy be revisited in one year at which time staff is to evaluate the metrics set in the policy to see if they are too aggressive or not aggressive enough to achieve the public policy.

Councilwoman Manheimer clarified that the motion would also include that one of the required elements be the same as in the November policy (which was inside city limits, within ¼ of a mile of a major highway), that this policy would replace the November policy in its entirety, and that the policy would be effective upon adoption by Council.

It was Council’s understanding, at Mayor Bellamy’s clarification, that this Land Use Incentive Policy is separate from the fee rebate program for affordable housing.

Upon inquiry of Vice-Mayor Newman, Ms. Daniel said that this policy will be easier for staff to work with as it contains clear criteria.

The following amended motion made by Vice-Mayor Newman and seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Russell voting “no”: (1) to delete the required element entitled “residential units sold as condos must be primary residence of

occupants for the life of the incentive”; (2) that the policy be revisited in one year at which time staff is to evaluate the metrics set in the policy to see if they are too aggressive or not aggressive enough to achieve the public policy; (3) revise one of the required elements to read “inside city limits, within ¼ of a mile of a major highway”; (4) policy would replace the November policy in its entirety; and (5) policy would be effective upon adoption by Council.

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B. DISCUSSION OF EARLY VOTING SITES FOR 2011 CITY COUNCIL ELECTION

Mayor Bellamy said that the Buncombe County Board of Elections is in the process of preparing their budget for 2011-12 and has asked if City Council will want early voting sites for their election this year.

At the February 8, 2011, City Council meeting, City Council asked for additional information to determine if they will request the Buncombe County Board of Elections to prepare for early voting sites for their election this year. That requested information is below: (1) In 2007, 1,061 people early voted at the Board of Elections Office on College Street; (2) In 2009, 1,349 people early voted at the Board of Elections Office on College Street; (3) In 2009, 2,008 people voted in the four additional early voting locations; and (4) Asheville-Buncombe Technical Community College will pay for the costs that can be attributed to their election (extra precincts that are needed, any extra workers, and for the coding and ballot costs for their election).

The following information was also available to assist Council in their decision: (1) In 2009, City Council requested by Buncombe County Board of Elections to add four additional early voting locations one week before the general election on November 3, 2009. They were located at Parks & Recreation on Gashes Creek Road, North Asheville Branch Library, West Asheville Branch Library and South Buncombe Branch Library. Out of the total cost for the November election (\$122,786), approximately \$39,406 were costs associated with the early voting sites. This is a conservative estimate. There were 3,357 City voters who took advantage of the early voting sites; (2) The City of Asheville will have 37 normal polling places in October and then again in November. If remote sites are opened in November, the Board of Elections will have to provide ballots for all voters for all municipalities, per the State Board of Elections; (3) The City must notify the Board of Elections 90 days before the election in order for them to submit a plan of implementation to the State Board of Elections for approval. Generally, the sooner we let the Board of Elections know about remote sites the better; (4) While the Board of Elections will certainly aim to provide the desired location for the one-stop sites, ultimately the final specific decision lies with the County Board of Elections and the State Board of Elections. Many factors have to be considered in these decisions; (5) Citizens will indeed always have the opportunity to vote early at the downtown office at 35 Woodfin Street for the full time period; and (6) A cost guideline would be \$1,000 per day per site. This is an estimate since there are many line items that are significantly affected by the number of sites opened, i.e., training, advertising, travel, number of employees, overtime, etc.

Councilman Smith felt it would be good to have some early voting so we can see if there is a trend.

Due to the economy, Councilman Russell moved to not provide additional early voting sites, other than the one on College Street. This motion was seconded by Councilman Davis.

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

Vice-Mayor Newman felt we have seen an enormous growth in early voting in North Carolina and has noticed upward trends in people voting.

The motion made by Councilman Russell and seconded by Councilman Davis failed on a 3-4 vote, with Vice-Mayor Newman, Councilman Bothwell, Councilwoman Manheimer and Councilman Smith voting “no.”

Vice-Mayor Newman moved to request the Buncombe County Board of Elections add four additional early voting locations six days before the general election in the north, south, west and east areas. This motion was seconded by Councilman Bothwell.

Vice-Mayor Newman withdrew his motion in order to get additional information from the Board of Elections. Said information includes: (1) Why is there a discrepancy of 4 additional early voting sites one week early (cost guideline is \$1,000 a day for 6 days = \$6,000) x 4 = \$24,000 vs. the approximate \$39,406 costs associated with the additional early voting sites; (2) Does the City of Asheville pay for the early voting site on College Street; (3) Was any of the 4 additional voting sites open on Saturdays, and if so, how many people voted early on Saturdays in 2009 at the 4 additional sites; (4) Was the College Street site open on Saturdays, and if so how many people voted early at that site in 2009; (5) How many people voted in the 2009 election; and (6) How many people voted in the 2007 election (not counting early voting at the Board of Elections Office).

It was the consensus of Council to have additional information provided to Council for the April 12, 2011, meeting.

C. RESOLUTION NO. 11-50 – RESOLUTION SUPPORTING FULL FUNDING FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Community Development Director Jeff Staudinger said that the Community Development Block Grant (CDBG) funding is in danger of deep cuts that if adopted would reduce grants this year by two-thirds, and result in staff cuts. Elected officials around the country are strongly advocating for the continuation of this program, and preparing for a similar situation for Fiscal Year 2012.

The federal budget for this current year has not yet been adopted. The government has been operating since October of 2010 on a Continuing Resolution (CR), scheduled to expire on March 4. The House passed a new spending bill- H.R. 1- to fund the government for the rest of this year. It proposes funding CDBG for only that portion of this federal fiscal year that has already passed- essentially eliminating the CDBG program (62.5% cut from last year’s funding, from \$3.99 billion to \$1.5 billion). H.R. 1 also contains a provision to eliminate any unobligated ARRA funding (CDBG-R included). It also contains a provision to rescind all Sustainable Communities funding, which would eliminate funding for our TIGER II Planning Grant and the Regional Sustainable Communities Planning Grant awarded to Land of Sky Regional Council. Representative Shuler voted against the House-adopted Continuing Resolution.

We will likely see a short-term CR passed, of uncertain duration, to allow for time for House-Senate negotiations for a funding bill for the rest of this year. That short-term CR will probably include \$4 billion domestic spending cuts, and be a harbinger for additional domestic discretionary spending reductions for this federal fiscal year, that is now almost half completed.

The Senate is likely to agree to something approaching that level of short-term cuts in order to avoid a government shut down on March 5. Looking at the challenge ahead to pass a budget for the remainder of this year, Senate Democrats have endorsed the President’s five-year discretionary spending freeze – signaling that some deep cuts are on the way. Republicans will push the Senate to embrace the grand total of cuts approved by the House, but not necessarily line-for-line every cut approved by the House. In every case, CDBG is at risk of significant cuts.

He provided Council with a fact sheet which goes into further detail of the accomplishments of CDBG within our community over the past five years. CDBG provides the

flexibility to fund a myriad of activities, fill gaps where needed, and leverage and attract additional resources to projects. This combination of CDBG with other resources adds to our local economy through the purchase of goods and services and adds to the betterment of the lives of our local citizenry through improved neighborhoods and lives.

We are now in the midst of our federal Fiscal Year 2011 funding process, and staff is reviewing 24 CDBG applications requesting \$2.3 million in funding from the agencies that provide affordable housing, homelessness intervention and prevention, small business development, financial literacy, emergency home repairs. The services offered through CDBG affect thousands of Asheville residents. If last year's allocation were cut by 63%, we would have about \$500,000 to distribute in grants, and about \$100,000 for staffing. One of the most effective tools the City has to help reach its strategic goals would essentially be eliminated.

According to staff from national membership organizations such as the National Community Development Association, the US Conference of Mayors and the National League of Municipalities, Senators want to hear from people who will be directly affected by cuts to the program. These organizations consider it to be extremely urgent that we communicate with our Senators as soon as possible.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities, urged Council to strongly support the CDBG funding.

Councilwoman Manheimer moved to adopt a resolution supporting full funding for the Community Development Block Grant funding. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Russell voting "no."

RESOLUTION BOOK NO. 33 – PAGE 363

Closed Session

At 7:30 p.m., Councilman Smith moved to go into closed session for the following reasons: (1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in G.S. 143-318.11(a)(4); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:01 p.m., Councilman Russell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

VI. NEW BUSINESS:

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

Assistant City Attorney Kelly Whitlock said that this is the consideration of an amendment to the City's pawnbroker ordinance which would require pawnbrokers and second-hand dealers to submit their daily pawn and/or purchase transactions to the Asheville Police Department (herein "APD") electronically.

Currently, the City's ordinance, in accordance with state law, requires pawnbrokers to maintain records of every pawn and/or purchase transaction and have them available for inspection and pickup each workday by APD. Pawnbrokers are required to record the following information: 1) a clear and accurate description of the property 2) the name, residence address, phone number and date of birth of pledgor; 3) the date of the pawn transaction; 4) the type of identification and the identification number accepted by the pledgor; 5) the description of the pledgor, including approximate height, weight, sex and race 6) the amount of money advanced 7) the date due and the amount due; 8) all monthly pawn charges 9) the agreed-upon stated value between the pledgor and the pawnbroker.

Secondary metals recyclers and precious metal dealers are also required, pursuant to state law, to maintain records of all purchase transactions for inspection by law enforcement.

The current process of paper reporting is tedious and both resource and labor-intensive. Currently, an investigator from APD physically retrieves the paper records on a bi-monthly basis. Thereafter, the paper records are manually entered into a database which is often back-logged. This results in out-of-date information and impedes the prompt resolution of property crime cases. Requiring pawnbrokers, secondary metals recyclers and precious metal dealers to report their pawn and/or purchase transactions electronically will provide investigators with access to up-to-date information during the course of an investigation. Not only will electronic reporting assist law enforcement, it will also provide these businesses with a more user-friendly and efficient means of reporting.

In addition to the issues stated above, the current ordinance has also created an unintended loophole. Criminals selling stolen goods can evade detection simply by avoiding pawn shops since pawnshops are required to maintain records of each pawn and/or purchase transactions for inspection by law enforcement. Many property crimes are left unsolved as a result of criminals selling stolen items at second-hand stores that are not required to maintain records of their purchase transactions of second-hand goods and report them to APD (i.e. consignment shops, antique dealers, EBAY stores, cash converter stores, used record/video game stores, used sporting goods stores, and used musical equipment stores). Requiring these "other" types of second-hand dealers to submit their purchase transactions electronically to APD will assist in closing this substantial loophole.

The proposed changes are (1) to have pawnbrokers, secondary metal recyclers, precious metal dealers and other second-hand dealers will submit their pawn/purchase transactions of second-hand goods to APD electronically; and (2) submit no later than 48 hours of the transaction.

Currently, APD subscribes to LeadsOnline and approximately 18 businesses in the City voluntarily use it to report their pawn and/or purchase transactions. LeadsOnline is the nation's largest online investigation system for law enforcement regarding missing property, providing rapid electronic access to transactions of reporting businesses. APD pays an annual subscription to use LeadsOnline and reporting businesses are provided the service free of charge. Only authorized law enforcement personnel investigating property crimes may access data on the LeadsOnline system.

On November 16, 2010, APD discussed the potential changes to the ordinance with the Asheville Public Safety Committee. Upon review, the Committee made a motion to approve the amendments to the ordinance, contingent upon further input from the community.

On December 13, 2010, APD conducted an informational meeting in order to provide details to the public about the potential changes to the ordinance and the process of reporting electronically via LeadsOnline.

On February 15, 2011, APD addressed before the Public Safety Committee the pros and cons of implementing a monetary threshold (i.e. exempting second-hand goods that fell below a monetary threshold from the reporting requirement).

The following changes have been incorporated into the proposed ordinance:

1. Requiring pawnbrokers, secondary metal recyclers and precious metal dealers to submit their pawn and/or purchase transactions to APD electronically.
2. Requiring pawnbrokers to hold any goods pledged, pawned, or purchased for 7 days to conform to state law requirements.
3. Requiring "other" second-hand dealers to submit their purchase transactions of second-hand goods to APD electronically.
 - a. Defining second-hand dealers as: any person, sole proprietorship, partnership, joint venture, corporation, company, association or any other form of organization whose regular business is buying, selling, bartering, exchanging, or accepting for sale on consignment, in any manner, at retail or wholesale, or otherwise dealing for profit in, second-hand goods.
 - b. Defining second-hand goods as: tangible personal property from the public previously used, rented, owned or leased (excluding property required to be registered by the NCDOT- Division of Motor Vehicles, clothing, shoes, books, and animals).
 - c. Exempting the following businesses/persons from the definition of second-hand dealers:
 - i) A person or business whose only business transactions with second-hand goods in the City consist exclusively of donated items and/or purchases from 501(c)(3) organizations; or
 - ii) A person or business whose only business transactions with second-hand goods in the City consist of the sale of personal property acquired for household or other personal use such as garage sales, yard sales, estate sales and/or auctions held by a licensed auctioneer; or
 - iii) A person or business whose only business transactions with second-hand goods in the City consist of a display space, booth or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, flea market, swap meet or similar event that is not in a fixed location unless otherwise regulated under N.C.G.S. § 66-11 (regulated metals) or N.C.G.S. §66-163 et seq. (regulated precious metals)
- Examples of second-hand dealers include physical EBAY stores, consignment shops (non-clothing items), antique dealers, used record and video game stores, used sporting goods stores, used musical equipment stores and cash converter stores.

The City's ordinance will be effective April 15, 2011.

This action complies with the City Council Strategic Operating Plan in the focus area of "safe".

Pros:

- Assists APD in the prompt resolution of property crimes
- Assists APD in locating wanted/missing persons
- Provides a more user-friendly and efficient means of reporting for pawnbrokers, secondary metal recyclers, and precious metal dealers
- Less resource and labor-intensive for APD than the current process of paper reporting
- Does not significantly interrupt daily business transactions or subject customers to inconvenience
- Service is provided free-of-charge to reporting businesses
- Free on-line support service

Cons:

- Requires access to a computer with internet connection
- Transition to data entry for pawnbrokers, scrap metal dealers, and precious metal dealers
- Requires "other" second-hand dealers to start reporting purchase transactions of second-hand goods

For the past four years, the City and the County have jointly contracted with LeadsOnline in the amount of \$23,002 per year, with the City's annual share totaling \$10,066. APD pays this amount directly to the County through CJIS funds.

Approximately 13 local businesses in the City voluntary report their transactions electronically via LeadsOnLine: 5 pawnshops, 5 secondhand stores and 3 precious metal dealers. Approximately 5 businesses in the City have signed up with LeadsOnLine.

If Council approves of the proposed changes, adoption of the ordinance is recommended.

In response to Mayor Bellamy, Ms. Whitlock said that after further discussion, staff is open to exempt consignment sales in the definition of second-hand dealers. The APD is looking for criminals who sell and want their money immediately. Consignment shops typically get items and sell them at a later date.

Mayor Bellamy was concerned that sporting goods stores, in particular Play It Again Sports, buy and sell used sporting goods at an average of less than \$20 per item. She didn't want to hurt some of our small business owners unintentionally with the additional cost in staff time.

Police Chief Bill Hogan explained that establishing a threshold would make it easy for a criminal to sell his stolen goods at the amount just under the threshold (regardless of the value) so it would not have to be reported. Also, if someone comes in with a number of different items, it should be reported because those are the kinds of things that come out of cars.

When Mayor Bellamy asked about businesses who do not have a computer or internet, Chief Hogan assumed that most people in business have a computer. It does, however, take an internet connection in order for the information to be electronically transferred to the APD. To enter the data is very quick. We don't want to put an undue burden on our businesses; however, we need to identify those individuals who are victimizing people on a regular basis. He said the APD would be happy to work with businesses if they have a problem.

In response to Councilman Bothwell, Police Chief Hogan said that where there are consignment booths with an established business at an antique mall, staff would be willing to

write that out of the ordinance. Again, he is more concerned about people coming into the business off the street to sell.

In response to Councilman Bothwell about scrap metal dealers who already have an established system of bookkeeping and reporting, Police Chief Hogan said that it is his understanding that you can enter the information into the business software and it will dump right into LeadsOnLine.

Councilman Russell moved to adopt an amendment to the City's pawnbroker ordinance which would require pawnbrokers and second-hand dealers to submit their daily pawn and/or purchase transactions to the APD electronically, with the exemption of consignment sales in the definition of second-hand dealers; and with a small dollar threshold. This motion was seconded by Councilwoman Manheimer.

The following individuals spoke in support of the ordinance amendment in that it is a low cost to the business owner and a very simple program to use in order to assist law enforcement in investigations:

Mr. Alan Sheppard, Owner of Alan's Jewelry & Pawn and representing two other pawn Shops

Mr. Russell Whitmire, Manager of Leicester Pawn & Gun Shop

Mr. Graham Shaw, Corporate Operations Manager at Alan's Jewelry & Pawn

The following individuals spoke in opposition of the ordinance amendment, mainly because of the amount of time to enter the data, the need for additional staff, the need to purchase a computer and internet service, and the cumbersome extra step for small priced items to be entered, noting specific amendments they would like to see:

Mr. Robert Cleveland, Owner of Play it Again Sports (suggest sporting equipment items with a fair market value of under \$250 be excluded from the second-hand dealer definition)

Mr. Kenneth Jones, Manager of Antique Market Gallery on Broadway (provided Council with copies of ordinances from three other cities) (suggested antique dealers and consigners be exempt from the second-hand dealer definition and develop a list of what would fall under the regulations to be reported and all others exempt)

Representative of Sweeten Creek Antiques

Mr. Russ Towers, Co-Owner of Second Gear

Ms. Debra Bryant, Bryant Antiques in Biltmore

A dealer from Bryant Antiques in Biltmore

Ms. Carolyn Doyle, Plato's Closet

Representative of Biltmore Lamp & Shade Gallery

Partner of Village Antiques

Mr. Otto Hauser, owner of Self Antiques and Owner of Antique Market Gallery

In response to Mayor Bellamy, Ms. Whitlock said that staff would be happy to change the effective date from April 15, 2011.

In response to Councilman Russell, Ms. Whitlock said this ordinance applies only to purchasing second-hand goods. Regarding booths, there is an exemption that any person or business whose only business transactions with second-hand goods in the City consist of a display space, booth or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, flea market, swap meet or similar event that is not in a fixed location (fixed location is anything that is more than 365 days). Anything temporary would be exempt.

Upon inquiry of Vice-Mayor Newman, Councilman Russell amended his motion to amend the second-hand definition to exempt on both sides of the transactions those items purchased

from garage sales, estate sales and auctions. Councilwoman Manheimer accepted the amendment.

Upon inquiry of Councilman Bothwell regarding enforcement, Police Chief Hogan said that enforcement is difficult and if a business is caught violating the ordinance, it would be a first class misdemeanor. They also follow-up on tips. If information is not uploaded everyday, no red flags would be raised. He said they typically get to know the business and work with them.

At Councilwoman Manheimer's suggestion, Police Chief Hogan said that staff would be amenable to introduce a small threshold of \$20-30 range. He reiterated the Police Department wants to account for purchases by the store, not sales.

Mayor Bellamy felt it might be appropriate to hold one more public meeting so people can clearly understand the ordinance, with Council's amendments, and then have staff bring back a revised ordinance amendment. She suggested notification in the City's eNews, and even an ad in the newspaper. Ms. Whitlock said that she has a list of businesses she will notify, along with sending out a press release.

In response to Councilman Davis, Ms. Whitlock said that the cost to the dealer will be access to a computer and an internet connection.

Councilman Bothwell seemed like it would be possible to include in the ordinance amendment the specific goods that should be reported.

It was the consensus of Council to have staff host another public meeting to go over the amendments of Council as follows (matter to be brought back to Council on April 26, 2011): (1) exemption of consignment sales in the definition of second-hand dealers; (2) a \$25 threshold; and (3) exemption on both sides of the transactions those items purchased from garage sales, estate sales and auctions.

B. PUBLIC/PRIVATE PARTNERSHIP PROPOSALS

Economic Development and Civic Center Director Sam Powers said that based on Council's adoption of the Land Use Incentive Policy, the developer requested the Weirbridge Workforce Housing Incentive Grant and the Rockwood Park/Audubon Apartments voluntary annexation and City/County/private park development items be continued to allow the developer to work with staff on the new policy guidelines. The developer has requested the next meeting on March 22, 2011.

Due to the feasibility of staff working with the developer and still meeting the agenda guidelines, it was the consensus of Council to postpone both items until the April 12, 2011, agenda.

C. RESOLUTION NO. 11-46 - RESOLUTION AUTHORIZING APPROVAL OF HOUSING TRUST FUND LOANS TO BEAUCATCHER PROPERTIES, LLC (SHILOH ROAD) AND MOUNTAIN HOUSING OPPORTUNITIES, LLC (EAGLE MARKET PLACE)

Community Development Analyst Randy Stallings said that this is the consideration of a resolution authorizing approval of Housing Trust Fund loans to Beaucatcher Properties, LLC (Shiloh Road) and Mountain Housing Opportunities, LLC (Eagle Market Place).

Staff received three (3) applications for HTF funding totaling \$680,000. These applications were presented to the Housing and Community Development Committee (HCD) on February 17 and each was evaluated on its own merit. Resources were insufficient to approve all applications. The current available cash balance in the Housing Trust Fund is \$293,711. Non-

liquid assets in the form of City-owned real estate could potentially return an additional \$300,000 to the fund prior to fiscal year-end; however, those funds are tentative and the timing of receipt remains unknown.

Regularly scheduled loan payments for the remainder of the fiscal year can confidently be projected at \$55,940. These future payments have been considered by the HCD in their decision. The total amount of fund resources, including both the current cash balance and projected revenues thru June 30, 2010, is \$349,651. Possible future appropriations have not been considered by the HCD in their projections.

Of the three (3) applications presented, two (2) have been recommended by the HCD for approval. An application from Beaucatcher Properties LLC for a project on Shiloh Road in South Asheville has been approved by HCD at an amount of \$80,000. The total award is conditional upon the receipt of future program revenue. At the present time, HCD is requesting that \$48,000 be made available for the project. The remaining \$32,000 will be awarded only if sufficient funds become available.

An application from Mountain Housing Opportunities, LLC (MHO) has been approved by HCD for a development in the historic Eagle Market Street neighborhood. The amount of the loan request is \$300,000. A firm loan commitment is needed by the end of April to secure sufficient points for local leverage in the final tax credit application. Disbursements from the HTF are not anticipated to be needed until early 2012.

Beaucatcher Properties, LLC- Shiloh Road (address unassigned) \$80,000.

Mr. Kirk Booth representing Beaucatcher Properties LLC has proposed a 4-unit rental project on Shiloh Road in South Asheville. The total development cost is \$255,000. The site size is .36 acres and the property is currently zoned RS-8. Rents will be restricted to persons below 60% AMI. The project will include two (2) 2-bedroom single family residences, each with a 1-bedroom accessory apartment over a rear garage. The site is infill development in an older established neighborhood within 500 feet of a transit stop.

The terms requested are \$80,000 at 2.00% interest-only for 30 years. Due to the scale of the project, no TRC or P&Z approval is required and the developer is ready to begin construction immediately. It is anticipated that units could be fully constructed and leased by the end of June.

The requested per-unit subsidy is \$20,000. The loan request represents 31.3% of the total development cost. The land is being purchased from a local bank at 55% below the tax assessed value. The total per-unit development cost is very low at \$63,750 per unit. The project will not be Energy Star certified but does incorporate many of the desired elements such as Energy Star appliances, low-e windows, and low-flow water systems.

Pros:

- The development costs per unit are very low at \$63,750.
- Land cost is far below market value.
- The accessory apartments allow for additional density as use by right.
- Relatively small investment required by the City.
- Infill development supports strategic planning goals.
- Single family rentals provide alternatives to families with children.
- Construction is ready to proceed immediately.
- The developer has a good track record with the Housing Trust Fund and has completed other local projects in a timely manner.
- Local labor will be used for the project.

Cons:

- The per-unit subsidy of \$20,000 is the program maximum.
- Very few affordable units will be added to the local housing stock per dollar invested.

Mountain Housing Opportunities, LLC (MHO)- Eagle Market Place \$300,000

MHO has proposed a 70-unit multifamily rental development in the historic Eagle-Market Street neighborhood. The total development cost is \$11.3 million. The site size is .41 acres and is currently zoned Central Business District. Rents will be restricted to persons below 60% of Area Median Income. In response to the stated priorities of the fund, 60% of the units will be one-bedroom and efficiency units. There is also a commercial component of the project; however, only the residential development is under consideration for Housing Trust Fund Support.

The terms requested are \$300,000 at 2.00% interest-only for 20 years. The project brings significant equity through Low Income Housing Tax Credits. The design will incorporate the historic Del Cardo, Ritz & Collette buildings, thereby preserving the historic character of the neighborhood. MHO and the Eagle Market Street Development Corporation are partners in this proposed development.

The requested per-unit subsidy is very low at \$4,285 per-unit. The loan request represents only 2% of the total development costs. The developer has also applied for HOME funds in the amount of \$275,000. The Del Cardo and Collette buildings are being donated to the project. The Ritz building is being purchased at a cost of \$1.3 million, or \$18,571 per unit. The total per-unit development cost is somewhat high at \$162,011.

The project will be LEED certified. Ten percent (10%) of the units will be fully ADA accessible and an additional 58 units will have ADA features which would make the units visitable. Twenty-two underground parking spaces are incorporated in the design. The developer is negotiating with local parking operators to secure monthly parking for tenants.

The projects directly support the City's Strategic Operating Goals as follows: (1) *Affordable*: The project proposal is supportive of the City's goal of providing safe and decent affordable housing units to the citizens of Asheville; and (2) *Sustainable*: The proposed projects provide new housing units located near transit lines, higher urban development densities, and encourage higher standards of energy efficiency. The projects also address the priorities of the Consolidated Strategic Housing & Community Development Plan by increasing the housing stock, providing affordable rental units, building high quality energy-efficient housing, and coordinating development with transportation and jobs.

The current balance in the Trust Fund is \$293,711. There are insufficient funds at the present time to fully fund the proposed developments; however, projected receipts prior to fiscal year end will be sufficient to fund both projects at the level approved by HCD. The available fund balance will be depleted if the loans are approved and the fund will be unavailable for future development until funds are replenished in FY 2011-12. The projects are new construction and are anticipated to add \$11.6 million dollars in new development to the City tax base.

The Housing and Community Development Committee recommends City Council approve a resolution approving the following loans: (1) \$80,000 to Beucatcher Properties, LLC for the development of four (4) single-family rental units on Shiloh Road; \$48,000 of the loan to be made immediately available for disbursement following loan closing and \$32,000 to be made available when sufficient funds become available; and (2) \$300,000 to Mountain Housing Opportunities, LLC for the development of seventy (70) multifamily units at Eagle Market Place; all funds to be made immediately available for disbursement following loan closing.

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

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

Councilman Russell moved for the adoption of Resolution No. 11-46. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 355

B. BOARDS & COMMISSIONS

Regarding the Asheville-Buncombe Fair Housing Commission, it was the consensus of Council to readvertise for the vacancies due to no interested applicants.

RESOLUTION NO. 11-52 - RESOLUTION APPOINTING A MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that Ron Maynard (east representative), on the Citizens-Police Advisory Committee, resigned, thus leaving an unexpired term until June 30, 2011.

The following individuals applied for a vacancy on the Citizens-Police Advisory Committee: Adam Clayton Banner, Lori Gerber, Barbara Monteath Buchanan, Toni Hicks, Richard G. Lee, Gabriela Volkomer, Sarah Nunez and Debbie Applewhite.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended appointing Ms. Debbie Applewhite.

Councilman Russell moved to appoint Debbie Applewhite to serve the unexpired term of Mr. Maynard, term to expire June 30, 2011, and then to serve a full three-year term, term to expire June 11, 2014, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

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RESOLUTION NO. 11-53 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART BOARD

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that Harry Harrison has resigned from the Public Art Board, thus leaving an unexpired term until June 30, 2012.

The following individuals applied for a vacancy on the Public Art Board: William Meller, Richard G. Lee, Sharon Trammel, Susanne Hackett and Leslie Shaw.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended appointing Ms. Sharon Trammel.

Councilman Smith moved to appoint Sharon Trammel to serve the unexpired term of Mr. Harrison, term to expire June 30, 2012, or until her successor has been appointed. This motion was seconded by Councilwoman Manheimer and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:48 p.m.

CITY CLERK

MAYOR