

RESOLUTION NO. 08-238

RESOLUTION MODIFYING THE 2008 CITY COUNCIL MEETING SCHEDULE

WHEREAS, the Asheville City Council is authorized, pursuant to N. C. Gen. Stat. sec. 160A-71, to fix the time and place for its regular meetings;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Council worksession scheduled for Tuesday, December 16, 2008, has been cancelled.

Read, approved and adopted this 9<sup>th</sup> day of December, 2008.

Magdalen Paulson  
CITY CLERK

Jerry M Bellamy  
MAYOR

Approved as to form:

Rundin  
CITY ATTORNEY

Magdalen Paulson  
City Clerk

RESOLUTION NO. 08-239

RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE, NORTH CAROLINA, TO ACCEPT A GRANT FROM THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DIVISION OF WATER RESOURCES IN THE AMOUNT OF \$115,800 TO IMPLEMENT WATER QUALITY PROJECTS AT THE WNC NATURE CENTER

WHEREAS, the City has authority, pursuant to NCGS 1604-17.1, to accept grants from other governments; and

WHEREAS, the WNC Nature Center has recently completed the construction of four new animal habitats, significantly increasing the amount of stormwater runoff from impervious surfaces; and

WHEREAS, much of the stormwater runoff from WNC Nature Center property currently runs untreated into the Swannanoa River; and

WHEREAS, the creation of stormwater wetlands and rain gardens will treat stormwater runoff from new animal habitats and treat stormwater runoff from existing impervious surfaces within the facility, respectively; and

WHEREAS, the City has prescribed stormwater wetlands and rain gardens as part of the new Stormwater, Soil Erosion and Sedimentation Control, Illicit Discharge and Connection Ordinance (section 7-12-2) adopted in August, 2007; and

WHEREAS, the mission of the WNC Nature Center is to serve as a model of resource stewardship; and

WHEREAS, the Asheville City Council has determined that it is in the public interest to sponsor the WNC Nature Center water quality project, in order to treat stormwater runoff, increase habitat, decrease erosion, and provide educational opportunities about stormwater treatment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. The City requests the State of North Carolina to provide financial assistance to the City of Asheville for the Western North Carolina Nature Center water management project in the amount of \$115,800 or sixty-six and two-thirds percent (66 2/3%) of project construction cost, whichever is the lesser amount;
2. The City assumes full obligation for payment of the balance of project costs including in-kind contributions such as staff hours or construction by contracted services and internal forces;
3. The City will obtain all necessary State and Federal permits;
4. The City will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments;

5. The City will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
6. The City will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
7. The City will assure that the project is open for use by the public on an equal basis;
8. The City will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
9. The City accepts responsibility for the operation and maintenance of the completed project.

Read, approved and adopted this 9<sup>th</sup> day of December, 2008.

Magdalena Bourleson  
City Clerk

Jerry M Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalena Bourleson  
City Clerk

RESOLUTION NO. 08-240

RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE, NORTH CAROLINA, TO ACCEPT A GRANT FROM THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DIVISION OF WATER RESOURCES IN THE AMOUNT OF \$53,000 TO IMPLEMENT A RAIN GARDEN AT THE CAUBLE STREET TRAILHEAD TO THE REED CREEK GREENWAY

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WHEREAS, the City has authority, pursuant to NCGS 1604-17.1, to accept grants from other governments; and

WHEREAS, the Cauble St. trailhead to Reed Creek Greenway and the adjoining CITGO gas station property currently release untreated stormwater runoff into Reed Creek; and

WHEREAS, Reed Creek, which drains over 600 acres of downtown Asheville, is a heavily impaired stream; and

WHEREAS, the City has prescribed rain gardens as part of the new Stormwater, Soil Erosion and Sedimentation Control, Illicit Discharge and Connection Ordinance (section 7-12-2) adopted in August, 2007; and

WHEREAS, a rain garden will collect, treat, and cool stormwater runoff before releasing it into Reed Creek as well as educate the public about alternative solutions that are attractive and aesthetically appealing; and

WHEREAS, the Asheville City Council has determined that it is in the public interest to sponsor the Reed Creek Greenway at the Cauble St. trailhead rain garden project, in order to treat storm water runoff and provide educational opportunities about storm water treatment;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. The City requests the State of North Carolina to provide financial assistance to City of Asheville for the Cauble St. trailhead to the Reed Creek Greenway water quality project in the amount of \$53,000 or sixty-six and two-thirds percent (66 2/3%) of project construction cost, whichever is the lesser amount;
2. The City assumes full obligation for payment of the balance of project costs including in-kind contributions such as staff hours or construction by contracted services and internal forces;
3. The City will obtain all necessary State and Federal permits;
4. The City will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.
5. The City will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;

6. The City will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
7. The City will assure that the project is open for use by the public on an equal basis;
8. The City will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
9. The City accepts responsibility for the operation and maintenance of the completed project.

Read, approved and adopted this 9<sup>th</sup> day of December, 2008.

Magdalen Burlington  
City Clerk

Jerome Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Burlington  
City Clerk

## RESOLUTION NO. 08-241

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION – PUBLIC TRANSPORTATION DIVISION (NCDOT) FOR THE TRANSPORTATION DEMAND MANAGEMENT (TDM) PROGRAM

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WHEREAS, pursuant to N.C.G.S. 160A-17-1, the City is authorized to apply for and accept grants from the federal and state government; and

WHEREAS, the City utilizes grant funds from NCDOT for the purpose of encouraging innovative approaches in the provision of a ridesharing project as described in the project application that was properly prepared, endorsed, approved, and transmitted by the city; and

WHEREAS, the City shall undertake and complete the project as described in the approved Project Budget; and

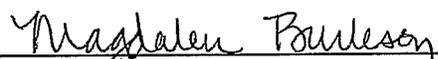
WHEREAS, the total cost of the approved budget is one hundred eight thousand one hundred nine dollars (\$108,109) as set forth in the Project Description; and

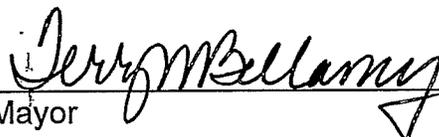
WHEREAS, in addition to a fifty percent (50%) match, the City of Asheville must comply with all applicable state and federal requirements in accepting the grant;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Manager is hereby authorized to apply for a grant and enter into an agreement with the North Carolina Department of Transportation for the reimbursement of funds to be expended for the TDM Program.

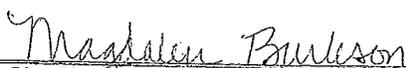
Read, approved and adopted this 9<sup>th</sup> day of December, 2008.

  
 \_\_\_\_\_  
 City Clerk

  
 \_\_\_\_\_  
 Mayor

Approved as to form:

  
 \_\_\_\_\_  
 City Attorney

  
 \_\_\_\_\_  
 City Clerk

## RESOLUTION NO. 08-242

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO FUND THE TRANSIT PLANNING PROGRAM

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WHEREAS, pursuant to N.C.G.S. 160A-17-1, the City is authorized to apply for and accept grants from the federal and state government; and

WHEREAS, the City of Asheville is the lead planning agency for the French Broad River Metropolitan Planning Organization; and

WHEREAS, funds for FY 2009 are available from the North Carolina Department of Transportation (NCDOT) through Section 5303 of the Metropolitan Planning Program; and

WHEREAS, the City has requested financial assistance of \$65,020 for the cost of transit planning from the NCDOT; and

WHEREAS, in addition to a ten percent (10%) match, the City must comply with all applicable state and federal requirements in accepting the grant;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Manager is hereby authorized to accept the grant of \$65,020 from the North Carolina Department of Transportation and to sign any documents necessary to complete the acceptance.

Read, approved and adopted this 9<sup>th</sup> day of December, 2008.

Magdalen Paulson  
City Clerk

Jerome Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Paulson  
City Clerk

## RESOLUTION NO. 08-243

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**RESOLUTION TO PERMANENTLY CLOSE AN UNOPENED PORTION OF  
FERNWOOD AVENUE**

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WHEREAS, the City of Asheville has the authority pursuant to N.C. Gen. Stat. sec. 160A-299 to permanently close streets and alleys within its jurisdiction, upon compliance with applicable law; and

WHEREAS, a petition has been filed by the property owners, Myra Hirschberg and Thomas Caldwell, Adam S. Pittman Guy K. Penland, Anita F. Hatcher, Lisa R. Mathis, Kay Susan Bennett, and Robert J and Phyllis Roberson asking that a portion of Fernwood Avenue be permanently closed to public use; and

WHEREAS, City Council on the 11<sup>th</sup> day of November, 2008 adopted a resolution of intent to close said street and ordered a public hearing on the question of this closing for the 9<sup>th</sup> day of December, 2008, at its regular meeting in the City Council Chambers, 2<sup>nd</sup> floor of the City Hall building, Asheville, NC; and

WHEREAS, aforesaid resolution of intent to close and order of said hearing was published in the Asheville Citizen Times, a newspaper of general circulation in Buncombe County, North Carolina, once a week for four successive weeks prior to said public hearing, as evidenced by publisher's affidavit presented to Council at said public hearing; and

WHEREAS, a copy of said resolution of intent to close and order for such public hearing was prominently posted at two places along said right-of-way and a copy was forwarded to all owners as shown on the Buncombe County tax records who did not join in the petition to close; and

WHEREAS, at said public hearing, no objections were made that the proposed closing of said portion of street would deprive any individual owning property in the vicinity in which said street is located of a reasonable means of ingress and egress to their property;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. Pursuant to North Carolina General Statute Section 160A-299, a portion of Fernwood Avenue as shown in Plat Book 7 Page 60, recorded in the Buncombe County Register of Deeds Office, and more particularly described as located north of Locust Circle, east Of Property Identification Numbers 9628-13-23-1329, 9628-13-23-0256 and 9628-13-23-0151 and west of Property Identification Numbers 9628-13-23-2453, 9628-13-23-2239, 9628-13-23-2220, and 9628-13-23-2009, be permanently closed to public use as a street.
2. This closing is subject to the retention by the City of Asheville Water Resources Department its successors and assigns, of a 20-foot wide permanent easement for the operation and maintenance of a two inch water line lying 10 feet on each side of the center line of said two inch water line located within the proposed Fernwood Avenue closure.

Read, approved and adopted this 9th day of December, 2008.

Magdalen Brulson  
City Clerk

Jerry Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Brulson  
City Clerk