

RESOLUTION NO. 09-99

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT FOR THE INSTALLATION OF POWER UTILITY LINES AND FACILITIES ON CITY PROPERTY ON AIRPORT ROAD (WNC AGRICULTURAL CENTER – NEW LIVESTOCK FACILITY)

WHEREAS, the City has the authority pursuant to N.C.G.S. 160A-273 to grant easements across City property; and

WHEREAS, the City is the owner of land on which the Western North Carolina Agriculture Center (herein "WNCAC") is located, which is leased to the State of North Carolina (Department of Agriculture and Consumer Services) for the WNCAC; and

WHEREAS, a new livestock facility is being constructed at the WNCAC, which requires new electrical power facilities for which an easement is needed; and

WHEREAS, the City Council has determined that the requested easement is in the public interest;

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

The Mayor be, and is hereby, authorized to execute easements to Progress Energy across City property at the WNCAC, the form of said easements to be approved by the City Attorney.

Read, approved and adopted this 26<sup>th</sup> day of May, 2009.

Magdalen Bourleson  
City Clerk

Jimmy Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Bourleson  
City Clerk



RESOLUTION NO. 09-100

RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART BOARD

WHEREAS, the terms of Harry Harrison, Dana Irwin and Bill Fishburne, as members on the Public Art Board, expired on December 31, 2008;

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

Mr. Harry Harrison, 412 Sulphur Springs Road, Asheville, N.C., be and he is hereby reappointed as a member of the Public Art Board to serve a three-year term, term to expire December 31, 2011, or until his successor has been appointed.

Ms. Jenny Bowen, Post Office Box 18571, Asheville, N.C., be and she is hereby appointed as a member of the Public Art Board to serve a three-year term, term to begin immediately and expire December 31, 2011, or until her successor has been appointed.

Read, approved and adopted this 26<sup>th</sup> day of May, 2009.

Margalen Baulson  
CITY CLERK

Gregory B. Bell  
MAYOR

Approved as to form:

Russell J. [Signature]  
CITY ATTORNEY

Margalen Baulson  
City Clerk

RESOLUTION NO. 09-101

RESOLUTION AUTHORIZING SUBMISSION OF A SUBSTANTIAL AMENDMENT TO THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2008-09 TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, the City of Asheville is an Entitlement city for the federal Community Development Block Grant (CDBG) program and is Lead Entity on behalf of the Asheville Regional Housing Consortium for the federal HOME Investment Partnership Act program; and

WHEREAS, City Council adopted an Action Plan on April 22, 2008, for the use of funds in FY 2008-09; and

WHEREAS, the City expects to receive funding of \$332,942 under the Community Development Block Grant-R (CDBG-R) program, which has been made available to the City per Division A, Title XII of the American Recovery and Reinvestment Act of 2009;

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

1. Council approves the submission to HUD of the Substantial Amendment to its Consolidated Annual Action Plan for 2008-09 setting forth the City's plan to accept and distribute \$332,942 under the CDBG-R Program; and
2. Council authorizes the City Manager to sign all contracts, grant and loan agreements, after approval by the City Attorney, with HUD and with other designated agencies for the implementation of the Substantial Amendment to the Consolidated Action Plan.

Read, approved and adopted this 26<sup>th</sup> day of May, 2009. .

Magdalen Boulson  
City Clerk

Jim Ballenger  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Boulson  
City Clerk

RESOLUTION NO. 09-102

RESOLUTION ADOPTING A MASTER PLAN FOR DOWNTOWN

WHEREAS, downtown Asheville is recognized as an essential economic engine for the City of Asheville, Buncombe County, and Western North Carolina; and

WHEREAS, the continued health and vitality of downtown Asheville is critical to all citizens; and

WHEREAS, the master planning process provided abundant opportunities for citizen and stakeholder input and that input serves as the foundation for the plan; and

WHEREAS, the plan reflects the best efforts of our community to come together, and reflects negotiation, conciliation, and compromise between many different interests; and

WHEREAS, the Downtown Master Plan has been recommended for adoption by the Downtown Commission, Planning and Zoning Commission, and the Downtown Master Plan Advisory Committee;

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

The Downtown Master Plan dated March 27, 2009, and presented on May 12, 2009, is approved and adopted, in concept.

Staff is directed to develop proposals for implementing the Downtown Master Plan with reference to the Appendix, for more detailed consideration by Council.

Read, approved and adopted this 26<sup>th</sup> day of May, 2009.

Magdalen Burleson  
City Clerk

Chris Buckley  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Burleson  
City Clerk

RESOLUTION NO. 09-103

RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE GRAFFITI HURTS NATIONAL GRANT PROGRAM

WHEREAS, the City has the authority pursuant to N.C.G.S. 160A-17.1 to apply for and administer grants from other governments; and

WHEREAS, graffiti is the most common type of property vandalism according to the United States Department of Justice; and

WHEREAS, studies show that graffiti vandalism and other signs of disorder create an environment in which people are more likely to commit street crimes, which impacts the community's quality of life and viability; and

WHEREAS, citizen-led community groups have recommended the City of Asheville expand its local graffiti prevention activities including efforts in enforcement, education and abatement; and

WHEREAS, additional resources will allow the City of Asheville to further its existing efforts to prevent graffiti vandalism; and

WHEREAS, the City of Asheville's graffiti prevention program and expanded initiatives will create a healthier, safer and more livable community;

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

The City of Asheville will submit an application to the Graffiti Hurts Grant Program in the amount of \$2,500 to support community recommendations to enhance the City's efforts in graffiti enforcement, education and mitigation.

Read, approved and adopted this 26<sup>th</sup> day of May, 2009.

Magdalen Bouleson  
City Clerk

[Signature]  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Bouleson  
City Clerk

RESOLUTION NO. 09-104

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACT WITH MATHEWS ARCHITECTURE FOR WC REID CENTER FOR CREATIVE ARTS CONSTRUCTION DOCUMENTS

WHEREAS, the City of Asheville has authority pursuant to Article 2 of Chapter 160A of the North Carolina General Statutes to enter into contracts for services with other entities; and

WHEREAS, the City is developing construction documents as the next step in preparing for the construction of the WC Reid Center for Creative Arts; and

WHEREAS, pursuant to N.C.G.S. 143-64.31, the City announced and advertised the requirements for the professional services project and awarded to project to the best qualified firm; and

WHEREAS, the City issued a request for qualifications and Mathews Architecture was selected as the most qualified firm; and

WHEREAS, the amount of the agreement is \$278,600 and 25% of the monies have been budgeted in the FY 2006/2007 capital improvement budget and 75% of the monies are from public and private grants and donations;

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

The City Manager is hereby authorized to enter into a contract with Mathews Architecture to develop the construction documents for the WC Reid Center for Creative Arts in an amount not to exceed \$278,600;

Read, approved and adopted this 26<sup>th</sup> day of May, 2009.

Magdalen Boulson  
City Clerk

Mayor  
10

Approved as to form:

[Signature]  
City Clerk

Magdalen Boulson  
City Clerk

RESOLUTION NO. 09-105

RESOLUTION AUTHORIZING NOTICE OF INTENT TO EXERCISE OPTION TO PURCHASE 29.62 ACRES OF REAL PROPERTY (BEAUCATCHER MOUNTAIN / WESTERN SLOPE) PURSUANT TO LEASE – PURCHASE AGREEMENT WITH THE TRUST FOR PUBLIC LAND

WHEREAS, the City of Asheville has the authority pursuant to N.C.G.S. 160A-20 to finance the acquisition of real property through installment purchase contracts, including lease-purchase; and

WHEREAS, following notice and public hearing, Council adopted Resolution No. 07-104, authorizing the City to enter into an Agreement with The Trust for Public Land (herein "TPL") for the lease and acquisition of 29.62 acres located on the western slope of Beaucatcher Mountain in the City of Asheville (said property being more particularly described in a deed recorded in Deed Book 2876 at Page 712 in the Buncombe County Registry; herein "Subject Property"), which Agreement includes an option to purchase the Subject Property; and

WHEREAS, pursuant to said Agreement, notice of intent to exercise the option to purchase is due to TPL not less than 60 days prior to August 1, 2009; and

WHEREAS, the City's obligations under the Agreement are current and the Agreement is not otherwise in default, and Buncombe County and others have generously contributed to, or pledged to contribute to, TPL in order to help defray the cost of acquisition, and Council desires to complete the transaction;

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

The City Attorney is hereby authorized to give notice to TPL of the City's intent to exercise the option to purchase the Subject Property, and to take other actions as appropriate to cause said closing to occur, in accordance with the Agreement.

Read, approved and adopted, this 26<sup>th</sup> day of May, 2009.

Magdalen Boulson  
City Clerk

August Ballou  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Boulson  
City Clerk

RESOLUTION NO. 09-106

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AS STATE MATCH TO PURCHASE FAREBOXES FOR THE TRANSIT FLEET

WHEREAS, City staff has applied for funding with the North Carolina Department of Transportation and funding was granted; and

WHEREAS, the fareboxes are an essential part of operations, ensuring an adequate and safe environment to collect the cash fares; and

WHEREAS, the new technology will have the capability of storing cash and reading magnetic cards, as well as producing accurate and reliable passenger reports; and

WHEREAS, the City has authority, pursuant to N.C.G.S. §160A-17.1, to apply for and receive grants from the Federal government and to enter into contracts for the administration of said grants.

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

City Council authorizes the City Manager to enter into an Interlocal Agreement with the North Carolina Department of Transportation in the amount of \$22,040 as State match to purchase fareboxes for the Transit fleet.

Read, approved and adopted this the 26<sup>th</sup> day of May 2009.

Magdalen Boulson  
City Clerk

Armando Ballin  
Mayor

Approved as to form:  
[Signature]  
City Attorney

Magdalen Boulson  
City Clerk

RESOLUTION NO. 09-107

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE TRANSPORTATION DEMAND MANAGEMENT GRANT PROGRAM AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION – PUBLIC TRANSPORTATION DIVISION FOR THE PROGRAM.

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WHEREAS, the City desires to utilize grant funds from the N.C. Dept. of Transportation for the purpose of encouraging innovative approaches in the provision of a ridesharing project that was properly prepared, endorsed, approved, and transmitted by the City; and

WHEREAS, the total cost of the approved budget is \$84,636 as set forth in the Project Description.

WHEREAS, the City has authority, pursuant to N.C.G.S. §160A-17.1, to apply for and receive grants from the Federal government and to enter into contracts for the administration of said grants.

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

The City Manager is hereby authorized to apply and enter into an agreement with the N.C. Dept. of Transportation for the reimbursement of funds to be expended for the Transportation Demand Management Program.

Read, approved and adopted this the 26<sup>th</sup> day of May 2009.

Magdalen Boulson  
City Clerk

Gregory B. Bell  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Boulson  
City Clerk

RESOLUTION NO. 09- 108

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A FEDERAL COST SHARE AGREEMENT WITH THE ARMY CORP OF ENGINEERS TO PROVIDE PROFESSIONAL SERVICES FOR A FEASIBILITY STUDY FOR REDUCING FLOOD DAMAGE IN THE SWANNANOA RIVER WATERSHED

WHEREAS, the City of Asheville has authority pursuant to Article 2 of Chapter 160A of the North Carolina General Statutes to enter into contracts for services with other entities; and

WHEREAS, The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reductions for North Carolina Communities hardest hit by the 2004 hurricane season; and

WHEREAS, The Biltmore Village are of the City of Asheville, which lies within the Swannanoa River Watershed, was named as a recipient of this funding; and

WHEREAS, The Corp of Engineers is providing a 50%-50% match for this feasibility study project; and

WHEREAS, This feasibility study can provide future opportunity for additional measures to reduce flood damage reduction in the Swannanoa Watershed area;

WHEREAS, the total cost of this project is \$1,958,000 of which the City of Asheville is responsible for 50% of this cost. Work in Kind (WIK) from the Swannanoa River Flood Risk Management Study can be used toward the match from the City. The total cash match for this project is \$110,000 of which the monies will be budgeted in the Transportation and Engineering Department for \$30,000 in Fiscal Year 2010 and \$80,000 in Fiscal Year 2011 of which will be reimbursed from the SB 7 funds;

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

The City Manager is hereby authorized to enter into a federal cost share agreement on behalf of the City of Asheville with the Army Corp of Engineers for \$979,000, of which the total cash match from the City of Asheville will be \$110,000, for professional services for a feasibility study for reducing flood damage in the Swannanoa River Watershed and further authorized to execute any change orders to said contract or documents which may arise during construction of said project up to the budgeted amount.

Read, approved and adopted this the 26<sup>th</sup> day of May, 2009.

Magdalen Boulson  
City Clerk

Imy Ballantyne  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Boulson  
City Clerk

## RESOLUTION NO. 09-109

## RESOLUTION MAKING PROVISION FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE IN THE LAWN AREA OF PACK SQUARE IN PACK SQUARE PARK ON JUNE 6 FROM 3P.M. TO 11:59 P.M.

WHEREAS, N. C. Gen. Stat. sec. 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on the public streets and on property owned, occupied or controlled by the City and to regulate or prohibit the possession of malt beverages and unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events; and

WHEREAS, the City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority; and

WHEREAS, that ordinance, codified as Section 11-11 in the Code of Ordinances of the City of Asheville, provides that the City Council may adopt a resolution making other provisions for the possession of malt beverages and/or unfortified wine at a special event or community festival; and

WHEREAS, the City Council of the City of Asheville hereby determines to make other provisions for the possession of malt beverages and/or unfortified wine at Windows on the Park; and

WHEREAS, the resolution is pending the City of Asheville's ability to issue an Outdoor Special Event permit for the requested location and the event organizer's receipt of the temporary extension of the ABC permit from the North Carolina Alcoholic Beverage Control Commission;

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

1. The possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine shall be allowed within the grassy area of the Pack Square area of Pack Square Park, as shown on the attached Exhibit A as Area A.
2. The possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine shall be allowed for Windows on the Park on the grass area of the Pack Square area of Pack Square Park on Saturday, June 6, 2009 from 3:00 p.m. to 11:59 p.m.
3. The possession of and consumption from open containers of malt beverages and/or unfortified wine allowed hereinabove shall be limited to malt beverages

and/or unfortified wine. No other possession of open containers of malt beverages and/or unfortified wine or consumption of malt beverages and/or unfortified wine shall be allowed in the event area, or elsewhere in the City of Asheville as prohibited by Section 11-11 of the Code of Ordinances of the City of Asheville.

- 4. The location of the grass area of the Pack Square area of Pack Square Park, listed hereinbefore, where possession of open containers of malt beverages and/or unfortified wine and consumption of malt beverages and/or unfortified wine are allowed shall be designated by the posting of signs in the event area with appropriate boundaries designating the area.

Read, approved and adopted this 26<sup>th</sup> day of May 2009.

Magdalen Bureson  
 City Clerk

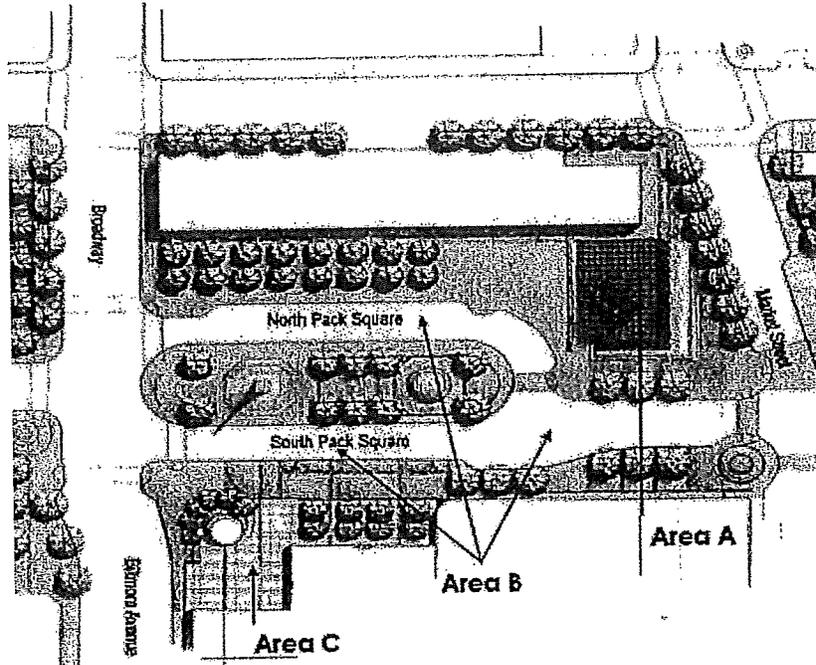
Greg Bellamy  
 Mayor

Approved as to form:

[Signature]  
 City Attorney

Magdalen Bureson  
 City Clerk

**Pack Square Park—Pack Square**



RESOLUTION NO. 09-110

RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION

WHEREAS, the terms of Mr. Brian P. Woods, Mr. George Keller and Mr. J. Michael Burke, as members of the Civic Center Commission, expire on June 30, 2009; and

WHEREAS, Mr. Bill Lack has resigned as a member of the Civic Center Commission, thus leaving an unexpired term until June 30, 2011;

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

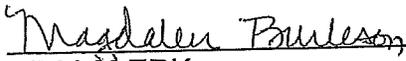
Mr. Brian P. Woods, 31 Grove Garden Avenue, Candler, North Carolina, be and he is hereby reappointed as a member of the Civic Center Commission to serve a three-year term, term to expire June 30, 2012, or until his successor has been appointed.

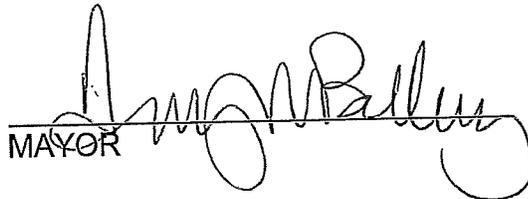
Mr. George Keller, 84 W. Walnut Street, Asheville, North Carolina, be and he is hereby reappointed as a member of the Civic Center Commission to serve an additional three-year term, term to expire June 30, 2012, or until his successor has been appointed.

Mr. J. Michael Burke, 59 Blackwood Road, Asheville, North Carolina, be and he is hereby reappointed as a member of the Civic Center Commission to serve a three-year term, term to expire June 30, 2012, or until his successor has been appointed.

Mr. J.L. Thompson, 152 Murdock Avenue, Asheville, North Carolina, be and he is hereby appointed as a member of the Civic Center Commission to serve the unexpired term of Mr. Lack, term to begin immediately and expire on June 30, 2011, or until his successor has been appointed.

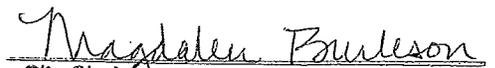
Read, approved and adopted this 26<sup>th</sup> day of May, 2009.

  
CITY CLERK

  
MAYOR

Approved as to form:

  
CITY ATTORNEY

  
City Clerk

RESOLUTION NO. 09-111

RESOLUTION APPOINTING A MEMBER TO THE CIVIL SERVICE BOARD

WHEREAS, the term of Sharon West, as a member on the Civil Service Board, expired May 21, 2008;

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

Mr. Larry C. Harris Jr., 330 Stratford Road, Asheville, N.C., be and he is hereby appointed as a member of the Civil Service Board to serve the unexpired term of Ms. West, term to expire May 21, 2010, or until his successor has been appointed.

Read, approved and adopted this 26<sup>th</sup> day of May, 2009.

Magdalen Boulson  
CITY CLERK

Gregory B. Bell  
MAYOR

Approved as to form:

[Signature]  
CITY ATTORNEY

Magdalen Boulson  
City Clerk

RESOLUTION NO. 09- 112

RESOLUTION APPROVING THE SETTLEMENT OF A CLAIM/LAWSUIT BY ASHEVILLE CLAIMS CORPORATION (TROY STEVEN WYATT, CLAIMANT).

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WHEREAS, Troy Steven Wyatt filed a lawsuit against the City of Asheville, the City Manager and the Chief of Police in their official capacities, and individual police officers in their official and individual capacities (herein "Defendants") alleging that the Defendants are liable to him for personal injuries resulting from the execution of a search warrant that occurred on January 25, 2006 at 401 Caribou Road; and

WHEREAS, the parties have agreed to a settlement of \$300,000 to be paid by Asheville Claims Corporation on behalf of the City of Asheville to Troy Wyatt, subject to approval by the Asheville City Council which occurred in closed session on May 26, 2009; and

WHEREAS, pursuant to Resolution No. 93-145, the City Council must approval settlement of claims covered by the Asheville Claims Corporation if the amount of settlement exceeds \$25,000; and

WHEREAS, the settlement has now been finalized.

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

As required by N.C.G.S. § 143-318.11(a)(3), the terms of the settlement of the above-described matter are hereby made a matter of public record, and the City Clerk is directed to enter this resolution in the official minutes of the City Council.

All settlement documents in this matter are hereby made a matter of public record, as required by N.C.G.S. § 132-1.3.

Nothing herein may be construed as a waiver of governmental immunity with respect to any claims against the City of Asheville.

Read, approved and adopted this the 26<sup>th</sup> day of May 2009.

Magdalen Bouderson  
City Clerk

Gregory Bell  
Mayor

Approved as to form:

Russell  
City Attorney

Magdalen Bouderson  
City Clerk