RESOLUTION NO. 09-233

RESOLUTION TO ACCEPT A DONATION FROM THE ASHEVILLE-BUNCOMBE YOUTH SOCCER ASSOCIATION AND THE WESTERN NORTH CAROLINA SOCCER FOUNDATION OF FIELD LIGHTS ON THE FOUR SOCCER FIELDS AT THE JOHN B. LEWIS SOCCER COMPLEX AT AZALEA PARK

WHEREAS, the City of Asheville is authorized pursuant to N.C.G.S. 160A-240.1 to acquire the fee or any lesser interest in real or personal property by gift, grant, bequest or any other lawful method; and

WHEREAS, the City is authorized pursuant to N.C.G.S. 160A-353 to accept any gift, grant or bequest of real or personal property for parks and recreation programs; and

WHEREAS, the City is interested in enhancing its parks and recreation system throughout the corporate limits of the City of Asheville; and

WHEREAS, the Asheville-Buncombe Youth Soccer Association and the Western North Carolina Soccer Foundation have completed the installation of the field lights on the four soccer fields at the John B. Lewis Soccer Complex at Azalea Park, and successfully met the requirements of the lights installation agreement; and

WHEREAS, the Asheville-Buncombe Youth Soccer Association and the Western North Carolina Soccer Foundation are now donating the soccer field lights valued at $594,166 to the City of Asheville;

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

The City Manager is hereby authorized to accept on behalf of the City of Asheville the donation of the field lights on the four soccer fields at the John B. Lewis Soccer Complex at Azalea Park offered by the Asheville-Buncombe Youth Soccer Association and the Western North Carolina Soccer Foundation.

Read, approved and adopted this 10th day of November, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

261

RESOLUTION NO. 09- 234

RESOLUTION OF INTENT TO PERMANENTLY CLOSE HAMILTON CIRCLE, A PORTION OF BROOKLET STREET AND A PORTION OF HAMILTON STREET

WHEREAS, the City of Asheville is hereby declaring its intent to permanently close Hamilton Circle, a portion of Brooklet Street and a portion of Hamilton Street to public use; and

WHEREAS, said excess streets are not under the control of the North Carolina Department of Transportation;

WHEREAS, said streets are under the control of the City of Asheville and are not needed by the City;

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

1. The City Council hereby declares its intent to permanently close a portion of Hamilton Street, a portion of Brooklet Street and Hamilton Circle as more specifically shown of Exhibit "A" attached hereto and incorporated herein by reference; the real properties adjoining said proposed closing are Pin Numbers 9648.34.9654.0000; 9648.35.7081.00000; 9648.44.2610.00000; 9648.44.2585.00000; 9848.44.1402.00000 and 9648.44.0580.00000; for Hamilton Circle Pin Numbers 9648.34.9654.00000 and 9648.44.1891.00000 for Hamilton Street and Pin Numbers 9648.34.9654.0000 and 9648.35.7081.00000 for Brooklet Street.

2. A public hearing on the question of the closing is hereby called for Tuesday, December 15, 2009, at the regular meeting of the City Council beginning at 5:00 pm., in the City Council Chambers Room, 2nd floor of the City Hall Building, Asheville, North Carolina.

3. This Resolution shall be published in a newspaper of general circulation in Buncombe County, North Carolina, once per week for four successive weeks prior to the aforesaid public hearing on December 15, 2009.

4. The notice of closing and the public hearing herein ordered (copy of this resolution being sufficient for the purpose of said notice), shall be prominently posted in at least two places along the aforementioned streets. Additionally, a copy of this Resolution of intent shall be sent by registered or certified mail to all owners of property abutting these streets not joining in the petition to close, as shown on the Buncombe County tax maps. The persons causing the said posting and mailing shall file an affidavit thereof with the City Clerk prior to the public hearing scheduled herein.

Read, approved and adopted this 10th day of November, 2009.

Magdalen Bourleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bourleson
City Clerk

261-A

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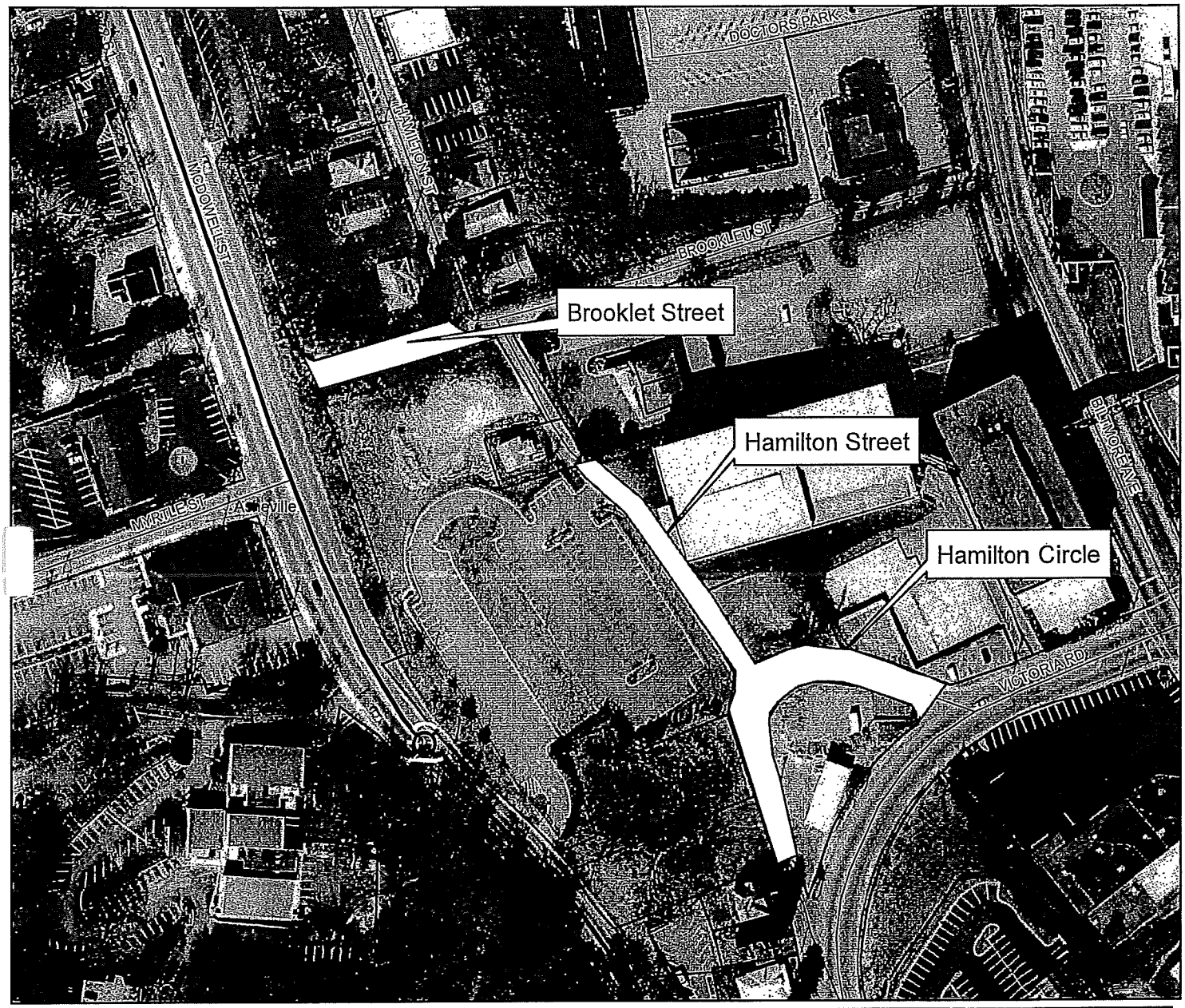
Attachment 1

Street Closure
A Portion of Hamilton Street, Brooklet Street and Hamilton Circle



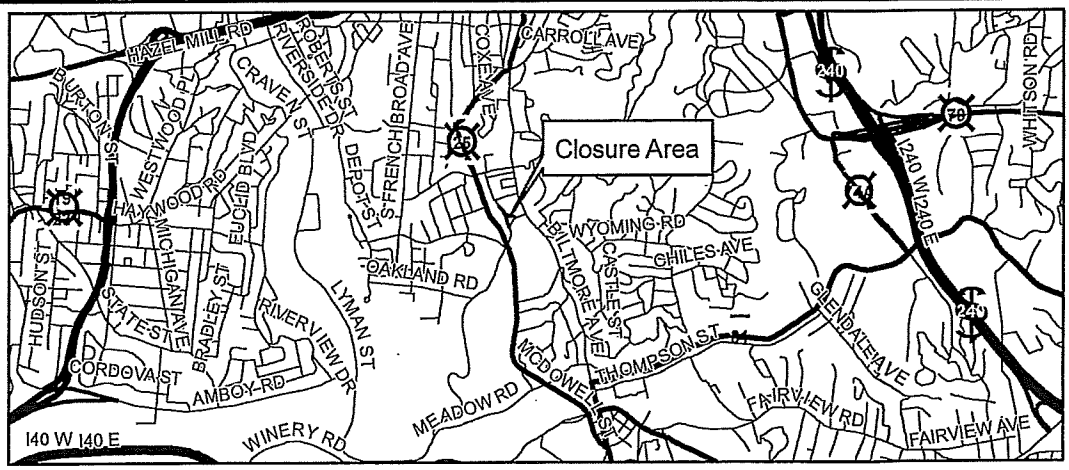
Legend

- Local Interstate Highways (Buncombe County)
- Local US Highways (Buncombe County)
- Local NC Highway (Buncombe County)
- Local Highway Ramps (Buncombe County)
- Local Blue Ridge Parkway (Buncombe County)
- Streets (Buncombe County)
- Street Names
- Parcels
- Parcel Lines
- Corporate Limits Boundary
- ETJ Boundary
- Region Under Consideration for Annexation

2006 True Color

RGB

- Red: Band_1
- Green: Band_2
- Blue: Band_3



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Resolution No. 09-235

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH HICKORY CONSTRUCTION COMPANY FOR THE ARRA FUNDED PROJECT: NORTH FORK WATER TREATMENT PLANT PUMPING SYSTEMS IMPROVEMENTS (DEH-1395)

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, pursuant to N.C.G.S. § 143-129, bids were solicited for the project known as North Fork WTP – Pumping Systems Improvements; and

WHEREAS, Hickory Construction Company of Hickory, North Carolina, was the lowest responsible bidder for the Project, in the amount of $328,474.00, with the bid tabulation attached hereto as Exhibit "A"; and

WHEREAS, the Project involves the furnishing of labor, material, equipment, incidentals, piping, equipment, and demolition for the installation of two package water booster pump stations consisting of skid mounted pumps, motors, and control panels; and

WHEREAS, the bids have been reviewed by the Water Resources Department, Brown & Caldwell Consulting Engineers, and the City's Office of Economic Development (Minority Business Plan Compliance) with all officers recommending approval of the bid.

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

1. The Bid Tabulation attached hereto as Exhibit "A" be recorded in the minutes of the City Council as required by N.C. Gen. Stat. § 143-129.

2. The City Manager is hereby authorized to execute the contract with Hickory Construction Company in the amount of $328,474.00 for the construction of the North Fork WTP Pumping Systems Improvements 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 10th day of November, 2009.

Magdalen Bullion
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bullion
City Clerk

Exhibit A

Bid Tabulation for the ARRA Funded Project: North Fork WTP Pumping Systems Improvements

Hickory Construction Company
1728 Ninth Avenue NW
Hickory, NC 28601
828-322-9234
828-322-5138 (fax)
NC Utility Contractor License No. 1145
Total Base Bid: $328,474.00

J.L. Construction Company
P.O. Box 366
Piedmont, SC 29673
864-236-9595
864-236-9596 (fax)
SC Utility Contractor License No. 45453
Total Base Bid: $389,500.00

Huntley Construction
121 Charlotte Highway
Asheville, NC 28803
828-298-1686
828-298-1685 (fax)
NC Utility Contractor License No. 5264
Total Base Bid: $496,000.00

Carolina Specialties Construction, Inc.
624 7th Avenue E
Hendersonville, NC 28792
828-697-7184
828-697-6863 (fax)
NC Utility Contractor License No. 41451
Total Base Bid: $456,277.00

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RESOLUTION NO. 09-236

RESOLUTION TO ADOPT RECOMMENDATIONS TO CAP PARKS, RECREATION & CULTURAL ARTS DEPARTMENT FACILITY RENTAL FEE ADJUSTMENTS.

WHEREAS, pursuant to N.C.G.S. § 160A-351, the City has the authority to create, establish, and operate parks and recreation programs; and

WHEREAS, pursuant to N.C.G.S. § 160A-4, the City has the authority to charge regulatory user fees; and

WHEREAS, a review of best practices for parks and recreation facility rental fee adjustment of cities in North Carolina determined there is no consistent practice in fee adjustment considerations; and

WHEREAS, staff recommends the following to cap Parks, Recreation & Cultural Arts Department facility rental fee adjustments:

- Structure the facility rental fee adjustment process in that a maximum dollar value is established each budget year to award to organizations that meet the criteria for fee waivers. Once the annual dollar threshold is met during the budget year no more fee waivers will be granted.
- Allocate a $3,000 cap in the first year. The annual cap amount will be considered every year thereafter during the annual fees and charges approval process.
- The maximum amount of fee adjustment that can be granted per request is $500 to insure all organizations granted a fee waiver receive the same amount of value from the city.
- Specialized facilities and enterprise funds will not be considerate for rental fee waivers.
- Request for fee adjustment above the threshold will be encouraged to apply through the city's annual co-sponsorship process.

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

The Mayor is hereby authorized to adopt the recommendations to cap parks, recreation & cultural arts department facility rental fee adjustments.

Read, approved and adopted this 10th day of November, 2009.

Magdalen Bowleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bowleson
City Clerk

RESOLUTION NO. 09-237

RESOLUTION APPROVING CREATION OF ASHEVILLE RIVERFRONT COMMISSION

WHEREAS, the City Council of the City of Asheville has the authority pursuant to N.C.G.S. 160A-146 to establish boards and commissions to provide orderly and efficient administration of City affairs; and

WHEREAS, the City Council recognizes that the public welfare and interest of the City will best be served by the establishment of a board to uphold the sustainability and continued development of Asheville's Riverfront.

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

Section 1. Article III of Chapter 2 of the Code of Ordinances of the City of Asheville is hereby amended to add a new Division 13, "Asheville Riverfront Redevelopment Commission" to read as follows:

"Division 13. Asheville Riverfront Redevelopment Commission.

Sec. 2-185.20. Creation; Geography; Membership; Organization.

(a) *Creation.*
It is hereby declared that the public welfare and interest of the citizens of the City of Asheville and County of Buncombe, North Carolina will best be served by establishing and maintaining a commission for the sustainability and continued development of the Riverfront district, a vital area of western North Carolina's economic, cultural and visitor activity. To that end, there is hereby created and established a commission of the City to be known as the Asheville Riverfront Redevelopment Commission, referred to in this document as "the commission."

(b) *Definitions and Geographic Area Defined.*
The Riverfront district is defined as the area within the City of Asheville's corporate boundary or extraterritorial jurisdiction adjacent to the French Broad or Swannanoa Rivers, including non-adjacent yet nearby land having characteristics or features directly impacting the economic climate of the Riverfront district. The Riverfront district, especially the areas outlined in the Wilma Dykeman Riverway Master Plan, shall be the primary focus of the commission's work.
The Regional Riverfront includes any similarly described land lying outside the City's jurisdictions but within Buncombe County's boundary. The Regional Riverfront shall be the general study area of the commission.

(c) Membership.

(1) Composition
The commission shall consist of 13 voting members appointed by various community boards. Each appointing board shall ensure that at least one half of their appointees are an owner of real property or an owner of a business in the Regional Riverfront; the chairperson from the River District Design Review Committee shall not count toward or against the City's requirement. The composition of the commission will be as follows:

a. Two members appointed by the Buncombe County Board of Commissioners, with one being a County Commissioner;
b. Four members appointed by the City Council, with one being a Council member;
c. Two members appointed by the Asheville Area Chamber of Commerce;
d. Two members appointed by RiverLink;
e. Two members appointed by the Council of Independent Business Owners;
f. The chairperson of the River District Design Review Committee shall be a member of the Commission.

(2) Representation and Appointment Process

Appointed members shall represent various segments of the Regional Riverfront community such as, but not limited to, property owners, merchants, residents, businesses and institutions, landscape architects, civil engineers or related specialties; and shall have a willingness to participate actively in commission efforts; and shall possess expertise and interest in the sustainability and development of the Riverfront district. The process used to make appointments to the Commission is at the discretion of the appointing boards.

(3) Removal

Members of the Commission shall be removed at the discretion of the appointing board.

(4) Terms of office.

Members of the commission shall serve staggered, three-year terms, with the exception of the City Council member, County Commission member, and chairperson of the River District Design Review Committee, each of whom will serve according to the length of their respective terms of office
(ex-officio with voting privileges). In order to establish staggered terms the initial appointment structure (terms of service) to the commission shall be as follows:

a. Buncombe County: one ex-officio, one 3-year term
b. Asheville City: one ex-officio; one 3-year term; two 1-year terms
c. Asheville Area Chamber of Commerce: two 2-year terms
d. RiverLink: one 3-year term; one 1-year term
e. Council of Independent Business Owners: two (2) year terms
f. River District Design Review Committee Chairperson: one ex officio.

Members are eligible to serve up to two consecutive terms; partial (less than 3-year) terms served due to the initial, (staggered) appointment structure or to fill a vacant seat shall not count toward two full terms of service.

(5) Organization and General Operation

a. Bylaws. The commission shall adopt bylaws within twelve months from the date of City Council's adoption of this creation ordinance.
b. Meetings. The commission shall adopt a regular meeting schedule. Special meetings may be called by the chairperson or, in her/his absence, by the vice-chairperson, and special meetings shall be called upon the request of a majority of the members of the commission.
c. Selection of officers. The commission shall select annually from its members a chairperson and a vice-chairperson.

d. Attendance. The failure of any commission member to attend 75 percent or more of the meetings of the commission held during a 12-month period, without an excused absence being approved by the chairperson of the Commission, may be grounds for removal.
e. Voting. A quorum shall be constituted by a simple majority of commission members, excluding vacancies. The chair or the presiding member of the commission shall vote on all matters of business considered by the commission, unless recused by a majority vote of the commission.
f. Transaction of business. The commission shall act as a body in the transaction of all business, unless a committee or member is duly authorized by the commission for a specific purpose.
g. Compensation. Members of the commission shall receive no compensation for their service, but shall be entitled to reimbursement for out-of-pocket expenses in connection with their official and authorized duties.
h. Appointment of committees. The commission is authorized to appoint committees from its membership or the community at large. Committee functions shall be fixed by the commission at the time of appointment. Committees may be standing or ad hoc in nature and shall perform such duties as may be assigned by the commission.
i. Periodic Reviews and Dissolution Procedure. Periodic reviews of the progress of the commission will occur as deemed necessary by the City Council and the County Commission. The commission may be discharged or dissolved by a joint resolution of City Council and the County Commission.

Sec. 2-185.21. Purposes; Powers; Contracts

(a) *Purposes.*
Subject to such limitations as may be imposed by state law or by ordinance of the City and County, the commission shall be embodied for the following purposes:

(1) Recommend to the City and County an overall policy for the continued development and sustainability of the Regional Riverfront.
a. Develop and recommend to the City and County a comprehensive strategy as may be deemed appropriate for the Riverfront and Regional Riverfront districts. Conduct regular evaluations and updates for the City of Asheville comprehensive strategic plan, the Wilma Dykeman Riverway Master Plan and all other plans affecting the French Broad River and Swannanoa River areas within Buncombe County. Work toward the implementation of the City-adopted Wilma Dykeman Riverway Master Plan.
b. Recommend to the City and County appropriate land development policies for the Riverfront and Regional Riverfront districts. Conduct evaluations and updates for zoning, regulations and other policies for properties in the vicinity of both districts (including but not limited to watershed policies, floodway management and greenway acquisition).
c. Recommend to the City and County what assistance, if any, is needed from professional consultants for Riverfront and Regional Riverfront efforts.
d. Recommend and monitor implementation of planning efforts in both districts. Provide recommendations as a part of the regular project/permit review process as applicable for the benefit of City and County officials for projects in the districts.

(2) Provide recommendations to the City and the County for effective management of the public resources for the districts and actively pursue and assist private sector investment in the districts for the welfare of the citizens of the City and County.
(3) Cooperate with, evaluate, and represent the recommendations of other organizations, including, but not limited to, property owners, merchants, residents, businesses, tenants, non-profits, institutions and other members of the Riverfront and Regional Riverfront district communities.

(b) *Powers.*
In order to fulfill the purposes listed above, and subject to limitations as may be imposed by state law or by ordinance of the City and County, the commission shall perform those tasks necessary and convenient to carry out the purposes of the commission and public welfare, including;

(1) Develop financial tools for riverfront development.
(2) Evaluate existing plans and recommendations for riverfront development.
(3) Identify appropriate uses for the districts and identify developers/investors for development.
(4) Coordinate riverfront commercial, recreational and residential development with property owners, merchants, residents, businesses, tenants, and institutions within the riverfront district
(5) Promote and facilitate the improvement of riverfront infrastructure, including but not limited to water, public safety, parks, parking, transportation, utilities, sidewalks, sewer, and streetscape.
(6) Promote and facilitate marketing and other programs that focus on the riverfront and meet the goals and mission statement of the commission, including:

a. Promote and facilitate a program to assist in business retention in the riverfront district.
b. Promote and facilitate a program to increase sales, visitors and awareness of the riverfront district.
c. Promote and facilitate riverfront district living.
d. Promote, facilitate and act as liaison to catalytic developments significantly affecting the riverfront areas.

(7) Assist City and County government with procuring representative community participation when plans and reports concerning the development of the riverfront districts are prepared or implemented.
(8) Make studies which further the implementation of its plans.
(9) Make recommendations to City Council regarding the (adopted via this ordinance) definition of the geography and definition of the Riverfront and Regional Riverfront districts.
(9) Actively encourage and pursue the participation of the public sector and private capital in implementing approved projects.

(c) *Contracts.*
The commission shall be authorized to enter into and to let contracts for necessary services provided to the commission in the manner provided by law for contracts, but shall not commit financial resources of either the City or County without prior approval from the funding agencies

Sec. 2-185.22. Staffing; Resources

As the lead partner in the Riverfront Redevelopment Commission initiative, staffing and other resources needed for the Commission will be managed by the City of Asheville. The City recognizes that the study areas for the Commission reach beyond Asheville corporate and extraterritorial boundaries; the promotion of a strong, regional, strategic partnership, including sharing the cost of staffing and resources, is required.

(a) Budget
An annual budget will be appropriated by the City of Asheville to achieve the mission and goals of the commission. Funding, in-kind services and other resources shall be provided by the strategic partners, including the City of Asheville, Buncombe County, RiverLink, Asheville Area Chamber of Commerce, Land-of-Sky Regional Council and private property owners.

(b) Staffing
The City of Asheville City Manager shall be responsible for providing staff support for the commission. The City Manager shall assign an appropriate staff member who shall direct and carry out the annual work program of the commission and shall serve as secretary to the commission with no voting rights.

(c) Resources

Technical experts and consultants outside ordinary staff available to perform such services needed to complete the approved work program elements shall be recommended by the commission in accordance with the state and federal, state and municipal policy pertaining to such selection."

Section 2. This ordinance is effective upon adoption.

Read, approved and adopted this 10th day of November, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

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Resolution No. 09-238

RESOLUTION OF APPRECIATION TO KELLY M. MILLER

WHEREAS, Kelly Miller served as a member of the Asheville City Council since December 12, 2008; and

WHEREAS, Kelly untiringly devoted over a year to the City of Asheville during a period of time that numerous projects were initiated through his leadership which will continue to have a revitalizing and growing impact on the City of Asheville far beyond his term of office, in particular the Pack Square Park project; and

WHEREAS, Kelly was a catalyst in analyzing quick action steps for the health of downtown, including graffiti/vandalism, towing, cleanliness and panhandling; and

WHEREAS, Kelly served as a member of the City Council Finance Committee and the City Council Housing & Community Development Committee; and

WHEREAS, Kelly also served as liaison to Greenway Commission; and

WHEREAS, Kelly has been a powerful influence for good in the growth and progress of the community; and

WHEREAS, Kelly has demonstrated in many practical ways his deep and genuine love for this city and the surrounding area;

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

That the members of the Asheville City Council hereby express their gratitude to Kelly Miller for the service he has rendered to his community and that this resolution be entered into the minutes of the Asheville City Council and that a copy be presented to Mr. Miller.

Read, approved and adopted this 24th day of November, 2009.

MAYOR

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

Magdalen Bowlesson
City Clerk

RESOLUTION NO. 09- 239

RESOLUTION APPROVING ENHANCED SUPPORT OF ANCHOR EVENTS FOR THE REMAINDER OF FY09/10

WHEREAS, the City has the authority, pursuant to N.C.G.S. 160A-353 to establish and support recreational programs; and

WHEREAS, pursuant to Resolution No. 08-235, City Council authorized co-sponsorship support for six (6) anchor events (including Asheville Drum Circle, Asheville Holiday Parade, and Downtown After 5) for a total of $93,518; and

WHEREAS, the Asheville Holiday Parade organizers requested an increase in traffic control and police support services for the 2009 parade; and

WHEREAS, the anticipated financial impact of the additional in-kind services for the Asheville Holiday Parade and the remaining Fiscal Year 2009-10 anchor, co-sponsorship events (Drum Circle and Downtown After 5) is $7,000; and

WHEREAS, the City Council Finance Committee recommends approval of the additional in-kind services; and

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

The remaining anchor events (Asheville Drum Circle, Asheville Holiday Parade and Downtown After 5) receive a 20% increase in police support and traffic control devises plus all necessary traffic/directional signage for the remainder of Fiscal Year 2009-10.

Read, approved and adopted this 10th day of November, 2009.

Magdalen Bullerson
CITY CLERK

MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Bullerson
City Clerk