

RESOLUTION NO. 09-201

RESOLUTION TO APPROVE THE NAMING OF THE BASEBALL/SOFTBALL COMPLEX AT VALLEY SPRINGS MIDDLE SCHOOL FOR IRBY BRINSON IN AGREEMENT WITH THE BUNCOMBE COUNTY'S SCHOOL BOARD'S APPROVAL IN JANUARY OF 2007 NAMING THE BASEBALL/SOFTBALL COMPLEX "THE IRBY BRINSON ATHLETIC COMPLEX"

WHEREAS, pursuant to N.C.G.S. § 160A-353, the City has the authority to establish and conduct a system of supervised recreation and provide, acquire, construct, equip, operate, and maintain parks, playgrounds, recreation centers, and recreation facilities; and

WHEREAS, the Buncombe County School Board owns a baseball/softball complex located at Valley Springs Middle School; and

WHEREAS, the Buncombe County School Board and the City previously entered into a 30 year agreement wherein the Buncombe County School Board would provide land at Valley Springs Middle School for the purpose of providing athletic fields that the City would fund, install and maintain; and

WHEREAS, Irby Brinson served the citizens of Asheville as a public servant for over 30 years in several positions in the Parks and Recreation Department, most recently as the director for 15 years and until his retirement in 2006; and

WHEREAS, Irby Brinson provided exceptional leadership and dedication to the operation and delivery of parks and recreation services while overseeing significant improvements and additions to the park, greenway and facility system; and expansion of a comprehensive recreation, cultural art and fundraising program; and

WHEREAS, the Recreation Board unanimously approved the naming of the baseball/softball complex at Valley Springs Middle School in honor of Irby Brinson at its regular meeting in November 2006; and

WHEREAS, Buncombe County Board of Education approved the naming of the baseball/softball complex for Irby Brinson at its regular meeting in January 2007;

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

The baseball/softball complex at Valley Springs Middle School be named for Irby Brinson as "The Irby Brinson Athletic Complex", in agreement with the Buncombe County's School Board's approval in January of 2007 naming the baseball/softball complex "The Irby Brinson Athletic Complex".

Read, approved and adopted this 22nd day of September, 2009.

Magdalen Bourleson
City Clerk

Angela Bellamy
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalen Bourleson
City Clerk

RESOLUTION NO. 09-202

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER TARGET COMMUNITY RELATIONS PROGRAM

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

WHEREAS, TARGET, has awarded the City of Asheville the amount of \$1,000 through the TARGET Community Relations Program for the purchase of APD Explorer Post uniform and equipment;

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

The City Manager is hereby authorized to accept for and enter into an agreement with the TARGET, for a grant in the amount of \$1,000.

Read, approved, and adopted this 22nd day of September, 2009.

Magdalen Paulson
CITY CLERK

Angela Bellamy
MAYOR

APPROVED AS TO FORM:

Rudder
CITY ATTORNEY

Magdalen Paulson
City Clerk

RESOLUTION NO. 09-203

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE NORTH CAROLINA OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE – EDWARD BYRNE ASSISTANCE GRANT

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

WHEREAS, the US Department of Justice (JAG), has awarded the City of Asheville the amount of \$90,560 through the Office of Justice Programs (OJP) and Bureau of Justice Assistance (BJA) programs for the purchase of in-car video systems and equitable distribution of funds to Buncombe County Sheriff's Office;

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

The City Manager is hereby authorized to accept for and enter into an agreement with the US Department of Justice, for a grant in the amount of \$90,560.

Read, approved, and adopted this 22nd day of September, 2009.

Magdalen Bourleson
CITY CLERK

Jim Bell
MAYOR

APPROVED AS TO FORM:

Ronald
CITY ATTORNEY

Magdalen Bourleson
City Clerk

RESOLUTION NO. 09-204RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE RECEIPT,
RELEASE AND REFUNDING AGREEMENT WITH THE NELL G. BADGETT ESTATE

WHEREAS, pursuant to N.C. Gen. Stat. sec. 160-11, the City of Asheville may acquire property bequeathed to the City; and

WHEREAS, Nell G. Badgett, has bequeathed the Asheville Police Department the amount of \$5,000 through her estate;

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

The City Manager is hereby authorized to sign the Receipt, Release and Refunding Agreement with the Nell G. Badgett Estate.

Read, approved, and adopted this 22nd day of September, 2009.

Magdalen Baulson
CITY CLERK

Tommy Bell
MAYOR

APPROVED AS TO FORM:

Buried
CITY ATTORNEY

Magdalen Baulson
City Clerk

RESOLUTION NO. 09-205

RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING PROPERTY OFF OF MARTIN LUTHER KING JR. DRIVE

WHEREAS, the City of Asheville owns certain property off of Martin Luther King Jr., Drive, being PIN 9648-58-8911-00000; and

WHEREAS, the City of Asheville has received an offer to purchase said property from Simon Western Properties, LLC of Asheville in the amount of \$115,000; and

WHEREAS, the property has been appraised by Dry Ridge Appraisal Service, LLC and corresponding bid is equal to the appraisal value; and

WHEREAS, North Carolina General Statutes Section 160A-269 provides for the sale of real property by negotiated offer, advertisement, and upset bids; and

WHEREAS, the City has no anticipated need for the property;

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

Pursuant to North General Statute Sec. 160A-269; the City Clerk is hereby directed to publish a notice of the intent of the City of Asheville to sell the parcel of real property off of Martin Luther King Jr. Drive, PIN 9648-58-8911-00000 to Simon Western Properties, LLC for \$115,000.00. The notice shall contain a general description of the property, the amount and terms of the offer and a notice that within ten days any person may raise the bid by not less than 10% of the first \$1,000.00 and 5% of the remainder of the purchase price of \$115,000.00.

Read and approved and adopted this 22nd day of September, 2009.

Magdalen Boulson
CITY CLERK

Sam Beller
MAYOR

Approved as to form:

[Signature]
CITY ATTORNEY

Magdalen Boulson
City Clerk

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RESOLUTION NO. 09-206

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH PERRY BARTSCH JR. CONSTRUCTION FOR REPAIR AND RESTORATION SERVICES TO THE WALL STREET AND RANKIN AVENUE PARKING GARAGES.

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 repair and restoration of the Wall Street and Rankin Avenue Parking Garages (herein "Project"); and

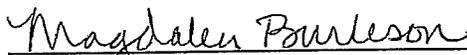
WHEREAS, Perry Bartsch Jr. Construction was the lowest responsible bidder for the Project, in the amount of \$342,921.49, with the bid tabulation attached hereto as Exhibit "A"; and

WHEREAS, the bids have been reviewed by the Transportation Department, the City's Office of Economic Development (Minority Business Plan Compliance), and Parking Services Division, with all offices recommending approval of the bid;

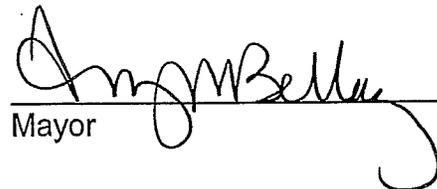
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

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 Perry Bartsch, Jr. Construction in an amount not to exceed \$377,000.00 for repair and restoration services for the Wall Street and Rankin Avenue Parking Garages, 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 22nd day of September, 2009.

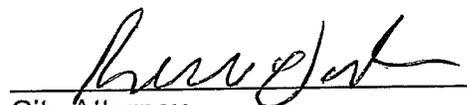


City Clerk



Mayor

Approved as to form:



City Attorney



City Clerk

BID SHEET

Lesco Restoration	\$907,048.64
Baker Roofing Company	\$820,000.00
Paul Howard Construction	\$768,584.55
Hamlet Associates Inc.	\$711,253.00
Salem Construction	\$678,835.00
Exterior Diagnostics Services	\$649,703.00
Stephen Smith Construction	\$562,890.00
Carolina Restorative and Waterproofing	\$536,192.22
H & M Constructors	\$479,648.00
Taylor & Murphy Construction Co.	\$425,198.09
CSR Nationwide	\$346,799.00
Perry Bartsch Jr. Construction	\$342,921.49

RESOLUTION NO. 09- 207RESOLUTION APPOINTING MEMBERS TO THE AMERICANS WITH DISABILITIES
ACT COMPLIANCE COMMITTEE

WHEREAS, the terms of Bonnie Love and Carol Ann Pothier expired on August 22, 2009;

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

(1) Ms. Julie Fulwood, 32 Grandview Drive, Asheville, N.C., be and she is hereby appointed a member of the Americans with Disabilities Act Compliance Committee (representing the business or non-profit sector) to serve a three year term, term to expire August 22, 2012, or until her successor has been appointed.

(2) Ms. Teresa Foster-Moorefield, 3 Tasha Lane, Asheville, N.C., be and she is hereby appointed a member of the Americans with Disabilities Act Compliance Committee (representing the education and the health/medical profession) to serve a three year term, term to expire August 22, 2012, or until her successor has been appointed.

Read, approved and adopted this 22nd day of September, 2009.

Magdalen Boulson
CITY CLERK

Tom Bell
MAYOR

Approved as to form:

Russell
CITY ATTORNEY

Magdalen Boulson
City Clerk

RESOLUTION NO. 09- 208

RESOLUTION EXTENDING THE TERMS OF MEMBERS TO THE PLANNING & ZONING COMMISSION

WHEREAS, the terms of Tom Byers and Steve Sizemore expired on August 14, 2009; and

WHEREAS, on August 20, 2009, the Planning & Zoning Commission unanimously recommended that City Council consider extending the terms of Mr. Byers and Mr. Sizemore until the final review of the Stormwater & Erosion Control Ordinance has been adopted; and

WHEREAS, City Council feels that it is in their best interest to extend the terms of Mr. Byers and Mr. Sizemore for a period of six months;

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

(1) The term of Mr. Tom Byers, 467 Old Stone Gate Place, Asheville, N.C., be and is hereby extended for a period of six months until February 14, 2010, or until the Stormwater and Erosion Control Ordinance has been adopted by City Council, whichever occurs first.

(2) The term of Mr. Steve Sizemore, 123 Biltmore Avenue, Asheville, N.C., be and is hereby extended for a period of six months until February 14, 2010, or until the Stormwater and Erosion Control Ordinance has been adopted by City Council, whichever occurs first.

Read, approved and adopted this 22nd day of September, 2009.

Magdalen Boulson
CITY CLERK

Amg M Bellas
MAYOR

Approved as to form:

[Signature]
CITY ATTORNEY

Magdalen Boulson
City Clerk

RESOLUTION NO. 09-209

RESOLUTION AUTHORIZING A LEASE AGREEMENT BETWEEN THE WILLIAM S. HARRISON, JR. AND CHARLOTTE D. HARRISON LIVING TRUST AND THE CITY OF ASHEVILLE FOR SECURED PARKING OF CITY VEHICLES AT EAGLE STREET

WHEREAS, N. C. Gen. Stat. sec. 160A-240.1 authorizes the City to acquire leases of real property for use by any department of the City; and

WHEREAS, is the William S. Harrison, Jr. and Charlotte D. Harrison Living Trust is the owner of real property located off of Eagle Street, identified as PIN # 9649-50-1164-00000; and

WHEREAS, the City of Asheville has offered to enter into a five year lease agreement in order to utilize the property for secured parking of city vehicles; and

WHEREAS, the rental for the leased premises is \$1,707 per month with 3.5% yearly increases and includes responsibility of paying property taxes and storm water bills as related tenant expenses; and

WHEREAS, the City's needs for the property during the term of the lease are compatible with the proposed lease;

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

The Mayor is hereby authorized to execute the Lease Agreement between the William S. Harrison, Jr. and Charlotte D. Harrison Living Trust and the City of Asheville for property located off of Eagle Street at PIN # 9649-50-1164-00000. In addition, the Mayor be, and is hereby authorized to execute any and all documents necessary to give effect to this resolution, subject to approval by the City Attorney, and compliance with applicable North Carolina law.

Read, approved and adopted this 22nd day of September, 2009.

Magdalen Burtson
City Clerk

Angie Bell
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalen Burtson
City Clerk

RESOLUTION NO. 09- 210

RESOLUTION MAKING PROVISION FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE FOR A PRIVATE EVENT IN THE GRASS AREA IN THE PACK SQUARE AREA IN PACK SQUARE PARK ON OCTOBER 9, 2009 FROM 4:45 P.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 for the private event on the grass area in the Pack Square area of Pack Square Park on October 9, 2009 from 4:45 p.m. to 11:59 p.m.; and

WHEREAS, the resolution is pending the City of Asheville's ability to issue an Outdoor Special Event permit for the requested location and pending the event organizer's receipt of a temporary extension from NCABC; 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 the private event on the grassy area of the Pack Square area of Pack Square Park on October 9 2009 from 4:45 p.m. to 11:59 p.m.

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 for a private event on the grass area in the Pack Square area of Pack Square Park shown on the attached map 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 Those Girls, LLC for a private event on the grass area of the Pack Square area

of Pack Square Park on Friday, October 9, 2009 from 4:45 p.m. to 11:59 p.m. pending the City's issuance of an Outdoor Special Event Permit for the requested location and receipt of the temporary alcohol permit extension to Those Girls, LLC from NCABC.

- 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 in containers including glasses and bottles. 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 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 22nd day of September, 2009.

Magdalen Bureson
City Clerk

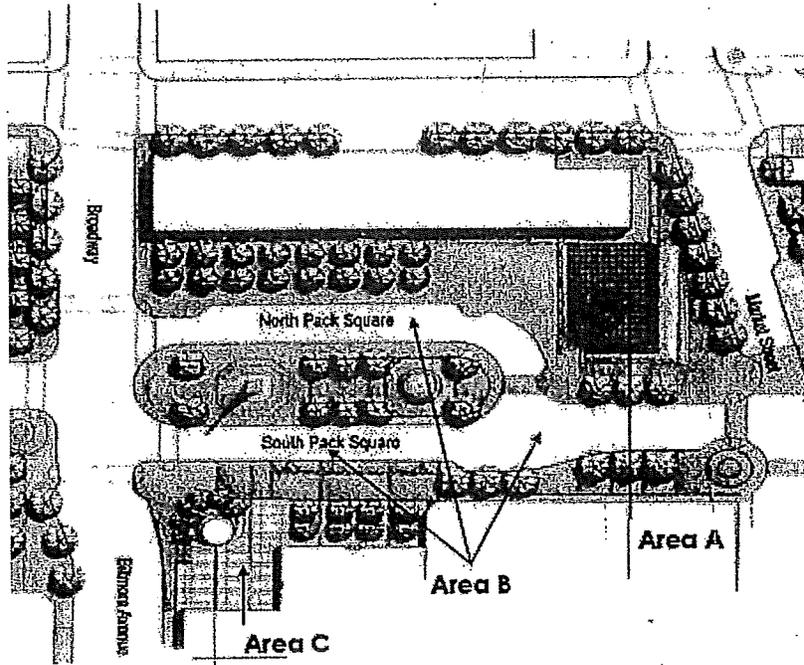
Greg Bell
Mayor

Approved as to form:

R. M. Decker
City Attorney

Magdalen Bureson
City Clerk

Pack Square Park—Pack Square



RESOLUTION NO. 09- 211

RESOLUTION AUTHORIZING THE CITY TO APPLY FOR THE LOCAL ENERGY ASSURANCE (LEAP) INITIATIVE GRANT APPLICATION AND AUTHORIZATION TO ACCEPT AND EXECUTE SAID GRANT WITH THE LAND OF SKY REGIONAL COUNCIL TO MANAGE AND IMPLEMENT.

WHEREAS, the Department of Energy funding for the Local Energy Assurance (LEAP) Initiative grant is available to cities to build local energy assurance capability to allow for better coordination and communication state-wide, regionally and with one another, on energy security and reliability and related emergency response issues; and

WHEREAS, City of Asheville, as designated recipient, is applying for the Land of Sky Regional Council to manage this regional planning initiative; 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:

The Council of the City of Asheville supports the application for funding for Local Energy Assurance (LEAP) Initiative grant.

The Council of the City of Asheville authorizes the Mayor of the City of Asheville to execute documents to accept this grant award.

Read, approved and adopted this 22nd day of September, 2009.

Magdalena Burlison
City Clerk

Angie Bellamy
Mayor

Approved as to form:

Shirley
City Attorney

Magdalena Burlison
City Clerk

RESOLUTION NO. 09-212

RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY FOR THE OPERATION OF A CONSOLIDATED 911 COMMUNICATIONS CENTER.

WHEREAS, pursuant to N.C.G.S. 160A-461, the City of Asheville has authority to enter into agreements with other local government to engage in a joint undertaking; and

WHEREAS, on September 2, 2003, the City and County entered into an agreement for the construction of a joint 911 communication center in exchange for the City not becoming a public safety answering point; and

WHEREAS, pursuant to Section II.M and Section III.E. of the 2003 Agreement requires the City and County to entered into a formal joint agreement for the operation of the Consolidated Call Center; and

WHEREAS, the County constructed the Consolidated 911 Communications Center and purchased the necessary equipment in accordance with the 2003 Agreement; and

WHEREAS, both parties have negotiated an interlocal agreement for the operation of the Consolidated 911 Communications Center;

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

The Mayor of the City of Asheville is authorized to enter into an interlocal agreement with Buncombe County for joint operation of the consolidated call center located at 164 Erwin Hills Road, Asheville, NC 28806.

Read, approved and adopted this 22nd day of September, 2009.

Magdalen Bourleson
City Clerk

Chm M. Bell
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalen Bourleson
City Clerk

RESOLUTION NO. 09-213

RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A UTILITY EASEMENT TO PROGRESS ENERGY FOR THE RELOCATION OF THE OAKVIEW BRIDGE PROJECT

WHEREAS, several years ago the East Oakview Bridge located in West Asheville on East Oakview Road, collapsed and the North Carolina Department of Transportation (NCDOT), provided the City with a temporary bridge until the City could replace the collapsed bridge; and

WHEREAS, NCDOT has asked that the temporary bridge be returned and that the City expedite its plans for the replacement of the collapsed bridge;

WHEREAS, in collaboration with NCDOT and the Federal Highway Program, the City secured the estimated 1.1 million dollars needed to replace the collapsed bridge under the Municipal Bridge Program with 80% of the cost of replacement being funded by the federal government; and

WHEREAS, the City has acquired most of the needed right of way to replace the collapsed bridge including the right of way that Progress Energy desires an easement across to relocate and install utility lines to service a utility pole related to the bridge replacement project; and

WHEREAS, N. C. Gen. Stat. sec. 160A-273 grants authority to cities to convey easements over public rights of way; and

WHEREAS, City staff recommend that City Council authorize the City Manager to convey an easement to Progress Energy across the public right of way;

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

The City Manager is hereby authorized to convey an easement to Progress Energy across City right of way for the relocation and installation of utility lines to service utility poles related to the East Oakview Bridge Replacement Project.

This the 22nd day of September, 2009

Magdalen Boulson
City Clerk

Angie Bell
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalen Boulson
City Clerk