

## RESOLUTION NO. 09-194

RESOLUTION WAIVING THE FORMAL BID REQUIREMENTS FOR THE AWARD OF FIVE HYBRID BUSES TO GILLIG LLC PURSUANT TO NCGS §143-129(g)

WHEREAS, pursuant to NCGS §143-129(g), the City of Asheville, as a local municipality, may, if deemed to be in the City's best interest, waive the formal bid process for the purchase of apparatus, supplies, materials or equipment from a vendor after that vendor has participated in a formal bid process substantially similar to the need of the City with another local government within the last twelve (12) months; and

WHEREAS, City staff has identified the replacement of sixteen (16) buses in the transit fleet as the number one priority in the capital program; with the purchase of five (5) new buses being an essential part of operations, increasing reliability, fuel efficiency and reducing maintenance costs; and

WHEREAS, on September 25, 2008, the Kanawha Valley Regional Authority after completing a formal bidding process, awarded a contract to Gillig LLC, for the purchase of twenty five (25) buses similar to the City's needs; and

WHEREAS, the City Council of the City of Asheville deems it in the best interest of the City to waive the formal bidding requirements for the purchase of five-30 foot low floor hybrid buses, from Gillig LLC, which vendor has, within the past twelve months after completion of a public formal bid process, substantially similar to that required by NCGS §143-129(g), contracted to furnish 25 similar buses to Kanawha Valley Regional Authority.

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

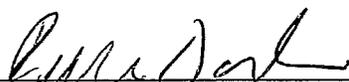
1. The formal bid process of NCGS §143-129, is hereby waived and the bid for the purchase of five- 30 foot low floor hybrid buses is hereby awarded to Gillig LLC.
2. The City Manager is hereby authorized to enter into a contract on behalf of the City with Gillig LLC, for the purchase of five-30 foot low floor hybrid buses not to exceed the budgeted amount of \$2,625,000 and further authorized to execute any change orders up to the budgeted amount.

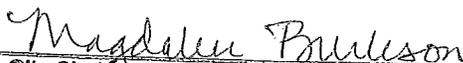
Read, approved and adopted this 8<sup>th</sup> day of September, 2009.

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

  
 \_\_\_\_\_  
 Mayor

Approved as to form:

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

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

RESOLUTION NO. 09-195

RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A TRAFFIC - DOT CONSTRUCTION AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR ROADWAY IMPROVEMENTS TO US 70, COLLEGE STREET BETWEEN BEAUCATCHER TUNNEL AND CHARLOTTE STREET

WHEREAS, pursuant to N.C.G.S. § 160A-312, the City of Asheville has authority to operate a public enterprise; and

WHEREAS, pursuant to N.C.G.S. § 160A-20.1, the City of Asheville may enter into agreements to carry out any public purpose the City is authorized to engage in; and

WHEREAS, the Water Department determined that it is in the public interest to execute a Traffic - DOT Construction Agreement for the resurfacing of US 70, College Street between Beaucatcher Tunnel and Charlotte Street; and

WHEREAS, the amount of the Agreement is \$50,000 and the monies have been budgeted in the Water Recourse Department's 2009-2010 Fiscal Year Budget.

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

The Mayor, on behalf of the City of Asheville, is hereby authorized to execute a Traffic - DOT Construction Agreement for the roadway improvements of US 70, College Street between Beaucatcher Tunnel and Charlotte Street in the amount of \$50,000.

Read, approved, and adopted this 8th day of September, 2009.

Magdalen Pouleson  
City Clerk

Mayor

Approved as to form:  
[Signature]  
City Attorney

Magdalen Pouleson  
City Clerk

RESOLUTION NO. 09-196

RESOLUTION AMENDING POLICY GOVERNING CITY COUNCIL APPOINTMENTS

WHEREAS, City Council adopted Resolution No. 95-150 on September 26, 1995, establishing a new policy governing City Council appointments to boards and commissions; and

WHEREAS, said policy was amended on June 9, 1998, by Resolution No. 98-81 and on February 21, 2006, by Resolution No. 06-37;

WHEREAS, the Council desires to revise that policy relative to City Council appointments;

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

Resolution No. 06-37 be and is hereby repealed in its entirety and a new policy regarding City Council appointments is hereby adopted as set forth in the Rules on Boards and Commissions attached hereto as Exhibit "A", and incorporated herein by reference.

Read, approved and adopted this 9<sup>th</sup> day of September, 2009.

Magdalen Bouleson  
CITY CLERK

[Signature]  
MAYOR

Approved as to form:

[Signature]  
CITY ATTORNEY

Magdalen Bouleson  
City Clerk



## CITY OF ASHEVILLE RULES ON BOARDS AND COMMISSIONS

### Purpose

The City of Asheville provides for continuous citizen input and advice through a wide variety of boards and commissions. Some of these are advisory in nature to the City Council, while others have distinct responsibilities that are established by law. The City Council encourages citizens to participate in their City government by volunteering to serve on these boards and commissions.

### Application for Appointment

- 1) A description of all City boards is contained in "The Talent Scout". This document is available in the City Clerk's Office and is distributed widely in the community and on the City's webpage. A brief form stating the citizen's interest in serving on a board is a part of "The Talent Scout" and can be submitted to the City Clerk.
- 2) An application and/or resume is required for consideration of an appointment to a City board.
- 3) In most cases, the City Council will require an interview process prior to appointment.
- 4) All appointments are made in an open session of the City Council. Discussion and consideration of appointments and interviews are also held in open session.
- 5) Once an application for an appointment has been filed with the City Clerk, it is placed on a resource list and remains active for a one-year period. At the end of that period of time, you will be contacted by the City Clerk's Office to see if you wish to seek other opportunities to support your participation on our boards.
- 6) Applicants are strongly urged to attend several meetings of a board prior to applying and/or appointment to a board.

## Qualifications

- 1) Appointees to boards and commissions shall be residents of the City of Asheville, unless otherwise specified or provided for by law, ordinance, or Council action establishing said board or commission, or in the rules or by laws of said board or commission, if approved by Council.
- 2) In matters where an intergovernmental board has independent governing authority (by law, by agreement, or other enabling authority), and where not prohibited by law, at least one of the City's appointees shall be a current member of the City Council.

Such an appointment allows Council to be a part of deliberation and decision-making on matters of regional importance that impact the City of Asheville.

- 3) No citizen shall be eligible to hold concurrently more than two Mayoral or City Council appointments to standing boards or commissions; this limitation shall not apply to ad hoc committees appointed by the Council.
- 4) Efforts are made to represent the diversity that we have in our community on all boards, and criteria for appointments may be established to achieve appropriate diversity, except that preference shall be given to appointment of residents of a specific area of town for which an ad hoc or advisory committee may be appointed.
- 5) An oath of office (or affirmation) is required for some boards and commissions. Where applicable, newly appointed board members will take and sign an oath of office or affirmation following their appointment.

If a board member enters on the duties of his or her office before taking, subscribing and filing the oath of office, he or she may be removed from office.

## Terms

- 1) A term of service on all City boards shall be limited to three years or less, unless otherwise provided by law.
- 2) A length of service on all boards and commissions shall be limited to two full successive terms (plus any unexpired term to which a member is appointed).
- 3) A member shall serve until the expiration of their term or until such time as a successor is appointed, whichever occurs later, unless otherwise provided by law.
- 4) Reappointment to a second term is not automatic and will be based on circumstances to be determined by the City Council in each individual case.

## Attendance

- 1) Appointees to boards and commissions are expected to attend all meetings possible.
- 2) Any appointee who fails to attend at least 75% of the regularly scheduled meetings of a board or commission within a twelve (12) month period, may be removed.
- 3) The board chairman or staff liaison shall be responsible for reporting on attendance to the City Clerk upon request.
- 4) Attendance provisions are not imposed upon Council liaison members but are in effect for Councilmen serving as appointed regular members on a board or commission.

## The Board at Work

- 1) Each board receives its charge from the North Carolina General Statutes or from a City ordinance or resolution establishing the board.
- 2) The City Council may, from time to time, ask a board to consider specific items not in conflict with existing laws.
- 3) The chairman, working with the staff liaison, shall post copies of their minutes on the City's website.
- 4) The City Council may appoint a City Council person as liaison to a board or commission and that member is entitled to receive all agendas, minutes, other correspondence and be eligible to attend all meetings of the board including closed sessions. The role of the liaison shall be to serve as a direct communication link between the City Council and the board or commission, and not to play an active role in the deliberations of the board or commission. The liaison shall notify the board or commission of long-range issues and projects under consideration by the Council which would be of interest to that board or commission and shall likewise advise the Council of such matters under consideration by the board or commission.
- 5) Each board shall make an annual report to the City Council outlining their activities for the past year. The report shall be posted on the City's website by January 30 for the previous calendar year.
- 6) An orientation session will be conducted for all new appointees by the City staff liaison.

- 7) From time to time, additional training sessions for board members may be provided through City staff, the Institute of Government and other training groups and organizations. The City Council encourages members to take advantage of these opportunities.
- 8) No board or commission member who is not present at a meeting shall be allowed to vote by proxy.
- 9) The board will comply with open meeting laws, including notice of meetings.
- 10) The board is to provide the City Clerk with their schedule of regular meetings with the predetermined time and place. The schedule will be revised only in accordance with legal requirements for notice.
- 11) In order to conduct official business at a regular or special meeting, a quorum of the board must be present. In the absence of a rule, by-law, or statute providing otherwise, a quorum is more than half of the members of the board, not counting vacant seats. If a quorum is not present at any meeting, the chairperson will postpone the meeting until such time as a quorum can be present, provided adequate notice is given pursuant to the open meetings law.

#### Committee on Boards and Commissions

- 1) The Mayor may appoint a committee of City Council, with the Vice-Chair as Chairman, to evaluate the on-going need for each board and recommend to the City Council elimination of any for which there is no longer a need. This committee may also consider other items in regard to board structure, appointments or other items at the request of the Mayor and/or the City Council.

#### Conflict of Interest

- 1) No member of a board shall participate in the discussion or vote on any item involving their own official conduct or financial interest.
- 2) It is the responsibility of an individual board member to bring to the attention of the entire board any item for which there may be a conflict of interest.
- 3) It is up to the entire board to decide if a conflict exists and vote to excuse a member from considering a particular item.
- 4) Staff and legal assistance is available to all boards and commissions to help the board with decisions in this area.

## Resignations and Replacements

- 1) Any member of a board or commission who desires to resign shall do so in writing to the City Clerk.
- 2) Unless otherwise provided by law, ordinance or resolution, all appointment by the City Council to a board or commission serve at the pleasure of Council, and may be removed from a board or commission at the discretion of Council.
- 3) For those boards and commissions whose members may be removed for cause, cause shall include, without limitation, the following: conflict of interest, failure to attend meetings. Removal for cause shall be by Council resolution.

## Ad Hoc Committees

- 1) The City Council may appoint ad hoc committees to make recommendations regarding particular matters of interest within the City.
- 2) The foregoing rules on boards and commissions shall apply to ad hoc committees except where alternate provisions are made by the Council.

RESOLUTION NO. 09 - 197

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A TRAFFIC CONSTRUCTION AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR INSTALLING A PROTECTIVE/PERMISSIVE PHASE FOR SOUTHBOUND TRAFFIC AT THE INTERSECTION OF US 25 (BROADWAY) AND COLLEGE STREET

WHEREAS, the City of Asheville would like to convert College Street from US 25 (Broadway) to Market Street to two-way operation; and

WHEREAS, the proposed conversion will minimize "cut-through" traffic through the Pack Square Park and will improve traffic flow and efficiency; and

WHEREAS, the North Carolina Department of Transportation (NCDOT) and the City of Asheville agree that a protective/permmissive phase along the southbound approach of the subject intersection is needed to facilitate left-turning movements; and

WHEREAS, the NCDOT owns and maintains the traffic signal at the subject intersection; and

WHEREAS, the NCDOT has agreed to prepare the necessary traffic signal design, install all of the appropriate equipment, and continue to maintain the traffic signal after the project is completed; and

WHEREAS, the City of Asheville has agreed to fund the installation of the appropriate equipment; and

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

The installation of a protective/permmissive phase along the southbound approach at the intersection of US 25 (Broadway) and College Street is hereby formally approved by the City Council of the City of Asheville and that the City Manager is hereby empowered to sign and execute the Traffic Construction Agreement with the NCDOT.

Read, approved and adopted this 8<sup>th</sup> day of September, 2009.

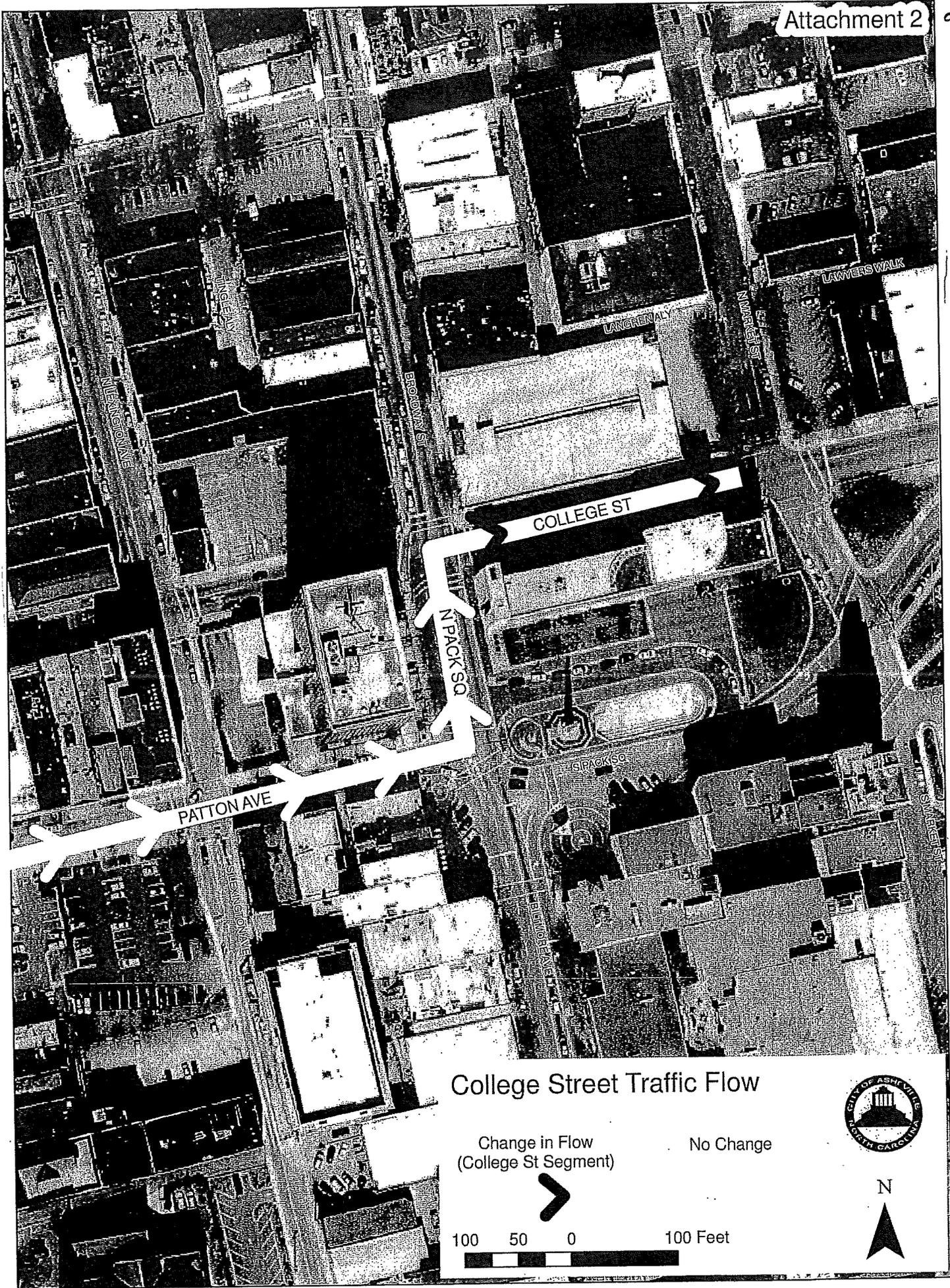
Magdalen Boulson  
City Clerk

Angela Belles  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Boulson  
City Clerk



MUSKOGEE

INGRAM

BROADWAY

LANGRISH

MURPHY

LAWYERS WALK

COLLEGE ST

N PACK SQ

PATTON AVE

SPACKS SQ

PLUMMER

W. H. HAY

RESOLUTION NO. 09- 198

RESOLUTION AUTHORIZING THE MAYOR TO AMEND THE AUDITING CONTRACT WITH DIXON HUGHES PLLC, TO INCLUDE PRODUCTION OF COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR YEAR 2008-09

WHEREAS, on June 23, 2009, City Council approved a contract with Dixon Hughes PLLC, in the amount of \$110,000 for auditing services for Fiscal Year 2008-2009; and

WHEREAS, the City staff is requesting a change in the scope of the June 23, 2009, auditing services contract to include production of the Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2008-2009; and

WHEREAS, Dixon Hughes has submitted a proposal to produce the CAFR at an additional cost of \$43,450; and

WHEREAS, the funds have been budgeted in the Accounting Division of the Finance Department's budget;

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

The Mayor is hereby authorized to execute a change to the original contract, the form of which shall be approved by the Local Government Commission, with Dixon Hughes PLLC, in the amount of \$43,450 for production of the CAFR for fiscal Year 2008-2009.

Read, approved and adopted this the 8th day of September, 2009.

Magdalen Boulson  
City Clerk

Ann M. Bell  
Mayor

Approved as to form:

Paul J. [Signature]  
City Attorney

Magdalen Boulson  
City Clerk

RESOLUTION NO. 09- 199

RESOLUTION MAKING PROVISION FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE IN THE ROGER MCGUIRE GREEN IN PACK SQUARE PARK FOR A PRIVATE EVENT BY THE PACK SQUARE CONSERVANCY ON SEPTEMBER 21, 2009 FROM 6 P.M. TO 8 P.M.

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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 resolution is pending the City of Asheville's issuance of an Outdoor Special Event permit for the requested location; 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 at Roger McGuire Green on September 21 2009 from 6pm to 8pm.

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 Roger McGuire Green in 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 the private event by the Pack Square Conservancy on Roger McGuire Green in Pack Square Park on Monday, September 21, 2009, from 6:00 p.m. to 8:00 p.m. pending the City's issuance of an Outdoor Special Event Permit for the requested location.

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 Roger McGuire Green area in 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 8<sup>th</sup> day of September 2009.

Magdalen Boulson  
City Clerk

Jimmy Bellamy  
Mayor

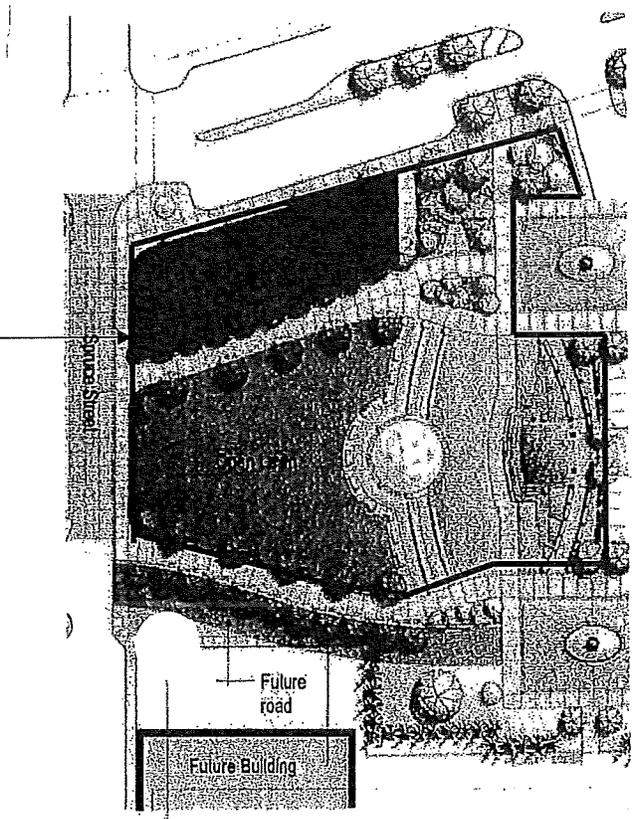
Approved as to form:

[Signature]  
City Attorney

Magdalen Boulson  
City Clerk

Roger McGuire Green

Alcohol Limit Area



RESOLUTION AUTHORIZING AGENCY FUNDING USING HOMELESSNESS  
PREVENTION AND RAPID RE-HOUSING GRANT FUNDS

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WHEREAS, the City of Asheville is an Entitlement City for the federal Homelessness Prevention and Rapid Re-housing Program (HPRP) grant in the amount of \$509,480; and

WHEREAS, the City's Substantial Amendment to its U.S. Department of Housing and Urban Development (HUD) 2008-2009 Consolidated Annual Action Plan detailing its proposed use of HPRP funds was approved by HUD; and

WHEREAS, THE City's Housing and Community Development Committee has made recommendations, consistent with the amended Action Plan for the distribution of HPRP funding to qualified non-profit organizations, and for use by the City for administration and management; and

WHEREAS, a public hearing has been held in front of Council on September 8, 2009, to obtain citizen input and comments on the recommendations, and the recommendations have been made available to the public;

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

1. Council approves the distribution of HPRP funds as follows:

\$143,202 to Asheville Buncombe Christian Community Ministry (ABCCM);  
\$142,060 to Eblen Kimmell Charities (Eblen);  
\$142,554 to Western North Carolina Aids Project (WNCAP);  
\$ 44,547 to Pisgah Legal Services (PLS);  
\$ 15,000 to United Way 2-1-1 (2-1-1); and  
\$ 22,097 to the City of Asheville; and

2. Council authorizes the City Manager to sign all contracts and grant and loan agreements, after approval by the City Attorney, with the designated agencies for the implementation of the HPRP.

Read, approved and adopted this 8th day of September, 2009.

Magdalen Bourleson  
CITY CLERK

Angela Bellamy  
MAYOR

Approved As To Form:

Brian J. Cook  
CITY ATTORNEY

Magdalen Bourleson  
City Clerk