

RESOLUTION NO. 10- 210

RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE ON THE DATE OF SATURDAY, OCTOBER 2, 2010 FROM 12:00 PM – 8:00 PM

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 Blue Ridge Pride.

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 Blue Ridge Pride event area.

The Blue Ridge Pride event area is within the boundaries of Lexington Avenue between the intersections of the I-240 overpass and Walnut Street, as set forth in Exhibit A, attached.

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 Blue Ridge Pride on Saturday, October 2, 2010 from 12:00 p.m. – 8:00 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 contained in either unbreakable plastic cups or aluminum cans. Possession of and/or consumption from glass containers of malt beverages and/or unfortified wine are not allowed anywhere in the Blue Ridge

Pride event area. 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 Blue Ridge Pride 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 Blue Ridge Pride, 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.

Read, approved and adopted this 28th day of September, 2010.

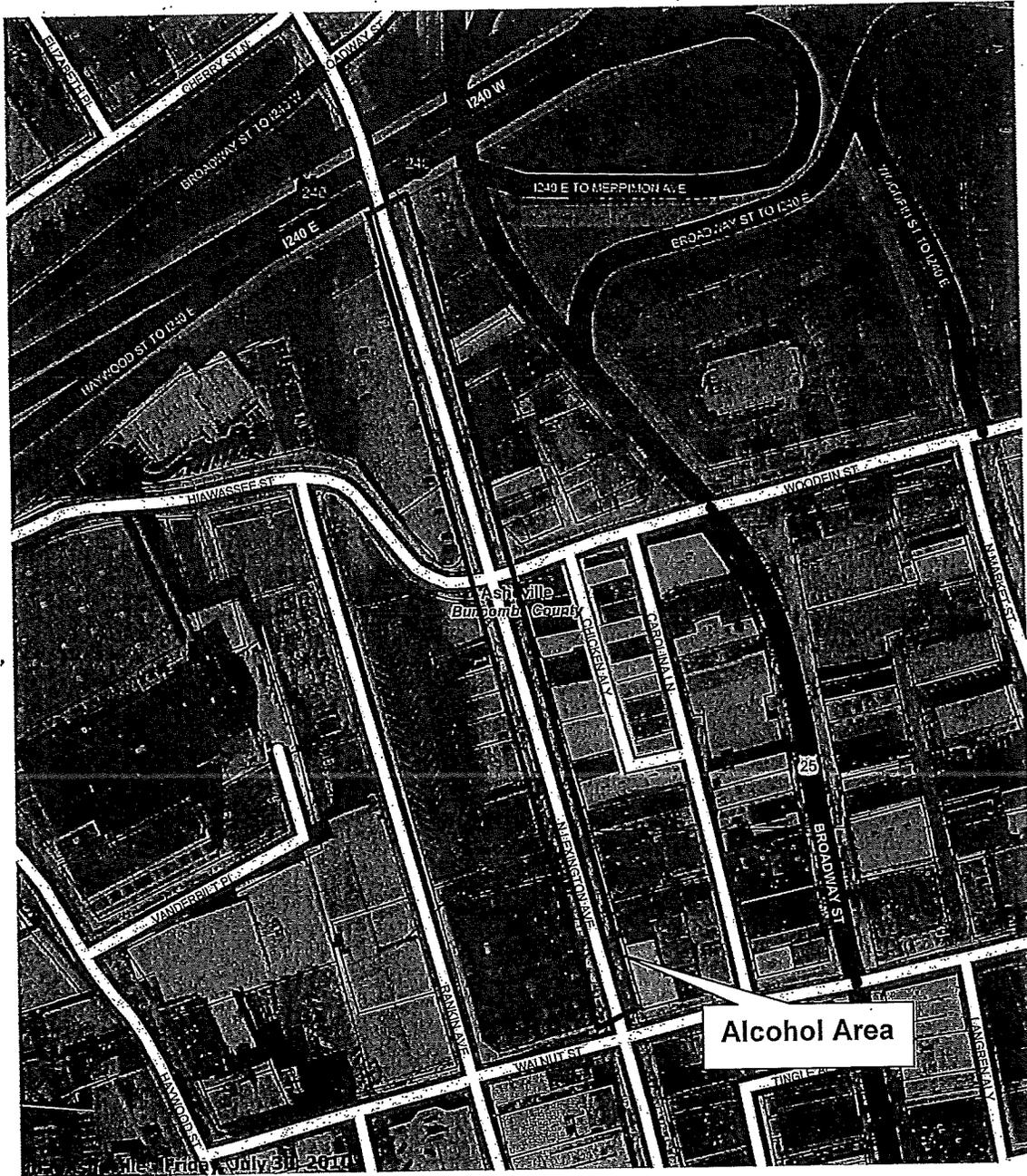
Magdalena Burlison
City Clerk

Andy Bellamy
Mayor

Approved as to form:

Russ Darr
City Attorney

Magdalena Burlison
City Clerk



Alcohol Area

RESOLUTION NO. 10- 211RESOLUTION AMENDING THE 2010 CITY COUNCIL MEETING SCHEDULE

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

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

- (1) The Asheville City Council will hold a Capital Improvement Program Planning Retreat on Friday, October 8, 2010, from 11:00 a.m. – 4:00 p.m. in the Pisgah B Room at the Hilton Asheville Biltmore Park, 42 Town Square Boulevard, Asheville, N.C.
- (2) The Asheville City Council will hold a worksession on October 12, 2010, from 3:00 p.m. – 5:00 p.m. in the First Floor North Conference Room of City Hall regarding Unified Development Ordinance amendments according to the recommendations of the Downtown Master Plan.

Read, approved and adopted this 28th day of September, 2010.

Madalen Bourleson
CITY CLERK

Jimmy Bellamy
MAYOR

Approved as to form:

Bob J. [Signature]
CITY ATTORNEY

Madalen Bourleson
City Clerk

RESOLUTION NO. 10-212

RESOLUTION AUTHORIZING LAND OF SKY REGIONAL COUNCIL TO SUBMIT APPLICATIONS TO THE ENVIRONMENTAL PROTECTION AGENCY FOR BROWNFIELDS ASSESSMENT GRANTS ON BEHALF OF THE CITY OF ASHEVILLE

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

WHEREAS, the Asheville City Council supports infill growth and regional riverfront redevelopment; and

WHEREAS, the Asheville City Council wishes to maintain the City's toolbox of incentives for sustainable development; and

WHEREAS, Land of Sky Regional Council, the Regional Council of Governments for Asheville's region, possesses expertise in applying for and managing EPA's Brownfields Assessment Grant;

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

The Land of Sky Regional Council is authorized to sign and submit an application(s) to the Environmental Protection Agency, on behalf of the City of Asheville, to identify and perform environmental assessments on Brownfields sites in the City of Asheville.

Read, approved and adopted this the 28th day of September, 2010.

Magdalen Bourleson
City Clerk

Jimmy Bellamy
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalen Bourleson
City Clerk

RESOLUTION NO. 10-213

RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH COMMUNITY ACTION
OPPORTUNITIES FOR THE REID CENTER ANNEX AT 133 LIVINGSTON STREET

WHEREAS, the City of Asheville is the owner of real property located at 133 Livingston Street, known as Reid Center Annex, identified as PIN# 964824431400000; and

WHEREAS, Community Action Opportunities, an Asheville based non-profit organization, has offered to enter into a lease agreement in order to operate the Head Start Program in the building at 133 Livingston Street; and

WHEREAS, N. C. Gen. Stat. sec. 160A-272 authorizes the City to enter into leases of 10 years or less upon resolution of the City Council adopted at a regular meeting after 10 days' public notice; and

WHEREAS, the City Clerk published a Notice of Intent in connection with the proposed lease agreement on September 17-27, 2010, in the Asheville Citizen-Times; and

WHEREAS, the term of the lease agreement will be for a two (2) year period; and

WHEREAS, the City has no anticipated need for this building during the term of the lease;

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

Pursuant to North Carolina General Statute sec. 160A-272, the City Manager is hereby authorized to execute the Lease Agreement between the City of Asheville and Community Action Opportunities for the Head Start Program at 133 Livingston Street, at a rental rate of \$1.00 per year.

Read, approved and adopted this 28th day of September, 2010.

Magdalen Bourleson
City Clerk

Angie Bellamy
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalen Bourleson
City Clerk

RESOLUTION NO. 10-214

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CINCINNATI SYSTEMS, INC., FOR ANNUAL MAINTENANCE OF PARKING ACCESS AND REVENUE CONTROL EQUIPMENT

WHEREAS, the City of Asheville has authority pursuant to N.C.G.S. Section 160A-20.1 to enter into contracts for services with other entities; and

WHEREAS, the City uses Amano parking access and revenue control systems equipment for the three City owned parking garages and employee parking lots; and

WHEREAS, the Amano equipment must be maintained and professional maintenance services are required to determine malfunctions and repairs; and

WHEREAS, Cincinnati Systems is the local and only distributor for Amano brand equipment with the expertise needed to provide maintenance; and

WHEREAS, monies have been budgeted in the Parking Services FY 2010-11 budget for maintenance of the Amano equipment.

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 on behalf of the City of Asheville with Cincinnati Systems, Inc., for an amount not to exceed \$60,000 for maintenance services for parking access and revenue control systems equipment.

Read, approved and adopted this the 28th day of September, 2010.

Magdalen Bourleson
City Clerk

Jimmy Bellamy
Mayor

Approved as to form:

Russell
City Attorney

Magdalen Bourleson
City Clerk

RESOLUTION NO. 10-215

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH JOHN DEERE LEASING FOR PARKS MAINTENANCE EQUIPMENT

WHEREAS, pursuant to N.C.G.S. Section 160A-19, the City is authorized to lease as lessee, with or without an option to purchase, any real or personal property for any authorized public purpose; and

WHEREAS, the City of Asheville wishes to lease park maintenance equipment with John Deere Leasing for four years with maintenance included that supports basic services and part of core park maintenance level of service for the City's park system; and

WHEREAS, the City will exercise the four-year lease option for the amount not to exceed \$122,488.58 and the monies for the first year have been budgeted in the Parks, Recreation and Cultural Arts Department in the Park Maintenance section in the 2010-2011 Fiscal Year Budget.

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

The City Manager is hereby authorized to enter into a lease agreement on behalf of the City of Asheville with John Deere Leasing not to exceed \$122,488.58 over four years for park maintenance equipment 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 28th day of September, 2010.

Magdalen Boulson
City Clerk

Jim W Bellamy
Mayor

Approved as to form: .

Russell
City Attorney

Magdalen Boulson
City Clerk

RESOLUTION NO. 10-216

RESOLUTION AUTHORIZING THE CITY TO APPROVE EXCESS INSURANCE PREMIUM PAYMENTS FOR WORKERS COMPENSATION, LIABILITY AND ASSOCIATED PROPERTY INSURANCE FOR FFY 2010-2011

WHEREAS, the City of Asheville is authorized under North Carolina law to operate and maintain a funded reserve to cover certain types of liability claims against the City; and

WHEREAS, since 1993 the City has had a reserve to pay claims that arise against the City of Asheville; and

WHEREAS, the City's Risk Management Division is responsible to ensure that city assets and risks are properly protected from losses exceeding designated self-insured retentions; and

WHEREAS, pursuant to N.C.G.S. 160A-485, the City purchases excess insurance plans to indemnify the City from certain expected and unexpected risks.

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

City Council authorizes the City Manager to purchase indemnification excess insurance for Workers Compensation in the amount of \$146,686 and liability and property excess insurance for \$828,210.

Read, approved and adopted this the 28th day of September, 2010.

Magdalena Burleson
City Clerk

Jimmy Bellamy
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalena Burleson
City Clerk

RESOLUTION NO. 10- 217

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDER WITHIN THE BUDGETED AMOUNT WITH BRYANT'S LAND & DEVELOPMENT INDUSTRIES, INC. FOR THE PROJECT KNOWN AS OLD TOLL ROAD RETAINING WALL

WHEREAS, pursuant to N.C.G.S. § 143-129, bids were solicited for the project known as Old Toll Road Retaining Wall; and

WHEREAS, Bryant's Land & Development Industries, Inc of Burnsville, NC, was the lowest responsible bidder for the project, in the amount of \$305,326.70, and

WHEREAS, the project involves the furnishing of labor, material, equipment and incidentals for the installation of water line, curb and gutter, drainage, retaining wall, and guardrail on Old Toll Road, near Bent Tree Road; and

WHEREAS, the bids have been reviewed by the Public Works Department 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:

The City Manager is hereby authorized to execute on behalf of the City of Asheville a contract and any change order within the budgeted amount with Bryant's Land & Development Industries, Inc. for the project known as Old Toll Road Retaining Wall .

Read, approved and adopted this the 28th day of September, 2010.

Magdalen Boulson
City Clerk

Gregory Bellamy
Mayor

Approved as to form:

Russell
City Attorney

Magdalen Boulson
City Clerk

RESOLUTION NO. 10- 218

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO PERFORM ASPECTS OF THE PROJECT RECENTLY AWARDED FOR PEDESTRIAN CROSSINGS UNDER THE JOB ACCESS AND REVERSE COMMUTE PROGRAM

WHEREAS, Federal Transit Administration Job Access and Reverse Commute (JARC) Program (5316) funds were made available through a competitive selection by the French Broad River Metropolitan Planning Organization; and

WHEREAS, the City of Asheville requested such JARC funding to make pedestrian intersection improvements in the amount of \$124,900; and

WHEREAS, the City of Asheville will provide a 20% local match in the amount of \$24,980; and

WHEREAS, the City of Asheville will comply with all applicable Federal and State requirements in accepting the grant; and

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

WHEREAS, City staff recommends that the City enter into an Agreement with NCDOT to complete certain portions of the project.

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

The City Manager is hereby authorized to enter into an agreement with the North Carolina Department of Transportation (NCDOT) to complete portions of the project for pedestrian crossing under the Job Access and Reverse Commute Program.

Read, approved and adopted this the 28th day of September, 2010.

Magdalen Burlington
City Clerk

Sam Bellamy
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalen Burlington
City Clerk

RESOLUTION NO. 10- 219

RESOLUTION TO PERMANENTLY CLOSE A PORTION OF DAVIDSON DRIVE

WHEREAS, the City of Asheville has the authority pursuant to North Carolina General Statute Section 160A-299 to permanently close streets and alleys within its jurisdiction, upon compliance with applicable law; and

WHEREAS, a petition has been filed by the adjoining property owner Buncombe County, asking that a portion of Davidson Drive between College Street to the North and Marjorie Street to the South be permanently closed to public use; and

WHEREAS, City Council on the 24th day of August 2010, adopted a resolution of intent to permanently close a portion of Davidson Drive and ordered a public hearing on the question of this closing for the 28th day of September, 2010 at its regular meeting on the 2nd floor of the City Hall Building, Asheville, North Carolina; and

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

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

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

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

Pursuant to North Carolina General Statute Section 160A-299, the following street portion thereof are permanently closed to public use as a public street; a portion of Davidson Drive between College Street to the North and Marjorie Street to the South.

The closing is subject to the retention by the Metropolitan Sewage District of Buncombe County, its successors and assigns, of a 20 foot wide permanent easement, for the operation and maintenance of a public sewer line, lying 10 feet on each side of said sewer line located and existing within the portion of Davidson Drive proposed to be permanently closed.

This closing is subject to the retention by the City of Asheville Water Resources Department its successors and assigns, of a 20-foot wide permanent easement for the operation and maintenance of a water line lying 10 feet on each side of the center line of said water line located within the portion of Davidson Drive proposed to be permanently closed.

This closing is subject to the retention by the Charter Communications its successors and assigns, of a 20-foot wide permanent easement for the operation and maintenance of a communication cable lying 10 feet on each side of the center line of said water line located within the portion of Davidson Drive proposed to be permanently closed.

That a certified copy of this resolution and order be filed in the Buncombe County register of deeds.

Read, approved and adopted this 28th day of September, 2010.

Magdalen Burlison
City Clerk

Jim Bellamy
Mayor

Approved as to form:

Mark Oehr
City Attorney

Magdalen Burlison
City Clerk

RESOLUTION NO. 10-220

RESOLUTION SETTING A PUBLIC HEARING FOR AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT FOR MONTFORD COMMONS

WHEREAS, at its meeting on August 24, 2010, City Council provided City staff with direction to draft an economic incentive grant between the City of Asheville and Frontier Syndicate, LLC for the Montford Commons Development Project, Phase I; and

WHEREAS, pursuant to N.C. Gen. Stat. sec. 158-7.1, a public hearing is necessary prior to City Council consideration;

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

The public hearing to consider an economic incentive grant for the Montford Commons Project is hereby set on Tuesday, October 26, 2010, at 5:00 p.m. in the Council Chamber, located on the 2nd floor of the City Hall Building.

Read, approved and adopted this 28th day of September, 2010.

Magdalen Bourleson
CITY CLERK

Jimmy Bellamy
MAYOR

Approved as to form:

[Signature]
CITY ATTORNEY

Magdalen Bourleson
Clerk