

Tuesday – May 10, 2011 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

Mayor Bellamy led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilman Bothwell gave the invocation.

**I. PROCLAMATIONS:**

**A. PROCLAMATION PROCLAIMING MAY 15-21, 2011, AS “NATIONAL PUBLIC WORKS WEEK”**

Mayor Bellamy read the proclamation proclaiming May 15-21, 2011, as "National Public Works Week" in the City of Asheville. She presented the proclamation to (1) Ronnie Hoglen and Joel Tweed from the Transportation Department; (2) Michael Dixon (Streets), Rachael Banks (Fleet Management) and Robert Johnson (Sanitation) from the Public Works Department; and (3) James Ball, Ricky Foster, Andrew White, Gene Ball, Darrell Ball and Kathleen Conner from the Parks & Recreation Department.

**B. PROCLAMATION PROCLAIMING MAY 22, 2011, AS “ASHEVILLE LIVING TREASURES DAY”**

Mayor Bellamy read the proclamation proclaiming May 22, 2011, as "Asheville Living Treasures Day" in the City of Asheville. She presented the proclamation to Ms. Carmen Ramos-Kennedy; and Asheville Living Treasures Jessie Coleman, Mary T. Parker and Lucille Flack Ray. Mayor Bellamy asked for a moment of silence as Mr. Hyman Dave, an Asheville Living Treasurer, passed away on Friday. Ms. Carmen Ramos-Kennedy stated the difference these individuals have made to our community.

**C. PROCLAMATION PROCLAIMING MAY 14, 2011, AS “STAMP OUT HUNGER DAY”**

Mayor Bellamy read the proclamation proclaiming May 14, 2011, as "Stamp Out Hunger Day" in the City of Asheville. She presented the proclamation to Mr. Gerald Brown, who briefed Council on the program.

**II. CONSENT AGENDA:**

At the request of Councilman Russell, Consent Agenda Item “E” was removed from the Consent Agenda for discussion and/or an individual vote.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 26, 2011**

**B. ORDINANCE NO. 3967 - ORDINANCE CONCURRING IN A SPEED LIMIT CHANGE ON CEDAR LANE, TWO SYCAMORE DRIVES, LINDEN STREET, PEACHTREE STREET, SYCAMORE TERRACE AND LINDEN STREET IN SOUTH ASHEVILLE FROM 35 MPH TO 25 MPH**

Summary: The consideration of an ordinance concurring in a speed limit change on SR 3159 (Cedar Lane), SR 3165 (Sycamore Drive), SR 3171 (Sycamore Drive), SR 3172 (Linden Street), SR 3174 (Peachtree Street), SR 3175 (Sycamore Terrace), and SR 3205 (Linden Street).

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, when an engineering and traffic investigation determines that a speed limit other than the statutory 35 mph speed limit would be reasonable and safe along a state-maintained street that is inside municipal corporate limits, a concurring ordinance from the municipality is needed. Typically, these investigations are done by municipal staff but it is not unusual for the North Carolina Department of Transportation (NCDOT) to do the investigations along their streets.

The Division 13 Traffic Engineer for NCDOT recently completed an engineering and traffic investigation and determined that a 25 mph speed limit would be reasonable and safe on the following streets:

- SR 3159 (Cedar Lane) from a point 0.19 mile west of US 25-A (Sweeten Creek Road) eastward to US 25-A (Sweeten Creek Road).
- SR 3165 (Sycamore Drive) from a point 0.12 mile east of US 25-A (Sweeten Creek Road) eastward to US 25-A (Sweeten Creek Road).
- SR 3171 (Sycamore Drive) from US 25 (Hendersonville Road) northeastward to a point 0.32 mile northeast of US 25 (Hendersonville Road).
- SR 3172 (Linden Street) from a point 0.04 mile south of SR 3159 northward to a point 0.03 mile north of SR 3159.
- SR 3174 (Peachtree Street) from SR 3159 northward to a point 0.18 mile north of SR 3159.
- SR 3175 (Sycamore Terrace) from a point 0.03 mile west of SR 3172 eastward to a point 0.11 mile east of SR 3172.
- SR 3205 (Linden Street) from a point 0.15 mile south of SR 3162 northward to SR 3162.

The subject streets serve a well established residential community in South Asheville. City traffic-engineering staff agrees with the recommended action.

This action complies with the City Council Strategic Operating Plan in the Safety focus area by improving the "street experience" for all users including pedestrians, bicycles, and motorists in a primarily residential corridor.

Pros:

- The North Carolina Department of Transportation did the engineering and traffic investigation to determine the reasonable and safe speed limit.
- Since the subject streets are state-maintained streets, the North Carolina Department of Transportation will install and maintain the appropriate signs.

Con:

- There are no known cons with the subject action.

There is no fiscal impact with the subject action. The NCDOT will be installing and maintaining the appropriate signs.

City staff recommends that City Council approve an ordinance concurring in a speed limit change on SR 3159 (Cedar Lane), SR 3165 (Sycamore Drive), SR 3171 (Sycamore Drive), SR 3172 (Linden Street), SR 3174 (Peachtree Street), SR 3175 (Sycamore Terrace), and SR 3205 (Linden Street) in South Asheville from 35 mph to 25 mph.

**ORDINANCE BOOK NO. 27 - PAGE**

**C. RESOLUTION NO. 11-90 - RESOLUTION AMENDING THE 2010 COMMUNITY DEVELOPMENT BLOCK GRANT AGREEMENT WITH THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL**

Summary: The Asheville-Buncombe Community Relations Council has requested an amendment to their 2010-2011 Community Development Block Grant (CDBG) Grant Agreement, to allow for greater flexibility in the use of those funds.

The contract between the City and Asheville-Buncombe Community Relations Council (ABCRC) calls for the full grant amount of \$45,000 to be disbursed for a full-time investigator's salary. HUD Hair Housing Assistance Program funds can also be used to pay for the investigator's salary. ABCRC requests that CDBG funds also be allowed to be used for the supervision and management of the fair housing activity, and other management costs.

The projects directly support the City's Strategic Operating Goals: *Affordable*: The amendment is supportive of the City's goal of providing safe and decent affordable housing units to the citizens of Asheville.

Pro:

- The amendment will enable ABCRC to operate through the end of this fiscal year

Con:

- None

The Community Development Block Grants subject to the amendment are allocated in the City's Consolidated Annual Action Plan for CDBG and HOME Programs for 2010. There is no change in the allocated amount.

The Housing and Community Development Committee has positively reviewed this request and staff recommends that City Council approve the requested amendment.

**RESOLUTION BOOK NO. 34 – PAGE 1**

**D. RESOLUTION NO. 11-91 - RESOLUTION AUTHORIZING CONDEMNATION TO ACQUIRE PROPERTY WITHIN AN EXISTING SEWER EASEMENT IN ORDER TO ESTABLISH A NEW SEWER LINE**

Summary: The consideration of a resolution authorizing staff to proceed with condemnation of a portion of an existing sewer easement for the purpose of providing sewer access to adjoining properties.

In 2003 and 2004, the City approved two Housing Trust Fund loans totaling \$217,000 for the development of forty-two (42) townhomes in the first phase of a project in West Asheville. The original development plan proposed a maximum of 176 units over three phases. Following completion of the first ten (10) units the project stalled and the developer defaulted on both the construction loan and the City's Housing Trust Fund loans.

After several failed workout plans, the property went to foreclosure in August 2009. In addition to the partially developed parcel, other property securing the construction loan was also sold at auction. To protect the taxpayer investment in the Housing Trust Fund, the City purchased two of the adjoining parcels below market value (Parcel no. 962816976700000 and Parcel no. 962827416400000). The partially developed parcel (Parcel no. 962827062600000) containing the MSD pump station was purchased by the Managing Member of the Villas at Cedar Hill, LLC who participated as a private bidder in the sale. Immediately following the sale, a new LLC (Resurgence Development) was created and took title to the property.

The City has negotiated an agreement with Habitat for Humanity to purchase the adjoining parcels obtained at the foreclosure sale. Sale of this property would immediately return \$300,000 to the Housing Trust Fund and an additional \$150,000 over time. A development plan is in place to construct 55 single family homes that will be purchased by low-income families. The closing is contingent upon the City providing sewer access to the property. There is an existing recorded sewer easement that will allow sufficient access to the pump station, which is located less than 50 feet from the property boundary; however, an additional line would need to be added in that easement, thereby creating an "additional burden".

When the City inquired about an easement to allow this access, the developer responded that he would accept \$250,000. Subsequent inquiries were referred to the developer's attorney, who has not returned telephone calls. Staff research has indicated the value of the easement is more likely to be in the range of \$500- \$5,000.

The alternative to a voluntary conveyance is condemnation. The condemnation necessary to achieve the sewer access would be limited to a portion of the existing easement, with perhaps a temporary construction easement needed on either side of the existing easement area. The easement for the additional pipe would be transferred to MSD following the condemnation. MSD has indicated they will accept the easement. Access to the easement will not adversely impact the existing development on the parcel controlled by Resurgence Development. The cost of construction of the sewer line in the easement would be the responsibility of the developer, not the City.

Under North Carolina Law, municipalities have the authority to use the power of eminent domain to acquire private property through condemnation for the public use and benefit and specifically for the purpose of establishing, extending or improving sewer lines and systems. The proposed condemnation meets both the public use and the public benefit tests required by law.

The associated costs of a condemnation are *estimated* at \$15,000. This would include fair compensation for the easement as established by an appraisal, the appraisal, survey, legal fees, and associated court costs. These costs would be a direct administrative charge to the Housing Trust Fund. The request to proceed with condemnation was presented to the Housing and Community Development Committee at their April meeting, and they voted unanimously to bring this matter before City Council.

The proposed action directly supports the City's Strategic Operating Goals as follows: (1) *Affordable*: The proposed action supports the City's goal of providing safe and decent affordable housing units to the citizens of Asheville; and (2) *Sustainable*: The proposed action will enable the development of new housing units located near transit lines, higher urban development densities, and encourages higher standards of energy efficiency. The proposed action also supports the priorities of the Consolidated Strategic Housing & Community Development Plan by increasing the housing stock, providing affordable single family homes, building high quality energy-efficient housing, and coordinating development with transportation and jobs.

Pros:

- Allows for future affordable housing development on adjoining parcels as originally planned.
- Allows City-owned property to be sold and developed, resulting in substantial increased tax revenues upon build-out.
- Allows the City to proceed with sale of property, returning \$300,000 immediately to the Housing Trust Fund and an additional \$150,000 over time.
- Increases usage of the pump station which is currently functioning at minimum capacity.
- Brings resolution to a situation that has consumed vast amounts of staff time and administrative expense over a seven-year time frame.

Cons:

- Requires additional investment of an estimated \$15,000 from the Housing Trust Fund at a time when resources are scarce.

Administrative expenses related to a condemnation filing are estimated at \$15,000 and will be charged directly to the Housing Trust Fund. If the condemnation is completed, the sale of City-owned property to Asheville Area Habitat for Humanity will return \$300,000 to the Housing Trust Fund immediately upon closing, and an additional \$150,000 over time. The sale is anticipated to be completed in November 2011. Future City tax revenues are estimated at \$28,875 annually following construction of fifty-five (55) single family homes by Habitat on the adjoining parcels presently owned by the City.

As recommended by the Housing and Community Development Committee, staff recommends City Council adopt a resolution approving:

1. Condemnation to acquire property for the public purpose of establishing a new sewer line to connect a property to be developed for affordable housing to an existing sewer system and pump station.
2. The attorneys representing the City to institute the necessary proceedings under applicable provisions of the North Carolina General Statutes to acquire the property herein described.
3. The City Manager to execute any necessary documents related to the acquisition by condemnation of property for a sewer easement and the conveyance of this sewer easement to MSD.

**RESOLUTION BOOK NO. 34 – PAGE 2**

**E. RESOLUTION SETTING A LIVING WAGE FOR CITY OF ASHEVILLE FULL- AND PART-TIME EMPLOYEES AND CONTRACT EMPLOYEES WORKING ON GENERAL SERVICE CONTRACTS \$30,000-\$90,000 IN VALUE**

This item was removed from the Consent Agenda for discussion and/or an individual vote.

**F. RESOLUTION NO. 11-94 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A SUPPLEMENTAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO INCREASE THE PROJECT BUDGET FOR THE LONG SHOALS ROAD PROJECT**

**ORDINANCE NO. 3968 - BUDGET AMENDMENT FOR SUPPLEMENTAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE LONG SHOALS ROAD PROJECT**

Summary: The consideration of a resolution authorizing the Mayor to execute the Supplemental Agreement with the N.C. Dept. of Transportation for the Long Shoals Road Project, and the associated budget amendment, in the amount of \$2,059,242.

On March 23, 2005, the Mayor executed a Utility Agreement between the City of Asheville and the NCDOT for the Long Shoals Road Project, TIP # R-2813C, in the amount of \$1,805,799.61. The project consisted of the installation of a new 24-inch water line on Long Shoals Road from East of I-26 to US 25 (Hendersonville Road). The 16-inch plastic line was replaced to loop the water system to the west and south regions of the system and to eliminate costly line breaks, which caused water outages to area customers.

On March 10, 2009, the NCDOT issued a Memorandum stating that additional materials were required for the water line replacement, which caused a necessary increase of \$253,441.88 for an amended project budget of \$2,059,241.49. A Supplemental Agreement to increase the cost of the project was provided to Water Resources on April 14, 2011, for approval and execution by the Mayor and City Council.

This project is part of City Council's strategic plans to maintain City infrastructure.

Pro:

- Approval of the Supplemental Agreement will allow Water Resources to fully reimburse the NCDOT for the City's participation costs and to close out the project.

Con:

- If the Supplemental Agreement is not executed, then the NCDOT will charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147-86.23 and G.S. 105.241.1.

Water Resources created a capital project to retain contingency funds needed for the increase until the Supplemental Agreement was received by the NCDOT. The contingency funds will cover the entire cost for the increase, so no other capital projects are affected.

NCDOT Long Shoals Rd Original Budget	\$1,805,799.61
Project Increase	\$ 253,441.88
Total Project Cost	\$2,059,241.49

City staff recommends City Council adopt a resolution authorizing the Mayor to execute the Supplemental Agreement with the NCDOT for the Long Shoals Road Project, R-2813C, increasing the project budget from \$1,805,799.61 to \$2,059,241.49.

**RESOLUTION BOOK NO. 34 – PAGE 5  
ORDINANCE BOOK NO. 27 - PAGE**

**G. ORDINANCE NO. 3969 - BUDGET AMENDMENT FROM BB&T TO COVER COST OF MATERIALS AND NEW EQUIPMENT TO SUPPORT A VOLUNTEER PROJECT AT THE STEPHENS-LEE COMMUNITY CENTER**

Summary: The consideration of a budget amendment, in the amount of \$5,400, from BB&T to cover cost of materials and new equipment to support a volunteer project at the Stephens-Lee Community Center.

Nationally, BB&T has created a corporate volunteer program to encourage local branches to give back to the community. In addition to making a provision for paid time off for staff to volunteer, BB&T has created a pool of funds to be used to support projects identified by local BB&T branches. Asheville Area BB&T branches have chosen the Stephens-Lee Center as the site for their 2011 project and, in addition to providing approximately 60 volunteers over 4

days, will be donating \$5,400 to cover the costs of materials and improvements for the Center. A representative from BB&T has been working with Parks, Recreation and Cultural Arts staff to develop a scope of work and identify materials and equipment necessary to complete the project. Members of the East End Neighborhood Association and Stephens-Lee Alumni Association will be invited to participate in the project. The project is slated to occur on May 17 through 20, 2011.

The project will include painting the entrance hall, kitchen, all-purpose room and classrooms, purchasing and spreading appropriate mulch for two play areas and replanting and mulching the front planting beds of the Center. The project will culminate in a cook-out at Stephens-Lee for neighborhood and Stephens-Lee alumni organizations members, BB&T volunteers and Center program participants and staff provided by BB&T staff.

This action complies with the City Council Strategic Operating Plan in that it addresses the city's aging infrastructure and improves the customer experience at the Stephens-Lee Center. This action also reflects the City of Asheville's efforts to improve and extend services by identifying volunteer opportunities and working with community groups to accomplish improvement projects on public property and in public facilities.

Pros:

- Improvement in infrastructure and customer experience at the Stephens-Lee Center
- Demonstration of community support for the East End Community
- Incorporates citizen volunteers in providing essential services to the community

Con:

- None noted

The project has been budgeted so that the donation will cover all costs for the project.

City staff recommends City Council adopt a budget amendment to accept the donation from BB&T in the amount of \$5,400.

#### **ORDINANCE BOOK NO. 27 – PAGE**

#### **H. ORDINANCE NO. 3970 - BUDGET AMENDMENT TO ACCEPT REBATE FUNDS FROM PROGRESS ENERGY**

Summary: The consideration of a budget amendment, in the amount of \$32,581.89, from Progress Energy Carolinas, to refund expenses incurred during the City Hall Lighting Retrofit for premium efficiency lighting products.

City Council previously approved accepting grant funds for the Energy Efficiency and Conversation Block Grant (EECBG) for various municipal retrofits including the City Hall Lighting Retrofit. In the six months since retrofit completion this project has already produced hard energy savings of \$8,400. The proposed budget amendment is to accept a rebate check from the electric utility for using premium efficiency fixtures in this retrofit. Once accepted these rebate funds would then be used in the LED streetlight project previously approved by City Council.

This action supports City Council's Strategic Operating Plan goals to reduce the municipal carbon footprint 4% each year.

Pros:

- Accepting this rebate check will allow the city to better leverage the grant funds awarded by the Department of Energy to further City Council's goals in energy efficiency.

Cons:

- None can be identified.

The \$32,581.89 will be used as revenue to further fund energy efficiency programming.

City staff recommends City Council adopt the budget amendment to appropriate revenue and budget expenditures associated with the Progress Energy Rebate check.

**ORDINANCE BOOK NO. 27 – PAGE**

**I. ORDINANCE NO. 3971 - BUDGET AMENDMENT TO ACCEPT STIPEND FROM WARREN WILSON COLLEGE FOR SUMMER INTERN IN THE OFFICE OF SUSTAINABILITY**

Summary: The consideration of a budget amendment, in the amount of \$ 1,800, from Warren Wilson College, to appropriate revenue and budget expenditure accounts associated with the payment for one part time temporary intern in the Office of Sustainability.

The City of Asheville and Warren Wilson College (WWC) formed a strategic partnership in June 2007 to collaborate in our efforts to reduce green house gas emissions. A valuable part of this partnership is to provide professional development opportunity to WWC students. Warren Wilson College will provide the funds for payment to this intern upon approval of this budget amendment request.

The Sustainability Policy Intern will learn about local government policy and administrative policy through working with staff to support the Sustainability Advisory Committee on Energy and the Environment (SACEE).

This action complies with the City Council Strategic Operating Plan in the following ways: (1) Expand partnerships with UNC-Asheville, AB Tech and other institutions; and (2) Attract and retain quality employees with an emphasis on local labor pool development opportunities.

Pros:

- Internship supports the Transportation Department in implementing the Transit Master Plan
- Internship supports the City Office of Sustainability efforts to reduce carbon footprint of city operations

Cons:

- None identified.

The \$1,800 to payment of interns stipend will be provided by Warren Wilson College to be paid through the City of Asheville.

City staff recommends City Council adopt the budget amendment to appropriate revenue and budget expenditures associated with payment of an intern's stipend.

**ORDINANCE BOOK NO. 27 – PAGE**

Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.



**ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES**

**E. RESOLUTION NO. 11-93 - RESOLUTION SETTING A LIVING WAGE FOR CITY OF ASHEVILLE FULL- AND PART-TIME EMPLOYEES AND CONTRACT EMPLOYEES WORKING ON GENERAL SERVICE CONTRACTS \$30,000-\$90,000 IN VALUE**

Summary: The consideration of a resolution setting a living wage for City of Asheville full- and part-time employees and contract employees working on General Service contracts \$30,000-\$90,000 in value.

In 2007, Asheville City Council approved a living wage for city employees of \$10.86 per hour without health insurance and \$9.50 per hour with health insurance. Since 2007, the Asheville/Buncombe Living Wage increased to \$11.35/hour without employer provided health insurance and \$9.85/hour with employer provided health insurance. The resolution under consideration reflects the current living wage for full- and part-time City employees.

On March 22, 2011, City Council adopted a purchasing and contracting policy that includes a living wage requirement for General Service contracts \$30,000-\$90,000. The resolution under consideration provides for the same living wage described above for these contract employees.

Based on direction given at the March 22 meeting, it is City Council's intent to annually evaluate the living wage as part of the budget process to ensure the wage stays current with inflationary indexes (such as the Consumer Price Index) and/or the most current recommendation from Just Economics. The City Council will also evaluate if the living wage provision should be extended to additional thresholds of General Services contracts.

This action is consistent with the City Council's strategic operating plan and its goal to support a standard of living that is affordable to people of all incomes, life stages and abilities.

Pros and cons are not included with this staff report since City Council has already approved the living wage policy. The adoption of this resolution formalizes City Council's previous action.

The City of Asheville currently meets the current living wage standard for full-time employees, and so no fiscal impact is expected. While the living wage provision in the General Services category may have a fiscal impact for the City, research has shown that cost implications are typically minimal and less than 1%. Staff will regularly monitor and provide quarterly updates on the impacts of the living wage provision to the City Council Finance Committee.

City staff recommends City Council adopt a resolution setting a living wage for City of Asheville full- and part-time employees and contract employees working on General Service contracts \$30,000-\$90,000 in value.

Director of Administrative Services Lauren Bradley responded to questions raised by Councilman Davis regarding the bidding procedure.

Vice-Mayor Newman said that as we move forward, we need to continue to seek input from people who contract and do business with the City. We want to make sure we are not creating a difficult process and or deterring people who want to do business with the City.

Councilman Bothwell moved for the adoption of Resolution No. 11-92. This motion was seconded by Councilman Smith and carried on a 5-2 vote, with Councilman Davis and Councilman Russell voting “no.”

**RESOLUTION BOOK NO. 34 – PAGE 4**

**III. PRESENTATIONS & REPORTS:**

**A. RESOLUTION NO. 11-94 - RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GIFT OF THE WNC VETERANS' MEMORIAL ON THE CITY-COUNTY PLAZA, AND A CONTRACT FOR THE MAINTENANCE OF THE MEMORIAL**

City Attorney Oast said that this is the consideration of a resolution authorizing the acceptance of a gift of the WNC Veterans' Memorial on the City-County Plaza, and a contract for the maintenance of the Memorial.

In connection with the redevelopment of Pack Square/City-County Plaza, the WNC Veterans' Memorial (herein “Veterans' Memorial Board”), a non-profit organization, was formed for the purpose of raising funds for a Memorial to WNC Veterans to be located and constructed in the park, and to provide for the maintenance of the Memorial.

The work of the Board has been highly successful, with the result that the Memorial has been designed, the design was approved by the City and County, its construction has been completed, and it was dedicated on Veterans Day, November 11, 2009. In addition, the Veterans' Memorial Board has raised sufficient funds to establish and fund two trusts for the perpetual care and maintenance of the Memorial.

The trusts are proposed to reside with the Community Foundation of Western North Carolina, an organization that administers charitable funds and gifts. One of the trusts, a “flexible endowment fund” is to provide for perpetual upkeep and maintenance of the Memorial and its several components, including annual cleaning. A minimum balance is required in this fund. The other fund, a “traditional endowment fund,” is for the same purpose, but no minimum balance is required. The two funds together ensure that adequate funds will be available for periodic maintenance of a routine nature from year to year, and for repairs and maintenance of a more substantial nature as needed. Management of the funds, including distribution of income to the City for maintenance and upkeep, is handled by the Community Foundation, which receives a small fee for its administrative costs.

Pursuant to the agreement with the City and County, the Veterans' Memorial Board now wishes to give the Memorial to the City and the County, and to arrange for income from the trusts to be available for use by the City for the care and maintenance of the Memorial. In order for this to occur, two actions are necessary:

1. Official acceptance of the gift from the WNC Veterans' Memorial Board. A Certificate of Gift has been prepared for the Mayor's signature.
2. Agreement to a contract for the care and maintenance of the Memorial as contemplated by the trusts. This contract has been prepared for signature by the City Manager.

The Memorial is included in the plans for the Pack Square/City-County Plaza renovation.

Pros:

- Acknowledges the gift of the Memorial, and the culmination of years of work by dedicated community organization.

- Establishes a source of funds for maintaining the Memorial.

Con: None noted.

There is no impact to the City's General Fund budget since funding for maintenance will come from the outside trusts.

Adoption of the resolution is recommended.

Mr. Richard Griffin, Chairman of the WNC Veterans Memorial, was pleased to state that during Memorial Day services in Pack Square Park on May 30, 2011, the Board of Directors of the WNC Veterans Memorial will gift jointly to the City of Asheville and the County of Buncombe all ownership interest in the WNC Veterans Memorial. This ownership transfer will mark the corporate ending of the 13-year old life of the non-profit corporation that conceived, originally designed and funding construction of the WNC Veterans Memorial. In conjunction with the ownership gift, the Board will gift to the City two monetary trusts, totaling 140,000. The two trusts will be managed and controlled by the Community Foundation of Asheville. The sole purpose of the trusts is the use of annual income by the City of Asheville for the perpetual care and maintenance of the Veterans Memorial. We are pleased that the citizens and businesses of Asheville, Buncombe County and Western North Carolina, were so dedicated to the creation of the Memorial that funding for the perpetual maintenance of the Memorial is possible. He thanked everyone who contributed and asked City Council approve the contract by which the City accepts the terms of the two monetary trusts.

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 11-94. This motion was seconded by Councilman Russell and carried unanimously.

Mayor Bellamy was pleased to present Mr. Griffin with the gift of pottery as a token of Asheville's appreciation. She thanked him very much for his leadership. She also presented the other Board members with a token of appreciation as well.

## **RESOLUTION BOOK NO. 34 – PAGE 6**

### **B. ASHEVILLE-BUNCOMBE REGIONAL SPORTS COMMISSION**

Mr. Ben VanCamp, Senior Advisor to the Asheville-Buncombe Regional Sports Commission, said that the mission of the Sports Commission is to identify and attract sports events and related meetings to enhance the health, wellness and quality of life for area residents and sports enthusiasts and to generate a positive economic impact by promoting our region as a recognized sporting destination. Their vision is to host memorable sporting events that will enrich the lives of athletes and spectators.

He explained the County-wide audit of (1) seasonality (a) availability of large blocks of hotel rooms; and (b) facility availability; (2) facilities (a) public; and (b) private; and (3) personnel. Concentrations have been (1) events have to fit our community's culture; (2) highlight our communities natural resources; and (3) events that take place in the first quarter of the year.

The strategies are to (1) work with existing events to help them grow; (2) incubate new events from within our community; and (3) recruit large events.

Funding in Year 1 was \$75,000 (a) \$25,000 from City of Asheville, Buncombe County and Buncombe County Tourism Development Authority (BCTDA). Proposed funding for Year 2 is \$145,000 (a) \$45,000 from City of Asheville, Buncombe County and BCTDA; (b) County funding has already been received; (c) BCTDA has budgeted for support, budget to be approved in June; and (d) \$10,000 to be raised by Commission

Ms. Janet Cone, Board Chair, said that in November, the leadership added a Senior Advisor contract position to serve as the organization's staff. This advisor has been hard at work providing leadership to several new sporting events in our community. These events are expected to bring over 15,000 people into our community over the next 12 months, having a multi-million dollar economic impact. The Sports Commission staff works with event organizers, both locally and nationally, to showcase the Asheville community and its sport venues as the ideal location for their next event.

They (1) contact area hotels and sporting venues in Asheville on your behalf to gather information on rates and availability; (2) put together itineraries to visit venues and properties of interest so you can better make a decision; (3) compile area proposals and information for presentations to decision makers on final destination; (4) assist in event planning; (5) connect you with local service providers and media outlets; (6) provide visitor information and giveaways for athletes and fans; and (7) creative brainstorming to make sporting events in Asheville stand out above the rest.

The Sports Commission Board of Directors has prepared a preliminary budget for the 2011-12 fiscal year and is requesting \$45,000 in support from the City of Asheville. This funding will provide the Sports Commission the resources it needs to hire a full-time Executive Director that will continue the work of creating, recruiting, and supporting sporting events in our community.

Councilman Davis recognized others involved with the Sports Commission noting that they have been working hard for a long time. There are a number of things that are not conventional sports that can be grown in our community. There is not an allocation for partnership in funding the Sports Commission because when the budget was being formed, they didn't know of the request. Therefore, this funding would require direction from Council. City Manager Jackson had explained that they can increase the outside agency funding by \$45,000. He said that the other partners have come to the table with funding and felt it was important for the City to move forward and continue to be a partner. This is a real economic piece.

Councilman Davis moved to allocate \$45,000 from the Fiscal Year 2011-12 budget to the Sports Commission, through a budget allocation, to be funded with either an increased revenue estimate or some other manner. This motion was seconded by Councilman Russell.

In response to Councilman Bothwell, Councilman Davis said that the Civic Center is having a record year now and there may be opportunities from rent and concession sales.

City Manager Jackson said that the basis of the recommendation was to provide the allocation in the outside agency funds if this is going to be a recurring expense; and, the basis to do this would be that it will increase your sales tax revenue.

Mayor Bellamy felt that it was important that these dollars stay in our community and the opportunities are huge based upon research. She asked the City Manager to place on our website the economic report for the Civic Center and how it impacts our downtown and hotels. People will be able to see what happens when we make an investment and what it brings back to our community.

When Mayor Bellamy asked for public comment, no one spoke.

Regarding process, Vice-Mayor Newman was surprised that this presentation resulted in an appropriation request. Councilman Davis apologized for the immediate request, especially since the outside agency requests have already been approved by Council; however, other partners have come to the table already and we will be adopting the budget at the next meeting. Mayor Bellamy also said that Council was scheduled to hear an update from the Sports Commission, and the budget issue was prompted by the City Manager recognizing there was nothing allocated in the budget for this. Therefore, the City Manager needed Council direction to move forward.

Vice-Mayor Newman suggested that in the future we try to follow the process of running the requests by either the Finance Committee or the Housing & Community Development Committee (that reviews all outside agency requests) so they can look at everything at once and make their decisions based on the limited funds.

When Vice-Mayor Newman asked if this is going to be a recurring request each fiscal year, Councilman Davis said that this will be recurring request, but they may not request the same amount each year.

City Manager Jackson said that the specific request is funding for one year of \$45,000. He said that since the City will be contracting for services, we would want a multi-year (3-5 years) pro forma, which would include a comprehensive budget for the program.

Mr. Mark Cates was pleased that Council recognizes the limited resources available but is using those for economic development that will help our community.

The motion made by Councilman Davis and seconded by Councilman Russell carried unanimously.

#### **IV. PUBLIC HEARINGS:**

##### **A. PUBLIC HEARING RELATIVE TO AN AMENDMENT TO A CONDITIONAL USE PERMIT FOR CROWNE PLAZA SPORTS CENTER IMPROVEMENTS**

##### **ORDINANCE NO. 3972 - ORDINANCE AMENDING A CONDITIONAL USE PERMIT FOR CROWNE PLAZA SPORTS CENTER IMPROVEMENTS**

City Clerk Burlison administered the oath to anyone who anticipated speaking on this matter.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

City Attorney Oast said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 6:00 p.m.

Urban Planner Jessica Bernstein said that this is the consideration an amendment to the conditional use permit for Crowne Plaza Sports Center Improvements, located at 1 Resort Drive, for the additional of a zip line with towers, 82 parking spaces, and an additional 100 future parking spaces. This public hearing was advertised on April 29 and May 6, 2011 (City Exhibits 1 and 2).

Ms. Bernstein said that the applicant is requesting to add new uses to an existing site. This project is considered as an amendment to the previous Conditional Use Permit (Ordinance No. 3707).

The project site consists of a 108.45 acre parcel located off of Resort Drive (accessed from Patton Avenue/I-240) and is zoned Resort District. Surrounding properties are zoned Resort, Regional Business, RM-8, RS-2, RS-8, CBI, and CBII. This site is currently the location of the Crowne Plaza Resort (City Exhibit 3).

The phased master development plan approved by City Council in 2009 proposed three phases: Phase 1 included tennis courts, an indoor soccer building and an indoor pool/fitness center with associated parking. Phase 2 would include a mixed-use building and parking. Phase 3 proposed a hotel/condo building. After Council approval, the applicant eliminated the Phase 2 mixed-use building, and the hotel/condo became the new second and final phase. All development in the 2009 approval was to be located towards the main entrance to the site, in the southeast end of the large parcel.

New uses proposed include an 82-space parking lot and a zip line adventure course, as well as future expansion for 100 additional parking spaces. The project site for the proposed amendment is on the southwestern end of the resort – west of the recently constructed expo center and on the southern boundary of the golf course.

Landscaping will be required in the parking areas, including a street buffer and interior vehicular use area trees and shrubs.

This project was approved with conditions by the Technical Review Committee (TRC) on March 21, 2011. Adjacent neighbors were present at the meeting to learn more detail about the proposed zip line; however, no one expressed opposition to the project. As an amendment to a previously approved Conditional Use Permit, review by the Planning & Zoning Commission is not required.

City Council must take formal action as set forth in Section 7-5-5(e)(3) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case pursuant to Section 7-16-2(c). Staff's review indicates that all seven standards are met as proposed in the site plan.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**  
*The project will meet State building code requirements and will be reviewed in detail by the Technical Review Committee to ensure compliance with safety requirements.*
2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**  
*The proposed zip line has minimal disturbance due to the small tower footprint and the use maximizes the benefits from slopes and views in its recreational purpose. The*

*proposed parking areas are on existing flat areas with no significant natural or topographic features due to the previous development of the golf course. Appropriate landscaping will be provided to minimize visual impact.*

**3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**

*The parcel containing the Crowne Plaza Resort is quite large (over 108 acres) and while the new proposed uses are closer to the adjacent neighborhood than the previously approved phases, the uses are minimally invasive, complementary to the existing uses on the site and should not impact the value of adjoining or abutting property. The zip line towers will not be lit and are more than 400 linear feet from the nearest house.*

**4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**

*Although these uses are situated on the western side of the property, which is closest to the nearby residential neighborhood, the new uses are complementary to the other resort buildings and amenities on this parcel. The zip line and parking areas should have a minimal visual impact to the neighborhood and are in harmony with the character of the resort area.*

**5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**

*This proposal aligns with Smart Growth Land Use Policies in the 2025 Plan by including mixed-use development with hotel, recreational and residential components on a site with existing infrastructure, close to transportation and the downtown (pg. 31). Also, the tourism industry is highlighted in the Plan as needing to concentrate on "creating and marketing 'destination' travel opportunities to attract travelers" (pg. 195). Expanding and enhancing the amenities of this centrally located resort will no doubt have a positive draw to visitors.*

**6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

*This site is located just off I-240/Patton Avenue, which places the project in an easily accessible location by car and Asheville transit (rt. 15). The project has been reviewed by the Technical Review Committee and has been found to have adequate access to infrastructure.*

**7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

*There is no traffic congestion or traffic hazard anticipated as a part of this proposal.*

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- The proposal is aligned with City goals relating to economic development (tourism).
- New parking areas will support existing resort uses, including recent expo center.

Con:

- None noted.

Staff recommends approval of this amendment to the previously approved Conditional Use Permit, adding new uses to the Crowne Plaza Resort site.

Mr. Tom Wilson, representing Hulsing Hotels, briefly summarized the project and urged Council for their support.

Mr. Jeff Greiner, Owner and President of Adventure America Zip Line Canopy Tours, explained what the course would consist of and how it is a family oriented activity. He was excited to bring this activity to Asheville.

Mayor Bellamy closed the public hearing at 6:06 p.m.

In response to Councilwoman Manheimer, Mr. Mark Wells, representative of Hulsing Hotels, said that there will still be 9 holes on the golf course.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Russell moved for the adoption of Ordinance No. 3972, to adopt an amendment to the conditional use permit for Crowne Plaza Sports Center Improvements, located at 1 Resort Drive, for adding a new zip line and parking areas, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilwoman Manheimer and carried unanimously.

#### **ORDINANCE BOOK NO. 27 – PAGE**

#### **B. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES ON CALEDONIA ROAD AND FINALEE STREET FROM INSTITUTIONAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT**

#### **ORDINANCE TO REZONE PROPERTIES ON CALEDONIA ROAD AND FINALEE STREET FROM INSTITUTIONAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT**

#### **ORDINANCE TO REZONE PROPERTIES ON CALEDONIA ROAD AND FINALEE STREET FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT**

Councilman Russell moved to recuse Councilwoman Manheimer from participating in these actions due to a conflict of interest. This motion was seconded by Councilman Davis and carried unanimously. At this time, Councilwoman Manheimer left the Council Chamber.

City Attorney Oast said that a valid protest petition has been filed, thus requiring a three-fourths vote of City Council to approve the rezonings of the property. Since Councilwoman Manheimer has been recused, there must be 5 out of 6 Council members to vote in favor of the rezonings in order for them to pass.



Mayor Bellamy opened the public hearing at 6:09 p.m.

### **RM-16 Residential Multi-Family High Density District**

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance to rezone properties located on Caledonia Road and Finalee Avenue from Institutional District to RM-16 Residential Multi-Family High Density District. This public hearing was advertised on April 29 and May 6, 2011.

Ms. Daniel said that the primary intent of the staff proposal is the rezoning of the properties owned by Caledonia LLC and Kenilworth Inn, LLC from Institutional (a residual zoning left over from a prior institutional use on part of this property) to RM-16, reflecting the existing use of this property in this residential neighborhood, in accordance with Section 7-7-2 of the UDO, Initiation of Amendments.

The primarily affected properties include all of two parcels and portions of another parcel totaling approximately 9.57 acres located on Caledonia Road at Finalee Road. One parcel (2062) is developed and contains the primary structure of the multi-family residential Kenilworth Inn Apartments. The two other undeveloped parcels (4812 and a portion of 6180) adjoin the Inn and are located on the north and east side of Caledonia Road. These properties have had Institutional zoning for many years, since a health facility was previously located in the existing structure. This historic structure was built as an inn in 1918, restored and is in current use as multi-family rental housing. Interim uses (including a mental health hospital) were institutional in nature and the properties were rezoned to Office-Institutional in 1980, which became Institutional upon the adoption of the UDO in 1997.

Adjacent parcels to the north, east, and west are primarily zoned RS-8, in a predominantly single-family neighborhood. One adjoining property to the north (PIN 2461) adjoining the Kenilworth Inn contains two buildings with garages/ storage areas for use by its residents; conditionally rezoned to Institutional in 2004 to allow for the stand alone garages. This property is proposed to remain in CZ Institutional zoning, as it is subject to important limiting conditions under the Conditional Zoning. The properties to the south, formerly a part this property before a recently approved subdivision are vacant, wooded, and steeply sloped. They are the subject of a staff initiated rezoning as well.

Since the Planning and Zoning hearing, the staff realized that this rezoning was also advertised to include a very small portion (.16 acre of a .34 acre) of another property (7364) with different and unrelated ownership which is developed with a single-family residence and is currently split zoned between RS-8 and Institutional. We believe the existing Institutional zoning on that property may be the result of a mapping error. The actual staff intent was to rezone this property fully into RS-8, not RM-16, but there was a mistake in the advertisement.

The Planning and Zoning Commission reviewed this request at their April 6, 2011, meeting. After hearing a number of comments in support of the request, the Commission voted unanimously (6:0) to recommend support of the rezoning to the Council. There were no speakers in opposition to this request, although the affected property owner has filed a protest petition in opposition to the proposed rezoning.

There were two primary reasons stated for their support of the request. The Commission agreed that the Institutional zoning should be modified as there are uses allowed in that district that could be incompatible in this residential area. The Commission also specifically noted that the proposed zoning did not change the development potential for the site for multi-family housing; and they felt the existing density allowed is appropriate at this location.

There was no discussion of the property mistakenly advertised for rezoning to RM16.

Pro:

- The rezoning establishes zoning on the properties that is more reflective of and compatible with the existing use of the property.

Con:

- The staff can identify no concerns with this rezoning as the existing use will be wholly compatible with the multi-family use and density of the existing structure on the property which will remain wholly conforming with the zoning.

Staff recommends approval of the rezoning to RM-16 for all recommended parcels which will establish a zoning district that reflects the actual use of the existing structure at its current density of use.

Rezoning to RM-16 for parcel 7364 is also recommended in order to avoid leaving a small residual piece of Institutional zoning at this location. The difference between the advertised RM-16 and the intended RS-8 is too great to allow a zoning change to RS-8 at this time, even if desired. The staff may return later with a corrective zoning recommendation for this small (.16) acre zoning change.

### **RS-8 Residential Single-Family High Density District**

Ms. Daniel said that this is the consideration of an ordinance to rezone properties located on Caledonia Road and Finalee Avenue from Institutional District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on April 29 and May 6, 2011.

Ms. Daniel said that the primary intent of the proposed staff initiated proposal is the rezoning of the properties owned by Caledonia, LLC from Institutional (a residual zoning left over from a prior institutional use on portion of this property that has subsequently been subdivided) to RS-8. The changed zoning reflects a density more appropriate for these steeply sloped properties in a predominately single-family residential neighborhood, and eliminates the potential for certain commercial uses (allowed in the Institution district) that are unlikely to be compatible at this location. The proposed rezonings initiated by staff are in accordance with Section 7-7-of the UDO, Initiation of Amendments.

The rezoning was also intended to affect a small piece of adjoining property (.16 acre of a .34 acre property) under different and unrelated ownership to RS-8 that is currently split-zoned between RS-8 and Institutional. The existing Institutional zoning on that property may be the result of a mapping error, and the intent was to rezone it fully into RS-8. Unfortunately, the advertisement for this rezoning mistakenly noted it for rezoning to RM-16 as discussed earlier in the RM-16 Density portion of this staff report.

The properties affected by the rezoning consist of all of one parcel and portions of two parcels owned by Caledonia, LLC; located along the east and south side of Caledonia Road from its split with Pickwick Road to its intersection with Finalee Avenue with an area of approximately 12.33 cumulative acres. Adjacent parcels to the east and west are currently zoned RS-8, in a predominantly single-family neighborhood. Adjacent parcels to the north are currently zoned Institutional and contain a structure in current use as multi-family rental housing, and also the subject of a current staff initiated rezoning from Institutional to RM-16. The Silverman property to the south fronts on Swannanoa River Road and, as noted above, is zoned Urban Place although it is vacant and without current activity on the site. Other properties to the south are zoned River and are in commercial uses.

This majority of this area was the subject of a recent Conditional Zoning proposal consisting of one large multi-family structure of 100 dwelling units. It was found to be incompatible with the surrounding neighborhood by the City Council in September of 2010. Reasons noted for the incompatibility related to the intensity of the proposed use in relationship to the steep slopes and narrow winding character of Caledonia Road. A somewhat different proposal was then proposed by the owner, consisting of two separate multi-family structures of 50 dwelling units each. The reasons stated for Council disapproval of the original project remained - the nature of the slopes and the road.

In response to general concerns expressed about the City's regulatory processes the staff initiated proposals to modify the Unified Development Ordinance (UDO) processes for development review. Those changes were subsequently adopted by the Council. With the adoption of those changes, the development proposals in process (given conditional approval by the Technical Review Committee but with no permits issued) became void. With that voiding, the staff initiated the rezoning action on these properties.

Staff believes that RS-8 zoning is more appropriate for these heavily wooded, steeply sloping properties that take access from a section of Caledonia Road that is very narrow, steep, and winding. That zoning would allow a level of development appropriate for properties of that nature, more compatible with the RE-8 zoning on adjoining properties that share that level of topographical constraint. That zoning would also provide a level of "buffering" for the historic Kenilworth neighborhood from the substantially more intense development that is likely to occur over time along Swannanoa River Road.

While the owner of this property will suffer some loss of development potential, the RS-8 is the most intense level of single-family zoning offering the potential for lower intensity multi-family development should he choose to pursue it - including duplexes, triplexes, quadraplexes (as conditional uses) and cottage developments (as a USSR use).

The Planning and Zoning Commission reviewed the proposed rezoning at its' April 6, 2011, meeting. There were many comments from the public, primarily in support of the proposed rezoning and primarily from residents of the Kenilworth neighborhood. They expressed support for the reasons noted in the staff report. Concern was expressed, however, that the rezoning did not include the entire portion of the property with PIN 6180. The advertised rezoning to RS-8 included only the portion on the east side of Caledonia Road. They felt the residual portion of the parcel along the west side of Caledonia Road, should also be included as it reflects the same density and access concerns they have expressed for these properties since the first application in the fall of 2010.

There were two comments strongly condemning the proposed rezoning. The first came from an attorney representing the affected property owner, who has filed a protest petition against the rezoning. He stated strong objections to the proposed rezoning and to the legality of the City to consider a rezoning on the property without protecting existing rights of the property owner. The second came from the representative of the Council of Independent Business Owners, who expressed the same strong objections noted previously by the attorney of the property owner.

After considerable discussion the Commission voted unanimously (6:0) to not recommend support of the proposed rezoning to RS-8. The primary reason stated for their decision to not support the request related to the proposed change of density on the property, and how that would impact the property owner. The Commission agreed that it would be logical to modify the current Institutional zoning, as there are certain commercial uses allowed in that district that could be incompatible in this residential area. They expressed support, however, for the currently allowed density at this location - especially taking into account recent actions and proposals on this site. The Commission went on to further discuss appropriate zoning and generally seemed to support change to a zoning with density similar to what currently exists

although they took no official action. The Commission suggested that the Council consider the RM-16 zoning for this site, as is proposed for the adjoining property.

Pro:

- The rezoning establishes zoning on the properties that is more reflective of and compatible with the surrounding single-family neighborhood, the steeply sloping site, and the limited access.

Con:

- The rezoning will require substantial modification of uses planned by the owner of the property under the current zoning.

Staff recommends approval of the rezoning to RS-8 for the recommended parcels which will establish a zoning district that is more appropriate for the site given the nature of the surrounding neighborhood combined with the nature of the access road and the slope of the properties.

Mr. Thom Holman, representing Caledonia LLC and Kenilworth Apartments LLC, objected to any changes of the Institutional zoning. He explained in detail why he objected on the grounds that these proposed rezonings are inconsistent with the long history at this location, they are unlawful, inappropriate, unfair, violates due process rights of the property owner, are arbitrary and capricious, will cause substantial monetary damage to the owners of the property, sends the wrong message to both developers and property owners, and weakens the Comprehensive Plan. He urged the Council to deny the rezoning of these properties as he felt they are inappropriate and should be rejected.

Mr. Paul Smith was concerned that this gives the appearance to a developer that even though he starts a project, the City can change the zoning.

The following individuals spoke in support of rezoning the properties per staff's recommendation from Institutional to RM-16 and RS-8 respectively, mainly due to the residential nature of the area and the steep slope:

- Ms. Valerie Hoh, adjoining property owner
- Ms. Barber Melton, Vice-President of the Coalition of Asheville Neighborhoods
- Mr. Joe Hoffman, area property owner
- Ms. Mary Evers, resident on Finalee Avenue
- Ms. Tracy Stubbing, resident on Finalee Avenue
- Mr. Chris Pelly, President of the Haw Creek Community Association
- Mr. Terry Meek, resident on Pickwick Road (also requested PIN 6180 not be rezoned to RM-16 District, but to either RS-8 or RM-8)
- Ms. Patsy Brison, representing Kenilworth Residents Association (any reference to any maps staff uses or the neighborhood pointing to them does not mean they are waiving their challenges to the subdivision approval by the City; and challenged the validity of the protest petition based on timing)
- Mr. Robert Zieber, Asheville resident (suggested a bond for projects if the developer goes bankrupt before the project is complete)

Mayor Bellamy closed the public hearing at 6:59 p.m.

In response to Vice-Mayor Newman, City Attorney Oast said that it is unusual to get a protest petition in before the Planning & Zoning Commission meeting, but that doesn't mean it's not valid.

In response to Vice-Mayor Newman, Ms. Daniel said that staff did not have an objection of rezoning PIN 6180 to RM-8; however, staff's recommendation stands at RM-16. She also noted that there may be a problem with the RM-8 designation due to a spot zoning issue and staff would need to consult with the City Attorney on that issue.

In response to Vice-Mayor Newman, City Attorney Oast said that the process would need to be started over (through the Planning & Zoning Commission) if Council considers any different zoning designation other than what has been advertised.

Mayor Bellamy said that members of Council have previously received copies of the ordinances and they would not be read.

Vice-Mayor Newman moved to rezone properties located on Caledonia Road and Finalee Avenue (per staff's recommendation) from Institutional District to RS-8 Residential Single-Family High Density District. This motion was seconded by Councilman Bothwell.

Vice-Mayor Newman felt the zoning classification is well justified and consistent with the City's Comprehensive Plan as well as the character of the neighborhood.

Councilman Russell could not support either of the requested rezonings as he felt this is a major property rights issue.

Councilman Smith hoped that staff will continue to identify areas that have incompatible zoning. He would support the motions due to density and uses allowed.

Councilman Davis felt this does amount to a property rights issue and in reality we are changing the rules in the middle of the game.

Councilman Bothwell was disappointed in the way Councilwoman Manheimer ultimately had to recuse herself due to a conflict of interest. He would support the motion.

Mayor Bellamy noted the first question to Council was what would they initially zone the property, noting there is an Urban Place District and a River District adjacent to the properties. She didn't think Council would have made that leap from those two districts to RS-8. Her experience is when there is a high density usage, staff transitions it to a medium density district toward the neighborhood. She felt RM-16 would be a better recommendation than RS-8 for the lower parts of the property. She hoped that the developer would work with the neighborhood as they seem to be open to residential uses on the property.

The motion made by Vice-Mayor Newman and seconded by Councilman Bothwell failed on a 3-3 vote, with Mayor Bellamy, Councilman Davis and Councilman Russell voting "no" (Councilwoman Manheimer was recused).

Councilman Bothwell moved to rezone properties located on Caledonia Road and Finalee Avenue (per staff's recommendation) from Institutional District to RM-16 Residential Multi-Family High Density District. This motion was seconded by Councilman Smith and failed on a 4-2 vote, with Councilman Davis and Councilman Russell voting "no" (Councilwoman Manheimer was recused).

At this time, Councilwoman Manheimer re-entered and participated in the remainder of the meeting.

### **Closed Session**

At 7:17 p.m., Councilman Smith moved to go into closed session for the following reasons: (1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in G.S. 143-318.11(a)(4); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Cherie Byrd; City of Asheville; Asheville Police Department; and Eric Lauffer. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:02 p.m., Councilman Russell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

### **C. PUBLIC HEARING ON THE FISCAL YEAR 2011-12 ANNUAL OPERATING BUDGET**

Director of Administrative Services Lauren Bradley said that the City Council conducts a public hearing each year to receive public input on budget issues before the Annual Operating Budget is adopted.

The Fiscal 2011/2012 Proposed Annual Operating Budget was presented to City Council on April 26, 2011. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on April 29 and May 6, 2011. Adoption of the Fiscal 2011/2012 Budget Ordinance is scheduled for May 24, 2011, at the regularly scheduled City Council meeting.

The Fiscal Year 2011/2012 Proposed Budget is balanced with an Ad Valorem tax rate of \$0.42 per \$100 of assessed value, which represents no change from the current year tax rate. All essential City services are continued in the Proposed Budget. A copy of the Proposed Budget is available for public inspection in the City Clerk's office. Also, the Proposed Budget is available for viewing on the City's website ([www.ashevillenc.gov](http://www.ashevillenc.gov)). In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the Proposed Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption, with the only exception being the Ad Valorem Tax rate, which can not be changed once the Budget is adopted.

Staff recommends City Council conduct the public hearing on the City of Asheville Fiscal Year 2011/2012 Proposed Annual Operating Budget and include public input in its consideration of the Budget.

City Manager was pleased to introduce Capt. Wade Wood, who will be Interim Police Chief effective May 12, 2011. Capt. Wood looked forward to serving the community and to move the Police Department forward.

Mayor Bellamy opened the public hearing at 8:07 p.m., and when no one spoke, she closed the hearing at 8:07 p.m.

Councilman Russell commended Council and staff on the numerous open worksessions and open meetings that have gone on to culminate in this public hearing.

Mayor Bellamy announced that adoption of the budget will occur on the May 24, 2011, meeting.

#### **V. UNFINISHED BUSINESS:**

##### **A. ORDINANCE NO. 3973 - ORDINANCE AMENDING THE FEES & CHARGES MANUAL TO INCREASE THE RECYCLING FEE**

Public Works Director Cathy Ball said that this is the consideration of an ordinance amending the Fees & Charges Manual to increase the recycling fee.

At the April 12, 2011, City Council meeting, staff recommended an increase in the recycling fee of \$0.65 per month or \$7.80 per year. The current fee is \$2.95 per month. Staff proposed that the additional fee would cover the following:

- o Allowing, but not requiring, residents to select a larger (95 gallon) recycling container; and,
- o Providing a marketing and rewards program, such as Recyclebank, for residents who participate in the recycling program.

Currently, residents can put all of their recyclables in one container. This process is known as “single stream recycling”. Additionally the City is working with our vendor to add materials like yogurt containers to the accepted materials list. Neither of these two enhancements requires a fee increase.

Council requested additional information regarding the options of offering residents a 95 gallon recycling container and/or a rewards program. Staff evaluated these two options separately and determined the cost for the programs shown in the table below.

<b>Option</b>	<b>Description</b>	<b>Cost Increase per year</b>	<b>City Savings per year</b>	<b>Net per year</b>	<b>Rate Increase per month</b>	<b>Rate Increase per year</b>
1	95 gallon container	\$220 K	\$105 K	(\$115 K)	\$0.35	\$4.20
2	95 gallon container + Recycling rewards program	\$343 K	\$130 K	(\$213 K)	\$0.65	\$7.80

The recycling rewards program currently being evaluated by the City is Recyclebank. Based on Recyclebanks evaluation of Asheville, residents who participate in the recycling program could be eligible for a discount on local and national business in the amount of \$90 to \$130 per year.

In April 2007, Asheville City Council passed a resolution committing to reduce the municipal carbon footprint 80% by the year 2050. To lead this strategic effort, Asheville developed a Sustainability Management Plan that was adopted by City Council. Solid waste was included as a focus area in the plan, along with a series of programmatic recommendations to reduce waste generation in Asheville in its FY 2010-11 strategic plan, Council specifically identified the reduction of solid waste as a top priority.

At the April 20, 2011, SACEE recommended approval of the 95 gallon containers with the recycling rewards program or Option 2 above.

If approved, staff would need six months before full implementation could take place. During those six months, the City would procure bins and all necessary equipment, finalize changes to the existing recycling contract and implement a community education initiative.

This action complies with City Council's Strategic Operating Plan under the Green and Sustainable Goal. Asheville will be the southeastern leader in clean energy and environmental sustainability by expanding community education programs and implementing ways to reduce city-wide solid waste.

Pros:

- Reduction of land filled solid waste
- Increased awareness of recycled material for residents
- Supports Council's sustainability goals

Cons:

- Cost per month per household will increase if either of the options is selected.

The incremental increase is outlined in the table above.

Ms. Ball clarified some points explaining what the changes are in the recycling and what the changes are in the amount of trash collected from the current and pilot program.

Staff recommends City Council amend the Fees and Charges Manual to increase the fee to provide for 95 gallon recycling carts and a recycling rewards program (\$0.65 increase from \$2.95 to \$3.60 per month). However, staff is also supportive of the \$0.35 increase from \$2.95 to \$3.30 per month (95-gallon container without recycling rewards program).

Ms. Ball responded to Councilman Bothwell regarding the basis of the recycling increase up 2% over time.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Manheimer moved for the adoption of Ordinance No. 3973 to amend the Fees & Charge Manual to increase the recycling fee from \$0.35 to \$3.60 per month (95-gallon container and recycling rewards program). This motion was seconded by Councilman Bothwell.

Councilwoman Manheimer felt there will be increased recycling with a recycling program in place.

When Mayor Bellamy asked for public comment, no one spoke.

In response to Councilman Davis, Ms. Ball said that this action does not commit the City to enter into a contract with Recyclebank. Provisions, including the term of the contract, for a reward program is still negotiable. Staff will come back to Council for authority to enter into a contract for a rewards program and also to amend the contract with our current recycling vendor. This action allows staff to have the funding available to start negotiating the terms of those contracts.

Councilman Davis didn't want to see the City commit to a long-term contract in that he was skeptical about the future use of coupons. However, he did support the increase of recycling.



Vice-Mayor Newman felt this is an innovative idea and compelling enough to give it a try. He wanted the negotiations to include strong performance criteria that if the program is not working then the City can get out of the contract sooner than later.

Councilman Smith was pleased that 80% of our residents already recycle (87% projection with the pilot program), so he was skeptical whether Recyclebank will be able to get us a lot further than that. However, he was not inclined not to support the Recyclebank portion because Asheville is already doing such a good job of recycling. As to marketing, we can be good if we try. He will support the motion; however, when the contract comes back he wanted to see some stellar projections and performance goals.

Councilwoman Manheimer hoped that in the future we could offer smaller trash cans for a decreased amount to incentivize people to recycle and a composting program.

In response to Vice-Mayor Newman, Ms. Ball said that does not recommend that this fee be effective immediately. It gives us the ability to start negotiations. If we do enter into an agreement with a rewards program, then we would look for the fee to start September 1, 2011. If we go with just the 95-gallon containers, we would look at an effective date of October 1, 2011.

Councilman Davis asked for a friendly amendment that we proceed with Option 1 (95-gallon container only – increase from \$2.95 to \$3.30) and look at the more fully vetted opportunities that the recycling rewards program can offer.

Councilwoman Manheimer suggested the friendly amendment be that Council approve Option 2 (95-gallon container with a recycling rewards program) conditioned upon approving a contract, but at the very least agree to Option 1. Councilman Bothwell agreed to the friendly amendment as described by Councilwoman Manheimer.

The amended motion made by Councilwoman Manheimer and seconded by Councilman Bothwell carried on a 6-1 vote, with Mayor Bellamy voting “no.”

#### **ORDINANCE BOOK NO. 27 – PAGE**

#### **B. RESOLUTION NO. 11-95 - RESOLUTION ACCEPTING THE REPORT PREPARED FOR THE SWANNANOA FLOOD RISK MANAGEMENT PROJECT**

Stormwater Services Manager McCray Coates said that this is the consideration of a resolution accepting the report prepared for the Swannanoa Flood Risk Management Project.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. The Biltmore Village area of the City of Asheville (within the Swannanoa River watershed) was named as a recipient of this funding. From December 2005 through August 2006 a planning study was conducted to identify and prioritize flood damage reduction projects for implementation in the community. This planning study was conducted by the N.C. Dept. of Environment and Natural Resources Division of Water Resources (DWR) and stakeholders from the Biltmore Village, City of Asheville and the Swannanoa watershed, with the assistance of a project consultant.

In September 2006, expenditure of funding for implementation of this Plan was reviewed without objections by the NC Government Operations Committee. This approval led to Council approval of a contract with Brown and Caldwell consulting engineers to oversee the Swannanoa Flood Risk Management Project and coordinate with the Army Corps of Engineers.

The purpose of the project was to identify additional the most cost effective measures to reduce the risk of flooding in the Swannanoa River watershed. The Feasibility Report is a decision document which considered the watershed modeling and economic analysis in identifying and prioritizing alternative measures.

Mr. Marshall Taylor, representing Brown and Caldwell, mentioned the following key objectives of the plan (1) to inventory the property within the floodplain and establish the relationship between severity of flooding and economic damages; (2) to develop realistic scenarios of future watershed and floodplain conditions; (3) to identify and evaluate projects that will reduce the risk of flooding to human life and property; and (4) to involve the public in every step of the project. If all the recommended project components are implemented at an estimated design and construction cost of \$7.6 Million, an estimated \$80 Million of flood damage reductions will occur over the next 50 years.

Within the scope of the project, over 50 potential flood reduction projects were identified and analyzed. From these analyses, a recommended plan was developed which calls for additional flood mitigation efforts to be implemented starting in 2011. The core of the recommended plan is the construction of three projects:

1. Rehabilitation and modification of Lake Craig Dam at Azalea Park;
2. Improvements to the rivers approach and exit from the Biltmore Avenue Bridge; and
3. Adoption of a Flood Operation Plan for the City of Asheville's Bee Tree Reservoir.

There are additional components of the recommended plan, including audible flood warning devices at key locations in the watershed and rehabilitation of Lake Tomahawk Dam. Council was provided with an executive summary of the Swannanoa Flood Risk Management Report.

He stated that the conclusions consist of: (1) the recommended plan reduces but does not eliminate the flood risk to human life and property. Flooding will continue to be a problem in the Swannanoa Valley and in Biltmore Village even after the plan is implemented; (2) it will take a great deal of cooperation and perseverance among the Swannanoa Valley communities to implement the recommended plan; and (3) continued community involvement is essential as the U.S. Army Corps of Engineers continues with planning, design, and implementation.

This action complies with the City's plans and commitments to administer \$2.5M of Senate Bill 7 funding consistent with a contract executed with the North Carolina Division of Water Resources on April 1, 2007. In addition, this project has complied with the Council's Strategic to provide a safe community for our citizens.

Pros:

- Approval of the report creates a strategic plan for future regional cooperation on priority projects.
- Priorities are set for expending the remainder of state flood mitigation funding and for pursuing future state and federal grant funding.

Cons:

- None identified.

This project has been funded by the State in compliance with the Hurricane Recovery Act of 2005. There is currently additional Senate Bill 7 funding available to move forward with top priority project in the report, the proposed Lake Craig project. City staff is working with the Army Corps of Engineers as well as the North Carolina Division of Water Resources to identify future funding for other projects recommended in this report. These sources would require matching

contributions from the City in order to secure these funds.

City staff recommends City Council adopt a resolution to accept the Swannanoa Flood Risk Management Project report as recommended by Brown and Caldwell.

Ms. Mary Leonard White, Chair of the Flood Damage Reduction Task Force, felt the study was thorough and thoughtful giving recommendations and options. She hoped Council will now feel prepared to make some difficult decisions and will move on some of the recommendations.

Mayor Bellamy thanked Ms. White and the entire Task Force for their hard work on this effort.

Mr. Taylor responded to some questions raised by Councilman Bothwell regarding impervious and pervious parking areas.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 11-95. This motion was seconded by Councilman Russell and carried unanimously.

#### **RESOLUTION BOOK NO. 34 – PAGE 7**

#### **VI. NEW BUSINESS:**

##### **A. RESOLUTION NO. 11-97 – RESOLUTION AUTHORIZING REVISIONS TO THE CITY'S CONSOLIDATED ANNUAL ACTION PLANS FOR 2011-12**

Community Development Director Jeff Staudinger said that the withdrawal of a funding request by an organization allocated HOME funds in this year's Action Plan creates an opportunity to provide additional support to the Eagle Market Place development.

On April 26, 2011, the Asheville City Council approved the Annual Action plan for CDBG and HOME Funds for 2011-2012. Included in that plan was funding of \$102,900 for the Gardens at English Village Elder Housing Development, a project of the Western Carolina Community Action (WCCA) to be located in Brevard.

WCCA has now withdrawn their request for HOME funding. The project was withdrawn because a private-sector tax-credit development proposed in Brevard received a significantly higher site score in the pre-application process. WCCA recognized that it was imprudent to continue to allocate resources to a project for which further funding this year was extremely unlikely.

WCCA also informed staff that a rental development project funded in the 2009 Action Plan for the Town of Rosman will not be able to move forward. \$95,000 of HOME funds allocated to this project is now available for reallocation.

In total, therefore, \$197,200 in HOME funds is available for reallocation. Reallocation of \$100,000 of these funds to the Eagle Market Place development could yield the project an additionally two points, enhancing its competitiveness and strengthening its financial position. The current allocation to the project is \$362,800. The developers, Mountain Housing Opportunities and Eagle Market Streets Development Corporation, have a final application deadline of May 13 for their tax credit and loan financing proposal to the North Carolina Housing Finance Agency.

Staff recommends the Council support the additional allocation of \$100,000 of HOME funds to the Eagle Market Place development, for a total HOME allocation to the project of \$462,800.

The Regional Housing Consortium was polled and there was a consensus to agree to this allocation, with the knowledge and consent that they would confirm this at their next meeting. They would also consider the allocation of the additional funds, most probably to projects happening outside of Asheville and Buncombe County.

When Mayor Bellamy asked for public comment, no one spoke.

Ms. Cindy Weeks, representing Mountain Housing Opportunities, was pleased to report that their Glen Rock project won the Sustainable Project of the Year award for the entire southeast by the Community Affordable Housing Equity Corporation. She thanked City Council for their support of the Eagle Market Place project.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Newman moved for the adoption of Resolution No. 11-97. This motion was seconded by Councilman Russell and carried unanimously.

#### **RESOLUTION BOOK NO. 34 – PAGE 9**

#### **B. RESOLUTION NO. 11-96 - RESOLUTION TO EXPLORE A MORE REGIONAL AND INTEGRATED TRANSIT SYSTEM**

Director of Transportation Ken Putnam said that this is the consideration of a resolution to explore a more regional and integrated transit system, as recommended by the Transit Commission after review of the Asheville-Buncombe-Henderson Regional Feasibility Study.

During November 2009, the N.C. Dept. of Transportation Public Transit Division contracted with HDR Engineering of the Carolinas and its partners to conduct a Regional Feasibility Study for public transportation in the City of Asheville, Buncombe County, and Henderson County.

The purpose of the subject study was to conduct an organizational review of the transit systems currently operating in Buncombe and Henderson Counties to determine the feasibility of establishing a closer working relationship. The work of the study was guided by a steering committee comprised of representatives from the major stakeholders.

HDR Engineering of the Carolinas presented the final report to City Council on September 28, 2010, and at that meeting, City Council, by common consent, received the report and requested the Transit Commission to review it and provide recommendations back to City Council for possible action.

The Transit Commission began the review process during their October 2010 meeting by receiving copies of the report and developing an action plan. After each of the members had time to review the report individually, they discussed it in detail during their January and February 2011 meetings. The following concerns and/or issues were identified:

- NCDOT prepared a study that was not requested locally and with no apparent political will to implement.
- The report seems to serve only NCDOT's interests.
- NCDOT has their own motivations for the report (they want to see a consolidated service).

- Although there might be a need for a report about consolidating services, this report is not the one.
- The report calls for additional services but does not include or ensure any new funding to implement it.
- Buncombe and Henderson Counties will never agree to anything that gives Asheville control, and Asheville is concerned about losing control of its system.
- The Asheville/Buncombe/Henderson systems are very different.
- How would the consolidation benefit the Asheville rider?
- NCDOT is asking too much for the local governments to agree with what is included in the report and to move ahead with it – this feels like a forced partnership.
- The Transit Master Plan is not adequately included or addressed.
- Asheville and Buncombe County are already working toward several things listed in the report to improve coordination – why force the issue through this report?
- The time table is too aggressive.

Despite the subject concerns and/or issues, there was overall agreement from the commission members that:

- Everyone could benefit from a truly regional transit system that includes other counties and other forms of transit like express buses. Several regional plans call for such a system.
- Land of Sky Regional Council and the French Broad River MPO could and should play a leading role in creating and funding a more regional system.
- Asheville and the public could benefit from a more seamless transit system that provides better service and connectivity.
- While another report might be better, there is not funding for it and it would be years before it could happen; meanwhile, we could be building toward a regional system.
- The informal ongoing work with Buncombe County to improve coordination could be more formalized.

After much discussion, the Transit Commission approved a resolution recommending using the regional feasibility report as an opportunity to call for a more regional system and to call on Land of Sky and the MPO to play a leading role in the planning and funding of such a system. The Transit Commission also recommends that City Council direct staff to work more intentionally with Buncombe County to implement common sense recommendations from the subject report in an effort to better coordinate Asheville Transit System and Mountain Mobility.

This action complies with the City Council Strategic Operating Plan in the fiscal responsibility focus area, the green and sustainable focus area, and the job growth and community development focus area by leveraging funding from the State and other funding sources for regional transportation improvements, operating the City of Asheville to the highest levels of fiscal responsibility, and creating partnerships between the City of Asheville and other organizations.

Pros:

- Explores options to provide a regional service and establishing a closer working relationship with Buncombe County.
- Might be an avenue to potentially increase transit-related revenue in order to create a more stable transit fund revenue source.

Con:

- None

There is no immediate fiscal impact regarding the recommended action.

The Transit Commission and City staff recommends City Council to adopt a resolution in favor of exploring a more regional and integrated transit system for the residents of Asheville and Buncombe County.

Councilman Smith, liaison to the Transit Commission, spoke in support of the resolution.

When Mayor Bellamy voiced concerns regarding the wording of the proposed resolution in that she felt the discussions with Land of Sky, Buncombe County and the Metropolitan Planning Organization should occur first before we ask for funds to be used to make this happen.

Councilman Smith moved to amend the proposed resolution addressing Mayor Bellamy's concerns (deletion of all but the first three "Whereas"s). This motion was seconded by Councilman Bothwell.

Ms. Julie Mayfield, Vice-Chair of the Transit Commission, explained why the wording in the proposed resolution read the way it did and hoped City Council would adopt a resolution to explore a more regional and integrated transit system.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

The motion made by Councilman Smith and seconded by Councilman Bothwell carried unanimously.

#### **RESOLUTION BOOK NO. 34 – PAGE 8**

#### **C. BOARDS & COMMISSIONS**

Regarding the Asheville-Buncombe Fair Housing Commission vacancies, at the recommendation of the Boards & Commissions Committee, it was the consensus of Council to postpone action on these seats for six months.

#### **RESOLUTION NO. 11-98 - RESOLUTION APPOINTING MEMBERS TO THE CIVIL SERVICE BOARD**

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the terms of Larry Harris and Jacquelyn Harris, as members on the Civil Service Board, expire on May 21, 2001.

The following individuals applied for vacancies on the Civil Service Board: Daniel Bradshaw, Flora Marr, Fred Cooke, Colleen Cody and Elizabeth Lynne Pou.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Larry Harris and Jacquelyn Hallum.

Councilwoman Manheimer disclosed that Mr. Harris is a member of her law firm and she would recuse herself from voting in this matter.

Councilman Bothwell moved to reappoint Larry Harris and Jacquelyn Hallum to each serve a two-year term respectively, term to expire May 21, 2013, or until their successors have been appointed. This motion was seconded by Councilman Smith and carried unanimously (Councilwoman Manheimer excused).

#### **RESOLUTION BOOK NO. 34 – PAGE 10**

**RESOLUTION NO. 11-99 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT**

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that the term Gary Hamrick (member with demonstrated interest in the field of energy management) on the Sustainable Advisory Committee on Energy & the Environment (SACEE) expired on December 31, 2010.

The following individuals applied for vacancies on the Sustainable Advisory Committee on Energy & the Environment: Charles Rosenblum, Parker Spears, Jeremiah Smith Hobie Orton, Michael Leahey, Josh O'Conner, William Hutchings, Isaac Savage and Torin Kexel.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended appointing Isaac Savage.

Councilman Russell moved to appoint Isaac Savage to serve a three-year term, term to expire December 31, 2013, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

**RESOLUTION BOOK NO. 34 – PAGE 11**

**ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION**

Vice-Mayor Newman, Chairman of the Boards & Commissions Committee, said that Amanda Warren has resigned as a member of the Asheville-Buncombe Historic Resources Commission, thus leaving an unexpired term until July 1, 2012. In addition, on July 1, 2011, the terms of Diane Duermit and Hillary Cole will expire. The Boards & Commissions Committee felt it would be appropriate to roll those into this appointment process.

The following individuals applied for a vacancy on the Historic Resources Commission: Allen Currens, Jay Lively, Randall C. Hall, Brian Cook, Jay Marino and Brendan Ross.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Hillary Cole and to interview for the other remaining seat.

City Council instructed the City Clerk to arrange interviews for Allen Currens, Randall C. Hall, Brian Cook and Brendan Ross.

Councilman Smith moved to reappoint Hillary Cole to serve an additional three-year term, term to expire July 1, 2014, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Councilman Smith encouraged everyone to observe and take advantage of free bus fare during Drive Not To Drive Week on May 16-2.

Councilman Smith was pleased to note that Asheville was crowned Beer City US for the 3<sup>rd</sup> year in a row.

Mayor Bellamy urged everyone to place non-perishable items in their mailboxes on May 14, 2011, for Stamp Out Hunger Day.

Councilman Davis announced the big Manna Food Bank fundraiser the first Saturday in June.

The following claims were received by the City of Asheville during the period of April 1 – 28, 2011: Mark Chittick (Fire), David Patterson (Parking Services), Betty J. Daughtridge (Water), Charles Bronson (Water), Creekside Homeowners Association (Sanitation), Sherah Linebaugh (Water) and Paul Fleischer (Sanitation). These claims have been referred to Asheville Claims Corporation for investigation.

**VIII. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 9:16 p.m.

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CITY CLERK

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MAYOR