

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor R. Carl Mumpower; Councilwoman Terry M. Bellamy; Councilman Jan B. Davis; Councilman Joseph C. Dunn; Councilwoman Diana Hollis Jones; Councilman Brownie W. Newman; City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

Retired U.S. Marine Corp Veteran Charles Sherlin led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilman Dunn gave the invocation.

**ADDITION TO THE AGENDA**

Mayor Worley asked that an item be added under “New Business” regarding asking the N. C. Dept. of Transportation to rename “Amboy Road” to “Bob Pressley Memorial Roadway.”

Mayor Worley asked that an item be added under “New Business” regarding an appropriation to the Grove Arcade in the amount of \$25,000.

**I. PROCLAMATIONS:**

**A. RESOLUTION NO. 04-123 - RESOLUTION EXTENDING AN INVITATION TO THE CITY OF KARPENISI, GREECE, TO BECOME A SISTER CITY AND INVITING THE PEOPLE OF KARPENISI, GREECE, TO PARTICIPATE IN THE ASHEVILLE SISTER CITIES PROGRAM**

Mayor Worley was pleased to announce Asheville’s newest Sister City – Karpenisi, Greece.

Mr. Ken Richards, State Coordinator for Sister Cities International, thanked City Council for their support of the Sister Cities Program and announced the 100<sup>th</sup> anniversary of the Greek community in Asheville.

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

Vice-Mayor Mumpower moved to adopt Resolution No. 04-123. This motion was seconded by Councilwoman Bellamy and carried unanimously.

**RESOLUTION BOOK NO. 28 – PAGE 270**

**II. CONSENT AGENDA:**

Councilwoman Bellamy asked that Consent Agenda “L” be removed from the Consent Agenda for an individual vote.

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**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 25, 2004**

**B. RESOLUTION NO. 04-124 - RESOLUTION AMENDING INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO PROVIDE FOR PARKING REGULATION ENFORCEMENT ON COUNTY FACILITIES WITHIN THE CITY**

Summary: The consideration of a resolution amending an interlocal agreement for parking enforcement on County-owned lots within the City.

In August of last year, the City and Buncombe County entered into an interlocal agreement whereby the City enforced County parking regulations on County-owned/operated parking facilities within the City. The agreement included a list of the facilities where the City was authorized to do this.

The County wishes to add another lot to the list of those where the City enforces the regulations, and may wish to add others in the future. The resolution authorizes the August 2003 agreement to be amended so that facilities can be added by agreement of the City and County staff, without going through the formal amendment process, which would require governing body approval.

Our staff has reviewed the proposed change and has no objection to it.

Considerations:

- This amendment streamlines an existing agreement that is already working well.

If the Council approves of amending the agreement, adoption of the resolution amending an interlocal agreement for parking enforcement on County-owned lots within the City is recommended.

#### **RESOLUTION BOOK NO. 28 – PAGE 271**

#### **C. RESOLUTION NO. 04-125 - RESOLUTION AUTHORIZING THE CHAIRMAN OF THE ASHEVILLE REGIONAL AIRPORT AUTHORITY TO EXECUTE A GRANT AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR IMPROVEMENTS TO THE ASHEVILLE REGIONAL AIRPORT**

Summary: The consideration of a resolution with the N.C. Dept. of Transportation for matching funds for improvements to the Asheville Regional Airport.

The City is required by law to execute certain contracts and agreements for the Airport Authority. This grant agreement is to allow the Authority to receive additional matching funds from the N. C. Dept. of Transportation (“DOT”) for the following project:

- AIP 28: Runway 34-16 Blast Pads, Snow Removal Equipment, Resurface Taxiways, Southeast ARFF Road Culvert Replacement, Baggage Claim Expansion (portion), Hold Room (portion)

The grant, in the amount of \$171,413, has been approved by DOT based on a total estimated cost of \$3,428,261.

City staff recommends adoption of the resolution with the N.C. Dept. of Transportation for matching funds for improvements to the Asheville Regional Airport.

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#### **RESOLUTION BOOK NO. 28 – PAGE 272**

#### **D. RESOLUTION NO. 04-126 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A TEMPORARY SERVICES AGREEMENT WITH FORSYTH INITIATIVE FOR RESIDENTIAL SELF-HELP TREATMENT INC.**

Summary: The consideration of a resolution authorizing the City Manager to enter into a Temporary Services Agreement with Forsyth Initiative For Residential Self-Help Treatment, Inc. (F.I.R.S.T.) for temporary workers.

The City of Asheville requires temporary workers throughout the budget year for seasonal workloads in the Public Works Department (Sanitation Division), and the Civic Center. This agreement is a collective contract for all City Departments.

F.I.R.S.T. is a non-profit organization that provides counseling to individuals and provides these individuals with opportunities to learn new skills through job placements with various organizations. The City of Asheville has utilized F.I.R.S.T staff for the past two years with excellent results.

Benefits to contracting with FIRST, Inc. include reduced costs in recruiting, hiring, and benefits for full-time workers. There is also a savings realized in management costs. The City is guaranteed all FIRST personnel requested, enabling operations to be fully productive at all times.

A negative aspect of using FIRST, Inc. is that the City of Asheville must negotiate an annual contract for this service.

City staff recommends approval of a resolution authorizing the City Manager enter into a Temporary Services Agreement with Forsyth Initiative For Residential Self-Help Treatment, Inc. for temporary workers.

**RESOLUTION BOOK NO. 28 – PAGE 273**

- E. RESOLUTION NO. 04-127 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON JULY 13, 2004, TO CONSIDER THE CLOSING OF NELSON STREET**

**RESOLUTION BOOK NO. 28 – PAGE 274**

- F. RESOLUTION NO. 04-128 - RESOLUTION TO PURCHASE REAL PROPERTY ON CAUBLE STREET AT THE FAIR MARKET VALUE FOR THE REED CREEK GREENWAY PROJECT**

Summary: The consideration of a resolution to purchase real property on Cauble Street from BATT Associates Inc. at the fair market value of \$31,100 for the Reed Creek Greenway project.

The property on Cauble Street (owned by BATT Associates) is located about 200' west of the intersection of Cauble Street and Broadway. It is irregular in shape following the meandering of Reed Creek and containing approximately 0.32 acre. It is generally level with the street and forms a grassy plain along the bank of the creek. Its highest and best use per the appraisal is residential as permitted by the zoning. It is proposed to be acquired as part of the Reed Creek Greenway.

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The property was appraised by Joseph Moore and Joel B. Dew, MAI. Ed Vess, Real Estate Manager, reviewed the appraisals. The recommended fair market value of the property is \$31,100.

The positive aspects of the proposed acquisition are:

1. Offers a superior and more practical path compared to the land currently owned by the City on the east side of Reed Creek.
2. The savings realized in not having to build a bridge across the creek meeting ADA guidelines will offset the cost of the property.
3. Will expedite completion of the Reed Creek Greenway because a bridge will not be required.
4. It is a voluntary sale at fair market value.
5. Includes only the land necessary for the greenway leaving the owner with two good home sites.
6. Will free up a parcel for possible disposition once a parking area for the Greenway is selected.

The negative aspects are:

1. Removes property from the tax base.
2. Removes a residential lot from the market.

Approval of the resolution will establish \$31,100 as the just compensation for the property and accept the Offer of Sale of Land from BATT Associates, Inc. for that amount.

Planning & Development staff and Parks & Recreation staff recommend adoption of the resolution accepting an Offer of Sale for land on Cauble Street which is needed for the Reed Creek Greenway for the sum of \$31,100.

**RESOLUTION BOOK NO. 28 – PAGE 275**

- G. RESOLUTION NO. 04-129 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A 60-DAY EXTENSION OF AN AGREEMENT WITH THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY TO PROVIDE REGIONAL HAZARDOUS MATERIALS EMERGENCY RESPONSE FOR REGION 6**

Summary: The consideration of a resolution authorizing the City Manager to enter into a 60-day extension of an agreement with the N.C. Dept. of Crime Control and Public Safety to provide regional hazardous materials emergency response for Region 6.

The N.C. Dept. of Crime Control and Public Safety is in the process of extending contracts by 60 days with seven North Carolina governmental units in North Carolina for provision of regional hazardous materials emergency response. The City of Asheville has been a regional hazardous materials provider since Fiscal Year 1994-1995. The State of North Carolina provides funding that fully supports the operational costs of the program.

North Carolina is divided into seven geographical regions for the purpose of hazardous material emergency response. The N. C. Dept. of Crime Control and Public Safety contracts with municipalities across North Carolina to respond into the geographical regions and provide technician level hazardous materials emergency response. The region six area encompasses the westernmost twenty counties.

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PROS:

- The State of North Carolina provides the hazardous materials response truck, all response equipment and provides for administrative costs of operating the team. In addition, the state funds extensive training for members of the Asheville Fire and Rescue Department to enable us to competently handle hazardous materials emergencies.
- The City of Asheville has full use of the truck and all specialty equipment within the City of Asheville. Without the state hazardous materials contract, Asheville taxpayers would need to provide much of resources necessary to properly respond to emergencies within Asheville. With the contract, we have the advantage of the equipment and resources being funded at the state level, rather than at the local level.
- During the ten years that we have provided regional hazardous materials response services, we have not experienced difficulties or disadvantages with the program. This program is also consistent with the City's Strategic Operating Plan in partnerships.

CONS:

- None have been identified or known at this time.

City staff recommends City Council authorize the City Manager to enter into a 60-day extension of an agreement with the N.C. Dept. of Crime Control and Public Safety to provide regional hazardous materials emergency response for region 6.

**RESOLUTION BOOK NO. 28 – PAGE 276**

**H. RESOLUTION NO. 04-130 -RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH DIXON HUGHES PLLC FOR AUDITING SERVICES FOR FISCAL YEAR 2003-04**

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Dixon Hughes PLLC, Certified Public Accountants and Advisors, for auditing services for Fiscal Year 2003-2004.

N.C. General Statute Section 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1998, the City solicited proposals from 36 accounting firms to perform the City's annual audit. City Council selected Dixon Hughes PLLC, formerly known as Crisp Hughes Evans LLP, to conduct the Fiscal Year 1997-98 audit and has re-engaged them annually through Fiscal Year 2002-2003. They completed all of those engagements in a satisfactory manner and have now submitted an engagement letter for the Fiscal Year 2003-2004 audit. The base fee has been proposed at \$66,800. Funds are appropriated in the budget of the Accounting Division of the Finance Department.

City staff recommends City Council adopt the resolution which authorizes the Mayor to execute a contract with Dixon Hughes PLLC for auditing services for Fiscal Year 2003-2004.

**RESOLUTION BOOK NO. 28 – PAGE 277**

**I. RESOLUTION NO. 04-131 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE AMBOY ROAD TO HOMINY CREEK ROAD GREENWAY CONNECTOR PROJECT**

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Summary: The consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N. C.

Dept. of Transportation (NCDOT) for construction of a multi-purpose greenway facility from Amboy Road to Hominy Creek Park, and to amend the budget to accommodate up to \$300,000 in reimbursements revenue from NCDOT for the project.

The City of Asheville has an allocation of \$300,000 in construction funds from NCDOT to construct a greenway along the French Broad River from Amboy Road to Hominy Creek Park, overlapping Metropolitan Sewer District and Progress Energy easements. This portion of the City Greenway Master Plan will link the French Broad River Greenway and Park system to Hominy Creek Road and West Asheville. While no local match for these funds is required up front, the City is responsible for land/right-of-way acquisition, trail design and engineering, and any construction costs over the \$300,000.

City staff provided an update on this project to Council on February 17, 2004, and has since completed a survey of the project area and met with key landowners. Staff will continue to work with landowners to secure needed right-of-way, to develop easement agreements with the Metropolitan Sewage District and Progress Energy, and to finalize the trail design.

The positives of this project are that:

- The execution of a Municipal Agreement releases \$300,000 in reimbursement dollars to the City for implementation of the Greenway Plan;
- This portion of Greenway will connect West Asheville neighborhoods to the larger Greenway System along the French Broad River;
- This project will clean up and maintain an area along the river which has long attracted pedestrians and fisherman, making it safer and easier to patrol; and
- This project will establish a greenway that will be integrated into the I-240 widening project.

The potential negatives of this project are that:

- The execution of the Municipal Agreement will bind the City to complete construction within a three-year period and to cover any construction costs over the \$300,000; and
- The City will need to work with multiple landowners to obtain the required right-of-way. This will require expenses for Phase I studies, appraisals, legal fees, and possibly out-right purchase of property in cases where the landowners will not dedicate or donate the needed area.

Staff recommends that City Council authorize the City Manager to execute the municipal agreement with the N.C. Dept. of Transportation for construction of a multi-purpose greenway facility from Amboy Road to Hominy Creek Park and to amend the budget to accommodate up to \$300,000 in reimbursement revenue for trail construction.

#### **RESOLUTION BOOK NO. 28 – PAGE 278**

#### **J. ORDINANCE NO. 3124 - BUDGET AMENDMENT FOR THE AMBOY ROAD TO HOMINY CREEK ROAD GREENWAY CONNECTOR PROJECT**

Summary: See Consent Agenda Item "I" above.

#### **ORDINANCE BOOK NO. 21 – PAGE**

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#### **K. APPROVE FORM OF ORDINANCE NO. 3116 – ORDINANCE AMENDING THE CONDITIONAL USE PERMIT OF APPELDOORN CONDOMINIUMS LOCATED AT 200 BROOKLYN ROAD**

Summary: The consideration of an ordinance amending the Conditional Use Permit for Appledorn Condominiums.

At its May 11, 2004, meeting, Council indicated that it wished to amend the Conditional Use permit for Appledorn Condominiums to delete the requirement for the developer to contribute \$500 per unit for traffic calming, and that the City would implement whatever traffic calming measures were determined to be necessary. Council also indicated that the guidelines for affordability with respect to the units to be constructed should be clarified.

The ordinance amends the Conditional Use Permit issued on August 13, 2002, to address these two issues.

If Council approves of the amendments as set forth in the ordinance, adoption of the ordinance is recommended.

**L. RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ARDEN/BILTMORE ROTARY CLUB FUNDRAISER AT THE ROYAL PINES PARK ON JULY 3, 2004**

This item was pulled from the Consent Agenda for an individual vote.

Mayor Worley 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.

Councilwoman Bellamy moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Jones and carried unanimously.

**ITEM PULLED FROM THE CONSENT AGENDA**

**RESOLUTION NO. 04-132 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ARDEN/BILTMORE ROTARY CLUB FUNDRAISER AT THE ROYAL PINES PARK ON JULY 3, 2004**

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Arden/Biltmore Rotary Club Fundraiser at Royal Pines Park on July 3, 2004.

The Arden/Biltmore Royal Club has requested through the Asheville Parks and Recreation Department that City Council permit them to serve beer and/or unfortified wine at their Fundraiser at the Royal Pines Park and allow for consumption at this event.

The Arden/Biltmore Royal Club Fundraiser is a fundraiser for the 100-year celebration of Rotary International. The funds raised will be used to construct a gazebo at Royal Pines Park.

City staff recommends City Council approve the resolution to authorize the possession of malt beverages and/or unfortified wine for the above-mentioned event at specific locations and times noted in the resolution.

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Vice-Mayor Mumpower moved for the adoption of Resolution No. 04-132. This motion was seconded by Councilman Dunn and carried on a 6-1 vote, with Councilwoman Bellamy voting "no."

**RESOLUTION BOOK NO. 28 – PAGE 279**

**III. PUBLIC HEARINGS:**

Mayor Worley said that Mr. Bob Deutsch, attorney for the petitioners requesting rezoning of 53 and 51 Arlington Street, notified the City on June 4, 2004, that the petitioners are dropping their applications for rezoning (Public Hearings "B" and "C").

**A. PUBLIC HARING TO CONSIDER THE CLOSING OF A PORTION OF REED STREET**

**RESOLUTION NO. 04-133 - RESOLUTION TO CLOSE A PORTION OF REED STREET**

Mayor Worley opened the public hearing at 5:16 p.m.

Assistant Public Works Director David Cole said that this is the consideration of a resolution to close a portion of Reed Street. This public hearing was advertised on May 14, 21, 28 and June 4, 2004.

N. C. Gen. Stat. sec. 160-299 grants cities the authority to permanently close streets and alleys without regard to whether they have actually been opened.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville permanently close to public use as a public street a portion of Reed Street.

Closure of this section of right-of-way will have no impact on the ingress and egress for any of the abutting properties. There are two lots that abut this section of right-of-way. They are identified by PIN Nos. 9647.12-86-0434 and 9647.12-86-4339.

Mr. Cole said that this closing is subject to the retention of easements extending the full length and width of said portion of Reed Street by Progress Energy, PSNC Energy, BellSouth, Charter Communications, and the City of Asheville Water Department for the operation and maintenance of public utilities.

City staff recommends that City Council adopt the resolution to close a portion of Reed Street.

Dr. William Chambers spoke in support of the closing of a portion of Reed Street and responded to Councilwoman Jones' inquiry of how this closing connects with the larger community goal of better exiting onto Hendersonville Road.

Mayor Worley closed the public hearing at 5:18 p.m.

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

Councilman Dunn moved for the adoption of Resolution No. 04-133. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

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#### **RESOLUTION BOOK NO. 28 – PAGE 281**

#### **B. PUBLIC HEARING TO CONSIDER THE REZONING OF 53 ARLINGTON STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT**

Mayor Worley said that Mr. Bob Deutsch, attorney for the petitioners requesting rezoning of 53 and 51 Arlington Street, notified the City on June 4, 2004, that the petitioners are dropping their applications for rezoning (Public Hearings "B" and "C").

#### **C. PUBLIC HEARING TO CONSIDER THE REZONING OF 51 ARLINGTON STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT**

Mayor Worley said that Mr. Bob Deutsch, attorney for the petitioners requesting rezoning of 53 and 51 Arlington Street, notified the City on June 4, 2004, that the petitioners are dropping their applications for rezoning (Public Hearings "B" and "C").

#### **D. PUBLIC HEARING TO CONSIDER THE CONDITIONAL USE REZONING OF PROPERTY LOCATED AT 673 SAND HILL ROAD FROM RM-6 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL USE; AND THE ISSUANCE OF A CONDITIONAL USE PERMIT TO CONSTRUCT 12 ADDITIONAL APARTMENTS IN ADDITION TO THE 11 EXISTING APARTMENTS**

**ORDINANCE NO. 3125- ORDINANCE REZONING PROPERTY LOCATED AT 673 SAND HILL ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL USE**

**ORDINANCE NO. 3126- ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 673 SAND HILL ROAD TO CONSTRUCT 12 ADDITIONAL APARTMENTS IN ADDITION TO THE 11 EXISTING APARTMENTS**

Oaths were administered to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process by stating that this is a two-part process. It requires rezoning, which is a legislative act, and the issuance of a conditional use permit, which is a quasi-judicial site-specific act. Even though the public hearing on those two items will be combined, all the testimony needs to be sworn and two votes will need to be taken. The first vote will be to grant the rezoning to the conditional use district category and the second vote will be to issue the conditional use permit. If Council runs into a situation that it votes to rezone, Council doesn't have to issue the conditional use permit on the same night.

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:22 p.m.

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.

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

Urban Planner Carter Pettibone submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Mr. Pettibone said that this is the consideration of a request to rezone property located at 673 Sand Hill Road from RM-6 Residential Multi-Family Low Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Use; and the issuance of a conditional use permit to construct 12 additional apartments in addition to the 11 existing apartments.

The Asheville City Development Plan 2025 (ACDP 2025) specifically calls for an initiative to address the problem of affordable housing by increasing the supply of affordable housing units.

The property is located within the City limits on the north side of Sand Hill Road south of Smoky Park Highway. Surrounding land uses and zoning include single-family residences to the north and west, vacant property to the east, and a church to the south, all of which are zoned RM-6. The site is landlocked and is located directly behind a church property, which has frontage on Sand Hill Road. Access is from a road that crosses the church property. There are currently 11 multi-family units on the property contained in three buildings.

The applicant, Anthony Willis, wishes to obtain a conditional use rezoning in order to exceed the maximum density permitted by the RM-6 district. The property is 3.29 acres, which would yield a total of 20 units. The applicant is proposing 23 multi-family units, which would require an RM-8 designation due to size of the size of the property. The applicant also plans to rent out the units within the development at rents that fall within the City's guidelines for affordable housing.

Highlights of the proposed site plans and building elevations for the development include:

Access & Parking: The site's access is from Sand Hill Road through the church property to the south. Parking is provided in front of the proposed buildings and to the sides of the existing buildings. The proposed number of spaces falls within the limits stated in the Unified Development Ordinance (UDO).

Height and Building Dimensions: The proposed apartment buildings as well as the existing ones are two stories in height and appear to be less than the 40-foot height maximum for the RM8 District.

Open Space: The UDO requires 500 square feet of open space for every residential unit proposed. This would result in a total of 11,500 square feet required for reservation as open space for the 23 multi-family units. While the site plan mentions over 20,000 square feet of open space, the plan must clearly delineate the open space and provide a more accurate total.

Landscape & Buffering: Buffering is required on all sides with a 15-foot type "A" buffer to the south and 20-foot type "B" buffers to the east, north, and west. Landscaping is required around the off-street parking areas.

Street Trees: The UDO requires that new developments provide one large maturing tree (over 35 feet in height at maturity) for every 40 linear feet of property abutting a street. The development must have these street trees along the access road through the development.

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Sidewalks: The UDO requires sidewalk installation along the frontage of all streets. The applicant has proposed installing a sidewalk along the entrance street from Sand Hill Road to the apartment buildings on the site.

The Technical Review Committee (TRC) reviewed the proposed site plan and recommended approval with conditions. The applicant has revised the site plan to address a number of the conditions, but some conditions are still outstanding. The following is a list of the outstanding conditions listed by department:



## PLANNING

- Parking and vehicular use areas to be calculated for entire site and planted with corresponding parking lot landscaping per Article 11.
- Open space to be calculated for entire 23 units (23 x 500 = 11,500 square feet or 0.26 acres) and delineated on plan.

## WATER RESOURCES

- The owner needs to make application for a Letter of Commitment (LOC) regarding water availability.

## ENGINEERING

### Stormwater/Erosion Control information:

- Provide a location map.
- Storm water and Erosion Control Plans will be required. Storm water control design must show the post development run off is equal to or less than pre development rates. The design shall be developed for a 2 and 10-year storm event and providing for a 50-year emergency overflow.
- If the entire project is being graded under the original submittal the City will provide individual grading permits for each site so that each house can obtain a certificate of occupancy upon completion without having to wait until the end of the project.
- NPDES – Non point source discharge permit is required for any land disturbance over 1 acre. DENR regulates the permit. The City of Asheville is delegated to issue the permit and will once the Erosion Control Plans are reviewed and approved for construction.

### Traffic engineering information:

- Details required for roadway construction.
- Sidewalks along private road & Sand Hill Road property frontage.
- Clarify the ownership of the roadway to the site
- State driveway access application and City of Asheville driveway access application will be required for construction of the proposed entrance/exit onto Sand Hill Road.

### Waterline information:

- Apply for Water Availability through the City of Asheville Water Resource Department.

## MSD

- To reach the existing MSD sewer line, the developer will have to obtain an off-site easement and Install an 8-inch sewer extension per MSD standards. It is noted that an appropriate easement will have to be secured for this new line.
- MSD recommends approval for this project contingent upon the MSD wastewater allocation and plan review process being properly completed by the developer.

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The Asheville City Council shall not approve the conditional use application and site plan unless and until it makes the following findings, based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case:

1. That the proposed use or development of the land will not materially endanger the public health or safety:

The project received conditional technical approval from the Water Resources Department, the Fire Department, MSD, Engineering, and other City Departments. The project must meet the technical standards set forth in the UDO, the Standards and Specifications Manual, the North Carolina Building Code and other applicable laws and standards that protect the public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural and 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 project must comply with all City standards in regards to maximum clearing and grading, erosion control, and maximum slope for streets. The applicant also proposes to preserve a significant sloping, wooded area to the rear of the property that adjoins a

creek as an open space area.

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

There is no evidence that the additional development will substantially injure the value of adjoining or abutting property given the existing site development and that of surrounding properties.

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:

The applicant plans to demonstrate that the resulting development will be in harmony with the surrounding neighborhood in terms of bulk, density, and character.

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

The proposed development will comply with all applicable UDO and Standards and Specifications requirements, as well as any of the City's other plans and policies. The development will help satisfy the ACDP 2025 plan goal of increasing the supply of affordable housing.

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

-  
The project received technical approval from the Technical Review Committee, which includes representatives of the Water Resources Department, MSD, Engineering, the Fire Department, and Public Works.

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

The project received technical approval from the Technical Review Committee, which includes the City Traffic Engineer, who did not raise comments or concerns in regards to possible undue traffic congestion from the development.

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Advantages (Pros) of the proposed development

- Provides for infill multi-family residential on a site already dedicated to that use.
- Increases the supply of affordable multi-family units as the units are proposed to be rented at rates within the City's affordability guidelines.
- The site plan calls for the portion of the site nearest to the stream to the rear to be preserved as open space

Disadvantages (Cons)

- The proposed site plan does not clearly delineate nor specify exactly how much open space will be dedicated.

In consideration of the above and the adjoining zoning and land uses, the proposed zoning change appears to be consistent with the intent and purpose of the UDO for consideration of a conditional use rezoning from RM-6 to RM-8/Conditional Use and the issuance of a conditional use permit for 12 additional multi-family units.

Staff recommends approval of the rezoning and the issuance of a conditional use permit with the following conditions:

- All outstanding TRC conditions (outlined above by department) are addressed and detailed plans are reviewed by TRC after approval by City Council.
- The applicant works with staff to determine final amount and location of open space.
- The existing and proposed multi-family residential units are to remain affordable.

The Planning and Zoning Commission, by a vote of 6-0 at its June 2, 2004, meeting, recommends approval as well.

Mayor Worley closed the public hearing at 5:26 p.m.

Councilwoman Bellamy wanted to make sure that there was legal access to the road.

Councilwoman Bellamy moved for the adoption of Ordinance No. 3125 to rezone property located at 673 Sand Hill Road from RM-6 Residential Multi-Family Low Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Use. This motion was seconded by Councilwoman Jones and carried unanimously.

#### **ORDINANCE BOOK NO. 21 – PAGE**

Councilwoman Bellamy moved for the adoption of Ordinance No. 3126 granting a conditional use permit for property located at 673 Sand Hill Road for the construction of 12 additional apartments in addition to the 11 existing apartments, subject to the following conditions: (1) All outstanding TRC conditions (outlined above by department) are addressed and detailed plans are reviewed by TRC after approval by City Council; (2) The applicant works with staff to determine final amount and location of open space; and (3) The existing and proposed multi-family residential units are to remain affordable. This motion was seconded by Councilwoman Jones and carried unanimously.

#### **ORDINANCE BOOK NO. 21 - PAGE**

#### **E. PUBLIC HEARING ON THE FISCAL YEAR 2004-05 ANNUAL OPERATING BUDGET**

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Mayor Worley opened the public hearing at 5:29 p.m.

Budget Director Ben Durant 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 Year 2004/2005 Annual Operating Budget was presented to City Council on May 3, 2004. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the Public Hearing was published on May 28 and June 4, 2004. Adoption of the Budget Ordinance is scheduled for June 22, 2004, at the City Council meeting.

The Fiscal Year 2004/2005 Annual Operating Budget is balanced with an Ad Valorem Tax rate of \$0.53 per \$100 assessed value.

A copy of the Budget is available for public inspection in the City Clerk's Office. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the 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 cannot be changed once adopted.

City staff requests City Council conduct the public hearing on the City of Asheville Fiscal Year 2004/2005 Annual Operating Budget and include public input in consideration of the budget.

Mr. Mike Marshall, Captain in the Asheville Fire Department and President of the Asheville Firefighters Association, spoke in support of the City Manager's budget, in particular the employee benefits.

Mr. Fred English spoke regarding the Hard Drug Interdiction Proposal and the Safe Neighborhoods Initiative. He felt that the increase in recycling fees was in fact a tax increase. He supported the need for additional police officers. He didn't feel that giving people money will make them want to go to school, but instead suggested the education money be spent towards educating unwed mothers. In addition, he didn't think the any funds should be distributed for affordable housing in the housing projects.

Mr. Bob Smith, Executive Director of the Asheville-Buncombe Community Relations Council, voiced concern that the public is viewing the people who live in public housing as "those" people, but we need to realize that we are all the same people. Regarding the two proposals developed by Council, he felt that Council should have gone to the neighborhoods involved to ask them what the real issues are and to ask them what they think is important. He urged Council to take the time and energy to meet with the communities involved so that there is a buy-in and a good solid foundation on which to work on.

Mr. Ken Putnam, Traffic Engineer for the N.C. Dept. of Transportation, asked City Council for their support for the Yorkshire Street widening.

Ms. DeAnn Robinson, resident at Lee Walker Heights Apartments, supported the Safe Neighborhood Initiative Program. She suggested the money be used for summer programs and jobs for our youth, computers in all community centers and tutors for

our children. In addition, she felt it was inappropriate for the news media to come into Lee Walker Heights and talk to the children without having parental consent (from a safety standpoint). She also felt it was not appropriate for the police officers to jump out at night, scattering playing children, running through the projects with guns drawn. That is something that should be researched further. She also felt that Council needs to sit down with the neighborhoods as well to find out what they need and want.

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Ms. Althea Goode, public housing advocate, agreed with Mr. Smith in that people are always coming into their communities telling them how to live. Officials need to talk to them first because they too pay taxes.

Mr. James Sheeler, West Asheville resident, suggested the \$1 Million go towards reinstating the summer job program and making it a year-round program that would employ people to work after-school.

Ms. Luella Whitmire Reeves said that through the Housing Authority, she has allowed her to reach people on the streets and the people in the projects to bring them to church. It has made a positive difference. She explained that if people have something to do, they wouldn't be doing the things they shouldn't be doing. She urged City Council to reinstate the summer jobs program.

Mr. Iver Thomas said that the drug program can be solved by tough police action; however, he is not in favor of the jump-outs by the police officers. He would prefer to see a reverse sting where the customers are arrested. He believed our residents in public housing should be treated with dignity and respect and their desires should be paramount in any action taken. He suggested we look at other cities that have been successful through their tough police action. He was also in support of the Hard Drug Interdiction proposal. He felt the Safe Neighborhood Initiative, as written, is not enough and is too late.

Mr. Alan Ditmore felt that the core services of a city is to tax the rich and meet human needs. Health care and housing are the most unmet human needs. The City insists on leaving health care to the County and augment the Police Department. He feels the City should not be using local funds to enforce state and federal drug laws.

Mr. Fisher Caudle, representing property owners on Kentucky Drive and Buttonwood Court, felt that government is not here to create jobs for people. He explained how the area around Pisgah View Apartments has been severely affected by drug traffic in and out of the area. They continue to be harassed daily by drug thugs. He urged the public housing residents to rise up and make their voices heard about how they want to restore safety to their communities. He spoke in support of the Hard Drug Interdiction program.

Ms. Minnie Jones, public housing advocate, spoke about the drug thugs who are driving expensive cars into their neighborhoods. She felt we needed to get rid of those hoods and head them off up on Haywood Road, down on I-26 or I-40, and then Pisgah View Apartments wouldn't have the drug thugs standing on the corner.

Mr. H.K. Edgerton, President of the N.C. Heritage Preservation Association, said there is a loss of African American principals and teachers. He felt that there should be tough police action towards the people who bring the drugs into our neighborhoods. He suggested African American ministers open up their churches and start home schooling the children.

Mr. Isaac Coleman, President of the Buncombe County African American Caucus of the Democratic Party, said that the first police team at Hillcrest was successful in that they stopped the expensive vehicles and people who wanted to buy drugs from coming into Hillcrest. He couldn't understand why they don't want to use that approach rather than jumping on people who live in public housing for selling the drugs. He hoped everyone realizes that the drug problem is a social and economic problem. Until we correct the social and economic problems that exist, especially among people who live in public housing, then we don't have a chance of changing the dangers that exist in our public housing developments and other communities in Asheville. He spoke in support of the Safe Neighborhoods Initiative program; however, he felt it was important to involve the community in developing the program. He also felt that whatever programs are developed, they should be sustainable.

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The Reverend Jim Abbott, Rector of St. Mathias Episcopal Church and Co-Chair of Christians for United Community, assured Council that they have been spending the last year talking with each other and trying to hear from the community, knowing the only way we are going to solve any of our social problems is to work together. He said that he supports the holistic approach but would also like for the Christians for United Community to be a part of that approach.

Mr. Bill Stamey, Beaverdam resident, stressed that the police need to go after the people selling the drugs. He questioned whether City government has ever researched every department to make sure that there was no overlap or unnecessary positions.

He urged Council to give taxpayers some type of relief on their property taxes.

Ms. Marcia Thomas said that she has obtained several signatures on a petition which support the Hard Drug Interdiction program. She doesn't see drugs as a race problem, but a people and kid problem. Children need a safe neighborhood.

Ms. Norma Baynes, resident on Caribou Road, said that there are drugs in everybody's neighborhoods, either on the corners or in the homes. This is a problem for everyone.

Mr. Peter Dawes said that the drug problem is a cancer, which needs to be killed first and then we can institute some programs. It affects everyone all over Asheville.

Ms. Leslee Kulba found five people (California, Georgia, Florida, Utah) who were able to talk about how they got rid of the drug problem in their municipalities. They recommended 24-hour surveillance in front of crack houses. When the crack houses would move, the police would move. Adding two more police officers is not enough. If you really want to get rid of drugs, we need more police. The government needs to spend money on protection. In addition, the police have a bad reputation in Asheville and she suggested some monies go to a program to improve their image and rapport.

Mr. John Hayes, founder of the Hillcrest Enrichment Program, said drugs are not a low income-housing problem. The Hillcrest Enrichment Program has received numerous awards and the children even accompanied the City of Asheville officials when they received the All American City Award. The Hillcrest Enrichment Program can be a model for other programs. He presented Council with two books – Developmental Analysis of After-School Programs for the Governor's Crime Commission and SETCLAE Self-Esteem Through Culture Leads to Academic Excellence. The book by the State included the Hillcrest Enrichment Program. The main time children get in trouble is after school to 8:00 p.m. so we need to work on after-school programs.

Ms. Susan Preston, member of the Christians for United Community, spoke about the need for good after-school programs. She also stressed that Council needs to ask the community to make suggestions for their children and ask the people who have experience with children.

Mayor Worley closed the public hearing at 6:21 p.m.

Mayor Worley announced that on June 22, 2004, City Council will take all comments into consideration and consider the adoption of the Fiscal Year 2004-05 Annual Operating Budget.

**IV. UNFINISHED BUSINESS:**

**V. NEW BUSINESS:**

**VI. OTHER BUSINESS:**

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**RESOLUTION REQUESTING THE N.C. DEPT. OF TRANSPORTATION TO RENAME "AMBOY ROAD" TO "BOB PRESSLEY MEMORIAL ROADWAY"**

Councilman Dunn was pleased to introduce and read the following resolution: "WHEREAS, the City Council of the City of Asheville finds it would be fitting and proper to honor the memory of racing legend Bob Pressley; and WHEREAS, in recognition of his outstanding career in racing, starting at the Asheville Motor Speedway on Amboy Road, and for his dedicated community service, City Council requests that Amboy Road be renamed the "Bob Pressley Memorial Roadway" in his memory; and WHEREAS, the City Council finds that it would be in the best interest of the citizens of the City of Asheville and Buncombe County to memorialize Bob Pressley, a racing legend and community servant, by requesting that the N.C. Department of Transportation make this road name change; NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT (1) The Asheville City Council does hereby request that the N. C. Department of Transportation designate Amboy Road as the "Bob Pressley Memorial Roadway"; and (2) That upon said designation the N. C. Department of Transportation cause to have erected appropriate signage to make the general public aware of said designation." He felt it was fitting and proper to recognize people in our community that have performed such a great service. Mr. Pressley was an icon and he was pleased Council would consider recognizing his memory.

Councilwoman Jones raised two concerns. She felt we should research the history of Amboy Road first so we don't insult someone else's memory, just in case Amboy Road was named for someone else. Secondly, she knows that there is a Pressley Road already in Asheville and she wanted to make sure that we are doing something appropriate in terms of mapping and

directions.

Councilman Dunn said that growing up in Asheville, he knows that Amboy Road was always synonymous with the racetrack.

Councilman Davis spoke about the early NASCAR racing at the Asheville Speedway. He was proud that the City is doing something of this nature because he felt there was still some hard feelings about the racetrack, even though a number of people are enjoying the Park there now. He felt it was an honor to know Mr. Pressley and he wasn't opposed to asking the road be renamed, but he was concerned about how to be fair with others, e.g., the Dickey Plemmons' family or Jack Ingram. He felt it is a great thing when we name a street for a person but we also need to consider the number of other people that need some recognition as well. Personally he felt it would a great service to have a new racetrack in Asheville, perhaps on some city-owned land, which would be a great economic tool. Perhaps grandstands could be named after some of the people. There have been some very fine racers over the years and building engines used to be a fairly big industry in Asheville. He doesn't want to take anything away from Mr. Pressley's family, but he felt we have a lot of people who should be honored in such a fashion.

Mr. Mike Fryar thought years ago there were people that were named Amboy that owned the property. They built a small airport, which was named Carrier Field, and then they decided to build a racetrack.

Councilman Dunn said that Council has made some good points; however, we are considering naming a bridge over near the Airport for Col. Morgan and there were hundreds of thousands of people who died, so he didn't know how you can get around that issue.

City Manager Westbrook suggested City Council delay taking action at this time and let the City staff do some research on the historical aspect of the name.

Councilman Dunn would be amenable to some type of recognition of the racing community be made on that road.

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Councilman Davis suggested that we get some feedback from the racing community as well since there are still a lot of people in the community that are very active in racing. He would be happy to work with Councilman Dunn in getting that feedback.

Mr. Rick Jenkins shared with Council a brief look into the history of racing legend Bob Pressley, not only as a racer but as a man who always found time to help people less fortunate than him and other terminally ill patients. He felt a permanent structure should be constructed in his memory.

### **GROVE ARCADE ALLOCATION**

Mayor Worley said that a \$25,000 funding request has been received from Progress Energy for an initiative to bring additional traffic and tourists to the Grove Arcade. The effort by Progress Energy is 100% for the benefit of this community, the downtown and the Grove Arcade. What the City is being asked for is to come to the table with a small portion of the overall funding that is going into that initiative. There are also a number of grants and other funding sources being sought. He said that Buncombe County has already appropriated \$25,000 for the same purpose.

Vice-Mayor Mumpower said that this is about an anchor building in Asheville. He felt this is a constructive initiative to try to make the Grove Arcade successful.

Councilwoman Bellamy said that Ms. Becky Anderson, Executive Director of Handmade in America, was recognized nationally for the work she has done to bring attention to local craftsmen in the western part of North Carolina. This focuses on economic development and many of our rural counties are putting a lot of emphasis on our local craftsmen because it is a good economic tool. What Progress Energy is doing is tapping into what is already happening for our region.

Councilwoman Bellamy moved to instruct the City Manager to transfer \$25,000 from the Contingency Fund for this initiative. This motion was seconded by Councilman Davis and carried unanimously.

### **GOOD NEWS**

At the suggestion of Councilwoman Bellamy in order to counteract the negative information that is so prevalent, each Council Member said at least one positive thing about Asheville.

Vice-Mayor Mumpower thanked Ashland Paving Company for their grateful donation of 4 speed humps in one of our public housing developments. He also thanked Lonesome Mountain Paving Company for doing the work and City staff for their work associated with project in the overall For Our Kids Program, which he and Councilwoman Bellamy share responsibilities in.

### **CLAIMS**

The following claims were received by the City of Asheville during the period of May 14-27, 2004: Thomas Neal (Fire), Devon Neimire-Pepe (Streets), Jarrod Eilers (Police), Cindy Miller (Water), Joan Maxcy (Streets), Mary Crawford (Streets), Edward Couser Jr. (Parking Services) and David Lewis (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

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

Mr. Fred English spoke in opposition of the passenger rail service.

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Mr. Mike Fryar spoke in support of the Hard Drug Interdiction Program.

Mr. Dennis Justice, Fletcher resident, thanked City Council for the turf at Memorial Stadium. He suggested that City Council extend their consideration of applications for the Civic Center Commission to adjacent counties since it is the Asheville Area Civic Center Commission. In addition, he suggested the City work with Henderson County and Buncombe County to raise the room tax to help pay for the serious upgrades needed at the Civic Center.

Mr. Bill Stamey hoped that City Council would not take into consideration any comments made by non-city residents. He felt that if the people don't pay City taxes, then they shouldn't be allowed to have input into what happens in the City.

### **VIII. ADJOURNMENT:**

Mayor Worley adjourned the meeting at 7:10 p.m.

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CITY CLERK

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MAYOR