

Worksession

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

**CONSENT AGENDA:**

**Community Meeting – November 30, 2004 – Central Area – Public Works Facility**

It was the consensus of City Council to postpone this meeting until the next fifth Tuesday of the month.

**Budget Amendment for Traffic Calming Improvements from River Bend Development**

Summary: The consideration of a budget ordinance amendment, in the amount of \$65,000, from Riverbend, LLC, for traffic calming improvements in area adjacent to the Wal-Mart site on Swannanoa River Road.

As part of the conditional use permit for the River Bend Development on Swannanoa River Road, City Council approved a requirement that the developer contribute \$65,000 to traffic calming improvements to the surrounding neighborhoods. Staff has been working with Redwood Forest to develop a traffic calming plan. If any funds are remaining after the work in the Redwood Forest Community is completed, staff will work with the Beverly Hills and Oakley neighborhoods to see if any traffic calming measures can be installed in these areas.

Pro

- This money allows traffic calming to be installed in a neighborhood without the City taxpayers funding the improvements.

Con

- The money collected from the developer may not be enough to do as much traffic calming as staff and the neighborhoods would like to complete in the neighborhoods that are impacted by the development.

This request meets Goal #2 in the focus area of Planning in the Strategic Operating Plan:

Goal #2: A multi-modal and congestion management transportation program - In conjunction with major employers and traffic generators, develop and implement a comprehensive multi-modal transportation and congestion management program that works for Asheville. Objective 1 Develop a framework for multimodal transportation planning that is based on system performance, is responsive to decision makers and customers, and provides the basis for allocating resources. Task 2) Leverage outside funding to achieve multiple transportation goals where possible

City staff recommends City Council approve the budget amendment, in the amount of \$65,000, from River Bend, LLC, for traffic calming improvements in area adjacent to the Wal-Mart site on Swannanoa River Road.

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City Engineer Cathy Ball responded to questions from Council about the plan for improvements and what if the improvements are more or less than the \$65,000 allocated.

**Re-Designation of State Development Zone**

Summary: The consideration of a resolution to re-designate the Asheville State Development Zone as proposed.

The State of North Carolina has designated certain census tracts and census block groups in and around the City of Asheville as qualified for inclusion in a State Development Zone. Development zones were created to provide economic incentives to stimulate new investment and job creation in economically distressed urban areas.

The current State Development Zone for Asheville will expire on December 31, 2004. Application for re-designation is due

and, if approved, will take effect January 1, 2005, for a period of one year.

While complete data from all previous years of the State Development Zone program are not available, figures from the years 1999 to 2001 reflect that Asheville saw 19 new jobs created, \$6,789,365 invested in machinery and equipment, and \$300,235 in tax credit generated within the Development Zone.

Pursuant to the state-mandated guidelines, staff has determined the largest possible area for inclusion in the Development Zone. This area is unchanged from the current designation, approved in 2002. The total zone must have a minimum of 20% population below the poverty level.

Re-designating the Development Zone would provide multiple opportunities to further the City of Asheville's goals as described in the Strategic Operating Plan. The program is designed to stimulate new job creation and employment training, giving more citizens a chance to prosper. The economic incentives also encourage small business development, as well as downtown development, as the Central Business District is located within the Development Zone.

Advantages: Continued incentives for investment in economically distressed areas.

Disadvantages: None.

Staff recommends approval of the resolution defining the State Development Zone to be effective January 1, 2005, through January 1, 2006.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place these items on the next formal City Council agenda.

### **URTV MANAGEMENT AGREEMENT**

Assistant City Manager Jeff Richardson said that this is the consideration of a resolution adopting a final draft of the Management Agreement.

Asheville City Council passed an ordinance on December 16, 2003, authorizing the City Manager to negotiate with URTV, Inc. on behalf of the City, to manage and operate the public access channel provided for in City Ordinance 2500, subject to the following:

1. Compliance with the interlocal agreement adopted on November 25, 2003, with Buncombe County government.

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2. That the by-laws of URTV, Inc. provide that the City Council and Buncombe County Commissioners shall each appoint two members to the board of directors of URTV, Inc., and that said appointment power be perpetual for the life of URTV, Inc., and that the membership shall not exceed eleven.
3. That the agreement as negotiated be subject to final approval by City Council.

City Council provided direction to staff that the following must be included in the final draft of the management agreement:

1. There needs to be a unilateral way to cancel the agreement, with or without cause.
2. All financials must be open for public inspection.
3. Diversity language is included.
4. Council liaison role must be stated in the contract, with a copy of the meeting agenda shared with the City of Asheville.
5. URTV, Inc is not able to switch funding between capital and operating fund accounts without City Council approval, once yearly funding allocations are made.

Based on this direction, staff worked to insure this language is included in the enclosed draft.

Other key components of the agreement include:

- A performance review clause that enables the City to conduct performance review audits annually by an independent entity chosen by the City.
- Language encouraging a minimum of four hours of programming per month which discusses local issues and meets the needs of an underserved segment of the community

- Quarterly reporting to the City Manager that includes information on budget tracking, program production, uses of resources and services, revenue generation, to include efforts on grant funding, and other related reporting.

Staff has reviewed URTV's proposed budget for the initial year of inception and operation and has determined that the list of capital items as outlined is consistent with necessary initial start-up costs associated with equipment, maintenance, support, and facilities.

Finally, please be advised that Buncombe County Commissioners, in coordination with the Asheville City Council, will need to formally address and consider URTV, Inc. and their operational needs for initial start-up and on-going needs throughout the first year. The County's final allocation will have a direct affect on URTV, Inc.'s ability to provide services as outlined.

With Council's approval, a budget amendment will be forthcoming after the Buncombe County Commissioners have made a final decision on the level of funding for this fiscal year to ensure that the capital and operating budgets align accordingly.

Staff recommends City Council consider adoption of the proposed management agreement with URTV, Inc., to be used as the primary tool for the City to use regarding PEG fee funding allocation on a year-to-year basis, unless otherwise stipulated by City Council.

Mr. Mark Wilson, Vice-Chair of the URTV Inc. Board of Directors, said they have grown their board to its full size, organized committees, visited potential locations, developed budgets and equipment lists and participated in forums about the larger media industry in western North Carolina. Their most significant accomplishment has been the negotiation of this management agreement with City staff. The Board is in complete accord regarding the management agreement as it has been recommended to Council by City staff. With Council's approval of the

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agreement, they can begin the process of building this facility in earnest. When it is complete and operational citizens of Asheville and Buncombe County will be able to participate in a shared resource that will reflect all of the excitement, all of the voices and all of the values that make up this community. This agreement outlines URTV's responsibilities. URTV will provide local producers with the equipment, space and training to develop and produce programming which will air on the cable channel provided by Charter. We will not be producing any programming of our own. Responsibility for program content will be borne by the producers, each of whom will be required to sign an agreement that they will abide by the content guidelines we have established and that reflect community and FCC regulation standards. Conflicts and complaints about program content will be referred to a separate independent advisory panel who will recommend appropriate action. All of the money that URTV will receive from Charter through the City will go toward capital expenditures only. All operational funding will come from Buncombe County and will be governed by a separate management agreement. We believe that the URTV Center will become the focal point of this important economic and cultural phenomenon. URTV will be a state of the art tool that will give voice to educators, social service providers, artists, churches, performers, government organizations, and ordinary citizens. It will help train and educate a potential future workforce for this growing segment of our local economy and it will help to unify and celebrate our unique mountain culture. We hope that the City Council share the sense of partnership and interest demonstrated by City staff as we crafted this management agreement. We are confident that once URTV is operational that Council will be able to take no small measure of pride in providing such a vital, important and enduring opportunity to the citizens of Asheville.

Throughout the discussion by Council, Mr. Wilson and members of the URTV Board answered various questions from Council, some being, but are not limited to: is the rent factor in the budget realistic; does the management agreement provide parameters for a reasonable opportunity to operate; what specific criteria will the producers have to follow; is the City open up for a lawsuit if programming is inappropriate; what are the termination provisions of the management agreement; how is the board functioning as a group; will individuals be able to block the channel or is there a way for people to opt out of the channel altogether in their basic package; will religious and political programming be allowed; how will the equipment and materials be maintained; does our agreement dovetail with the agreement with Buncombe County; is the programming non-commercial; if a programming was played consistently or out of primetime, would that invalidate our agreement; what would happen if a candidate raised an issue that they are not being treated fairly regarding program time; and has the City appointed a liaison to the Board.

Councilman Dunn felt that if Charter has the capability of letting the City know how many people are blocking the channel, it can be a useful tool to measure the success in two years from now.

Mayor Worley asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

#### **ASHEVILLE STORMWATER PROGRAM UPDATE**

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City Engineer Cathy Ball said that this is an update City Council on the status of the recommendations from the Asheville Stormwater Advisory Committee (SAC).

In November 2003, City Council authorized City staff to complete a study to determine if a stormwater enterprise fund was a feasible method for funding stormwater quantity and quality needs in the City of Asheville. Part of this feasibility study was to establish a stakeholders group to evaluate the needs of the Stormwater Program and recommend a funding mechanism.

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As you may recall, the City of Asheville must comply with the Environmental Protection Agency's National Pollution Discharge Elimination System (NPDES) Permitting and Stormwater Phase II Regulations as part of the Federal Clean Water Act. In March 2003, City Council approved a plan to comply with the "Six Minimum Measures" of the regulations, including strategies for:

- Public Education and Outreach
- Public Participation and Involvement in Implementing the Plan
- Detection and Elimination of Illicit Discharges
- Construction site Run-off Control
- Post-Construction Run-off Control, and
- Pollution Prevention and Good Housekeeping by the Municipality.

The SAC has served as an advisor to the City Manager since June 2004. City staff contracted with McGill Associates to serve as facilitator to the group as well as provide engineering and financial assistance to the group.

Pros:

- An enterprise fund would provide a dedicated funding source to address stormwater needs.
- The fee would be equitable in that users would pay a fee based on the amount of impervious surface they have.
- Non-residential customers would pay the majority of the cost of the program.
- This fee does not distinguish between for-profit and non-profit organizations

Con:

- Staff would need to spend time educating the public on the need for this program.

This recommendation meets the City's Strategic Goal in the focus area of Natural and Built Environment:

Goal #1 - A high quality of air and water – Enhance and preserve air and water quality through comprehensive efforts.

Objective D - Improve water quality by complying with EPQA Federal NPDES – Phase II Stormwater Rules.

Task #2 - Adopt and implement a stormwater fee.

City staff requests City Council take action on the SAC's recommendation on December 14, 2004, which is to adopt an ordinance establishing an enterprise fund to pay for a comprehensive stormwater program. The ordinance would not be effective until July 1, 2005. She said that staff is not asking Council to set the rates at this time, as the rates will be a part of the budget structure and would be developed as part of the 2005-06 budget.

Mr. Joel Storrow, President of McGill Associates, made a brief presentation of the SAC's findings and recommendations. He said that managing stormwater has become a strategic issue in Asheville.

Mr. Storrow explained the federal and state mandate: (1) under EPA's Phase II Rules, Asheville must develop, implement and enforce a stormwater management program; (2) the program must reduce the discharge of pollutants to the "maximum extent practicable" to protect water quality; (3) the program must address 6 minimum control measures: (a) public education and outreach; (b) public participation/involvement; (c) illicit discharge detection and elimination; (d) construction site runoff control; (e) post-construction runoff control; and (f) pollution prevention/good housekeeping; (4) Asheville must select "Best Management Practices" (BMP)

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and measurable goals for each minimum measure; and (5) This program must be approved by the State.

Asheville's permit status is (1) The City's present stormwater program addresses only construction site runoff control; (2) Asheville has been issued a 5-year permit for a proposed stormwater program; (3) The permit addresses the 6 minimum measures and prescribes a schedule and BMP's for each measure; and (4) The initial permit requirements must be implemented by March 10, 2005.

He explained that the City Manager appointed the Stormwater Advisory Committee in June, 2004. The SAC was established to advise the Manager on matters related to the Phase II stormwater requirements. The established objective of the SAC is to: "Assist the City in implementation of a compliant stormwater program that serves the best interests of the community." He then introduced the SAC members and the areas they represented. He outlined SAC's activities: (1) they held 6 general meetings; (2) reviewed federal and state stormwater mandates and the requirements of the City's stormwater permit; (3) became familiar with City's current soil erosion, sedimentation control, and stormwater ordinances; (4) reviewed the impervious surfaces inventory; (5) heard case studies of other NC Stormwater Programs; (6) identified and prioritized key features of a local stormwater program; (7) developed an annual budget for the stormwater program; and (8) considered alternative program funding vehicles.

He outlined the stormwater priorities: (1) at a minimum, comply with federal and state mandates by protecting and improving water quality; (2) the City must dedicate resources to improve the condition of the existing stormwater system; (3) additional resources are needed for education on water quality issues; (4) attention must be given to the existing system to support future growth; and (5) already our inattention is demonstrated by area flooding and property damage.

He said that key elements of the proposed stormwater program consist of the Engineering Department being responsible for (1) public education about stormwater; (2) program administration and planning; and (3) regulation of stormwater releases. The Public Works Department would be responsible for (1) system operation and maintenance; and (2) rehabilitation of infrastructure.

Regarding current program costs, he said the City will spent about \$800,000 for its stormwater program in the current fiscal year. These costs are itemized as follows: (1) in City Engineering, mapping is \$12,000 and construction site runoff control is \$90,000; and (2) in the Public Works Department, system maintenance is \$226,200 and construction is \$471,000. Total budget - \$799,200.

Regarding allocation of future program costs, (1) the annual stormwater program costs would increase to increase to \$2.5 Million (64% would be allocated to increasing capital expenditures to improve the stormwater system and 36% of the increased cost is attributed to stormwater planning, education and regulation); (2) the projected costs are considered minimum for (1) compliance with the federal and state mandate; (2) public education; (3) capital planning; (4) maintenance of the current system; and (5) development of new infrastructure and major repairs to existing facilities.

Their decision is not whether there will be a stormwater program, but what will the scope of the program be and how to pay for it. There are two options for funding the program: The General Fund and an Enterprise Fund.

Regarding the General Fund, the current stormwater program is funded from the General Fund, where the burden of the program is borne solely by those who pay taxes. The burden of

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General Fund programs is borne solely by those who pay property taxes. Tax-exempt properties such as hospitals, schools, churches and institutions are contributors, but do not pay. There is no relationship between who pays and who benefits. Those properties which generate stormwater and the quantities of stormwater generated do not influence the monetary contributions. This raises a question of equity.

Regarding the Enterprise Fund, the fundamental concept is that the properties that contribute pay in proportion to their contribution. This is accomplished by calculating the magnitude of impervious surface for each contributor. This system recognizes the contribution of contributors such as UNC-Asheville, hospitals, state government, federal institutions and others that pay no property taxes. This eases the burden on residences and businesses. There is a direct relationship between stormwater contributions and payments.

He explained the comparison of funding alternations. The proposed stormwater program would require approximately 3.87 cents on the tax rate, if it remains in the General Fund. Based on the present estimates of the impervious areas, a basic residential equivalent fee of \$2.00 to \$2.50 per month would yield revenues to support the proposed annual program. Fee would increase according to the amount of impervious area. The majority of the estimated revenue for the program

would come from non-single family land uses.

He then reviewed with Council the monthly residential fees for other stormwater programs in North Carolina cities.

Mr. Storrow reviewed with Council the SAC's recommendations: (1) They recommend that the existing stormwater program be expanded to meet the regulatory mandate to protect and preserve water quality and educate the public; (2) They recommend that the stormwater program be expanded to provide capital necessary to operate and maintain the system and provide for future needs; (3) They recommend funding the stormwater program with a newly created self-sustaining Enterprise Fund; (4) They suggest tiering residential billing categories to promote affordability; and (5) They recommend developing a credited system that encourages users to improve water quality.

He said that establishing an effective stormwater program is the important matter before the City. The scope of the proposed program represents a balanced affordable starting point.

Throughout the discussion, Ms. Ball responded to various questions and comments from Council, some being, but are not limited to: when will the technical component be completed so developers will know what they have to comply with; what will the educational program consist of; how was the non-residential fee range calculated; how are the measurements taken; are aerial maps and field inspections used to determine the amount of impervious surfaces; is there a process for the customer to question a bill; will individuals that go above and beyond the ordinance be apply to have a reduction in their fee; what is the difference from our existing stormwater ordinance; has City Council sent out a letter to our legislators protesting this unfunded mandate; is 36% too much for education when it seems like this is more of an infrastructure issue; how many staff will needed to be hired to implement this program; will the new staff hired do more than education; will this program address localized flooding; will there be some investment the City can make in areas like Pebble Creek, Crowfields and Ballentree; will poor development issues be addressed with this money; what is the specific outcomes that we would want to be different than if we didn't invest in education; will the master plan be done in phases; is the education percentage flexible; what components does Buncombe County have to comply with;

City Manager Westbrook said that the City has never invested the amount of money really needed for stormwater. We don't have some basic backbone infrastructures. We have stormwater control in some areas, but we don't have it networked together to where it finally

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winds up in the river and it's filtered the best we can. You overlay that issue of funding in the past with our topography and we will need to spend several years to get ourselves in a position to start making major progress.

Councilwoman Jones felt this is a quality of life issue. It sounds like this will really help our community. It would have been great if the federal government could have helped with funding, but in terms of the product we will have, it will help our life in Asheville.

Ms. Ball requested Council to make a decision on December 14, 2004, if this is an appropriate way to fund this unfunded mandate. Is this methodology appropriate to assess people based upon the amount of impervious surface that they have. Other than saying there will be a crediting system, it will be set up in tiers, and it will be implemented on July 1, 2005 - that is all Council is making a decision on. The Enterprise Fund budget will be put together along with what we are going to do with it and presented to Council as part of the budget. Council will then, as part of the budget process, decide on how much the City wants to spend, what we are going to get for that money, and how much on a per user fee will that cost the residential user. The whole separate issue is the technical part - what will the development community have to do when they develop. That ordinance will have to be adopted prior to March 10, 2005.

Councilman Davis wanted an emphasis put on this during the budget process so that there is an opportunity to review this in more detail than we may for one that has been in place for the past five years. City Manager Westbrook also noted that City Council will set the budget for the educational component.

Councilman Newman wanted to learn more about the thinking in terms of what we hope to get out of the educational initiative. This might be the kind of issue that there may be some key groups or organizations that we need to target education around, like the development community. He hoped there will be an opportunity to learn more about SAC's ideas around education before we get fully into the budget process itself.

Councilwoman Jones felt that to develop an Enterprise Fund now will take a little bit of the burden off our taxpayers, because organizations like hospitals, etc. will have to pay a fee for their participation in water quality.

Vice-Mayor Mumpower felt the 36% for education was too high a figure and felt that more money should go into infrastructure.

Councilwoman Jones thanked SAC for their work and recommendations on this issue. As with all other Council committees that bring recommendations to the table, City Council has the discretion and judgment whether or not to implement all, some or none of those recommendations.

On behalf of City Council, Mayor Worley thanked the members of SAC for their hard work and effort on bringing these recommendations to Council.

At 4:52 p.m., Mayor Worley announced a short break.

Mayor Worley asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

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### **UDO AMENDMENT REVIEW**

- City Attorney Oast said that these Unified Development Ordinance amendments are being brought before City Council in order that staff may respond to questions Council may have prior to the public hearings, which have been scheduled on November 23, 2004. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

#### **Clarification of Two Standards for Bed and Breakfast Inns**

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance to provide clarification of two standards for bed and breakfast homestays and inns.

In working with the Unified Development Ordinance (UDO) requirements for bed and breakfasts, the Planning & Development staff has found two statements requiring clarification for the intent to be more clearly understood by developers and property owners. Specifically, the question of how to measure square footage is further defined as "gross floor area" (as defined in Section 7-2-5). The other amendment is intended to clarify that existing bed and breakfast homestays and inns that are legal, nonconforming only due to the separation requirements of 500 feet can be further expanded as long as they comply with other applicable development standards.

Pros –

- Requirements for bed and breakfast uses will be more easily understood and interpreted by staff and the public.
- The intent of the ordinance will be made clearer and less subject to legal challenge.

Con –

- It is possible that certain property owners will disagree with the intent to allow existing bed and breakfasts to expand if only nonconforming due to the separation requirements.

The Planning and Zoning Commission unanimously recommended approval of these code amendments on October 6, 2004, by a vote of 6-0. City staff also recommends approval of the proposed code amendment as well.

#### **Elimination of Level III Review of Industrial Uses**

Planning and Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance to eliminate Level III review of industrial uses.

This code amendment deletes the requirement for industrial developments to receive Level III review, thereby allowing them to be approved without public hearing by the Planning and Zoning Commission and City Council. The intent is to expedite the review and permitting of industrial developments consistent with Goal 2/Economic Development of the Strategic Operating Plan which states: Reform the permitting process to make it more conducive to do business in Asheville.

Large projects would still be heard by the Technical Review Committee (TRC); all existing buffering, landscaping and other site design requirements would apply to the projects. In addition, the change would apply only to properties already zoned for industrial uses; any needed

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zoning changes (for example, a change from Highway Business to Industrial) would still require Planning and Zoning Commission and City Council consideration.

Pros:

- Provides a tool to make Asheville more competitive in economic development
- Streamlines the development review process consistent with general Council direction

Con:

- Removes opportunities for the public to be heard on site design issues (although these projects will still receive TRC review)

On November 3, 2004, the Planning and Zoning Commission recommended approval of the proposed code amendment by a vote of 5-0. City staff recommends approval of the proposed code amendment as well.

Upon inquiry of Councilman Newman, Mr. Shuford said that he would provide a map prior to the public hearing on the areas in which Industrial and Community Industrial zoning categories would apply.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place these public hearings on the formal City Council agendas.

#### **HOUSING REHABILITATION LOAN APPROVAL PROCESS**

Field Services Coordinator Ed Vess said that this is the consideration of a resolution affirming the revisions to the city-wide housing rehabilitation loan approval process.

The Community Development Director and Planning and Development Director were authorized by City Council Resolution # 95-116 on July 25, 1995, to approve housing rehabilitation loans, with the form of the documentation for such loans to be subject to the approval of the City Attorney. No loan limit was established by Resolution # 95-116, rather the underwriting guidelines and budgetary authority are the effective loan limits.

In 1995, the loans did not generally exceed \$40,000. Over the years since then the loans have regularly exceeded that amount and with the authorization of the Section 108 funding of CARROT loans in 1999, some multi-family projects have been approved for several hundred thousand dollars.

Loan applications go through a very stringent underwriting process to assess the credit worthiness of the borrower and the financial strength of the project. Loans to low income homeowners must be affordable. Multi-family projects must be able to operate independently and produce a positive cash flow.

Although the underwriting process provides the technical information required to make the loan approval decision, staff along with guidance from the Housing and Community Development Committee and City Manager have established the following process which provides a higher level of review and approval for larger loans:

"Applications for FAIR and CARROT loans not to exceed the maximum allowed for rehabilitation of a single unit under the FAIR program may be approved by the Community Development Director or the Planning and Development Director. All other rehabilitation loan applications may be approved by the City Manager upon recommendation by the Rehabilitation Loan Committee which shall consist of the Director of Finance or her/his designee, the Director of

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Audit and Budget or her/his designee, and the Director of Planning and Development or her/his designee."

The advantages of this process are:

- The expertise of senior staff is availed to review the work of Division staff before large loan commitments are issued.
- Approval authority for large loan is more appropriately placed at the highest administrative level.



- Smaller homeowner loan approval remains at the Department/Division level for efficiency.
- Administrative review and approval of loans helps maintain the financial privacy of applicants.

City staff recommends City Council adopt the resolution affirming the revisions to the housing rehabilitation loan approval process.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place this item on the next formal City Council agenda.

### **REVISIONS TO THE OUTSIDE AGENCY POLICY**

Budget Director Ben Durant said that this is the consideration of a resolution approving revisions to the City's Outside Agency Policy.

Staff has developed proposed revisions to the City's Outside Agency Policy, which was first adopted in 2001, to guide the Outside Agency Committee's process for evaluating outside agency funding requests. The purpose of the proposed changes is to strengthen the current outside agency review process and allow, on a limited basis, for Council to award non-competitive grants. Specific revision and/or additions to the policy are as follows:

- The Committee may conduct formal interviews with specific agencies as needed to resolve questions about specific programs.
- The grant application requires a complete agency budget and an annual outside audit, as well as a certification of complete and accurate financial data.
- Under very limited circumstances, City funding may be given in the form of non-competitive grants. These grants may be made to organizations that function as quasi-divisions of the City, or as payment under existing contracts authorized by City Council.
- The Outside Agency Committee will complete its review of outside agency requests prior to May and will present its recommendations, along with staff's recommendations, to the full City Council as part of the City Manager's presentation of the annual operating budget.

The Outside Agency Committee has reviewed a draft of the revised policy.

The proposed revisions relate to the City's Strategic Operating Plan in the *Community Building* focus area, and more specifically, Council's goal to "re-evaluate Council decision-making and public input processes and develop a strategy that results in both healthy dialogue and effective decision making".

Pros: The policy revisions will strengthen the review process and make the City requires for the outside agency program clear to various non-profit agencies.

Con: The City may see a proliferation of agencies seeking non-competitive grant status.

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City staff recommends City Council adopt the City's revised Outside Agency Policy.

In response to Councilwoman Jones, Mr. Durant said that the agencies will be given a form to sign that will serve as the certification of complete and accurate financial data.

Upon inquiry of Councilwoman Jones, Mr. Durant explained how the Outside Agency Committee is using the feedback that the agencies give to the City on the process.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place this item on the next formal City Council agenda.

### **USE OF INFRASTRUCTURE FUNDS TO ASSIST AFFORDABLE HOUSING**

Field Services Coordinator Ed Vess said that this is the consideration of a resolution approving the use of \$200,000 in capital funds for affordable housing infrastructure.

The Fiscal Year 2005 budget includes a capital appropriation of \$200,000 for infrastructure improvements to assist the

development of affordable housing. At its meeting on November 8, 2004, the Housing and Community Development Committee considered a range of possible uses for this funding that would:

- a. Remove specific barriers, e.g. inadequate water supply, so that hard-to-develop land becomes available for development
- b. Encourage infill development on vacant urban lots rather than extending infrastructure to 'green field' sites
- c. Get the greatest possible housing benefit (no. of affordable units for \$\$ spent)
- d. Make funds available in an equitable manner
- e. Increase the tax base
- f. Spend funds within a reasonable time period

The Committee recommends using the funds in the first place to support developments that receive low interest loans from the Housing Trust Fund. By offering City funds to pay for necessary offsite infrastructure improvements, such as water line upgrades, or sewer line extensions, it is hoped to encourage the development of affordable housing on sites that have had significant barriers to development.

This approach has advantages over using the funds to address one or more priority infrastructure needs Citywide, since it will be certain that affordable housing will be built as a result of the expenditure.

Other uses of funds considered feasible by the Committee were:

- To hold funds in reserve to address infrastructure concerns arising in relation to future affordable housing developments, case by case
- To resolve infrastructure problems on City-owned lots to make them suitable for housing development

If Council wishes to pursue the Committee's first recommendation, time is of the essence, as this year's Housing Trust Funds Request for Proposals (RFP) has already been issued, with a deadline of January 7.

Advantages:

- Encourages development of sites that have infrastructure barriers

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- Ties expenditures to development of affordable housing
- Increases tax base
- Depending on nature of improvements, may spur development of nearby sites
- Makes funds available in an equitable manner, through a competitive RFP process

Disadvantages:

- 2005 Housing Trust Fund RFP has already been issued – all applicants may not see this additional source of assistance
- May be too late for developers to reconsider sites previously considered undevelopable
- Once-a-year RFP may not identify the best possible projects
- May not use all the funds in this round

City staff recommends City Council use all or part of the \$200,000 capital appropriation to provide off-site infrastructure improvements necessary for the development of affordable housing that is also assisted with the City's Housing Trust Fund.

Councilman Newman felt this was a good approach to the use of these resources. He felt Council needs to think through whether this is a one-time investment to address the creation of more affordable housing and similar related issues around quality of life in neighborhoods that have high concentrations of poverty.

After Vice-Mayor Mumpower confirmed that this is the \$200,000 Council appropriated for the safe neighborhood initiative, he questioned whether this is the appropriate utilization of our limited funds. Our charge to address affordable housing, as a city government, is directly with funds is suspect at best and although he philosophy wouldn't agree with us getting involved in that he would disagree with us getting involved in it to the extent that we pull money away from what is a major responsibility – law enforcement, specifically hard drug intervention. That \$200,000 that we would put into something that may indirectly have an impact on our hard drug problem could be much more directly potentially effective if it were put into law enforcement. He said we don't have enough law enforcement officers. We are the only body that has the primary responsibility of protecting our citizens.

He didn't think this is a bad thing and he wouldn't argue against the need for affordable housing, but he would argue government being the real solution. He thinks developers are going to be the primary key and our economy and other factors. This is so much more indirect than our law enforcement is. He encouraged City Council to consider using this money for law enforcement that will help us address our hard drug issue.

Councilman Newman said that this is an important area to be looking at because it was governmental policies that created, to a very significant degree, the concentrations of poverty we have in certain parts of the community. Therefore, if we know that those dynamics contribute to crime and some other very significant social challenges that law enforcement will not solve by itself, then we have an obligation to look at what we can learn from our past. We may be able to rectify some of the problems that the government locally and at all levels of government have contributed to creating those concentrations of poverty. There is a Hope 6 process that has started in the community to look at some of these issues.

Vice-Mayor Mumpower agreed that this is an important policy discussion, but right now we have an open air hard drug market in Asheville. We have people dealing hard drugs openly with very limited deterrent. That has a much more dramatic affect on the quality of people's lives.

Mayor Worley was concerned about using the funds in the way specified here. The Hope 6 program, which needs about \$15-20,000 in funding for the consultant to come in and help us develop that program to deal specifically with low income housing, and more specifically with that low income housing where so much of the drug activity is taking place. He would like to see

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Council have the flexibility to look at this funding source for that. Councilwoman Bellamy and he are on a committee with some members of the Housing Authority and they had a review of the Hope 6 program. There is a lot of promise for some Hope 6 funding but it will need about \$15-20,000 to move forward with that project. He felt that is an ideal use of these funds. It will be coming to Council for approval at the appropriate time. Again, he wants us to retain the flexibility in this pool of money to be able to do something like that and maybe something else that we don't know about yet. He thinks we can make it available with our Housing Trust Fund to some degree, but he doesn't want it all tied up with that.

Councilman Newman would support the funding for the Hope 6 program.

Councilwoman Jones felt the staff's recommendation for that flexibility is evident in that Ms. Caplan recommends Council to "use all or part of the \$200,000."

Councilwoman Bellamy said that in addition to the Hope 6 funding, which could have a long-term impact on possibly removing some congregated housing within our community, there are other ideas that the Housing Authority staff is coming up with to address the open air drug market that deals with infrastructure needs, e.g., street closings, gates and more tangible ways where it is harder for clients to get into residential areas. She would like for Council to have an opportunity to work with the Housing Authority staff to see if we can get a better proposal to look at each of their developments to see what we can do and hopefully use some of those funds. She suggested that be reviewed by the Housing & Community Development Committee prior to going to the full Council.

Vice-Mayor Mumpower felt that seems a more targeted effort.

Mayor Worley felt this item should not be brought forth to the next formal meeting in that Council may need more time.

Councilwoman Jones felt the \$200,00 should be able to do all of this - the Hope 6 program, probably some of the Housing Authority initiatives, and some of things we were initially envisioning. She doesn't want to lose site of that because that is a big part of where we need to go. She feels there is a lot of flexibility in that \$200,000 figure. She thinks Ms. Caplan phrased the recommendation so she could have some guidance that identifies some opportunities along the way with Council's approval.

Vice-Mayor Mumpower said that in its current format, there is no mention to hard drugs at all. He felt some Council might be more comfortable in supporting it if there was a more specific plan.

Mayor Worley felt that the resolution is very specific and limiting. He didn't think the resolution wording would allow the use for the Hope 6 program.

Mr. Vess suggested Council not place this on the next formal meeting agenda and let staff work with the Housing & Community Development Committee.

Councilwoman Jones was agreeable to not voting on this next week; however, the trade-off is that we will have some concrete proposals through the Housing Trust Fund for the investment of infrastructure that might be a good match and give some synergy around those developments.

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## **I-26 CONNECTOR**

Councilman Newman said that the issue of the lane alignment questions on the I-26 Connector have been significant issues in front of our community for a long time. We have looked at the different information about traffic models that have been developed and what they mean. Until very recently he thought we were getting to a point where we have heard everything there was to hear and we needed to have a voice in the matter. However, there is a possible way for us to move forward that doesn't involve Council taking a specific position on what the lane alignment in West Asheville should be. This past summer, our Traffic Engineer Anthony Butzek, brought this up last summer.

In response to Councilman Newman's question of why he wrote to the NC DOT last summer and requested them to perform a CORSIM analysis for the West Asheville Connector, Mr. Butzek said that there was discussion at that time around the number of lanes and the justification for choosing the number of lanes. Mr. Michael Moule, Traffic Engineer who was retained by the Southern Environmental Law Center, had requested some information from the NC DOT on the analysis they did and he reviewed that analysis. Mr. Moule found some concerns with it. Mr. Butzek felt that a more detailed analysis would provide a real resolution, since there was some disagreement in the different analyses of what the level of service would be for varying scenarios and differing number of lanes. He said that CORSIM analysis is really the state of the art practice for analyzing the operation of freeway segments. The segment that he has seen that was performed by NC DOT was somewhat more simplistic. Simplistic analyses are used all the time; however, since that simplistic analysis showed a result that kind of put it on the borderline, he felt that doing a more detailed analysis might be an appropriate way to resolve that issue. If the basic CORSIM analysis is performed, he expects it will give a lot better information than we have now.

Councilman Newman said that Mr. Butzek does have professional training in the implementation of the CORSIM analysis. Upon inquiry, Mr. Butzek said to do the basic analysis, which is much more detailed than what has been done, would take about 30 hours. With his other work responsibilities, he estimated it would take about a month from the time we acquired the necessary software, which may be two weeks and would cost approximately \$500.

In responding to Councilman Newman as to why the NC DOT did not want to perform the study, Mr. Butzek said that NC DOT's response was essentially was that they did not feel it was necessary. They had a differing opinion on the number of hours it would take to complete and put it in a comparison. They wanted to do a full and complete analysis which is the Cadillac of the analysis. It would be correct to do that, but it is his opinion that to do the basic analysis would be much better than the very simplistic analysis that has been done. The reasons they gave were (1) the amount of time required for them to do the full analysis; and (2) the fact that the Metropolitan Planning Organization (MPO) has passed resolutions in the past in support of the 8-lanes.

Councilman Newman asked Council to instruct City staff to conduct the CORSIM analysis for the I-26 Connector in West Asheville. It is his hope that doing this will accomplish a couple of things. First, it is his hope that it would provide a final and objective basis for all the decision-makers to have to make a decision on how to move forward on this project. It is hope that if the analysis does show that a smaller, with less impact, lane alignment is really viable and will carry future traffic far into the future. It is also his hope that if the analysis shows that only an 8-lane facility will be adequate to carry future traffic that all the people in the community that have been working on this for a long time will understand that and consider it as well. In short, it is his hope that rather than us taking a position now on any particular lane alignment that a better decision would be to get this final piece of objective information, the best information that could be available to us, and have that developed so that the decision-makers in this process can base their decision on solid, scientific information.

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City Manager Westbrook asked that if Council wants to have that analysis done, he recommended the "how to" be left up to City staff, whether it be a staff person or someone we hire.

Upon inquiry of Mayor Worley, Mr. Butzek said that the NC DOT would have the software in Raleigh.

Discussion surrounded the NC DOT being the appropriate body to do the study. Even though City staff has made a request to the NC DOT to perform the study and they have refused, City

Council has not formally requested they perform the study. If the NC DOT refuses to do the study, then the City will perform it.

Councilman Newman said that this Thursday the MPO is poised to pass a resolution that says we want to move forward with the smallest lane alignment possible to minimize impacts, but it needs to technically be defensible. As one of the City's MPO members, Vice-Mayor Mumpower said he would ask the MPO to postpone their decision until the more definite research is performed.

Councilwoman Bellamy moved to waive the rules and take formal action at this meeting. This motion was seconded by Councilwoman Jones and carried unanimously.

Councilman Newman said that after this study is complete, then Council's part is complete in trying to get to the bottom of what is the best choice on this issue. It is his hope that the decision-makers will consider this best start of the art information.

Upon inquiry of Councilwoman Jones, Mr. Butzek explained the difference between a Cadillac analysis and a basic CORSIM analysis.

Upon inquiry of Vice-Mayor Mumpower, Mr. Butzek said that he could not say what conclusions the NC DOT will draw even if we do the CORSIM analysis and it shows different results.

In response to Vice-Mayor Mumpower, Mr. Butzek said that a reasonable timeframe in which the NC DOT should be able to perform the study would be about 3-4 months, taking into account they would have to adjust their workload. It is his understanding that a 3-4 month delay in which to get this research will not delay the NC DOT from moving forward as long as there is a finite point in which the issue is to be resolved.

The following individuals spoke about the I-26 Connector and their support for the CORSIM analysis:

Mr. Willis, County resident  
Ms. Leesa Kulba  
Mr. Roger Darrow  
Ms. Betty Lawrence  
Mr. Ron Ainspan

Councilman Newman moved to authorize the Mayor to write a letter to the NC DOT asking them to perform the basic CORSIM analysis (not the Cadillac) in 3-4 months, or a time in which it does not impact the final determination, and let us know with 7-10 days if they will perform that study. If we have not heard back from them within the 10 days, then the City will proceed with performing the CORSIM analysis. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

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Upon inquiry of Councilwoman Jones, City Manager Westbrook asked that the City staff be allowed to find out the best way to proceed with the study - an engineering firm that may already have that software vs. City staff. If an engineering firm is used, Mr. Butzek will oversee the study.

### **BOARDS/COMMISSIONS**

It was the consensus of City Council to arrange interviews for Eleanor Campbell and Andrew Gall for a vacancy on the Recreation Board.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Robert E. Shepherd to the River District Design Review Committee.

### **CLOSED SESSION**

At 6:45 p.m., Councilman Dunn moved to go into closed session for the following reasons: (1) 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 lawsuits. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a

contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5). This motion was seconded by Councilman Davis and carried unanimously. The following actions occurred in closed session:

Resolution No. 04-236 – Resolution establishing just compensation and authorizing the use of eminent domain to acquire an easement over certain property on New Haw Creek Road for greenway purposes. The appraisal by Mark Morris is hereby accepted, and just compensation for the easement over the property identified by PIN No. 9658.08-78-5543 and owned by Ricky K. Wallin and wife, Diana L. Wallin on New Haw Creek Road is hereby established at \$1000.00. Acquisition of said easement by the use of eminent domain is hereby authorized in accordance with the provision of Chapter 40A of the N. C. General Statutes. Resolution Book No. 28 – Page 415.

Resolution No. 04-237 – Resolution establishing just compensation and authorizing the use of eminent domain to acquire an easement over certain property on New Haw Creek Road for greenway purposes. The appraisal by Mark Morris is hereby accepted, and just compensation for the easement over the property identified by PIN No. 9658.08-78-6513 and owned by Ricky K. Wallin and wife, Diana L. Wallin on New Haw Creek Road is hereby established at \$900.00. Acquisition of said easement by the use of eminent domain is hereby authorized in accordance with the provision of Chapter 40A of the N. C. General Statutes. Resolution Book No. 28 – Page 416.

Resolution No. 04-238 – Resolution establishing just compensation and authorizing the use of eminent domain to acquire an easement over certain property on New Haw Creek Road for greenway purposes. The appraisal by Mark Morris is hereby accepted, and just compensation for the easement over the property identified by PIN No. 9658.08-78-8554 and owned by Jolly SIS & B, LLC, Jean Jolly Jaynes, and George Frederick Jaynes on New Haw Creek Road is hereby established at \$4200.00. Acquisition of said easement by the use of eminent domain is hereby authorized in accordance with the provision of Chapter 40A of the N. C. General Statutes. Resolution Book No. 28 – Page 417.

At 6:57 p.m., Councilman Dunn moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

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**ADJOURNMENT:**

Mayor Worley adjourned the meeting at 6:57 p.m.

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CITY CLERK

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MAYOR