

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; Interim City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT AGENDA:

Street Acceptance of Hoyle Lane and Treetop Road in Lakeshore Hills Subdivision

Summary: The consideration of a resolution to accept Hoyle Lane and Treetop Road in Lakeshore Hills Subdivision as City maintained streets.

Section 7-15-1(f)-4.a requires that streets dedicated for public uses be accepted by resolution of City Council.

Hoyle Lane and Treetop Road are developer constructed streets that have an average paved width of 23 feet and a length of 0.14 and 0.10 miles respectively for a total length of 0.24 miles. The City of Asheville staff inspected the construction of these roadways and certified they were built in accordance with City standards.

Following City Council's approval of this resolution, these streets will be added to the official Powell Bill list. A two-year warranty, from the time of Council acceptance, will be required by the developer to cover major failures in the roadway.

- City staff recommends City Council adopt the resolution to accept Hoyle Lane and Treetop Road in Lakeshore Hills Subdivision as a City maintained streets.

Provisions for Possession of Malt Beverages and/or Unfortified Wine at Various Events

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at various events.

- The below listed groups have requested through the Asheville Parks and Recreation Department that City Council permit them to serve beer and/or unfortified wine at their events and allow for consumption at these events.

- Asheville Welcomes the World, scheduled for July 5, 2005, in the grassy knoll next to the Biltmore Building. This is an event to acknowledge Asheville's Sister Cities.
- City of Asheville Tennis Tournament Picnic, scheduled for July 21 and 22, 2005, at Aston Park. This is a hospitality picnic for the spectators and players.
- Clues, Carats and Grapes, scheduled for September 22, 2005, in the grassy knoll next to the Biltmore Building. This is a benefit for the American Cancer Society.

City staff recommends City Council approve these resolutions on behalf of the applying organizations.

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Budget Amendment for FEMA Reimbursements

Summary: The consideration of a budget amendment which adds FEMA reimbursements to the Fiscal Year 2004-05 budget to replenish various departmental budgets that incurred storm related expenses.

Several departments incurred extraordinary expenses this year as a result of major clean-up efforts that the City had to undertake after the impact of hurricanes Ivan and Francis. Clean-up expenses for major tropical storms or hurricanes are typically not included in the City's an annual budget since they generally do not represent recurring annual expenses; as such, departments had to redirect resources that were initially earmarked for the provision of basic services to storm-related clean-up. The City has applied for and received FEMA for reimbursements for most of these expenses. The amendment will add \$599,610 to the General Fund and \$549,252 to Parks Capital Project budgets to replenish various departmental operating line items that were used to cover clean-up costs.

City staff recommends the budget be amended to add revenue received from FEMA to the Fiscal Year 2004-05 to cover the City's storm-related clean-up costs.

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.

REQUEST FROM MOUNTAIN AREA INFORMATION NETWORK

Grants Specialist Laurie Sexton said that this is the consideration of a request from Mountain Area Information Network (MAIN) for a grant to offset the license fee for the installation of two antennas on one of the City's towers at White Fawn Reservoir, along with space in the equipment building at no cost.

The City typically charges other organizations, including nonprofit organizations, for this service. As in other cases where a nonprofit has asked for the waiver of a fee, City staff analyzed MAIN's request as if it were an Outside Agency Grant request.

The request is for a minimum of \$12,000 initially, based on MAIN's list of equipment. (For future years, there is a 4% per annum increase in the license fee.)

The application submitted by MAIN did not provide all the information required of outside agencies and needed by staff to perform a comparable analysis. MAIN could not provide a strategic plan, or operating goals and objectives. The lack of a plan is a concern given the fast-changing technology of MAIN's field. MAIN also did not provide the requested audit, and their current year financial statements were incomplete; as such, standard financial ratios could not be calculated to determine the agency's financial health, history and stability. The City typically does not fund agencies if it can't adequately assess their financial health or determine their goals and objectives.

She said that Mr. Wally Bowen, Executive Director of Mountain Area Information Network (MAIN), has provided City staff today with the financial information. She requested City staff be given the opportunity to review the financial information in order to present City Council with a more informed recommendation. She also noted that Mr. Bowen would provide City staff with their Strategic Operating Plan.

She said that MAIN's overall mission and community network, however, do appear to support the City of Asheville's focus in the area of economic and community development.

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Pros

- MAIN's service provides economic value especially to low income citizens, nonprofits, and micro-enterprises.
- MAIN has broad support from the community.
- The Town of Bakersville has set a precedent by providing free access to its tower.

Cons

- The opportunity cost of the grant (\$12,000 minimum per year), foregoing the potential revenue from renting the space to another customer.
- Staff has unresolved questions about MAIN's financial statements and the goal of the requested funding, as well as concerns about management practices.
- MAIN was not able to demonstrate as requested the extent to which it serves low-income people even though they have 425 subsidized subscribers, referred by disability organizations, and support 504 nonprofit websites.

At this time, based upon City staff not being given the opportunity to review the financial statements, City staff recommends the City of Asheville not make the grant award to MAIN to offset the license fee for space on the City's tower. Again, she requested City staff be given the opportunity to review the financial information in order to present City Council with a more informed recommendation.

Mr. Wally Bowen, Executive Director of Mountain Area Information Network (MAIN), requested City Council waive the \$12,000 license fee for their installation of two antennas, along with space in the equipment building, at White Fawn Reservoir. He explained that their sole reason for not incorporating the cost of the antenna space into their rate structure is that they cannot meet their organizational mission of "affordable access" for at-risk citizens and small businesses if they increase their rates to pay commercial rates for tower access.

Throughout discussion, Mr. Bowen responded to various questions/comments from Council regarding MAIN's mission, the merits of the proposal, what the benefits would be to our community; and what kind of access will be provided in the Asheville area.

Vice-Mayor Mumpower expressed a personal concern in that he felt MAIN (per their website) supports a political agenda and he would not support subsidizing the request with City tax dollars.

It was the consensus of City Council to bring this request back to City Council on July 12, 2005, in order to allow staff time within which to (1) review their financial documents and their Strategic Operating Plan; (2) provide Council with information on how much space is available on the tower; and (3) review of the quality of service they could provide to the City of Asheville.

RESOLUTION NO. 05-125 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT FROM THE DEPT. OF HOMELAND SECURITY TO ASSIST WITH THE HIRING AND RETENTION OF FIREFIGHTERS

Fire Chief Greg Grayson said that this is the consideration of a resolution to apply for funds through the Dept. of Homeland Security Office for Domestic Preparedness for a five-year grant to pay a portion of the salaries of three firefighters.

A Staffing for Adequate Fire and Emergency Response (SAFER) Grant would fund the salaries and associated benefits for new firefighters hired to increase Asheville Fire Rescue's capability, specifically so that AFR might more adequately comply with the minimum staffing standard for the first-arriving engine (or company) to initiate suppression.

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These grants require the City to match an increasing proportion of the salary over a four-year period; in the fifth year of the grant, the City must absorb the entire cost of any positions awarded as a result of the grant. Once a SAFER funded position is filled, the funded position must remain filled until the end of the period of performance. The grant would fund 90 percent of the actual costs (up to \$36,000 per position) in the first year; 80 percent in the second year; 50 percent in the third year; 30 percent in the fourth year; and zero in the fifth year.

Asheville Fire Rescue would like to request \$272,265.00 in funding over four years from the Office for Domestic Preparedness for three new firefighter positions. The grant requires a 10% match in the first year, or \$10,890.60. The match is available from the Fiscal Year 2005-2006 operating budget of Asheville Fire and Rescue Department. The required match in subsequent years would be \$21,781.20 year two; \$54,453.00 year three; \$76,234.20 year four; and \$108,906.00 in year five.

This action coincides with the City of Asheville's Strategic Operating Plan under the focus area of Partnerships To Improve Critical Services & Infrastructure.

Pros

- The project will improve public safety by enabling Asheville Fire Rescue to comply with the minimum staffing standard for the first-arriving engine to initiate fire suppression.
- This grant would allow the City to increase staffing quickly while phasing in the cost of the new positions over five years.
- This grant will reduce overtime costs when meeting staffing minimums and keeping units in service.

Cons

- The cost of the match.

The Fire Rescue Department recommends the City of Asheville apply for grant funds to pay a portion of the salaries and benefits, for four years, for three new firefighter positions.

Chief Grayson responded to various questions from Councilwoman Bellamy.

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

Councilwoman Bellamy moved for the adoption of Resolution No. 05-125. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 29 – PAGE 150

UDO AMENDMENT REVIEWS

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 July 12, 2005. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

Procedures and Standards for Subdivisions

Urban Planner Julia Coburn said that this is the consideration of an amendment to the Unified Development Ordinance for the purpose of amending the procedures and standards for subdivisions.

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City staff is proposing this wording amendment concerning the procedures and standards for subdivisions to accomplish three things:

- To clarify the procedures and standards to which "exempt subdivisions" must adhere.
- To codify a staff interpretation concerning access to small (four or fewer lot) subdivisions.
- To place access standards in both the subdivision (by reference) and general development standards of the UDO so that there is no question that all subdivided properties (exempt or nonexempt) must comply with these standards in order to obtain development

permits.

The UDO sets forth regulations in Article XV for the division of land within its jurisdiction. In accordance with the N. C. Gen. Stat. sec. 160A-376, certain divisions of land are set forth in Article XV as "exempt subdivisions" and therefore, are not subject to the regulations authorized by the State and contained in Article XV of the UDO.

While the City has long had established procedures for handling these "exempt subdivisions" it was determined that these practices needed to be codified for the benefit of all reading this section of the ordinance. The proposed amendment sets out the statutorily determined situations that constitute an exemption (7-15-1(b)(1)) and also specifies (7-15-1(b)(2) that consecutive "exempt land divisions" of the same tract or parcel, created as a means of circumventing the subdivision standards, will not be permitted if occurring within five (5) years of each other. These two sections are substantively unchanged from the current UDO, except for the clarifying addition of the five (5) year time limitation. The proposed amendment goes on to require that a certification of exemption be received prior to the recordation of an exempt subdivision in order for staff to confirm the exempt status of the proposed division of land. The most important clarification found in this amendment is contained in proposed Section (7-15-1(b)(4)) that outlines the effect of a certification of exemption. This proposed provision clarifies that while an "exempt subdivision" may be recorded without review and without compliance with the City's subdivision regulations, a building or zoning permit will only be issued for subdivided property if that property meets the standards for development set forth in the UDO. In practice, although it will not be required, staff plans to encourage those proposing an exempt subdivision to bring in a plat which can be reviewed both for the certification of exemption and for compliance with all City regulations.

This amendment also adds wording to Article XV (Subdivisions), by reference, and Article XI (Development and Design Standards) to codify a staff interpretation concerning small (four lots or fewer) subdivisions. This interpretation/proposed amendment states that where there is a division of land into not more than four (4) lots for development for single-family purposes, such subdivisions need not comply with the requirement that all residential lots abut a public street or private street developed to City standards. As an alternative, such subdivisions must provide for a recorded minimum twenty (20) foot right-of-way off of a city- or state-maintained road. Such rights-of-way shall contain a private drive meeting construction specifications concerning materials, the need for a turnaround, and the slope of the road. The ability to create these small subdivisions is limited, in the amendment, to those not coming from a parcel in the same ownership. Additionally, the amendment sets forth a spacing requirement to reduce the proliferation (in a single area) of these exceptions to the subdivision regulations.

The final element of this proposed amendment involves moving the access requirements (both commercial and noncommercial) currently found in the subdivision regulations (Article XV) to the City's general development standards (Article XI) with reference in the subdivision regulations. This amendment serves to clear up any confusion as to whether or not exempt subdivisions must comply with the access requirements of the UDO.

The amendment has been routed to CAN, CREIA, and CIBO for review and comment.

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Pros-

- The amendment clarifies and codifies the City's practices with respect to exempt subdivisions and adds a requirement for certification of exemption.
- The amendment sets forth an allowance for small single-family subdivisions to have access off a private drive meeting certain standards. Adding such a provision can facilitate infill development.
- The amendment clarifies that all lots, whether in exempt or nonexempt subdivisions, must meet the City's access standards.

Cons-

- Certifying exemption may be viewed as an unnecessary exercise for those subdividing properties.
- Private drives may be seen as insufficient access to developed properties.

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The Planning and Zoning Commission recommended approval of this code amendment on February 2, 2005, by a unanimous vote of 7-0. Staff recommends approval as well.

Ms. Cogburn responded to various questions from Councilwoman Bellamy regarding this amendment.

New Light Industrial District

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance to create a Light Industrial District.

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This code amendment is intended to implement several infill development, community compatibility, and economic development goals and strategies of the Asheville City Development Plan 2025 through the creation of a new zoning district that allows for limited industrial development.

The amendment fills a gap between higher intensity industrial zoning districts and heavy commercial districts.

The amendment has been routed to CAN, CREIA, and CIBO for review and comment.

Pros –

- Several goals and strategies of the 2025 Plan will be implemented.
- A wider range of land uses would be available to property owners.

Con – None noted.

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The Planning and Zoning Commission recommended approval of this amendment on April 6, 2005, by a vote of 6-0. City staff also recommends approval of the proposed code amendment as well.

Mr. Shuford responded to various questions from Council regarding this amendment.

Open Space Standards Revisions

Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to revise the open space standards to ensure a more uniform application of the standards and to provide for a fee-in-lieu option.

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This code amendment is intended to implement goals, objectives and tasks of the City Council's Strategic Operating Plan related to the Natural and Built Environment. The Strategic Operating Plan proposes enhanced recreational facilities, especially greenways, as well as a fee-in-lieu program.

The UDO currently contains requirements for open space provision for property being developed or redeveloped for residential and for tourist accommodation purposes. These requirements note the connection between development and loss of open space, and include measures to compensate for this loss. In practice, however, the current requirements are not especially effective in providing meaningful compensatory open space and may, in some cases, actually be at odds with City smart growth policies that promote a more urban development pattern.

The ordinance applies open space requirements to a broader range of land uses, including smaller nonresidential projects, and smaller residential developments. In most circumstances, it allows a developer to opt to pay a fee-in-lieu of open space instead of providing the open space. It caps the amount of open space required at 10% for residential and 5% for nonresidential and mixed use development; this eliminates the "penalty" that affects denser or more intensive developments in the current ordinance. It requires the City to expend open space fee dollars in areas reasonably proximate to where they are collected. It broadens the types of areas that can be used for open space. In the event that "excess" land area is required to implement the Greenway Master Plan, density or intensity bonuses are provided.

The proposed ordinance provides a more balanced approach to open space provision by better relating it to the use proposed for the property, the associated zoning district or districts, and any related park, greenway and open space plans and policies. Additionally, there is greater flexibility created by providing for fee-in-lieu of open space.

The amendment has been routed to the Downtown Commission, CAN, CREIA, and CIBO for review and comment.

Pros –

- Several goals and strategies of the Strategic Operating Plan will be implemented.
- The amendment will provide for a more effective provision of meaningful open space.
- There is greater developer flexibility.

Con –

- The amendment applies to a wider range of land uses and therefore may be considered more restrictive than current requirements (possibly a pro).

Planning and Zoning members opposed to the amendment noted concerns that included a failure to see the benefit of requiring open space as a regulation in general, concern about the effect on smaller developments, and opposition to the fee-in-lieu concept.

The Planning and Zoning Commission recommended approval of this code amendment on June 1, 2005, by a vote of 4-3. City staff recommends approval of the proposed code amendment, as well.

During discussion of this amendment, Mr. Shuford responded to various questions from Council.

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 July 12, 2005, City Council agenda.

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RESOLUTION NO. 05-126 - RESOLUTION AUTHORIZING THE CITY MANGER TO ENTER INTO A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR PURCHASE OF PROPERTY FOR A MULTI-MODAL TRANSPORTATION CENTER

Transit Services Director Bruce Black said that this is the consideration of a resolution authorizing the City Manager to enter into a Municipal Agreement with the N.C. Department of Transportation (NCDOT), Rail Division, to participate and expend funds in the amount of \$140,000 for the purchase of a future multi-modal transportation site on the southeasterly side of Thompson and Decatur Streets.

Resolution No. 04-112, adopted on May 11, 2004, authorized the City Manager to enter into a municipal agreement with NCDOT for the purchase of three tracts of property in the Biltmore Village Shopping Center for the purpose of establishing a multi-modal transportation center. The state was not able to purchase this property, and an alternative site was sought.

The NCDOT Rail Division has located a 3.05 acre improved site on Thompson Street, immediately adjacent to the above site. The new site is accessible from Thompson and Decatur Streets, and is along the Norfolk Southern rail tracks. This site is superior to the former site in both access and size.

The purchase price for this property is approximately \$1,700,000 less the value of a three-year lease-back (approximately \$300,000) to Granieri Properties LLC, the current owners. There are provisions to extend this lease if the state agrees to do so. Granieri will be responsible for all insurance, maintenance, taxes and utilities.

The City of Asheville will hold a 10% undivided fee simple interest in this property and will contribute \$140,000 to the purchase. This amount is in the Fiscal Year 2004-05 budget, and will not require a budget amendment.

The NCDOT Rail Division will undertake and be responsible for all management of the property.

The due diligence has been done by the NCDOT Rail Division, and reviewed in house by the City of Asheville. No problems or issues were found related to this site.

Advantage:

- Secure site for possible Inter-modal Rail Station

Disadvantage:

- Ties up \$140,000 for the next three years.

This action complies with the City Council Strategic Operating Plan in the Natural and Built Environment, Goal 3, Support Passenger Rail Service to the Region.

City staff recommends City Council authorize the City Manager to enter into a municipal agreement with NCDOT to participate in the purchase of the new site.

Vice-Mayor Mumpower asked if this agreement obligates the City to participate in the construction on the new site. While responding to various questions from Council, Mr. Black noted that this agreement does not tie up the City in terms of rail service itself. However, Interim City Manager Westbrook felt it was fair to say that the State would expect the City to be a partner in anything that may come up there in the future if it works out financially.

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

Vice-Mayor Mumpower moved for the adoption of Resolution No. 05-126. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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At 5:00 p.m., Mayor Worley announced a short recess.

BOARDS AND COMMISSIONS:

It was the consensus of City Council to instruct the City Clerk to (1) re-advertise for the West resident position; (2) reappoint Tim Flora (North) and John Burchfield (Central); and (3) arrange interviews for Davidson Jones, Donald Swaby and Mary Ann LaMantia for vacancies on the Citizens/Police Advisory Committee.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to reappoint Max Alexander and

appoint Jean Ann Taylor to the Civic Center Commission.

It was the consensus of City Council to instruct the City Clerk to (1) appoint Councilwoman Bellamy; (2) reappoint Bill McGuire; and (3) arrange interviews for Bill Kelley and Nancy Ray. After a brief discussion, the City Clerk was instructed to contact the Board of Directors to see if they would be willing to entertain a Police Department liaison role on the Board. If there would be a concern with that, then City Clerk Burleson was instructed to also arrange an interview for Lt. Kevin West.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to reappoint Diane Duermit and John Cram to the Historic Resources Commission.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to (1) reappoint Eleanor Campbell and Jim Drummond; and (2) arrange interviews with Matthew Davis, Susan Birkholz, Geoffrey Ferland and Andrew Gall for vacancies on the Recreation Board.

The majority of City Council instructed City Clerk Burleson to prepare the proper paperwork to appoint T. Clark Brown as Chair of the Civil Service Board.

BUDGET WORKSESSION

- City Council reviewed the budget prior to adoption on June 28, 2005.

ADJOURNMENT:

Mayor Worley adjourned the meeting at 8:45 p.m.

CITY CLERK

MAYOR