

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Diana Hollis Jones; Councilwoman Robin L. Cape; Councilman Jan B. Davis; Councilman Bryan E. Freeborn; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

Ms. McLain R. Rose started the new year by singing the National Anthem.

INVOCATION

The Reverend Jim Abbott from St. Matthias Episcopal Church gave the invocation.

I. PROCLAMATIONS:

A UNITED WAY CAMPAIGN

Mr. David Bailey, representing the United Way, thanked the City of Asheville for the 2005 outstanding United Way campaign. The goal set by the City of Asheville was \$85,000 and the City employees contributed \$94,000. Mr. Bailey presented the City of Asheville with the Spirit of the Mountain Award. He spoke highly of the City of Asheville's Campaign co-coordinators Police Chief Bill Hogan and Marketing Communications Coordinator Laurie Saxton.

B. RECOGNITION OF FIRE DEPARTMENT EMPLOYEES

Mayor Bellamy recognized Fire Department employees Captain Steve Fridl, Firefighter Josh Walton and Engineer Brian Metts. These men responded to a call involving a 2-year old boy on Saturday, December 10, 2005, who had choked on candy while shopping with his parents at the Mast General Store. These men were able to work with the child and obtain an open airway, as he was non-breathing and blue in color. The Emergency Medical Services staff arrived after they opened the airway and the child was transported.

On behalf of City Council, she commended them for their fine work!

II. CONSENT AGENDA:

Mayor Bellamy removed Items "B", "C" and "H" from the Consent Agenda for further discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 13, 2005

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH PEARCE, BRINKLEY, CEASE AND LEE ARCHITECTURE TO DEVELOP A MASTER PLAN AND CONSTRUCTION DOCUMENTS FOR THE W.C. REID CENTER FOR CREATIVE ARTS

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This matter was pulled off the Consent Agenda for further discussion.

C. RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH THE NATIONAL WEATHER SERVICES TO ACCEPT A GRANT FOR AN AUTOMATED FLOOD WARNING SYSTEM

BUDGET AMENDMENT FROM THE NATIONAL WEATHER SERVICE FOR A GRANT FOR AN AUTOMATED FLOOD WARNING SYSTEM

These matters were pulled off the Consent Agenda for further discussion.

D. RESOLUTION NO. 06-2 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE EASEMENT FOR ELECTRIC POWER DISTRIBUTION FACILITIES IN PACK SQUARE/CITY COUNTY PLAZA AREA

Summary: The consideration of a resolution authorizing the City Manager to execute an easement allowing for the location / relocation of electrical power distribution facilities and lines.

In connection with the construction and renovation activities in the Pack Square / City County Plaza area, Progress Energy needs to reconfigure some of its power distribution facilities in the area. There is already a switchbox located in the grassy area at the southeast corner of the North Market Street and College Street intersection. A line runs underground from the switchbox to a manhole in the middle of that intersection. There is also an existing line running underground along Spruce Street (from Court Plaza to College). The transformer located on the southeast corner of Spruce Street and Court Plaza will remain where it is.

The proposed easement calls for moving the switchbox from its current location to the sidewalk along the south side of College Street, where it will be installed in a vault underground, and a new distribution line to be installed underground in College Street from Market to Spruce Street. A new transformer will be installed in front of the Police/Fire building. The easement will also recognize existing underground lines. This easement request has been reviewed by Public Works and Engineering, and no issues were identified.

Considerations:

- This work will result in utility structures being moved to an underground location
- This work will be performed by the PS/CCP area is under construction
- This should result in improved appearance
- There should be no interference with the use of the road or other utilities
- Existing lines will be reconfigured
- The City will receive no compensation (but usually does not for these utility installations in the right-of-way)

If Council approves of the easement, adoption of the resolution is recommended.

RESOLUTION BOOK NO. 29 – PAGE 306

E. ORDINANCE NO. 3314 - BUDGET AMENDMENT FROM THE N.C. DIVISION OF AGING AND THE LAND OF SKY REGIONAL COUNCIL FOR IMPROVEMENTS AT THE SENIOR OPPORTUNITY CENTER

Summary: The consideration of a budget amendment, in the amount of \$5,454, for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding for the Senior Opportunity Center.

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Funds will be used for center improvements and for purchase of supplies and equipment that will enhance center operations and services.

Pro: Provide improvements, equipment and supplies that will enhance center operations and services specifically for the senior citizens who use the center daily.

Cons: - None noted

This action complies with City of Asheville Strategic Operating Plan. Focus Area: Partnership to improve critical services and infrastructure. Goal #2: Diversified and broadened revenue sources-develop alternative revenue sources that are available to address local needs.

City staff recommends City Council approve the budget amendment to establish a budget for center improvements, equipment and supplies for the Senior Opportunity Center.

ORDINANCE BOOK NO. 22 – PAGE 337

F. ORDINANCE NO. 3315 - BUDGET AMENDMENT FROM THE N.C. DIVISION OF AGING AND THE LAND OF SKY REGIONAL COUNCIL FOR IMPROVEMENTS AT THE HARVEST HOUSE

Summary: The consideration of a budget amendment, in the amount of \$16,362, for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding for the Harvest House.

Funds will be used to install new floors throughout the first floor of the Harvest House. The current floors are old and deteriorated and have outlived their useful life. This update will make the Harvest House safer and more aesthetically pleasing.

Pros: - Achieves much needed repairs without using general fund dollars.

Cons: - None noted

This action complies with City of Asheville Strategic Operating Plan. Focus Area: Partnership to improve critical services and infrastructure. Goal #2: Diversified and broadened revenue sources-develop alternative revenue sources that are available to address

local needs.

City staff recommends City Council approve the budget amendment to establish a budget to install new floors on the first floor of the Harvest House.

ORDINANCE BOOK NO. 22 – PAGE 339

G. ORDINANCE NO. 3316 - BUDGET AMENDMENT FROM A GRANT FROM THE U.S. TENNIS ASSOCIATION FOR RENOVATION OF THE ASTON PARK TENNIS CENTER

Summary: The consideration of a budget amendment, in the amount of \$89,000, to recognize a grant award from the United States Tennis Association.

In June 2005, the City of Asheville applied for a grant from the United States Tennis Association to assist with the renovation of the Aston Park tennis facilities. The grant was recently awarded in the amount of \$89,000.

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Pros:

- Allows for the City to develop improvements to Aston Park without taxpayer investment.
- Completes the construction of the Irene and Dick Covington Tennis Center.
- Completion of the Center will allow for community use in the meeting space provided

Cons:

- None

City staff recommends City Council approve the budget amendment to increase the budget for the renovation of Aston Park.

ORDINANCE BOOK NO. 22 – PAGE 341

H. RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO APPLY TO THE N.C. PARKS AND RECREATION TRUST FUND FOR A GRANT TO ASSIST WITH THE RENOVATION OF REID CENTER

This matter was pulled off the Consent Agenda for further discussion.

I. RESOLUTION NO. 06- 4 – RESOLUTION AUTHORIZING THE MAYOR TO CONVEY WHATEVER INTEREST, IF ANY, THE CITY MAY HAVE IN THAT PORTION OF THE RIGHT-OF-WAY OF CRESTMONT AVENUE WHERE THE DWELLING LOCATED AT 80 BEVERLY ROAD ENCROACHES

Summary: The consideration of a resolution authorizing the conveyance of a non-warranty deed to Mary E. Kingston for the slight encroachment of her residential dwelling into the City's right of way of Crestmont Avenue.

Crestmont Avenue was platted in 1926 and the dwelling located at the corner of Beverly Road (80 Beverly Road) and Crestmont Avenue was built in 1934. There are three different right of way widths for Crestmont Avenue, 40 feet, 45 feet and 50 feet. The dwelling located at 80 Beverly Road encroaches approximately 2 feet at 2 separate points into the right of way of Crestmont Avenue and has been so encroaching since its construction in 1934. The current owner of the dwelling at 80 Beverly Road, Mary E. Kingston, has requested that the City quit claim any interest if any, the City may have in the areas of the encroachment. The reason for the request is that the areas of the encroachment are defects on Ms. Kingston title to the property, which impacts the marketability of the property. Additionally, there is a pending sale of the dwelling and the new prospective owner has conditioned the purchase on the encroachment defects being resolved prior to purchase.

City staff has investigated the request by reviewing the land records, plats and surveys and inspecting the property in question. Additionally, other appropriate affected departments have been informed about Ms. Kingston's request. There has been no opposition to the request. The City is not in need of the property where the encroachments are located.

The positive aspects of the conveyance by non-warranty deed are:

- It relieves the City of potential liability for the areas of encroachment
- The property owner is not required to obtain an encroachment agreement from the City
- Addition onto the tax roll of the small areas previously classified as City right of way

The negative aspects are:

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- Irregular shaped right of way along that portion of Crestmont Avenue

City staff recommends that the City Council authorize the Mayor to convey by non-warranty deed the two (2) areas of encroachment as shown in Plat Book 10 at Page 95 of the Buncombe County Registry.

RESOLUTION BOOK NO. 29 – PAGE 308

J. RESOLUTION NO. 06-5 - RESOLUTION ACCEPTING THE BID FROM CAROLINA SPECIALTIES INC. AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAROLINA SPECIALTIES INC. FOR ROOF IMPROVEMENTS TO THE TRANSIT GARAGE

Summary: The consideration of a resolution accepting the bid from Carolina Specialties, Inc. and authorizing the City Manager to enter into an contract with Carolina Specialties, Inc. for roof improvements to the transit garage.

The City has received a federal grant to purchase construction services for roof rehabilitation to the transit garage. This project is part of a routine maintenance schedule with a total cost of \$97,187.60. The project is funded by a grant from the Federal Transit Administration. The project is in the Capital Improvement Plan budget and the matching funds have been accumulated.

Pros:

- Rehabilitation of aging facility
- Leverage outside funding source to improve City facility

Con:

- The project will have no negative impact on any city operation or create any secondary operating or capital expenses.
- The neighbors may experience some construction noise for a few days during business hours as the rusted roof is removed and the new plates installed.

This action complies with the City Council's Strategic Operating Plan in the Planning Focus Area- Goal #2-A Multi-modal Transportation System, leveraging outside funding sources

City staff recommends City Council grant the City Manager authority to purchase the improvements funded by Federal Grant Number NC-90-X352-01.

RESOLUTION BOOK NO. 29 – PAGE 309

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

Councilman Cape moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Jones and carried unanimously.

ITEMS PULLED FROM THE CONSENT AGENDA FOR DISCUSSION

RESOLUTION NO. 06-1 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH PEARCE, BRINKLEY, CEASE AND LEE ARCHITECTURE TO DEVELOP A MASTER PLAN AND CONSTRUCTION DOCUMENTS FOR THE W.C. REID CENTER FOR CREATIVE ARTS

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Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Pearce, Brinkley, Cease and Lee Architecture to develop a master plan and construction documents for the W.C Reid Center for Creative Arts based on City Council direction during the Fiscal Year 2005-06 budget process.

The City of Asheville Parks and Recreation Department is in the process of developing a master plan and construction documents for the W.C Reid Center for Creative Arts.

This municipal recreation center is the site of a former school on Livingston Street. The existing facility has served the community for many years with modest improvements to enhance its basic recreation services. For the facility to evolve into a more focused multi-disciplinary arts program, the building and grounds require building code, functional and aesthetic improvements. A master plan is required in order to manifest these improvements and will include extensive community input sessions and focus group sessions with various users of the facility. If consultant's master plan/design work is satisfactory, the consultant will be asked to implement the construction documentation phase immediately. A request for qualifications was issued to all local architects, and the selection process was conducted by a committee that consisted of members of the Parks and Recreation staff as well as a representative from the Reid Center Advisory Board. The project was bid out according to city standards that included the Minority Business Plan. The firm of Pearce, Brinkley, Cease and Lee Architecture was selected as the optimum firm during the course of this process. Funds are available in the current capital improvement budget for this phase of the development.

Pros

- The development of this project would greatly enhance the ability to provide unique, vital recreation services to the community.
- The improvements at the center will enhance its physical and programmatic relationship to the surrounding neighborhood.
- The center will be a local and regional attraction that will foster economic development.
- Continuity of master plan and construction documentation with one firm.

Cons

- The work is extensive and costly to develop this high quality center.
- The facility will require increased staffing and materials to maintain it via the operating budget.

City staff recommends that City Council authorize the City Manager to enter into a contract with Pearce, Brinkley, Cease and Lee Architecture in the amount of \$103,350 to develop a master plan for the W.C Reid Center for Creative Arts with construction documentation to follow.

Upon inquiry of Councilwoman Cape, Mr. Brinson explained who they will look to for the focus group on the design of the Reid Center.

Councilman Newman moved to approve Resolution No. 06-1. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 29 – PAGE 305

RESOLUTION NO. 06-3 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO APPLY TO THE N.C. PARKS AND RECREATION TRUST FUND FOR A GRANT TO ASSIST WITH THE RENOVATION OF REID CENTER

Summary: The consideration of a resolution authorizing the Mayor to apply for and enter into an agreement with the N.C. Dept. of Environment and Natural Resources for a grant to assist with the renovation of the Reid Center.

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The renovation of the Reid Center is identified as a priority by the Asheville Parks and Recreation Department comprehensive master plan, the Reid Center Advisory Board, by the neighborhoods surrounding the center, and by the community at large. The Reid Center is located in the heart of several neighborhoods and daily serves a high proportion of at-risk youth and teens who live in the neighborhoods. In addition to general recreation programs, Reid Center is planned to become one of Asheville's leading cultural art venues with an emphasis on the performing and visual arts.

The Parks and Recreation Department is in the second year of a three-year partnership with the Junior League of Asheville to implement a capital campaign to raise most of the \$3 million needed to support renovation cost. The Parks and Recreation Trust Fund will be the first significant grant application as part of the capital campaign, and serve as seed money for future fundraising efforts.

The Parks and Recreation Department is requesting \$500,000 in grant funds for renovation of the Reid Center from the North Carolina Parks and Recreation Trust Fund. The grant application requires a dollar for dollar cash match. The cash match is in the proposed Parks and Recreation Department's Fiscal Year 2006/2007 Capital Improvement Project budget.

Pros:

- ÿ Continue to make progress on the Parks and Recreation Department's strategic plan to renovate and improve the Reid Center.
- ÿ Respond to public demand to improve the Reid Center.
- ÿ Raise outside funds to support facility renovations and reduce reliability on City funds to support Capital Improvement Project cost.

Cons: - None noted.

This action complies with the City of Asheville Strategic Operating Plan. Focus Area: Partnership to improve critical services and infrastructure. Goal #4: Develop programs and policies to defeat street level drug problems and crime.

City staff recommends the City of Asheville apply for and enter into an agreement for grant funds through the North Carolina Parks and Recreation Trust Fund for \$500,000 for renovation of the Reid Center.

Councilman Mumpower said that the Reid Center does good things and really makes a difference, however, he was concerned with the \$3 Million needed for renovations and the \$500,000 needed for a cash match.

Mr. Brinson responded to various questions and comments from Council. He explained that generally they have been good in securing funds to where 80% of what we bring in is raised from outside and 20% is the City's commitment.

In response to Vice-Mayor Jones' question if the \$500,000 could be spread out over a 5-year period or if the match must be made in a lump sum, Mr. Brinson explained why the \$500,000 could not be spread over multiple years. Vice-Mayor Jones urged Mr.

Brinson to continually look for other ways to match the \$500,000 so the General Fund would not be impacted so much.

Upon inquiry of Vice-Mayor Jones, Mr. Brinson said that the renovation of the Reid Center will be their number one priority in the Capital Improvement Plan because of the match potential to double their money.

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In response to Councilwoman Cape, Mr. Brinson said that he would be happy to share with Council the Parks & Recreation Department's overall strategic plan.

In response to Councilman Newman, Mr. Brinson said that over the years the City has been aggressive with new park development and at this point he feels they need to stabilize and begin maintaining the facilities we currently have. He shared his long-term vision for the 11 community centers around the City.

Ms. Sophie Dixon and Ms. Cory White both spoke in support of the need for the renovation of the Reid Center.

Councilman Newman moved to approve Resolution No. 06-3. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 29 – PAGE 307

RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH THE NATIONAL WEATHER SERVICES TO ACCEPT A GRANT FOR AN AUTOMATED FLOOD WARNING SYSTEM

BUDGET AMENDMENT FROM THE NATIONAL WEATHER SERVICE FOR A GRANT FOR AN AUTOMATED FLOOD WARNING SYSTEM

Summary: The consideration of a resolution authorizing the City to enter into an agreement with the National Weather Service for a grant for an automated flood warning system consisting of four (4) rain gages and four (4) combination rain and stream gages, and an associated budget amendment in the amount of \$103,955.

In October 2004, the City of Asheville applied for an \$184,245 grant from the National Weather Service. This grant included the following: 1) Development of an Automated Flood Warning System which consists of four rain gages and four combination rain and stream gages, including equipment and installation; 2) Development of a Flood Response Plan; and, 3) Preparation of Public Outreach Materials, including public meetings to promote the Automated Flood Warning System and the Flood Response.

Ultimately, the National Weather Service awarded the City \$57,620 to cover the purchase of four rain gages and four combination rain and stream gages. The City will bear the cost of installing these gages, which will be \$46,335. The City will contract out the installation of the gages, and this expense will be paid for with revenues from the Stormwater Utility Fund. The North Carolina Flood Mapping Program has agreed to maintain these gages after they're installed so they can become a part of the United States Geological Services overall flood warning program. The exact location of these gages will be determined as part of the reservoir study. The gages should be installed by July 2006.

Considerations:

- The first consideration of this project is the cost the project. The grant is covering approximately 55% of the project cost.
- The grant does not cover the maintenance cost of the gages. John Dorman with the National Weather Service has agreed to pay these costs.
- The data from these gages will allow us to better prepare for flooding.
- The National Weather Services has indicated they would like to fund more projects for the City once this project is complete.

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This action complies with the City Council Strategic Operating Plan in Goal #1 in the focus area of Natural and Built Environment. Goal #1: Enhance and preserve air and water quality through comprehensive efforts. Objective #D Improve water quality.

City staff recommends City Council authorize the City to enter into an agreement with the National Weather Service for an automated flood warning system consisting of four (4) rain gages and four (4) combination rain and stream gages, and adopt the associated budget amendment.

Ms. Ball responded to various questions/comments from Council regarding the need for the rain gages and why the data from the gages will produce a better, more precise, product for the inundation study.

After further discussion, Councilman Mumpower moved to continue this matter to the next worksession to allow Council more time to get a better understanding of the automated flood warning system. This motion was seconded by Councilman Davis and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE A HABITAT FOR HUMANITY SUBDIVISION LOCATED OFF OF SAND HILL ROAD

Mayor Bellamy said that the City and the property owner have requested this public hearing be continued until February 14, 2006. Therefore, Vice-Mayor Jones moved to continue the public hearing until February 14, 2006. This motion was seconded by Councilman Davis and carried unanimously.

B. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED ON MILLS GAP ROAD AND SWEETEN CREEK ROAD, KNOWN AS MILLS CREEK CONDOMINIUMS, FOR A 76-UNIT CONDOMINIUM DEVELOPMENT

ORDINANCE NO. 3317 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED ON MILLS GAP ROAD AND SWEETEN CREEK ROAD, KNOWN AS MILLS CREEK CONDOMINIUMS, FOR A 76-UNIT CONDOMINIUM DEVELOPMENT

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

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 6:03 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.

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

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Urban Planner Shannon Tuch 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).

Ms. Tuch said that this is the consideration of the issuance of a conditional use permit for property located on Mills Gap Road and Sweeten Creek Road, known as Mills Creek Condominiums, for a 76-unit condominium development.

The applicant is requesting a review of a master plan for a seventy-six (76) unit condominium development along with the associated private roads, open space, and required landscaping (Attachment to City Exhibit 3 – Location Map). The proposed development is located on 9.75 acres off of Mills Gap Road (Attachment to City Exhibit 3 – Aerial Map). One of the 76 units is an existing single family home that will be sold as a condominium cottage home while the rest of the units will be 2 story, attached condominiums of new construction and clustered in groups of 2, 3, and 4 units (Attachments to City Exhibit 3 – Preliminary Master Plan; Building Front and Rear Elevations). The property is within City limits and is zoned RM-16 Residential Multi-Family High Density. This property is subject to Hillside Development Standards.

Review of this master plan includes only a portion of the 2 subject properties proposed to be developed for residential uses. A subsequent 'Phase 2' is included in the master plan only to demonstrate a second access point to Sweeten Creek Road required for emergency access. This future phase will be developed separately under a different application and development standards based on the existing Commercial Industrial zoning.

This project was reviewed at the November 21, 2005, Technical Review Committee (TRC) meeting where the project was approved with a number of conditions. Revised plans were submitted addressing the majority of those conditions and were reviewed by the Planning & Zoning Commission at their December 7, 2005, public hearing. After comment and deliberation, the Commission recommended approval of the site plan review subject to:

- All outstanding TRC conditions are met.
- Applicant shall work with Traffic Engineer on establishing appropriate traffic calming measures to be installed along the proposed road (to control cut-through traffic).
- Applicant shall work with staff on flexible setback standards so that roads may be public.

City Council must take formal action as set forth in section 7-9-9(c)(4) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case (UDO 7-16-2(c)).

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

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. 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 or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

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The majority of the project area has an average natural slope of over 15% and is over elevation 2220 which renders the property subject to hillside development standards. Although fairly extensive, the amount of clearing and grading is not unusual for a project of this size where topography and other natural features present challenges to development. The applicant is proposing to preserve some small creek beds and existing vegetation around the cottage home and by doing so will remain in compliance with the hillside development standards. Landscape buffers and a small amount of tree preservation will provide some minor mitigation. The extent of clearing, grading, and retaining walls could be further mitigated by reducing the number of units and/or by massing the units in an alternative layout.

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

There is a significant amount of literature that describes how work force housing does not negatively impact adjacent property values; developments of this size in the City do require a home owner's association that manages the common open space and typically has minimum site standards that control the deterioration that can contribute to a decrease in property values. These units will be individually owned units that, historically, inspire care and upkeep. In addition, the higher density development could serve as a buffer/transition area to the existing single family residences that could be impacted by the more intense uses permitted in the CI zoning district

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.

This neighborhood appears to be a neighborhood in transition; currently there is an unusual mix of low, medium, and high density residential uses ranging from large single family homes on large lots to high density apartments. The character of the neighborhood appears to be transitioning from a more rural low density single family character to a more urban, higher density form. The proposed development is classified as a medium density project and will be an appropriate transition between the existing low and high density residential properties already existing in the area. The proposed density for the project is 7.8 units an acre, well below the 11.3 units per acre normally allowed under the existing zoning and hillside development standards. The homes are modest in size and grouped in relatively small clusters of 2, 3, and 4 units per cluster, each unit fronting on the new road and, again, will be an appropriate transition between the existing single family homes and multi-family apartment buildings.

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

The *Asheville City Development Plan 2025 (ACDP 2025)* describes a number of reasons why properties within the City limits remain underdeveloped or vacant, including topographical or other physical problems with the property resulting in prohibitive development costs under existing market (or zoning) conditions. The *ACDP 2025* encourages a Smart Growth development pattern that accommodates realistic, market based alternatives to promote infill development of vacant or underdeveloped property to meet the increasing housing needs of the City of Asheville's work force population.

This property, located on a major corridor, is already zoned to allow for a high-density residential development and is one of many development projects proposed for this growing area of the City.

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6. 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 area is located in clear and close proximity to major road facilities, interstate connections, service centers, and easily accessed employment centers. Technical review has not revealed any significant problems for future utility or emergency service to the development.

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

The proposed project will include the construction of a new road connection between Mills Gap Road and Sweeten Creek Road. This new road will provide clear and safe access to the individual units, each of which will front on the new road. In addition, preliminary review by the City's traffic engineer does not reveal any significant concern over traffic loads generated by a

development of this size.

Pros

- Provides the opportunity for residential infill development on a major corridor.
- Provides new road connection between two major roads.

Cons

- Requires extensive clearing and grading
- Proposed development does not reflect traditional neighborhood development patterns (i.e. lack of diversity in housing types)

Staff concurs with the Planning & Zoning Commission and recommends approval of the Level 3 site plan for the Mills Creek Condominium project.

Mr. Chris Eller, Civil Design Concepts, spoke in support of the development in that they have reservations on all the units, which are reasonably priced. Even though details are not finalized, they anticipate them being from the mid-\$150,000's to the \$180,000's.

After rebuttal, Mayor Bellamy closed the public hearing at 6:09 p.m.

Councilman Newman moved for the adoption of Ordinance No. 3317, granting a conditional use permit for the Phase I Mills Creek Condominium development, subject to the following conditions: (1) All outstanding TRC conditions are met; (2) Applicant shall work with Traffic Engineer on establishing appropriate traffic calming measures to be installed along the proposed road (to control cut-through traffic); and (3) Applicant shall work with staff on flexible setback standards so that roads may be public. This motion was seconded by Vice-Mayor Jones.

Councilwoman Cape was concerned about the cut-through traffic that might result from the proposed road. Ms. Tuch said that given the restraints of the existing lot, the proposed road is the most logical. Traffic Engineer Anthony Butzek also responded that the developer will need to submit plans showing traffic calming measures meeting standard adopted criteria for effective traffic calming projects and that involves setting a minimum and maximum spacing of the measures and using specified types of measures. The City will work with them on finalizing what those measures would be – typically a mix of speed humps and possibly some islands in this case.

In response to Councilman Davis about green space, Mr. Eller said that they have kept a good portion of the project undisturbed. It is passive green space now and they will leave it up to the homeowners to decide what, if anything, to put in there.

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The motion made by Councilman Newman and seconded by Vice-Mayor Jones carried unanimously.

ORDINANCE BOOK NO. 22 – PAGE 343

C. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF PROPERTY LOCATED AT OAK PARK ROAD AND SKYVIEW ROAD FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT AND RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT/CONDITIONAL ZONING TO PERMIT CONSTRUCTION OF TWO DUPLEX BUILDINGS AND THREE SINGLE-FAMILY HOMES

Mr. Gerald Green, representing the developer, stated that they had recently been informed that a valid protest petition had been filed and they wish for additional time within which to meet with the neighborhood to understand and possibly address their concerns. Therefore, Councilman Mumpower moved to continue the public hearing until February 14, 2006. This motion was seconded by Councilman Davis.

City Attorney Oast noted that if City Council continues the public hearing, the protest petition would remain valid and there would be no need for the neighborhood to file another one.

Ms. Patsy Brison, attorney representing some members of the neighborhood, spoke against the continuance in that the neighborhood has made special arrangements to be at this meeting and they are prepared to move forward. She said that last year the developer had expressed an interest in working with the neighborhood to address the concerns on this project, however, they didn't. She asked for Council to proceed with the public hearing.

Councilman Mumpower felt that since the protest petition was only validated on Friday or Monday, that it would only be fair to give the developer an opportunity to work with the neighborhood to address their concerns.

Councilman Newman felt that this is a slightly different proposal from what came before City Council last year and hoped that the developer and the neighborhood can work together.

The motion made by Councilman Mumpower and seconded by Councilman Davis to continue the public hearing to February 14, 2006, carried on a 6-1 vote, with Councilman Freeborn voting "no."

D. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF TWO LOTS RECENTLY ANNEXED KNOWN AS SOUTHRIDGE AREA TO BE ZONED HIGHWAY BUSINESS DISTRICT

ORDINANCE NO. 3318 - ORDINANCE TO ZONE TWO LOTS RECENTLY ANNEXED KNOWN AS SOUTHRIDGE AREA TO BE ZONED HIGHWAY BUSINESS DISTRICT

Mayor Bellamy opened the public hearing at 6:22 p.m.

Ms. Julia Cogburn, Urban Planner, said that this is the consideration of an ordinance to zone two lots recently annexed known as Southridge area to be zoned Highway Business District. This public hearing was advertised on December 30, 2005, and January 6, 2006.

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The North Carolina State Legislature recently passed a bill adding properties on Airport Road to the corporate limits of the City of Asheville. This bill was enacted at the request of Southridge Associates, LLC, developers of the shopping area and outparcels at the intersection of Airport Road and Rockwood Road. The effective date of annexation for two of these parcels was September 30th of this year. These parcels are currently under the zoning jurisdiction of Buncombe County and are zoned "Employment" under their Limestone Township Ordinance. The two parcels for which initial zoning is proposed total 1.60 acres in size.

Other properties in the Airport Road area that are within the City's jurisdiction (such as the Holiday Inn Hotel) are zoned HB. Staff proposes the same zoning for these parcels.

Pros

- Zones property recently taken into the City of Asheville in consideration of the surrounding zoning and land use and the City's Comprehensive Plan.

Cons

- None

The Planning and Development Staff recommends approval of this initial zoning. The City's Technical Review Committee, at its meeting on November 21, 2005, voted unanimously to recommend approval of this initial zoning, as did the Planning and Zoning Commission (6-0) at their meeting on December 7, 2005.

Mayor Bellamy closed the public hearing at 6:24 p.m.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3318. This motion was seconded by Councilman Davis.

Upon inquiry of Councilwoman Cape, Ms. Cogburn outlined the other zoning district options for the property, noting that the property owner did wish this property to be zoned Highway Business.

Councilwoman Cape was hopeful to start some dialogue about the City's overall economic impact of some of our development choices.

Mr. Bob Stultz, representing the developer of the property, said that their entire property is restricted by covenants and restrictions which are much more restrictive than the Highway Business District. They are aggressively marketing the property for a full-service restaurant.

City Attorney Oast cautioned Council that if the property is rezoned, any use permitted in that zoning district can be built on the property.

Upon inquiry of Councilman Freeborn, Planning & Development Director Scott Shuford said that he would submit to Council some information on what the key characteristics are for each of the different zoning districts for Council to refer to in the future.

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

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E. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF PORTIONS OF RECENTLY ANNEXED PROPERTIES KNOWN AS GROVE PARK COVE TO BE ZONED RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT

ORDINANCE NO. 3319 - ORDINANCE TO ZONE PORTIONS OF RECENTLY ANNEXED PROPERTIES KNOWN AS GROVE PARK COVE TO BE ZONED RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT

Mayor Bellamy opened the public hearing at 6:40 p.m.

Ms. Julia Cogburn, Urban Planner, said that this is the consideration of an ordinance to zone portions of recently annexed properties known as Grove Park Cove to be rezoned RS-2 Residential Single-Family Low Density District. This public hearing was advertised on December 30, 2005, and January 6, 2006.

The City of Asheville has recently completed the voluntary annexation of portions of two lots located off of Patton Mountain Road. These areas are currently in the Beaverdam Township of Buncombe County and are zoned low-density residential. The areas are part of a larger tract of land that has been reviewed and approved for a seventeen (17) lot subdivision to be known as Grove Park Cove. The entire tract is approximately 30 acres in size. The portions to be annexed are 3.51 acres in size. The portions of the property currently within the city limits are zoned RS-2 Residential Single-Family Low Density District.

Pros

- Zones property recently taken into the City of Asheville in consideration of the surrounding zoning and land use.

Cons

- None

The Planning and Development staff recommends approval of this initial zoning. The City's Technical Review Committee, at its meeting on November 21, 2005, voted unanimously to recommend approval of this initial zoning. At a meeting on December 7, 2005, the Planning and Zoning Commission unanimously (6-0) recommended approval as well.

Mayor Bellamy closed the public hearing at 6:42 p.m.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3319. This motion was seconded by Vice-Mayor Jones and carried unanimously.

ORDINANCE BOOK NO. 22 – PAGE

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At 6:45 p.m., Mayor Bellamy announced a short recess.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 06-6 - RESOLUTION OF SUPPORT FOR THE HUB PROJECT PLAN

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Mr. Sam Powers, Economic Development Director, said that this is a review of the HUB Project and for Council to consider a resolution providing policy direction.

Mr. Powers reviewed the economic development strategies and the benefits of the Office of Economic Development.

The multi-cluster HUB Project is a coordinated effort by public, private and nonprofit participants to create sustainable economic development strategies for Buncombe County.

As follow-up to the recent presentation given to City Council at the October 18, 2005, Council worksession, County Manager Wanda Greene met with City Manager Jackson and several City staff to discuss the HUB Strategic Goals relevant to the City of Asheville. The City's Economic Development Advisory Committee ("EDAC") has also received an overview of the HUB Project and has been given an opportunity to provide comment.

Mr. Chuck Tessier, Chair of the Economic Development Advisory Committee, spoke in support of the strategic goals and thanked Council for the opportunity to comment.

Mr. Powers then summarized the following 17 strategic goals responding to Council's questions/comments as each goal was discussed:

1. *To establish a Community and Economic Development Authority to leverage Buncombe County's unique assets to attract, create and expand business opportunities while improving the well-being of our citizens.*

The County Manager indicated the preliminary plan calls for a 30-35 member Authority, with two members from the City of Asheville. City staff indicated to Ms. Greene that City Council may have an interest in the final authority structure, including an increase in the proportion level of city representation on the board, given that 60% of projects in the HUB plan are in the City.

Mayor Bellamy felt that a good portion of the plan is in Asheville and suggested City have more input in the governance of the Authority with more seats than two.

Councilman Davis agreed with Mayor Bellamy and felt we had fairly minor seating on the board.

Councilwoman Cape felt the Authority should include members from the alternative health field and small businesses.

Councilman Mumpower felt the proposed Authority is a good beginning and too many people at the table would not be functional. In addition, the Authority is a planning effort to us to go in a better direction.

Vice-Mayor Jones suggested the City have 5 designations in the open at-large seats. She felt this planning effort is the beginning of an entity that will have authority.

Councilman Newman said that if the City endorses this project, the City will need to determine how much to invest in staff time and financial resources.

Councilman Freeborn also agreed that Asheville should have more than 2 seats on the Authority.

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- 2. To expand our community organizing capability to ensure that both urban and rural communities throughout Buncombe County can play an active role in their future development.*

The City may contribute to achieving this goal by continuing our aggressive Community Oriented Government format. This effort includes but is not limited to: community neighborhood walks, community council meetings, citizens academy, developer's forum, and numerous community meetings on an on-going basis. The City's Office of Economic Development ("OED") & Minority Affairs can provide leadership in reaching under-represented neighborhood populations.

- 3. To implement inter-related strategies, that combines our unique assets and existing initiatives, and bring about synergy for implementation.*

The shared vision for riverfront development, downtown, Broadway corridor, Biltmore corridor/medical center, Biltmore Village, West Asheville, are all specific action steps that the City will take to meet the Strategic Goal.

Visioning and comprehensive planning efforts of the City, such as Asheville 2025 and Council strategic goal setting, serve to further this goal. The City Council is scheduled to conduct 2006 strategic planning efforts with enhanced public involvement and financial forecasting.

Vice-Mayor Jones wanted there to be recognition of the investment of Asheville taxpayer dollars in these examples and that Asheville be given the credit for the models we started. She felt this is not a regional plan but a geographical part of Buncombe County.

- 4. To foster public, private and nonprofit investment in the development of strategic elements of the HUB project.*

Public investment requirements for the HUB project are unknown at this time. The City investment for such purposes in outside agency appropriations for Fiscal Year 2004 - 2005, was \$140,000 and in Fiscal Year 2005 - 2006 \$100,000. Future funding could be considered in the City's budget process.

Discussion surrounded the level of monetary contribution after a clearer sense of how the plan will be executed.

- 5. To work with existing industry in the preservation of productive manufacturing operations and target manufacturing niches that build on our unique assets.*

The County Manager indicated that the Economic Development Commission ("EDC") would like to take the lead on this. Our contribution to this goal would come through the desired level of involvement in the EDC.

- 6. To complete the build-out of broadband and high performance computing and storage infrastructure.*

There may be significant opportunities for partnerships between the City, the county, and other agencies (notably the Education and Research Consortium with its fiber optic network) for initiatives such as broadband. The City has various assets to bring to bear including proven radio tower sites and site management; the County has a functional free wireless network covering outdoor downtown. Potential partnerships could improve and expand upon this type of service. The City's Information Technology Department has

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been actively studying the possibilities for City-wide broadband service and the HUB Project could be a vehicle for achieving build-out.

7. *To utilize the world's largest environmental database to lure federal government and private meteorological agencies and companies to Western North Carolina.*

This will require coordination at all levels of government with federal government staff and elected officials taking the lead. The EDC is also actively interested in leading and promoting this goal. This also ties in with goal number 6.

8. *To establish a Digital Media Center as a public, private, nonprofit partnership to spur growth and development of our existing multimedia industry.*

MAP, URTV, and EDC are identified as taking the lead with city and county continuing to collaborate in a supportive role.

9. *To build the Western North Carolina Center for Technology Commercialization into a technology hub for research and development.*

Asheville-Buncombe Technical College may be the lead on this effort, which will build on tech transfer with other regional Universities such as UNC-Asheville, WCU, and ASU.

10. *To utilize the existing technology infrastructure and the desirability of our location, to promote economic development options in the public, private and nonprofit sectors for secure data storage and retrieval.*

The EDC and ERC have expressed a desire to coordinate this goal in a lead role.

11. *To build the "Asheville Brand" as an international identity for our people, culture, products, and services.*

The Tourism Development Authority ("TDA"), with its hotel occupancy tax, is positioned to lead in international marketing. City leaders rightfully should be consulted by TDA and HUB in the process of branding "Asheville."

Discussion surrounded Asheville being consulted in not only the process as the "branding" moves forward, but also the elements that make the brand strong in quality.

12. *To further develop the region as a center for rejuvenation of the mind, body and spirit.*

Further discussion from within this innovative field will determine the appropriate lead organization(s) on this goal.

13. *To establish Asheville as a national center for integrative medicine which combines conventional therapies with complementary and alternative therapies.*

Mission Hospital has expressed interest in taking the lead on this goal.

14. *To strengthen cultural development through orchestrated public, private, and nonprofit sector collaborations.*

Staff suggests that the Asheville Area Arts Council as a possible lead organization within this richly diverse field. The City's Division of Cultural Arts can provide valuable collaboration on cultural development initiatives within the City.

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15. *To establish design centers that market handmade objects and ensure the capacity for their production in multiples.*

Handmade in America and Southern Highland Crafts Guild may take the lead on this goal. The resources of the Blue Ridge National Heritage Area can be strength in development of this goal.

16. *To investigate "customization" as a market trend that could position traditional industries and craftspeople in their marketplaces.*

This goal is tied to number 15. The EDC will also help take lead in promoting business development and expansion.

17. *To establish a service provider system to support business development and retention.*

Further discussion will determine the lead organization(s) on this goal. The NC Dept. of Commerce and EDC (Chamber) have Retention and Expansion specialists in place currently, and AB Tech, ESC, Job Link, and Work force Development Boards are networked already. The City OED will provide support and collaboration, including support to minority and underserved populations.

City staff's recommendation is inclusive of comments received by your Economic Development Advisory Committee members. Staff recommends that City Council support the concepts and goals of the HUB project. Additionally staff recommends that the County Manager be provided a list of the goals along with the recommendation of each goal in which the City will be in a position to provide leadership and/or collaboration.

Discussion surrounded Councilman Davis' disappointment that the Civic Center was not included as one of the goals, in that this is a great opportunity for the region to come together and do things that we can't do alone.

The Executive Director of Mountain Micro Enterprises spoke in favor of the HUB Project. He felt this was a good blueprint on how to spend our economic development money. He said the 36% of the Buncombe County workforce is employed by small businesses of 20 employees or less and these small businesses grew their workforce about 11% over the last 4 years. Businesses over 20 employees had no net increase in their employment. He felt Council should focus on small businesses because this is how we grow our economy.

Mayor Bellamy asked that Mr. Chuck Tessier, Chair of the Economic Development Advisory Committee, take Council's recommendations to the group forming the HUB Project and then find ways for City Council to begin actually implementing the Project.

Mr. Fred English felt the HUD Project had too many goals and the City will not be able to support it financially. He felt the City should concentrate on factory jobs in our area.

Mr. Grant Millin, President of Public Fuel Cell, spoke about how the HUB Project should be a results-oriented plan.

Ms. Kyle Ross had no problem with the City representation of the Authority if more people will stand behind them giving them their ideas.

Councilman Mumpower moved to approve Resolution No. 06-6, with the following amendments: (1) That the City Council is supportive of the concepts of the HUB project's goals and the City desires to be actively engaged in the HUB project; and (2) City Council directs that

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the City staff report and the summation of City Council comments be incorporated into a response letter to the County Manager outlining areas in which the City is best positioned to provide leadership and/or collaboration. This motion was seconded by Councilman Davis.

Councilman Newman felt that the plan contains a lot of good things that are already happening in the community. However, he was concerned that there is no focus because there is so much in the plan. Because the City has a small amount of resources set aside for economic development, he felt we should be really focused on how we use them. His concern is we are getting involved in something where the small amount of resources we do have are going to end up being not very focused at all.

Councilman Mumpower felt that our participation does not preclude us doing whatever we want to for economic development. We are not making a monetary commitment, other than manpower on a limited basis. He felt this is a work in progress and believed they need a commitment from the City.

Councilwoman Cape liked the ability to leverage what funds we do have with other players and that we start working together and not just be dependent on our funds. We will be building relationships that can be mutually beneficial.

Councilman Davis agreed with Councilwoman Cape in that we will be able to leverage what small resources we have and he doesn't think they are expecting the City to step forward and sign on to everything. He felt it would be worth Council's while to learn more about the project.

Vice-Mayor Jones felt encouraged with the endorsement of the small business community.

Councilman Freeborn liked the idea that the plan is not focused on one thing. He felt we need to have diversity for sustainability.

Councilman Newman hoped that once the Authority is formed, that the ultimate goal will be to be efficient with our resources, as we currently have the Economic Development Advisory Committee, the Buncombe County Economic Development Commission, etc.

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

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B. RESOLUTION NO. 06-7 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH EMA, INC. AND MRO SOFTWARE INC. TO PROVIDE AND IMPLEMENT A COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM

ORDINANCE NO. 3320 - BUDGET AMENDMENT FOR A COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM

Water Resources Director David Hanks said that this is the consideration of a resolution authorizing the Mayor to enter into a contract with EMA, Inc. and MRO Software, Inc. to provide and implement a Computerized Maintenance Management System (CMMS) for the water utility, and approval of a budget amendment, in the amount of \$476,307, to provide funding for this project.

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The Water Resources Department has a need for a CMMS to accurately track the maintenance and performance of assets and the costs associated with maintenance, repair, and replacement. The City's current Enterprise-Wide Software System, HTE, cannot perform to the needs or expectations of the Department. A new CMMS is a critical piece of the on-going Asset Management Program the Department has been working on for over two years.

The benefits of implementing a full-featured CMMS include:

- Better maintenance management including lower maintenance costs, reduced equipment downtime, less overtime for unplanned maintenance, and extended equipment life
- Ability to do analysis of asset performance data such as replacement planning, failure analysis, and reliability centered maintenance
- Improvements in work flow, data flow, and customer service

It is anticipated that this program will be fully implemented in the Water Resources Department by August 31, 2006. This is considered to be a pilot program that can easily be expanded to allow all City operational departments to better track maintenance and performance of assets. It has an excellent Call Center feature that will allow the City's Customer Services Division to respond to customer requests in a more timely manner. A Request for Proposal (RFP) was released on July 18, 2005, and six firms in the Water and Wastewater industry responded. A selection team was formed that included representatives from the Customer Services Division, Information Technology Department, all divisions of the Water Resources Department, and our consultants Brown and Caldwell. The selection process took two months and included demonstrations, telephone interviews, on-site client interviews, and client reference checks.

After extensive deliberation, EMA, Inc. was selected to install, configure, convert data, and integrate a CMMS based on MAXIMO software provided by MRO Software, Inc. The cost is not to exceed \$476,307.

There is sufficient funding for this project in the Water Major Capital Projects. Staff is recommending that funding for Annexation 2001 Improvements (Lake Julian Area) be reprogrammed to fund this important project. The Annexation 2001 was settled out of court by action of City Council on November 22, 2005. A budget amendment will close Annexation 2001 and establish funding for a CMMS.

PROS:

- A CMMS will enable the Water Resources Department to more accurately track the maintenance and performance of its assets thus minimizing costs and increasing operational efficiency in the long term.
- Once the CMMS is implemented in the Water Resources Department, it can be expanded and used by all City operational departments to track field work orders, such as storm drains, street paving, and parks maintenance, etc.

CONS:

- The cost of this project is a factor; however, sufficient funding is available for this important project by reprogramming funds from an obsolete Annexation Project.

City staff recommends City Council approve the request for the Mayor to enter into a contract with EMA, Inc. and MRO Software, Inc. to provide and implement a Computer Maintenance Management System as well as approve a budget amendment to provide funding for this project.

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Discussion surrounded Mr. Hanks responses to various questions/comments from Council, some being, but are not limited to: will we realize any savings in staff reduction; how will other departments be able to utilize the data; does the company have references with other entities in North Carolina; explanation of the funding; is this system similar to what the Metropolitan Sewerage District uses; is the payback in personnel cost savings or lower capital costs; and will there be on-going costs.

Councilman Mumpower expressed his personal difficulty with the amount of money for the system, at a time when we are in financial jeopardy with limited infrastructure monies. He was concerned that we are pursuing something convenient and efficient at a time we should concentrate on necessity, until there is a clearer vision on where we are going.

Councilwoman Cape was concerned with spending this amount of money, especially when we have so much infrastructure to work on and the City is in the middle of a lawsuit.

Information Services Director Jonathan Feldman spoke in support of this system and felt Council needed to look at this in terms of

being a large organization servicing 10's of thousands of people with a 5-year payback period.

City Manager Jackson understands that Council's interest is improving the infrastructure. This is an investment that should be made on behalf of the people who are pay the water rates. This is a basic tool that they need to see is in place so that their money is being used wisely. He felt we do not have a well-maintained water system at this point. He sees this as a system that every penny we put into it we want to spend wisely and where it is needed the most. The goal here is not to do less maintenance, but to do more and position ourselves so that the time and the deployment of our people resources and our capital dollars get the job done. The payback is in having a better managed system that is a better investment of a ratepayers dollars.

Mayor Bellamy said that members of Council have been previously furnished with copies of the resolution and ordinance and they would not be read.

Councilwoman Jones moved for the adoption of Resolution No. 06-7. This motion was seconded by Councilman Freeborn and carried on a 5-2 vote, with Councilwoman Cape and Councilman Mumpower voting "no."

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Councilman Newman moved to approve Ordinance No. 3320. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Councilwoman Cape and Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 22 – PAGE

C. ORDINANCE TO INCREASE TAXICAB FARE MILEAGE CHARGE FROM 25-CENTS PER 1/10TH MILE TO 28-CENTS PER 1/10TH MILE

Mayor Bellamy announced this that item will be discussed at a later date.

D. DISCLOSURE STATEMENT REQUIRED BY HUD FOR MAYOR BELLAMY

City Attorney Oast said that he has prepared a statement for Mayor Terry Bellamy, requesting waiver of a conflict that arises under HUD regulations because she is an elected official of a recipient agency of CDBG funds, and works for a corporation that participates in CDBG activities (Mountain Housing Opportunities). According to the interpretation of the

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applicable regulations by HUD officials in the Greensboro office, the conflict arises by the mere fact of her employment, not as the result of any particular activity, and a waiver must be obtained in order for Ms. Bellamy to continue working in her professional and elected capacities.

Ms. Bellamy would still be subject to applicable provisions of North Carolina law that prohibit self-dealing or voting on matters that affect her financial interest. As with other conflict situations, a determination as to how these statutes apply will have to be made on a case-by-case basis. For example, Ms. Bellamy might not be able to participate in Council consideration of funding allocations where MHO was one of the competing agencies, but she would be able to vote on adoption of the City's annual budget.

The law requires that these conflicts be publicly disclosed, and this is usually done at Council meetings, so that it will appear in the minutes. This was done initially in 2000, following Ms. Bellamy's election to Council in 1999, but the HUD Greensboro office has suggested that it be done again. The statement is as follows:

"Under North Carolina law, all members of City Council, including the Mayor, are precluded from voting on matters in which they have a financial interest or that involves their own official conduct. They are also prohibited from entering into contracts with the City. Further, recent amendments to the zoning enabling laws have expanded and clarified the issue of council member conflicts of interest with respect to land use decisions. Under State law, a Council member may not only not participate in the vote on matters in which they have a financial interest, they may not attempt to influence the vote.

Where an employee of an agency that receives funds from the U. S. Department of Housing and Urban Development (HUD) becomes a member of the governing board of a unit of local government that makes decisions regarding those funds, federal regulations require the additional step of reporting the situation to HUD, and requesting an opinion as to whether that employee's governmental service is consistent with the intent of the regulations. Such opinions are routinely requested, and exceptions are made as appropriate.

Mayor Terry Bellamy is an employee of Mountain Housing Opportunities, an organization that receives funds from HUD, through the City of Asheville. Although she is not directly involved in any HUD-funded activities, her election to Council in 1999 and as Mayor in 2005 triggers the application of the regulation requiring us to seek an exception. Our review – including analysis of the regulation, conversations with HUD officials, Ms. Bellamy and other officials at MHO – has indicated that Ms. Bellamy, because of the nature of her job, is not in a position to benefit directly from the receipt of HUD funds by MHO. Even so, as Mayor and a member of Council, State law would preclude her from voting on any matters that directly affected MHO. Following Ms. Bellamy's election to Council in 1999, we sought and obtained an exception from HUD, allowing Ms. Bellamy (then Ms. Whitmire) to act as a Council member and maintain her employment

with MHO.

On the advice of HUD officials, we propose to write to HUD to request an opinion as to the continued application of the HUD regulation to Ms. Bellamy in her new role as Mayor, and, depending on that opinion, request an exception or some other action by HUD that will permit Ms. Bellamy to serve as Mayor while working at MHO.

This is brought to your attention now because public disclosure is one of the prerequisites of requesting the opinion from HUD. Unless Council has questions or an objection, the City Attorney's office will send out the appropriate correspondence to HUD to inquire about and, if necessary, to secure the exception as soon as possible."

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VI. OTHER BUSINESS:

Vice-Mayor Jones announced the upcoming board and commission vacancies.

Councilman Davis updated City Council on the City Center Task Force's meetings and invited the public to their public input session on January 18, 2006.

Mayor Bellamy announced City Council's annual retreat on January 20-21, 2006.

The following claims were received by the City of Asheville during the period of November 18 – December 15, 2005: Jeff Joyce (Fire), Jont Johnson (Water), Randi Glover (Streets), Enterprise Rent-A-Car (Streets), Sharon Alexander (Transit), Michael Cherco (Sanitation), Pat Kelly (Water), Thomas F. Williams (Police), BellSouth (Water) and Homes America (Water). These claims have been referred to Asheville Claims Corporation for investigation.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Kyle Ross urged City Council to commit to community policing.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:22 p.m.

CITY CLERK

MAYOR