

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.

INVOCATION

Mayor Bellamy gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

Mayor Bellamy asked that Consent Agenda "C" be removed from the agenda entirely for additional information.

At the request of Councilman Mumpower, Consent Agenda Items "F", "G", and "H" were removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 28, 2006

Vice-Mayor Jones asked that the March 28, 2006, minutes be amended to reflect that she was not present at the closed session.

Mr. Bruce Deile asked that the March 28, 2006, minutes be amended to reflect that his statement to Council was to urge them to rescind the ordinance that prohibits begging in the City of Asheville.

B. RESOLUTION NO. 06-72 - RESOLUTION REVISING THE NAME OF THE ECONOMIC DEVELOPMENT ADVISORY COMMITTEE TO SUSTAINABLE ECONOMIC DEVELOPMENT ADVISORY COMMITTEE

Summary: The consideration of a resolution revising the name of the Economic Development Advisory Committee to Sustainable Economic Development Advisory Committee.

In 2002, the City Council adopted the Sustainable Economic Development Strategic Plan, and established a citizen-led Sustainable Economic Development Implementation Task Force for providing the expertise of the Plan. In September of 2005 the Task Force became a standing committee of City Council and at the initial authorization, the word "Sustainable" was not included in the committee's name. The committee members voted at their February, 2006 meeting to revise the name to Sustainable Economic Development Advisory Committee to better reflect their work plan.

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If Council agrees with the proposed addition of the word "Sustainable" to the Economic Development Advisory Committee's name, adoption of the resolution is recommended.

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C. RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO EXPLORE THE FEASIBILITY OF CREATING AN INDEPENDENT AIRPORT GOVERNANCE STRUCTURE THROUGH THE GENERAL ASSEMBLY OF NORTH CAROLINA FOR THE ASHEVILLE REGIONAL AIRPORT

This item was removed from the agenda entirely in order to gather additional information.

D. RESOLUTION NO. 06-73 - INITIAL RESOLUTION AUTHORIZING NEGOTIATION OF AN INSTALLMENT PURCHASE CONTRACT AND CALLING FOR A PUBLIC HEARING ON MAY 9, 2006

Summary: The consideration of (1) an initial resolution authorizing negotiation of an installment purchase contract and calling for a public hearing on May 9, 2006; and (2) a resolution authorizing the reimbursement of the City from proceeds of the financing for project expenses incurred prior to the execution of the installment purchase contract.

The current budget includes funds previously appropriated by City Council to finance (1) the construction of two fire stations, (2) the replacement of the civic center roof (3) the upgrade of the 800 mhz public safety radio system and (4) the acquisition of large vehicles.

The first proposed resolution, *initial resolution*, asks Council to confirm that it is in the City's best interest to enter into an installment purchase contract with a financial institution to fund the aforementioned projects and to provide for a public hearing on these matters. This resolution is simple formality required by North Carolina General Statutes before the process of securing financing can begin.

The second proposed resolution, a *reimbursement resolution*, allows the City to reimburse itself from the proceeds of the financing the City incurs any project related expenses before the financing is actually incurred. This resolution provides an appropriate audit and accounting trail, allowing us to tie the proceeds from the financing back to the specific projects that they will fund.

City staff recommends City Council adopt (1) an initial resolution authorizing negotiation of an installment purchase contract and calling for a public hearing on May 9, 2006; and (2) a resolution authorizing the reimbursement of the City from proceeds of the financing for project expenses incurred prior to the execution of the installment purchase contract.

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E. RESOLUTION NO. 06-74 - RESOLUTION AUTHORIZING THE REIMBURSEMENT OF THE CITY FROM PROCEEDS OF THE FINANCING FOR PROJECT EXPENSES INCURRED PRIOR TO THE EXECUTION OF THE INSTALLMENT PURCHASE CONTRACT

See Consent Agenda Item "D" above.

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F. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR A GRANT FOR THE PACK SQUARE CONSERVANCY PROJECT

This item was removed from the Consent Agenda for discussion.

G. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND PACK SQUARE CONSERVANCY FOR SAFETEA-LU GRANT FOR PACK SQUARE RENAISSANCE PROJECT

This item was removed from the Consent Agenda for discussion.

H. BUDGET AMENDMENT FOR A GRANT FROM THE N.C. DEPT. OF TRANSPORTATION FOR THE PACK SQUARE CONSERVANCY PROJECT

This item was removed from the Consent Agenda for discussion.

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 Mumpower moved for the adoption of the Consent Agenda, with the two amendments to the March 28, 2006, minutes. This motion was seconded by Councilman Davis and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL DISCUSSION

RESOLUTION NO. 06-75 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR A GRANT FOR THE PACK SQUARE CONSERVANCY PROJECT

RESOLUTION NO. 06-76 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND PACK SQUARE CONSERVANCY FOR SAFETEA-LU GRANT FOR PACK SQUARE RENAISSANCE PROJECT

ORDINANCE NO. 3347 - BUDGET AMENDMENT FOR A GRANT FROM THE N.C. DEPT. OF TRANSPORTATION FOR THE PACK SQUARE CONSERVANCY PROJECT

Summary: The consideration of a resolution authorizing the Mayor to sign: (1) a municipal agreement with the N.C. Dept. of Transportation (NCDOT) for a grant in the amount of \$3,899,860; and (2) an agreement with Pack Square Conservancy (herein "PSC") to carry out the work that is to be funded by the grant. Additionally, staff is requesting the consideration of a budget ordinance amendment in the amount of \$3,899,860 for this project.

Working through Congressman Charles Taylor, PSC has secured grant funding through the Safe Account Flexible Efficient Transportation Equity Act – A Legacy for Users (herein "SAFETEA-LU") for its work on the Pack Square Renaissance Project. This money was earmarked through the NCDOT for this purpose.

Since NCDOT can only provide these funds to municipalities, PSC and NCDOT requested that the City accept the money from the State and pass it through to PSC. This grant requires a 20% match, but these funds will come from PSC. Two agreements are required to accomplish this:

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1. A Municipal Agreement between the City and NCDOT. This Agreement outlines the terms and conditions that the City must follow in order to qualify for the grant, including procurement of professional and construction services, permitting, and compliance with State and federal guidelines. The grant money does not come all at once, but is in the form of reimbursement upon submission of proper documentation of completed work, and the amount is expressly made subject to the availability of federal funds.

2. The Grant Administration agreement between the City and PSC. This agreement requires PSC to manage and execute the work required for the Project, and to comply or ensure compliance with the terms and conditions of the SAFETEA-LU grant. In essence, PSC would function as the City's contractor for the project. The City, upon proper documentation, would pay PSC – or pay contractors directly – for completion of portions of the work. Using that same documentation, the City would then request reimbursement from DOT. The City reserves the right to review any plans or documents prepared by or for PSC, and to inspect any work.

This arrangement is similar to the existing arrangement approved in 2004 for the administration of a TEA-21 grant for the design of certain pedestrian improvements.

Considerations: By authorizing these agreements and adopting the budget amendment, the City would be responsible for the following:

- Reimbursing Pack Square Conservancy for eligible expenses up to \$3,899,860, of which the City would be reimbursed \$3,899,860 from NCDOT
- Processing necessary paperwork to reimburse Pack Square Conservancy, and for getting reimbursed from NCDOT.
- Providing updates to NCDOT on the status of the project.

There will be no direct costs to the City as a result of entering into this agreement.

If Council approves of the arrangement as outlined above, adoption of the resolutions and budget amendment are recommended.

Councilman Mumpower voiced concern of investing almost \$4 million from the federal government in a City park, especially at a time of extreme deficits.

Vice-Mayor Jones moved for the adoption of the Resolution No. 06-75. This motion was seconded by Councilwoman

Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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Vice-Mayor Jones moved for the adoption of the Resolution No. 06-76. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 29 – PAGE 435

Councilman Freeborn moved for the adoption of the Ordinance No. 3347. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 22 - PAGE

III. PUBLIC HEARINGS:

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A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON SMOKY PARK HIGHWAY AND COOPER BOULEVARD FROM HIGHWAY BUSINESS DISTRICT AND RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO HIGHWAY BUSINESS DISTRICT/ CONDITIONAL ZONING FOR A PROPOSED WAL-MART SUPER CENTER STORE AND ADDITIONAL RETAIL DEVELOPMENT

Mayor Bellamy announced that around Noon today the City Clerk received a letter from Ashley H. Story, attorney with Troutman Sanders, LLP, which read: "Please accept this letter as notification that Wal-Mart Real Estate Business Trust ('Wal-Mart') is withdrawing its application for Conditional Zoning to be heard at the April 11, 2006, City Council meeting. Wal-Mart is terminating this project and will no longer be pursuing this site. Wal-Mart appreciates all of your assistance in this matter."

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

VI. OTHER BUSINESS:

Land Use

Councilman Newman asked for Council to revisit the definition of single tenant development vs. multi-tenant development in terms of square footage allowed. He questioned if it is Council's intent to define a one large single tenant development (using Wal-Mart as an example) as a multi-tenant development just because it has a very small percentage of ancillary businesses (like a vision business, or a McDonalds or Dominos Pizza). Councilman Mumpower suggested some type of proportional percentage increase. Planning & Development Director Scott Shuford will report back to Council with some options to pursue.

Mayor Bellamy asked that City Council be prepared to come to the May 16, 2006, worksession with a list of items from the Unified Development Ordinance they wish to have reviewed. At that time, Council will give direction to Planning staff on which items they wish to move forward with, with the ultimate result of letting the citizens of Asheville know the vision for what type of development City Council is seeking for the City of Asheville.

Mr. Shuford said that ultimately he will need some guidance from Council about what areas in the City seem more appropriate for suburban type of development patterns and what areas in the City an urban development pattern would be more appropriate. That will help Planning staff try to formulate regulations that will address those issues.

In the midst of discussion initiated by Councilman Newman, Councilman Newman moved to direct Planning staff to look at the areas in Asheville that contain mobile home parks and identify how they are zoned. Keeping in mind the goal of preserving the City's affordable housing stock, Planning staff is directed to think about the areas that are not zoned residential, to determine if they should be. After Planning staff has completed that task, they directed to take their results to the Planning & Zoning Commission for their input and then report back to Council. Councilwoman Cape seconded the motion.

After more discussion regarding Mayor Bellamy's request to have all land use concerns discussed by Council at the May 16, 2006, worksession, Councilman Newman and Councilwoman Cape withdrew their motion noting that they will bring the matter back up at the May 16 worksession. In the meantime, however, Planning staff was directed to bring forward to

Council a map of Asheville and its extraterritorial jurisdiction area to show where the mobile home parks are located, along with their current zoning designations.

For Our Kids

Councilman Mumpower thanked all the volunteers from UNC-Asheville, the children and adults who participated in the successful For Our Kids event at Lee Walker Heights on Saturday, April 8, 2006.

Arbor Day

Councilman Freeborn thanked the many volunteers, in particular City employee Mark Foster and Susan Roderick from Quality Forward who all helped plant the trees donated by Progress Energy on Arbor Day.

Claims

The following claims were received by the City of Asheville during the period of March 17-30, 2006: Nancy Tabel (Fire), Michael Sullivan (Transit Services), Vilma Lindo (Transit Services), Clay Property Management (Transit Services), Harry Ramsey (Water), Mildred Delp (Water), Maricene Clark (Water) and Michael Micciche (Water). These claims have been referred to Asheville Claims Corporation for investigation.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Jill Rios, Clean Water for North Carolina, Erin Krauss, Emma Family Resource Center, and Mr. Craig White, Center for Participatory Change, all representing the Cooper Boulevard Community Support Network, said that they have been working extensively with the Cooper Boulevard/Monticello mobile home community by collecting information from residents, sharing accurate information with residents and encouraging community involvement in the public process regarding the Wal-Mart Super Center that was proposed on Smoky Park Highway. They noted that they do not speak for the residents, who hold many different views, as their primary commitment is seeing that they are treated fairly. They then reviewed with Council a snapshot of the neighborhood and families that would have been displaced if the Wal-Mart Super Center was constructed. Regarding of whether the property is sold to Wal-Mart, the seller of the mobile home park has indicated a wish to sell the Cooper Boulevard property. Therefore, they recommended the following two considerations. One, that City Council develop a public/private partnership to maintain affordable housing through a land trust. They recommend that Council instruct the Community Development Division of the Planning Department to convene a meeting with local affordable housing nonprofit organizations to discuss the viability of raising money for purchase of property and development of a land trust, in either the Cooper Boulevard or an alternate location, which could indefinitely maintain a number of affordable housing units, whether mobile homes or more permanent housing. Two, that City Council research and approve a policy that would add relocation assistance as a condition for new development that displaces low income residents. Displacement of one or two families is a landlord / tenant issue, but in a city and county that already has an affordable housing crisis, displacement of a significant number of families by new development imposes a burden on the whole community, at least as significant as traffic, noise or light pollution. This concern is only going to escalate in the next decade, and should be addressed in a comprehensive manner. Whether or not this particular development is approved, we strongly recommend that Council research relocation assistance policies in other cities, and pass an ordinance that will require relocation assistance be paid to residents displaced by any new development that displaces ten or more families or eliminates ten or more units of affordable housing. After discussion by Council on the two recommendations, it was the consensus of City Council to ask that the City Council Housing & Community Development Committee review these

suggestions and report back to Council at their June worksession. Councilman Newman also noted that this may be an issue to be discussed at Council's May worksession regarding land use issues.

Mr. Fred English urged City Council to support a resolution supporting legal immigration.

Mr. Bruce Deile spoke to Council about the non-profits not meeting the needs of the homeless. He again explained why Council should rescind the ordinance prohibiting begging in the City of Asheville. It was the consensus of Council to refer Mr. Deile's request to City Council's Housing & Community Development Committee. Vice-Mayor Jones, Chair of the Housing & Community Development Committee, felt that there was a need to check on the progress of the 10-Year Plan to End Homelessness and requested an update from the Downtown Social Issues Task Force on their recommendations, especially from

the Subcommittee on Panhandling. Mayor Bellamy wanted to make sure that the City Council Public Safety Committee is kept informed of this issue, as they are reviewing panhandling issues.

Mr. Tim Peck was sorry Wal-Mart felt compelled to withdraw their conditional zoning application, which store would have provided jobs and would have helped defray moving expenses for those living in the mobile home park.

Mr. Steve Arpin urged Council to create a committee to develop recommendations for sustainability. Councilwoman Cape invited Mr. Arpin to attend the Sustainable Economic Development Advisory Committee, which will be meeting on April 14, 2006, at 8:30 a.m. at 29 Haywood Street, Asheville, N.C., to voice his ideas.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 6:20 p.m.

CITY CLERK

MAYOR