

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

Vice-Mayor Jones gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF SILVER WELL WORKPLACE AWARD

Mayor Bellamy recognized and praised Ms. Destiny Mattsson, the City's Wellness Coordinator, on receipt of the Silver Well Workplace Award from the Wellness Councils of America.

B. PROCLAMATION PROCLAIMING MAY, 2006, AS "MOTORCYCLE AWARENESS MONTH"

Mayor Bellamy read the proclamation proclaiming May, 2006, as "Motorcycle Awareness Month" in the City of Asheville. She presented the proclamation to Mr. Roger Williams who briefed City Council on some statistics regarding motorcycle accidents and some activities taking place during the month.

II. CONSENT AGENDA:

Mayor Bellamy asked that Consent Agenda Items "I" and "J" be removed from the Consent Agenda, with Consent Agenda "I" being removed for an individual vote. She said that Consent Agenda Item "J" will be considered after consideration of a resolution amending the Housing Trust Fund guidelines (under New Business).

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 11, 2006, AND THE WORKSESSION HELD ON APRIL 18, 2006

B. RESOLUTION NO. 06-77 - RESOLUTION OF INTENT TO CLOSE ALL STREETS IN THE AREA KNOWN AS CITY-COUNTY PLAZA AND SETTING A PUBLIC HEARING FOR MAY 23, 2006

Summary: The consideration of a resolution of intent to close all streets in the area known as City-County Plaza and setting a public hearing for May 23, 2006.

N.C. Gen. Stat. sec. 160A-299 grants cities the authority to permanently close streets and alleys.

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Pursuant to this statute, Buncombe County and the City of Asheville have requested the City of Asheville permanently close all streets in the area known as City-County Plaza as bounded by College Street on the north, Davidson Street on the east, Marjorie Street on the south and South Spruce Street on the west (a/k/a Court Plaza, City Hall Drive North, City Hall Drive South, City Hall Circle and any and all other names such streets may have from time to time been titled).

Public Works Department staff has researched and determined all streets in the area known as City-County Plaza are City maintained. Closure of these street will not deny any of the adjoining property owners reasonable means of ingress and egress as the City of Asheville and Buncombe County are the only adjoining property owners. The owner of the Hays Hopson Building, although not an adjoining property owner, will be provided a courtesy notice of the intent to close

Pros:

- The closure is necessary for the successful completion of the redesign of Pack Square.
- Closure of the streets will facilitate the timely completion of the Pack Square Project.
- The closure of the streets will still facilitate pedestrian movement from one location to another in downtown Asheville. There will be no future compromise of ingress/egress to other property.
- Ties in with City Council's Strategic Operating Plan

Cons:

- Staff can find no potential challenges.

This action ties in with the City Council Strategic Operating Plan in Focus Area: Sense of place, heritage and arts, Goal 3, Task 3, by promoting downtown revitalization, assisting in the implementation of the Pack Square Renaissance Project.

City staff recommends that City Council adopt the resolution setting a public hearing for May 23, 2006, to close all streets in the area known as City-County Plaza.

RESOLUTION BOOK NO. 29 – PAGE 436

C. RESOLUTION NO. 06-78 - RESOLUTION ACCEPTING AN AWARD FROM CATERPILLAR CORPORATION FOR THE RETROFIT OF 16 ORION TRANSIT BUSES WITH POLLUTION CONTROL DEVICES

Summary: The consideration of a resolution accepting an award from Caterpillar Corporation for the retrofit of 16 Orion transit buses with pollution control devices.

The Asheville Transit System has received an award from Caterpillar Corporation for the retrofit of 16 Orion transit buses with Diesel Oxidation Catalysts to lessen emissions from the buses diesel engines. The award was made in conjunction with the Diesel Technology Forum, an industry group dedicated to the extension and promotion of clean diesel technologies.

The Diesel Oxidation Catalysts will chemically oxidize particulate matter into water vapor and other gases such as sulfur dioxide and carbon dioxide. This technology will provide a 20 to 50 percent reduction in particulate matter, a 60 to 90 percent reduction of hydrocarbons, and more than a 90% reduction in carbon dioxide. This is equivalent to removing approximately 18 tons of particulate matter from the air and is accomplished without a loss in engine efficiency.

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The entire cost of the project including materials and installation will be born by Caterpillar International. Installation will be through the local caterpillar dealer, Carolina Cat.

The benefits to the City of Asheville are:

- Cleaner air, and an advancement of transit strategy of moving towards clean diesel and eventually hydrogen power.
- Equipment will remove about 18 tons of particulate matter from air
- There is no cost to the city for the equipment or retrofit (The value of the project is unknown as Caterpillar would not disclose, preferring to frame discussion in terms of pollution removed from the air.)

There are no disadvantages or costs to the City of Asheville.

City staff recommends City Council formally accept the award from Caterpillar Corporation for the retrofit of 16 Orion transit buses with pollution control devices.

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D. RESOLUTION NO. 06-79 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH DIXON HUGHES FOR AUDITING SERVICES FOR FISCAL YEAR 2005-06

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Dixon Hughes PLLC, Certified Public Accountants and Advisors, for auditing services for Fiscal Year 2005-2006.

NC General Statute sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal

year and submit a copy of the audit to the Local Government Commission.

Based on our review of a proposal submitted by Dixon Hughes, staff recommends retaining their services for Fiscal Year 2005-2006. We have worked with Dixon Hughes in the past and they have consistently provided a quality audit for the City.

The base fee has been proposed at \$84,500. Funds are appropriated in the budget of the Accounting Division of the Finance Department.

- City staff recommends adoption of the resolution authorizing the Mayor to execute a contract with Dixon Hughes PLLC, Certified Public Accountants and Advisors, for auditing services for Fiscal Year 2005-2006.

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E. RESOLUTION NO. 06-80 - RESOLUTION DECLARING PROPERTY AT 8 CEDAR STREET AS SURPLUS AND ESTABLISHING THE MINIMUM PRICE

Summary: The consideration of a resolution authorizing the marketing of surplus property at 8 Cedar Street and establishing a minimum price.

- The City owns property at 8 Cedar Street (PIN No. 9657.07-58-4903) which it does not need and proposes to sell using the process provided in N. C. Gen. Stat. sec. 160A-269, negotiated offer and advertisement for upset bids.

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The property at 8 Cedar Street is located at the intersection of Fairview Road and Cedar Street in the Oakley community. It was acquired by the City in December, 1999, for the purpose of realigning the Cedar Street/Fairview Road and Liberty Street/Fairview Road intersections in order to eliminate one of two "back to back" traffic signals. Since that time the amount of traffic on Liberty Street and Cedar Street has diminished significantly due to the closing of Crayton Road and the alternative access between Tunnel Road and Sweeten Creek Road via I-240 and I-40 at Exit 51. Realignment of the intersections is no longer needed based on current and anticipated traffic flow.

The property is zoned RS-8 and improved with a single family residential structure. The lot is 0.1745 acre, rectangular in shape and level to street grade with typical residential landscaping, fencing, etc. The structure is a circa 1926 two story Dutch Colonial with white clapboard siding containing 1,674 square feet. It is structurally sound and in fair to good condition, but it does need some repairs in order to obtain a Certificate of Occupancy. Marketability prospects for the property are very good.

The property has been appraised by CDN Appraisals at \$128,000 and by BRB Appraisals at \$165,000. The appraisals were reviewed by the City's Real Estate Manager and based on that review \$158,600 is recommended as a minimum price for the property. The proceeds from the sale of the property will be general fund revenue.

The positive aspects of marketing the property are:

- The property will be marketed at the appraised value using the upset bid method of sale to ensure a competitive process.
- The sale of the property will generate revenue for the City.
- It will place the property back on the tax rolls.
- It is an efficient use of resources, because un-needed property will return to private ownership.
- It will make available moderately priced housing in a fully serviced neighborhood.

The one negative aspect is that if traffic improvements at the Cedar Street/Fairview Road intersection were ever needed the property may have to be reacquired.

Approval of the resolution will authorize marketing of the property through the process provided in N. C. G. S. 160A-269 and establish a minimum price of \$158,600.

At the March 14, 2006, City Council meeting, Council referred this item to the Housing & Community Development Committee. At the Committee meeting on April 10, 2006, they reviewed this proposed sale and determined that the subject property was not suitable to be designated as affordable housing.

City staff recommends City Council adopt the resolution authorizing the marketing of surplus property at 8 Cedar Street and establishing a minimum price of \$158,600.

RESOLUTION BOOK NO. 29 – PAGE 439

F. RESOLUTION NO. 06-81 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ADJUSTMENT

Summary: Ms. Cheryl Johnson has declined the appointment as an Alternate member on the Board of Adjustment, thus leaving an unexpired term until January 21, 2009. This resolution will appoint Ms. Jessica Erwin Leaven, 52 Gracelyn Road, Asheville, N.C., to serve as

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an Alternate member to the Board of Adjustment, to serve the unexpired term of Ms. Johnson, term to expire January 21, 2009, or until her successor has been appointed.

RESOLUTION BOOK NO. 29 – PAGE 440

G. RESOLUTION NO. 06-82 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE PROPERTY ON DUNDEE STREET

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer to purchase property on Dundee Street.

A bid has been received from Robert Simon in the amount of \$26,200 for the purchase of land on Dundee Street.

The land on Dundee Street was acquired by the City as part of the East End/Valley Street Community Improvement Program. It is a rectangular shaped lot comprising 0.115 acre±. It has a moderate slope downward from the street. It is zoned RM-8 and it is suitable as a home site. The bid from Robert Simon is in the amount of \$26,200. We have in file an appraisal prepared by Joseph F. Moore dated September 13, 2005, estimating the market value of the property at \$26,200. Mr. Simon proposes to acquire the property next door to live in and eventually build on the subject parcel

The positive aspects of the transaction are:

- The sale will be at fair market value as established by the upset bid process.
- It will return property not needed for public use to the tax rolls.
- It will transfer responsibility for maintenance to the private sector.

There is no negative impact.

City staff recommends adoption of the resolution which will initiate the sale of the property through the upset bid process.

RESOLUTION BOOK NO. 29 – PAGE 441

H. ORDINANCE NO. 3348 - BUDGET AMENDMENT TO FUND WEB SITE DESIGN AND CONTENT MANAGEMENT SOFTWARE IMPLEMENTATION SERVICES

Summary: The consideration of a budget amendment, in the amount of \$29,320, from the City Manager's contingency to fund web site design and content management software implementation services.

Pursuant to a memorandum sent to City Council on December 20, 2005, city staff is pursuing a web site redesign project along with developing a new process for updating and maintaining the city's web content.

This project was bid competitively at the local level, providing prospective vendors with a simple set of desired features. Notification of the bid was provided utilizing a local industry mailing list as well as posting on the City web site. A one week deadline was utilized because of the time-sensitive nature of this project. (Staff is now projecting that this project will be completed at the end of August rather than in July.) No local participation was received within the deadline.

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The goal of the project is to design and structure a user-friendly site with intuitive navigation that will focus on reprioritizing and reorganizing information based on users' needs and perspectives. The project will make more efficient and effective use of the

city's external web site as a tool for sharing information with the public by: (1) enhancing the ability to add, update and remove information from the site; (2) restructuring the information architecture to improve navigation and ease of use, and; (3) updating the look and feel of the site to reflect the organization's brand and professionalism.

A key component of the project is the implementation of content management software, which will make it easier for non-technical staff within each city department to add content to the city's web site, resulting in a more streamlined process that produces current, up-to-date and relevant information on the web site. The city is using Ektron CMS 400 software for this application.

COMSYS, an IT solutions company with extensive government experience, works as a partner with Ektron to implement the content management software as part of the redesign process. The budget amendment from the city manager's contingency will fund: web site design and architecture services; software installation and configuration; on-site training and support, and; the migration of priority content from the city's current site to the redesigned site.

Pros:

- Contingency funds will expedite the project's schedule for completion this fiscal year.
- The content management system will automate and streamline web management efforts, making more efficient use of staff time and resources.
- Efforts will result in a more user-friendly site based on citizen needs and feedback.
- The city will redesign its site so that a finite set of web templates provide a consistent and professional look across the organization
- The vendor has a proven track record of project success with other municipal governments.

Cons:

- Loss of the ability to use these contingency funds for other purposes in FY 2005-06.

Given City Council's commitment to improved communications and citizen service, city staff requests City Council adopt a budget amendment appropriating \$29,320 from the manager's contingency to fund the web site project.

ORDINANCE BOOK NO. 22 – PAGE

I. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE WEDDING AND RECEPTION ON MAY 13, 2006

RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE DOWNTOWN ASSOCIATION EVENTS ON MAY 19, JUNE 16 AND JULY 21, 2006

RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BIG RED CHILI COOK-OFF ON JUNE 17, 2006

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RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE WINGS & STRINGS: WNC BUFFALO WING COOK-OFF ON JULY 15, 2006

These items were removed from the Consent Agenda for an individual vote.

J. RESOLUTION APPROVING A HOUSING TRUST FUND LOAN TO MOUNTAIN HOUSING OPPORTUNITIES FOR CROWELL PARK APARTMENTS

This matter was removed from the Consent Agenda in order to be discussed after consideration of a resolution amending the Housing Trust Fund guidelines (under New Business).

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

ITEMS REMOVED FROM THE CONSENT AGENDA

RESOLUTION NO. 06-83 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE WEDDING AND RECEPTION ON MAY 13, 2006

RESOLUTION NO. 06-84 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE DOWNTOWN ASSOCIATION EVENTS ON MAY 19, JUNE 16 AND JULY 21, 2006

RESOLUTION NO. 06-85 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BIG RED CHILI COOK-OFF ON JUNE 17, 2006

RESOLUTION NO. 06-86 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE WINGS & STRINGS: WNC BUFFALO WING COOK-OFF ON JULY 15, 2006

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the following 2006 Special Events: Wedding and reception on May 13, 2006; Asheville Downtown Associations' Events on May 19, June 16 and July 21, 2006; Big Red Chili Cook-Off on June 17, 2006; and Wings & Strings: WNC Buffalo Wing Cook-Off on July 15, 2006.

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.

- A renewal of wedding vows and a reception on May 13, 2006, in the grassy knoll area of Pack Square, with indoor accommodations located at Windows on the Park, A Restaurant for Private Events.
- For many years, the Asheville Downtown Association has co-sponsored with the City of Asheville Parks and Recreation Department the Downtown After Five series to bring both

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citizens and visitors to the downtown area. This year, only the first three events will be held in Pack Square, due the Pack Square Conservancy construction. They will be held on May 19, 2006, June 16, 2006, and July 21, 2006.

- The Big Red Chili Cook-Off, hosted by Season to Season Promotions, is a fundraiser for the Humane Society. This event will be held on June 17, 2006, in Pack Square.
- Wings & Strings: WNC Buffalo Wing Cook-Off, also hosted by Season to Season Promotions, is another fundraiser for the Humane Society. This event will be held on July 15, 2006, in Pack Square.

The Asheville Parks and Recreation Department recommends City Council adopt the resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the following 2006 Special Events: Wedding and reception on May 13, 2006; Downtown After Five events on May 19, June 16 and July 21, 2006; Big Red Chili Cook-Off on June 17, 2006; and Wings & Strings: WNC Buffalo Wing Cook-Off on July 15, 2006.

Councilwoman Cape moved to adopt Resolution Nos. 06-83, 06-84, 06-85 and 06-86. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Mayor Bellamy voting "no."

RESOLUTION NO. 06-83 - RESOLUTION BOOK NO. 29 – PAGE 442
RESOLUTION NO. 06-84 - RESOLUTION BOOK NO. 29 – PAGE 444
RESOLUTION NO. 06-85 - RESOLUTION BOOK NO. 29 – PAGE 446
RESOLUTION NO. 06-86 - RESOLUTION BOOK NO. 29 – PAGE 448

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT OAK PARK ROAD AND SKY VIEW ROAD FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT AND RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING TO PERMIT CONSTRUCTION OF TWO DUPLEX BUILDINGS AND THREE SINGLE-FAMILY BUILDINGS

Mayor Bellamy stated that on Tuesday, April 18, 2006, an e-mail was received from Mr. Gerald Green, representing the applicant, stating that "the Laibsons are withdrawing their appeal of the Planning and Zoning Commission's recommendation for denial of the conditional zoning of property located on Oak Park and Sky View Roads. Mr. and Mrs. Laibson have agreed to sell the property to a neighboring property owner rather than pursue the development plan."

B. PUBLIC HEARING ON THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2006-07

RESOLUTION NO. 06-88 - RESOLUTION APPROVING THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2006-07

At the request of Mayor Bellamy, Councilman Freeborn moved to excuse Mayor Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Davis and carried unanimously. Mayor Bellamy turned the meeting over to Vice-Mayor Jones.

Vice-Mayor Jones opened the public hearing at 5:12 p.m.

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Community Development Director Charlotte Caplan said that this is the consideration of a public hearing on the City's Consolidated Annual Action Plan for 2006-07 and consideration of a resolution approving said Plan. This public hearing was advertised on April 14 and 21, 2006.

The City expects to have available \$1,933,833 in CDBG funds and \$1,418,821 in HOME funds to allocate for housing and community development activities in the fiscal year beginning July 1, 2006. The City's Housing and Community Development (HCD) Committee and the Asheville Regional Housing Consortium have made recommendations for allocating these funds to 35 projects. Allocations are consistent with the draft Consolidated Strategic Housing & Community Plan for 2005-2010.

If approved, the HOME and CDBG funding will assist 528 housing units Consortium-wide (including 262 units at Pisgah View Apartments that will have a new security system). CDBG funds will also help more than 3000 low-income City residents obtain homeless services, housing counseling, business assistance, and other needed services.

Funding for the CDBG and HOME programs has been impacted by reductions in federal funding. In common with communities nationwide, Asheville's CDBG and HOME grants have been reduced by 9% from last year, and by 15% over two years. As a result many existing programs will receive less funding in this year's plan and six applications will receive no funding. After careful consideration, the HCD Committee has recommended closing the City's long-standing housing rehabilitation program, because we cannot afford the cost of staffing and funding it at an effective level. However, increased funding for Mountain Housing Opportunities' emergency repair program will provide urgently needed repairs for very low income, elderly, and disabled homeowners.

A summary of the draft Action Plan and notice of this public hearing was published on March 28, 2006. The Plan is due to be submitted to HUD by May 12, 2006.

Advantages:

- Allocates \$3,352,654 in compliance with federal rules and enables the City to utilize these funds
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium
- Directly addresses most of the priorities set out in the Strategic Plan
- Leverages other funding in the ratio of \$5.49 for every \$1 of CDBG and HOME funds

Disadvantages:

- It is not possible to fund all of the applications received at the level requested.

City staff recommends City Council approve the City's Consolidated Action Plan for 2006-07 and subsequent submission of

that Plan to the U.S. Dept. of Housing & Urban Development.

Vice-Mayor Jones closed the public hearing at 5:14 p.m.

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

Ms. Caplan responded to various questions/comments from Council, some being, but are not limited to: what does the CD Administration cost consist of; what project is for the allocation to the micro-business development program; and are some of these funded programs competing for outside agency funds.

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Councilman Mumpower said that a lot of the allocations represent a significant increase over last year and feels they are pretty well directed to a core group of non-profit agencies. He was disappointed that there was no recommendation made to fund waterline infrastructure. And, he understands that it is a struggle to put the document together, but philosophically he does see some waste of those hard-earned dollars. He could not support the resolution.

Upon inquiry of Councilman Davis, Ms. Caplan said that ten programs in the Consolidated Plan will, in various ways, impact the 10-Year Plan to End Homelessness. Councilman Newman explained how the recommended funding to the Affordable Housing Coalition does move us forward towards implementation of the Plan.

Councilman Davis felt it might be beneficial to have an update of the 10-Year Plan for discussion during the budget process.

Councilman Newman, Chair of the Revenue & Finance Committee, welcomed Council's input on budgetary direction for the outside agency funding.

Vice-Mayor Jones, Chair of the HCD Committee, discussed the process for allocation of the CDBG funds and HOME funds. She pointed out the good regional cooperation by the Regional Housing Consortium in allocating the HOME funds.

Councilman Newman moved for the adoption of Resolution No. 06-88. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no".

Vice-Mayor Jones turned the meeting over to Mayor Bellamy.

RESOLUTION BOOK NO. 29 – PAGE 451

C. PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF AN UNOPENED RIGHT-OF-WAY OFF CARROLL AVENUE

Mayor Bellamy opened the public hearing at 5:36 p.m.

Assistant Director of Public Works Richard Grant said that this is the consideration of a resolution to permanently close an unopened right-of-way off of Carroll Avenue. This public hearing was advertised on March 31, April 7, April 14 and April 21, 2006.

N. C. Gen. Stat. sec. 160-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, Mr. Martin Barnes of Brooks & Medlock Engineering, PLLC representing the property owner Farwood Properties, Mike Farmer, President of Farwood Properties, has requested the City of Asheville to permanently close to the public an unopened right of way off of Carroll Avenue as shown on Plat Book 6, Page 6, Block "C" in the Buncombe County Register of Deeds.

Public Works Department staff has researched and determined that this unopened right-of-way is not a City maintained street. Closure of this unopened right-of-way will not deny any of the abutting properties a reasonable means of ingress or egress. There is one parcel that abuts this section of right-of-way, owned by Farwood Properties. It is identified by PIN No. 9648.07-68-1457.

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Pros:

- The closure allows the property to be used to its maximum potential.
- There will be no future compromise of ingress/regress to other property

Cons:

- In consideration of the location of the unopened right-of-way, staff can find no potential challenges regarding the closure of the alley.

City staff recommends that City Council adopt the resolution permanently closing the unopened right-of-way off Carroll Avenue.

He said that Carroll Avenue has existing drainage problems and there has been concern expressed that the development proposed in that area will only make the drainage problems worse. However, he said that the closure of the right-of-way will not affect the drainage within the proposed development because that right-of-way will be kept as open green space. He said that the development itself will have an impact on the drainage and various City departments are working on that concern.

Mayor Bellamy closed the public hearing at 5:39 p.m.

Mayor Bellamy said that the homeowners in the area were allegedly told that the closing had already been approved by City Council. She was concerned about that misinformation and felt it would be appropriate for City Council to postpone action on this closing until the conditional zoning matter comes before Council on the proposed development.

Ms. Jenny Farmer, representing Farwood Properties, said that when they met with the neighborhood for the conditional zoning issue, they had the design work already done, and felt that perhaps the neighbors assumed that the closing had already been approved by Council. She said that they are working hard with the neighborhood to resolve the issues concerning drainage and even asked for a continuance from the Planning & Zoning Commission meeting in order to work with them. This right-of-way is not used in their calculations for density, it will not be graded, and it's not required for the project, however, it is to clean up the paper street and make it a clear property line.

Councilwoman Cape moved to postpone this matter until June 27, 2006, at which time the conditional zoning public hearing will be before Council and this matter can be voted on as well. This motion was seconded by Councilman Freeborn and carried unanimously.

RESOLUTION BOOK NO. 29 – PAGE 452

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING A PORTION OF PROPERTY LOCATED ON 430 MCDOWELL STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING TO PERMIT THE RENOVATION OF THE EXISTING BUILDING AND AN ADDITIONAL PARKING AREA FOR A DOCTOR'S PARK

ORDINANCE NO. 3349 - ORDINANCE TO CONDITIONALLY ZONE A PORTION OF PROPERTY LOCATED ON 430 MCDOWELL STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING TO PERMIT THE

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RENOVATION OF THE EXISTING BUILDING AND AN ADDITIONAL PARKING AREA FOR A DOCTOR'S PARK

Mayor Bellamy opened the public hearing at 5:49 p.m.

Urban Planner Kim Hamel said that this is the consideration of an ordinance to conditionally zone a portion of property located on 430 McDowell Street from RS-8 Residential Single-Family High Density District to Institutional District/Conditional Zoning to permit the renovation of the existing building and an additional parking area for a doctor's park. This public hearing was advertised on April 14 and 22, 2006.

Ms. Hamel said that the subject property is located off of McDowell Street across from Asheville High School. The lot consists of 1.33 acres and is currently zoned RS-8. The applicant is requesting a rezoning of a portion of this lot to Institutional District in order to convert the existing building, formerly used as a daycare center, to an office use. The portion of the parcel fronting St. Dunstan's Road will remain RS-8 and will be subdivided into two or three residential lots.

Surrounding land uses and zoning include the Asheville High School zoned Institutional to the west across McDowell Street; retail business zoned Institutional and a single-family dwelling zoned RS-8 to the north across Grindstaff Road; single family dwellings zoned RS-8 to the east; and vacant property owned by the N.C. Dept. of Transportation zoned RS-8 to the south fronting McDowell Street.

The parcel, in its current configuration, is considered both a through lot and a corner lot with street frontages on McDowell Street, Grindstaff Road and St. Dunstan's Road. The topography is steeply sloped from the top of the property towards the west (McDowell Street). The portion of the site to be rezoned to Institutional District currently houses a vacant building that was used as a daycare center. Access to the existing building and parking area is located off of Grindstaff Road.

The conceptual site plan proposes a conversion of the existing 3,700 square foot building to an office. The building will function as a podiatry office and may also include one other general office use. The site plan illustrates use of the existing parking area off of Grindstaff Road that will consist of 6 spaces. The project also proposes construction of a new internal driveway that will connect the existing parking area to a new seven space parking lot located at the side and rear of the building. A 20-foot, Type B landscape buffer is required around the perimeter of the site where the property abuts residential uses. The applicant, Asheville Day Nursery School Inc., is meeting this requirement, except along the eastern side of the property where the buffer width has been reduced to install a privacy fence and other plantings; a fence can be installed to reduce buffer width and that is what is proposed in this case. In addition to the fence, alternative compliance has been requested for an area along the eastern side of the property where the proposed driveway, that connects the two parking lots, encroaches into the buffer. The applicant has stated that they would like to work with the adjoining property owners on providing them with an amendable planting plan. The mature vegetation shown along the west and north sides of the property will be maintained and credited towards the street tree requirements.

On Monday, March 18, 2006, the Technical Review Committee (TRC) approved the project subject to the conditions outlined in the TRC staff report. The applicant indicated at that meeting that the developer was not prepared to pursue Phase II of the project and asked that it be removed from the project review. Subsequent to the TRC meeting, the applicant provided staff with the information necessary to determine the number of parking spaces and type of landscaping required for the project. These items have been addressed on the revised plans.

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On Wednesday, April 5, 2006, the Planning and Zoning Commission reviewed this request and unanimously voted to approve the project with the conditions outlined in the TRC staff report and with an added condition that the applicant complete the minor subdivision of the lot as proposed on the concept plan within 90 days of City Council approval.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

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 the TRC 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.** The property will be developed with minimal disturbance to the site and existing vegetation. The only land disturbing activity that will occur on site will be the construction of the proposed parking area on the south side of the building and the installation of required landscaping. This area of the site is relatively flat. Additionally, renovations required for the conversion of the building to office space will be confined to the interior of the structure.
3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.** This property has been used commercially as a daycare facility. The proposed use of the property to an office is considered a low impact use and it not expected to injure the value of adjoining or abutting properties. The project will require the installation of landscape buffers where adjacent to residential uses and also parking lot landscaping that will assist in mitigating any potential negative impacts.
4. **That the proposed use or development or 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 project proposes a rezoning only on the portion of the lot that is currently developed. The office will be housed within the existing structure on site. The remaining portion of the

property will remain RS-8 and be subdivided from the main tract in order to create two to three residential infill lots that will be located off of Dunstan's Road.

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 project is supported by several goals and strategies in the plan relating to adaptive reuse, infill development, and smart growth policies. The project supports pursuit of compatible redevelopment and adaptive reuse of an existing structure with a low impact use. Traditional neighborhood development patterns are also recognized through the creation of several residential infill lots located within the core of the neighborhood.
6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar**

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facilities. This project site is located within the City Limits and has access to all City services including water, fire and police protection and waste disposal. The project site is located on McDowell Street that is serviced by public transportation, including a transit stop located on the corner of McDowell Street and Grindstaff Road.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.** This project has been reviewed by the City's Traffic Engineer who indicated that the office use would not cause undue traffic congestion or create a traffic hazard.

Pros

- The former use of the building as a daycare center was considered a non-conforming use. The building has been used commercially since 1956. Interior and exterior commercial up-fits to the building make it an unlikely candidate for the use to convert back to residential. A rezoning to Institutional District will allow a conforming use to occupy the lot.
- The proposed split zoning on the lot and creation of two residential parcels off of St. Dunstan's Road assists in protecting the integrity of the neighborhood by preventing access to the commercial portion of the existing parcel; and adds to the character of the neighborhood by creating additional single-family infill lots.
- Adaptive reuse of an existing structure.
- The conditional zoning process allows neighbors an opportunity to have a clear idea of how the property will be used.
- A medical office is provided on currently underutilized property in the close vicinity of other medical uses.

Cons

- Additional traffic may occur along St. Dunstan's Road in order to utilize the traffic signal at the corner of St. Dunstan's Road and McDowell Street.
- The rezoning could be viewed by some as an encroachment of nonresidential uses into a residential area.

Staff recommends approval of the project subject to the conditions outlined in the TRC staff report and with the following conditions: (1) That all site lighting be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and that a lighting plan be submitted to the City for approval; (2) All existing vegetation to be preserved and credited towards the landscape requirements be clearly dimensioned and delineated on the plans; (3) The minor subdivision of the lot, as illustrated on the concept plan be completed within 90 days of City Council approval; and (4) The developer shall meet with neighboring property owners in developing the design of required landscape buffers where alternative compliance is proposed.

Mr. Gerald Green, representing Asheville Day Care Nursery, spoke in support of the conditional zoning. It is their hope to preserve as many existing trees as they can near the back parking lot as they construct the privacy fence. Because of existing trees and rocks, they asked that in lieu of a constructing a sidewalk along McDowell Street, that they build a transit shelter, noting that there is an existing sidewalk on the other side of McDowell Street. He asked for the ability to work with City staff on this option.

Mayor Bellamy closed the public hearing at 5:56 p.m.

Mr. Green responded to various questions/comments from Council, some being, but are not limited to: will there be any major renovations to the outside of the building; and what is the access to the property.

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In response to Mayor Bellamy's concern about the buffering be decreased because of the fence, Mr. Green said that they will try to save as many existing trees as they can and will supplement the fence with additional trees, as well as shrubs.

There was a brief discussion about the need for a sidewalk in that area.

Upon inquiry of Mayor Bellamy, Planning & Development Director Scott Shuford said that there is not an issue with changing the use from residential to Institutional/Conditional Zoning regarding the access onto Grindstaff Road.

Upon inquiry of Councilman Newman, Ms. Hamel said that there is an opportunity for flexibility on the sidewalk construction and will meet with the project engineer to look at the possibilities.

Councilman Newman agreed with the statement made by Ms. Hamel that the project conforms with the City's Comprehensive Plan and moved for the adoption of Ordinance No. 3349, to conditionally zone a portion of property located on 430 McDowell Street from RS-8 Residential Single-Family High Density District to Institutional District/Conditional Zoning to permit the renovation of the existing building and an additional parking area for a doctor's park, subject to the following conditions: (1) all conditions outlined in the TRC staff report; (2) That all site lighting be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and that a lighting plan be submitted to the City for approval; (3) All existing vegetation to be preserved and credited towards the landscape requirements be clearly dimensioned and delineated on the plans; (4) The minor subdivision of the lot, as illustrated on the concept plan be completed within 90 days of City Council approval; (5) The developer shall meet with neighboring property owners in developing the design of required landscape buffers where alternative compliance is proposed; (6) that a sidewalk be constructed for property frontage along McDowell Street; and (7) encourage the developer to preserve existing vegetation and work with City staff to plant additional trees to the buffer area in the back of the property. This motion was seconded by Councilman Mumpower and carried unanimously.

In response to Councilman Mumpower, Mr. Green said that he felt sure the developer would be amenable to help provide the labor for a Top-A-Stop at the site where the transit shelter would have been constructed.

Vice-Mayor Jones noted that Asheville Day Nursery provided a great service of affordable child care for over 50 years.

ORDINANCE BOOK NO. 22 – PAGE

E. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REVISIONS TO THE CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 3350 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO STRENGTHEN THE REQUIREMENTS FOR PROJECTS LOCATED IN THE CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 3351 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ADJUST THE REVIEW THRESHOLDS FOR MINOR AND MAJOR WORKS FOR THE DOWNTOWN DESIGN REVIEW PROGRAM

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RESOLUTION NO. 06-89 - RESOLUTION ADOPTING THE KEY PEDESTRIAN STREETS MAP TO BE USED TO SUPPORT THE CENTRAL BUSINESS DISTRICT ZONING

ORDINANCE NO. 3352 - ORDINANCE TO EXPAND THE DESIGN REVIEW BOUNDARY MAP

Mayor Bellamy opened the public hearing at 6:15 p.m.

Urban Planner Alan Glines said that this is the consideration of (1) an amendment to the Unified Development Ordinance ("UDO") to strengthen the requirements for projects located in the Central Business District ("CBD"); and (2) an amendment to the UDO to adjust the review thresholds for minor and major works for the Downtown Design Review program; (3) a resolution to adopt the Key Pedestrian Streets Map to be used to support the Central Business District zoning; and (4) an ordinance to expand the design review boundary map. This public hearing was advertised on April 14 and 21, 2006.

This proposed amendment is drafted to update the Code of Ordinances regarding projects located in the Central Business District. The City is experiencing continued growth and development in the downtown Central Business District. The Downtown Commission was appointed by City Council to recommend policy and to support downtown revitalization. They have carefully considered the proposed wording changes for nearly three years. As downtown's stock of existing buildings have been renovated to new uses, opportunities for new construction have shifted to under-developed infill lots in and around the periphery of the

downtown core. This expansion from the core area will be the growth areas of the central business district. The proposed wording amendments to the UDO will provide additional requirements for new construction to ensure an urban style of development in the downtown area. Development along specific key pedestrian streets would have some additional requirements to improve the character of the street and strengthen the sense of place. The Key Pedestrian Streets Map, first developed for the City Development Plan 2025, is being submitted for adoption along with these ordinance amendments. An additional item that is being submitted for consideration is a minor expansion of the boundary map, which outlines the coverage area for the Downtown Asheville Design Guidelines. The expansion seeks to include all parcels zoned CBD into the design review area. The Downtown Asheville Design Guidelines were adopted in the late in 1980's. The guidelines provide direction for new construction or major renovations in the downtown area. The program is administered by the Downtown Commission under a mandatory review and voluntary compliance authority. The current proposal seeks to amend this design review area to expand and include the entire area of the central business district (CBD zoning district). In order to balance out the need for a wider design coverage area and clearer requirements for new construction, the Downtown Commission is recommending that the design review program match City development review thresholds that are already in place. This means that instead of reviewing all projects greater than 5,000 square feet as currently provided for in the UDO, the Downtown Commission will review projects that are Level II and Level III projects. Staff will provide compliance review for Level I projects in a similar fashion as is done currently for projects under 5,000 square feet. This change in threshold requires an amendment to the UDO section that covers the downtown design review program. In summary, the proposed changes to the Central Business District section of the UDO, the Key Pedestrian Streets Map, the amendments to the Downtown Asheville Design Guidelines and review thresholds are expected to enhance and maintain the redevelopment that has occurred in downtown and provide direction, maintain the character and reinforce the urban form for new construction.

Pros –

- The ordinance amendments protects existing downtown development as new projects are proposed.

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- The requirements for new construction ensures that new projects will add to the character of the downtown area and strengthen the urban form.
- Because the major part of downtown's stock of existing older buildings are renovated, new growth will be in the form of new in-fill construction. The amendments will be in place in time to positively affect this new development
- The dense development pattern of the core area of downtown will expand out to the edges of the Central Business District.

Cons –

- Some older businesses may find that their use would be a better fit in a more suburban setting.
- New development will place greater pressure on existing infrastructure.

The Downtown Commission voted to recommend approval of the proposed changes to the UDO covering the Central Business District. Staff concurs with this recommendation. In addition, at the Planning & Zoning Commission's February 12, 2006, meeting the Commission voted 6-0 to recommend approval of the proposed amendments with several minor changes that have been incorporated into the current ordinances contained herein.

City staff recommends City Council approve (1) an amendment to the Unified Development Ordinance ("UDO") to strengthen the requirements for projects located in the Central Business District ("CBD"); and (2) an amendment to the UDO to adjust the review thresholds for minor and major works for the Downtown Design Review program; (3) a resolution to adopt the Key Pedestrian Streets Map to be used to support the Central Business District zoning; and (4) an ordinance to expand the design review boundary map.

Ms. Julia Brant wondered if there may be a conflict of interest of some members of the Downtown Commission since some are developers. She expressed the following three concerns: (1) balconies should not encroach on the public space; (2) height limitations should be based on the existing streetscape; and (3) developers should be responsible for providing their own parking, since there are no requirements for off-street parking.

Alan Ditmore explained why he felt that all projects should be reviewed on a square footage basis, regardless of whether they are residential or commercial structures.

Mayor Bellamy closed the public hearing at 6:23 p.m.

Mr. Peter Alberice, Chair of the Downtown Commission, assured Council that any time a project is brought before the Commission in which a member has a conflict they have asked to be excused.

After discussion surrounding whether the projects should be reviewed on a square footage basis only, it was the consensus of Council to accept the recommendation of the Downtown Commission at this time and ask that the Commission take Council's comments into consideration and re-visit this in their next phase of review. In addition, this matter can be discussed further at the May 16 worksession regarding land use issues.

Planning & Development Director Scott Shuford said that sometime ago Council asked Planning staff to look at making adjustments to our general thresholds to the three levels based on whether the developments achieve the variety of Council goals. Their review did include some exemptions for downtown development that does increase the threshold. As a result of this discussion, he said that in advance of the May worksession, he will send that code amendment to Council for their initial review.

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In response to Councilwoman Cape, Mr. Alberice said that City Council has control over balconies since that issue will be handled in the conditional use permit public hearing.

Upon inquiry of Councilwoman Cape about the height limitations, Mr. Alberice said that the Downtown Commission spent an enormous amount of time in trying to come up with a way that could be quantified in the zoning ordinance that anyone could understand. As they were not able to come up with the height that was satisfactory to those proposing a mandatory height limit and those who want a height limit with more flexibility, the Commission decided to move that forward to the next phase of the Commission's review.

In response to Councilman Freeborn about no parking requirements, Mr. Alberice said that if they required parking, older buildings would be demolished to create surface parking in order to meet that requirement. He explained that most residential projects have provided parking in order to make their project marketable.

Upon inquiry of Councilwoman Cape about a fee in lieu of parking spaces, City Attorney Oast said that there are a number of vehicles available in the statutes for special tax districts and if Council is interested in pursuing those on a long basis he would look into those.

Councilman Newman was hesitant to support any additional regulations on parking, but would be interested in the Downtown Commission looking at ways to incentivize parking.

Mayor Bellamy said that members of Council have previously received a copy of the resolution and ordinances and they would not be read.

Councilman Davis moved for the adoption of Ordinance No. 3350. This motion was seconded by Vice-Mayor Jones and carried unanimously.

ORDINANCE BOOK NO. 22 – PAGE

Councilman Davis moved for the adoption of Ordinance No. 3351. This motion was seconded by Councilman Newman and carried unanimously.

ORDINANCE BOOK NO. 22 – PAGE

- Councilman Freeborn moved for the adoption of Resolution No. 06-89. This motion was seconded by Councilwoman Cape and carried unanimously.

RESOLUTION BOOK NO. 29 – PAGE 452

Councilman Freeborn moved for the adoption of Ordinance No. 3352. This motion was seconded by Councilwoman Cape and carried unanimously.

ORDINANCE BOOK NO. 22 – PAGE

- At 7:01 p.m., Mayor Bellamy announced a short recess.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION FINDING THAT AN UNOPENED 5-FOOT WIDE RIGHT-OF-WAY OFF FAIRMONT ROAD IS NOT PART OF AN ADOPTED STREET PLAN

Mayor Bellamy said that she has received the following request today from Mr. Jason Kraus, Counsel for the petitioners: "Please continue the matter involving the withdrawal of the 5-foot strip off of Fairmont Road to the May 9, 2006, formal Council meeting. This request is based upon the need of counsel for the petitioners, Mr. and Mrs. Chad Rundell, to conduct further investigation as it relates to a waterline crossing the 5-foot strip."

Therefore, Councilman Davis moved to continue this matter until May 9, 2006. This motion was seconded by Councilman Mumpower and carried on a 5-2 vote, with Councilwoman Cape and Councilman Freeborn voting "no."

B. RESOLUTION NO. 06-90 - RESOLUTION AMENDING THE HOUSING TRUST FUND GUIDELINES

Community Development Director Charlotte Caplan said that this is the consideration of amendments to the Housing Trust Fund (HTF) guidelines

The Housing and Community Development (HCD) Committee is undertaking a thorough review of the policy and procedures for the City's Housing Trust Fund, which were established in September 2000 and last updated in October 2004. At its April 10, 2006, meeting, the Committee noted the following issues which it felt needed immediate action.

1. Loan Limits

The current limit on any one loan is \$250,000. While this is adequate for most developments, for those few proposals that involve large numbers of affordable units, this limit can greatly restrict the effective subsidy per unit. For example, for an 80-unit project the loan amount would be only \$3,130 per unit, and the benefit in terms of increased affordability less than \$200 in price, or \$10-\$15 a month in rent.

Staff recommends that the limit be increased to \$500,000 for development of 30 units or more that offer a high degree of affordability and leverage.

2. Sales price limits

The current limits were adopted in October 2004. Rapid inflation of construction costs has made these limits out of date. Permit data suggests that construction costs are currently increasing by about 8% a year. Both for-profit and non-profit developers tell us that they can no longer build a 3-bedroom single family home on an infill lot to sell for the current limit of \$135,000, and we have not received an application for HTF funds for homes for sale since February 2005. Applications for fee rebates through March 2006 are 70% down on the same period last year. The same price limits apply to both programs.

Staff recommends the following new price limits, effective immediately, which should remain realistic through Fiscal Year 2007:

Size	Existing Limit	Proposed Limit
0-bedroom (efficiency)	95,000	105,000
1-bedroom	110,000	115,000
2-bedroom	120,000	140,000
3-bedroom	135,000	160,000
4-bedroom	150,000	180,000

Staff further recommends that the same limits be considered for the fee rebate program, either immediately or on July 1, 2006, after passage of the City budget.

3. Exception to the price limits.

Some non-profit developers have pointed out that they are often able to make the homes they build more affordable by bringing in other forms of subsidy. These subsidies usually require sale to households with less than 80% area median income, a market that for-profit developers are barely able to serve. The non-profits have requested exemption from the HTF price limit provided that the home is made affordable to a household below 80% AMI. The HCD Committee has recommended this exception.

The Committee has also instructed staff to prepare more far-reaching proposals, which would modify some of the fund's basic policies. Staff expects to have these ready for Council's review in the summer.

Advantages:

- Larger loans to assist the largest and most affordable developments will increase the impact of the fund.
- Increased price limits will restore the fund's availability to developers.
- Price limits will not be a barrier where additional subsidy is available to serve low-income homebuyers.

Disadvantages:

- Larger loans will mean less funds available for small developments
- Homes priced close to the new limits will be less affordable, since incomes are increasing more slowly than land and construction costs.
- Less pressure on developers to build smaller, more basic homes.

Staff recommend approval of the new loan limits and sales price limits, and the exception to the sales price limits in the case of buyers under 80% AMI.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities, said that the per unit subsidy is important and explained why he felt the 3-bedroom unit sales price should be \$150,000 not the proposed \$160,000.

Mr. Walter Plaue felt that MHO is a great leader in providing affordable homes, but voiced concern about putting the annual available money for the HTF in "one pot" and felt there may be some sense of impropriety in that MHO is the first one who would benefit from the HTF guidelines proposed today.

Mayor Bellamy requested that the three proposed changes be discussed and voted on separately.

Councilman Newman spoke about how the HCD Committee has worked hard on making the HTF as useful as possible. He said that considering the needs in the community, we need to have tools to support the big projects that deliver "a lot of mileage."

Councilman Mumpower explained why he felt the HTF should be re-visited in its entirety for possible dissolution.

Vice-Mayor Jones, Chair of the HCD Committee, offered to make a presentation about the value of the HTF if the majority of Council wishes.

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Ms. Caplan responded to Councilman Freeborn when he asked how many dollars have gone into the community as a result of the HTF and how many affordable units have been created.

Because discussion began in an area which Mayor Bellamy would have a conflict of interest, she asked to be excused. Therefore, Councilman Newman moved to excuse Mayor Bellamy from participating further in this matter due to a conflict of interest. This motion was seconded by Councilwoman Cape and carried unanimously. Mayor Bellamy turned the meeting over to Vice-Mayor Jones and left the meeting room.

After Council members voiced their concerns/support for the three proposed changes, Councilman Mumpower moved to send the sales price limits change and the exception to the price limits back to the HCD Committee for further review and consideration, taking into consideration Council's comments. This motion was seconded by Councilman Davis and carried unanimously.

Vice-Mayor Jones moved to amend the HTF guidelines to increase the loan limit to 500,000 for development of 30 units or more that offer a high degree of affordability and leverage. This motion seconded by Councilwoman Cape and carried on a 4-2 vote, with Councilman Mumpower and Councilman Davis voting "no."

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C. RESOLUTION NO. 06-87 - RESOLUTION APPROVING A HOUSING TRUST FUND LOAN TO MOUNTAIN HOUSING OPPORTUNITIES FOR CROWELL PARK APARTMENTS

Even though Mayor Bellamy did not re-enter the meeting room, Councilman Mumpower moved to excuse Mayor Bellamy

from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Freeborn and carried unanimously.

Community Development Director Charlotte Caplan said that this is the consideration of a resolution approving a \$500,000 Housing Trust Fund loan for the development of 73 units of affordable rental housing on Crowell Road in West Asheville.

Mountain Housing Opportunities (MHO) has requested a Housing Trust Fund (HTF) loan in the amount of \$500,000 for a proposed \$7 million Low Income Housing Tax Credit (LIHTC) development. They also plan to use \$395,700 in HOME funds.

The available balance in the Housing Trust Fund is currently \$562,000

The application was evaluated by a panel of outside experts and staff and scored very well against the HTF criteria. MHO has an excellent track record with similar tax credit projects in Asheville. This development will be targeted to working families with income below 50% of the area median income and LIHTC rules guarantee 30 years of continued affordability. The HTF investment per unit is only \$6,850.

The requested loan amount of \$500,000 is above the current HTF loan limit of \$250,000. The HTF investment will allow the developer to meet the additional property taxes after annexation to provide an urban level of services (a condition of the zoning permit) and will also enable it score additional points in the tax credit competition. However, the request is based on a calculation of property taxes that assumes continuation of the current tax rate. If the tax rate is rolled back as a result of the recent re-valuation, the operating costs will be reduced and the project may be over-subsidized.

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The Housing and Community Development Committee reviewed the application on April 10, 2006, and has recommended awarding an HTF loan in the amount of \$500,000 with provisional terms of 0% interest and principal payments amortized over 15 years. Final terms will be subject to negotiation after July 1, 2006, and may include an interest rate above 0% and/or an accelerated repayment of principal to prevent over-subsidizing.

Advantages:

- Creation of 73 units of affordable housing for low income working families
- Long-term affordability (at least 30 years)
- Increased of almost \$6,000,000 in the tax base
- Increased chance of winning Low Income Housing Tax Credits for Asheville

Disadvantages: This loan will exhaust most of the remaining Housing Trust Fund cash balance for this fiscal year. No other significant project can be funded until additional funds are available.

City staff recommends City Council approve a \$500,000 Housing Trust Fund loan to Mountain Housing Opportunities.

Ms. Cindy Weeks, representing MHO, spoke in support of the loan.

Mr. Walter Plaue felt the City should concentrate on infill development.

Ms. Weeks responded to several questions from Council, some being, but are not limited to: how does MHO sustain affordability for the units; explain the zero interest rate; and when would the project break ground.

Councilman Newman moved to adopt Resolution No. 06-87. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no".

Vice-Mayor Jones then turned the meeting back over to Mayor Bellamy when she re-entered the meeting room.

RESOLUTION BOOK NO. 29 – PAGE 450

D. RESOLUTION NO. 06-91 - RESOLUTION ADOPTING THE STATE LEGISLATIVE PROGRAM

City Attorney Oast said that this is the consideration of adoption of a resolution for approving legislative action in the 2006 session of the North Carolina General Assembly.

At the Council work session on April 18, 2006, the City's legislative requests were considered by Council. Based on that

consideration, Council indicated a desire to proceed with the following items as indicated:

- A. Settlement agreement with Progress Energy regarding Lake Julian. Near the end of last year, the City and Progress Energy reached an agreement settling the 2000 litigation involving the attempted annexation of Progress Energy's Lake Julian power generating facility. Pursuant to this agreement, the City would cease attempts to annex Progress Energy's Lake Julian facility, and Progress Energy would continue to pay the City a utility franchise tax. This essentially amends an earlier (1994) agreement, formalized by legislation, settling a dispute (and threatened litigation) over the utility franchise tax.

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This settlement agreement was discussed with the legislative delegation prior to Council acting on it back in the Fall. The delegation has indicated that this matter is appropriate for consideration in the short session, and that they will take the appropriate steps to have it enacted into law.

City Attorney Oast has been in discussions with Progress Energy's attorney, former Mayor Larry McDevitt, about this matter, and he indicates that he has been in discussion with our delegation, and they are ready to act on the request.

When the settlement was initially approved back in November, it was contemplated that a detailed review of information might result in slight revisions to the area included in the coverage of the Agreement. This detailed review has been completed, and the map showing the properties to be included has been slightly revised. However, this revision has no financial consequence to the City under the Agreement, and amounts to a technical correction. For a further explanation of the revisions, see my memorandum dated April 21, 2006.

Council direction: Resolution to proceed with finalization of settlement agreement.

Note: Because Mr. McDevitt's office will take the lead in working with the delegation on this matter, no further action by the City, other than cooperating with Mr. McDevitt, should be necessary.

- B. Voluntary / legislative annexation in South Asheville. The area between the southern City limit and Henderson County is developing rapidly. For a variety of reasons, some of the commercial developments in this area wish to be annexed into the City of Asheville. Under current law, however, voluntary annexation is complicated because those areas are closer to Fletcher than they are to Asheville's primary corporate limits, even though Fletcher cannot expand into Buncombe County. Last year, legislative action was required in order to annex some commercial properties in the new development near the airport. This year, a similar situation has arisen with other commercial properties, and legislative action will likely be required again.

Council direction: Resolution to seek legislative action as necessary to enable properties in this area to voluntarily annex into the City of Asheville without specific legislative approval.

- C. Revenue for Civic Center: Although this matter may be more appropriate for consideration in the 2007 session than in this short session, Council indicated that it wished to work with the delegation in considering the menu of options available to provide needed funding for the Civic Center. This request coincides with the approval by the Civic Center task force of alternatives for renovation / expansion of the Civic Center, and the transmission of those recommendations to the Council for action. Since Council action will necessarily involve some consideration of funding, Council wishes to begin that consideration sooner rather than later, and to request appropriate assistance and direction from the legislative delegation. Council indicated that it was open to any funding mechanism except a sales tax. A detailed discussion of available options is beyond the scope of this staff report, but more information will be available and developed as the options emerge.

Council direction. Resolution to seek assistance and appropriate action as necessary to develop a funding source for this regional facility.

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- D. Repeal of Sullivan Acts: This was not discussed in detail on April 18, but has been the subject of much consideration in the last 18 months, and there is a wealth of information available from a variety of sources.

Council direction. Resolution requesting repeal of the Sullivan Acts.

- E. Child care reimbursement: There is concern within the community that Buncombe County does not receive its fair share of funds for reimbursement for child care services provided for low/moderate income families. Consideration should be given to the adoption of the 2005 Market Rate Study, and increasing overall funding.

Council direction. Resolution requesting legislative review and action as necessary to address funding inequities and insufficiencies.

- F. Funding of criminal justice system: There is concern within the community that the State's criminal justice system is not adequately funded, especially with respect to drug-related offenses. This has the effect of allowing offenders – sometimes repeat offenders – to get back on the street with little or no deterrent action.

Council direction. Resolution requesting legislative review and action as necessary to address criminal justice system funding issues, particularly as they may affect Asheville.

The 2006 session is a “short” session, meaning that there are limits on what can be considered by the General Assembly. There is also a fairly narrow window for submission of requests; the deadline for submission of material to the Bill Drafting division is May 17.

Councilman Newman introduced for Council's consideration for inclusion in the legislative package (1) campaign finance reform – allow local governments to decide if they want to create public financing for local elections; (2) concern regarding cable franchise fees – statement that Asheville is concerned about the state-wide video franchise bill which would cap PEG access fees at \$16,000 per community and delegate responsibility to the Attorney General's Office for handling citizen complaints about local TV providers (historically, local governments have played a leading role in these issues); (3) raise the minimum wage – statement that Asheville asks our legislators to raise the state minimum wage to \$7 per hour; (4) homestead exemption – reduce property taxes on low-income senior citizens who live in their own home, expand the homestead exemption act and index it for inflation; and (5) Land for Tomorrow initiative – place the Land for Tomorrow bond referendum on the ballot for consideration by the people of North Carolina.

City Attorney Oast said that the following four specific items for local legislation (settlement agreement with Progress Energy regarding Lake Julian; voluntary/legislative annexation in South Asheville; revenue for the Civic Center; and repeal of the Sullivan Acts), will require unanimity (which our delegation requests) from the Council before the legislative delegation will introduce them. The other items are relevant to the City of Asheville, but since they are not specific pieces of legislation, he was not certain unanimity by Council was necessary.

Mayor Bellamy said that this is a short session, which needs to have non-controversial items and items with unanimity of Council. She recalled that during the regular session, other items of endorsement have been submitted with the vote of Council. The majority of Council can change that process.

Councilwoman Cape moved to include items that are not unanimous to move forward, but presented separately from the items that are unanimous, in the short session of the City's

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legislative package items. This motion was seconded by Councilman Mumpower and carried on a 6-1 vote, with Mayor Bellamy voting “no.”

Councilman Mumpower felt that even though the items are not unanimous, it gives us an opportunity to educate our legislative body on some of Council's interests, whether we chose to pursue those interests or not.

Councilwoman Cape moved to include the following three items specifically relating to the City of Asheville to the City's legislative package: (1) settlement agreement with Progress Energy regarding Lake Julian; (2) voluntary/legislative annexation in South Asheville; and (3) repeal of the Sullivan Acts). This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting “no”.

Because there was unanimity by City Council at the worksession for all the items City Attorney Oast just reviewed, Councilman Mumpower moved to include the following six items to the City's legislative package: (1) settlement agreement with Progress Energy regarding Lake Julian; (2) voluntary/legislative annexation in South Asheville; (3) revenue for the Civic Center; (4) repeal of the Sullivan Acts); (5) child care reimbursement; and (6) funding of criminal justice system. This motion was seconded by Councilman Freeborn.

There was a brief discussion regarding the Civic Center, noting that the Civic Center Task Force will be bringing forward their options to Council on May 9, 2006.

Councilman Newman is not supportive of a sales tax as an option for revenue for the Civic Center and requested more

analysis on the different options, e.g., hotel occupancy fee, fine dining tax, etc., available for Civic Center revenue.

The motion made by Councilman Mumpower and seconded by Councilman Freeborn to move forward on all six items carried unanimously.

After each Council member voiced their opinion on the campaign finance reform item, Councilwoman Cape moved to move that forward to the legislative delegation. This motion was seconded by Councilman Freeborn and carried on a 4-3 vote, with Mayor Bellamy, Councilman Davis and Councilman Mumpower voting "no."

After each Council member voiced their opinion on the cable franchise fees item, Councilwoman Cape moved to move that forward to the legislative delegation. This motion was seconded by Councilman Freeborn and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

After each Council member voiced their opinion on raising the minimum wage item, Councilman Newman moved to move that forward to the legislative delegation. This motion was seconded by Councilwoman Cape, and carried on a 4-3 vote, with Mayor Bellamy, Councilman Davis and Councilman Mumpower voting "no." Mayor Bellamy requested a report from the City Manager on our employee salaries.

After each Council member voiced their opinion on the homestead exemption, Councilman Davis moved to move that forward to the legislative delegation. This motion was seconded by Councilwoman Cape, and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

After each Council member voiced their opinion on the Land for Tomorrow initiative, Councilwoman Cape moved to move that forward to the legislative delegation. This motion was

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seconded by Councilman Freeborn and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

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E. RESOLUTION NO. 06-92- RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TRANSIT COMMISSION

Vice-Mayor Jones, Chair of the Boards & Commissions Committee said that Councilman Bryan Freeborn has resigned as a member of the Asheville Transit Commission, thus leaving an unexpired term until December 31, 2006.

At the City Council worksession on April 18, 2006, City Council instructed the City Clerk to arrange interviews for Mr. Yuri Koslen, Ms. Hanna Miller and Mr. Bruce Emory.

After Council spoke highly of the candidates, Vice-Mayor Jones said that the Boards & Commissions Committee will review the structure for possible expansion of the Board. The voting was as follows: Yuri Koslen received one vote, Hanna Miller received six votes, and Bruce Emory received no votes. Therefore, Hanna Miller was appointed to serve the unexpired term of Councilman Freeborn, term to expire December 31, 2006, or until his successor has been appointed.

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VI. OTHER BUSINESS:

Councilwoman Cape suggested that when an item is withdrawn from the Council agenda that a notice be placed on the Council Chamber door for those who may not have been in the Chamber when that action happened.

City Council recognized Mr. Yuri Koslen for his efforts on Strive Not To Drive Day.

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

The following claims were received by the City of Asheville during the period of March 31 – April 20, 2006: BellSouth (Water), Harriett Riddle (Sanitation), Emily Kinsella (Sanitation), Steve Earle (Water), David Wilson (Streets), Sherri Adkins (Water), Mildred Miller (Police) and Travis Smith (Police). These claims have been referred to Asheville Claims Corporation for investigation.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Bruce Deile spoke to Council about the denial of medical treatment due to high costs. He also brought to Council's attention that an older homeless man who can't take care of himself was kicked out of the Salvation Army. Mr. Deile said that A-Hope staff said they can't force this man into a state run agency. Mayor Bellamy said that she would follow-up on this.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:15 p.m.

CITY CLERK

MAYOR