

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; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Brownie W. Newman

**FIT COMMUNITY DESIGNATION**

Lt. Governor Beverly Purdue was pleased to unveil Asheville's new "Fit Community" street sign. Ms. Purdue explained that Asheville is the first of 8 cities in North Carolina to receive this designation, which is awarded to communities that promote physical activity, healthy eating and youth tobacco use prevention.

**PLEDGE OF ALLEGIANCE**

Fourth grade students from Mr. Vince Floriana's class at Claxton Elementary School led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilman Davis gave the invocation.

**I. PROCLAMATIONS:**

**A. PRESENTATION OF THE SONDELEY AWARD TO STEVE HILL**

Mayor Bellamy said that the Sondley Award is given by the Historic Resources Commission of Asheville and Buncombe County to an individual or individuals in the community who by word or deed has kindled among the citizenry of Asheville and Buncombe County an appreciation for the history or historic resources of the area.

Mayor Bellamy then recognized Mr. Curtis Walk, Chairman of the Asheville-Buncombe Historic Resources Commission. Mr. Curtis Walk said that the Historic Resources Commission gives the Sondley Award to an individual(s) in the community who by word or deed has kindled among the citizenry of Asheville and Buncombe County an appreciation for the history or historic resources of the area. He presented this year's Sondley Award to Steve Hill, Site Manager of the Thomas Wolfe Memorial.

**II. PRESENTATION OF THE BUDGET**

**A. PRESENTATION OF PROPOSED FISCAL YEAR 2006-07 ANNUAL OPERATING BUDGET AND SETTING A PUBLIC HEARING ON JUNE 13, 2006, TO CONSIDER ADOPTION OF SAID BUDGET**

Chief Financial Officer Ben Durant said that this is the formal presentation of the proposed Fiscal year 2006-07 Annual Operating Budget and consideration of a motion setting a public hearing on June 13, 2006, to consider adoption of said budget.

Mr. Durant reviewed with Council the following budget process highlights (1) Nov. 22: Brown & Caldwell Water Rate Presentation; (2) Jan. 13: Goals for Asheville Forum; (3) Jan. 20: City Council Retreat & Long-Range Financial Forecast; (4) Jan. 31: Water System Policy

-2-

Discussion & Public Forum; (5) Feb. 21: Financial Forecast Update & Water Rate Discussion; (6) Apr. 18: Budget Preview/Water CIP Fee; (7) May 8: Budget Update: General Fund; (8) May 16: Budget Update: Enterprise Funds/Fees/CIP; and (9) May 23: Formal Budget Submittal

Regarding property tax, he explained that property tax revenue: largest general fund revenue source; 49% of total; Revenue-neutral rate: 41 cents per \$100 of assessed valuation; and Tax Base Growth: 5.4% - Natural growth: 3.5%; and Annexation growth: 1.9%.

He then reviewed the General Fund Revenue Summary.

Mr. Durant briefly explained the General Fund Expenditure Highlights of the (1) Personnel Package (a) 3% Average Merit Increase, 1% COLA; and (b) \$450,000 for Market-based Compensation Plan; (2) Operating Costs (a) Operating costs are increasing due to the inflation in utility, fuel & material costs (i) \$300,000 due to higher fuel costs; (ii) \$167,000 increase in street lighting; and (iii) \$152,000 increase for fire annexation contracts; and (3) Capital Outlay (a) Reduced to balance budget. He then reviewed the General Fund Expenditures Summary.

Mr. Durant reviewed the Fund Balance, the Capital Improvement Summary, and the Deferred Investment in Priority Areas.

Other Fund Highlights include the Water Fund (CIP investment plan and surcharge); Transit and Parking (Increased general fund subsidy to transit); Golf Fund (Eliminated general fund subsidy); Festival Fund (Increased revenue from 2<sup>nd</sup> gated event, fees); and Civic Center (Reduced general fund subsidy by \$361,000).

Next steps include the May 23 Budget Submittal – distribution of the budget document; and plan for June 20 worksession (outside agencies, business licenses; transit and parking; and deferred investments in priority areas); June 13 public hearing; June 20 worksession; and June 27 budget adoption.

Councilman Freeborn moved to set the public hearing on the adoption of the Fiscal Year 2006-07 Annual Operating Budget for June 13, 2006. This motion was seconded by Vice-Mayor Jones and carried unanimously.

### **III. CONSENT AGENDA:**

Mayor Bellamy asked that Consent Agenda Item "M" be pulled off the Consent Agenda for an individual vote.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 9, 2006, AND THE WORKSESSION HELD ON MAY 16, 2006**
- B. RESOLUTION NO. 06-103 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE AIR SPACE AT 12 S. LEXINGTON AVENUE**

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer to purchase air space at 12 South Lexington Avenue.

A bid has been received from Centrino LLC in the amount of \$2,000 for the purchase of air space at 12 South Lexington Avenue.

-3-

The land at 12 South Lexington Avenue was acquired by the City as part of the Pack Square Redevelopment Project. It was sold for redevelopment to Centrino LLC in July, 2004, to construct a multi-story, mixed use building with 43 residential condominiums, 1 office condominium, 1 retail condominium and 49 parking spaces. The project which is nearing 60% complete was approved by the City's Technical Review Committee on July 12, 2004, and included balconies which would project 3 ft. or less over the sidewalk through a required encroachment agreement. Centrino proposes to acquire the air space for the balconies to be able to convey it to the purchasers along with the respective condominiums. The bid from Centrino LLC is to acquire title to the air space for the balconies at fair market value. The air space for the balconies over the sidewalk totals 167.942 ± S.F. and begins at approximately 18 feet above the sidewalk. The appraisal prepared by Joseph F. Moore dated February 26, 2006, estimates the market value of the airspace at \$2,000.

The positive aspects of the transaction are:

- The sale will be at fair market value as established by independent appraisal.
- It will provide for a more practical approach to the air space occupied by the balconies.
- It will clarify responsibility and liability for the balconies.

There is no negative impact.

City staff recommends City Council adopt the resolution, which will initiate the sale of the property through the upset bid

process.

**RESOLUTION BOOK NO. 30 – PAGE 16**

**C. RESOLUTION NO. 06-104- RESOLUTION AUTHORIZING THE PURCHASE OF 3,000 DATAMATIC RADIO READ UNITS TO BE USED WITH OUR DATAMATIC AUTOMATED METER READING SYSTEM**

Summary: The consideration of a resolution authorizing the purchase of 3,000 Datamatic radio read units, in the amount of \$222,000, to be used with our Datamatic automated meter reading system.

The Water Resources Department purchased a Datamatic “Roadrunner” mobile meter reading system and 500 Datamatic “Fire-Fly” radio read units in Fiscal Year 2002 at a cost of \$36,635 as a pilot program. These automated meter reading units were installed at locations that were very difficult to access and that posed a safety threat to our meter reading employees. By automating the meter reading at these locations, a serious safety hazard was eliminated. In addition, this pilot program has proven to be very cost effective by reducing the time to read these meters by 85%.

This is a request to purchase an additional 3,000 Datamatic “Fire-Fly” radio read units. These units will be placed in the East Asheville area (Riceville Road, Old Farm School Road, and Warren Wilson School Road) because of the difficulty in manually reading these meters. By purchasing these devices in bulk, the cost is only \$74 per unit versus \$104 per unit. There is sufficient funding of \$222,000 available in the current budget to purchase these devices.

The goal of this department is to implement automated radio reading throughout the water system. This will facilitate the move to monthly meter reading and billing versus bimonthly reading and billing.

PROS:

-4-

- Reduce meter reading time by 85%
- Reduce meter reading costs over time
- Reduce the safety hazards of reading meters manually in difficult to access areas
- Reduce the risk of back injuries from having to lift the meter lids to read the meters
- Improve customer service by being able to reduce meter reading errors
- Provide a service to the customer by being able to data-log usage for 72 hours
- Reduce per unit cost of meter reading devices by purchasing devices in bulk

CONS:

- The cost of this purchase is a factor; however, sufficient funding is available and has been set aside for this important project.
- If these devices are not purchased in bulk at a cost of \$74/unit at this time, the cost will increase to at least \$104 per unit.

Staff recommends City Council approve the resolution authorizing the purchase of 3,000 Datamatic radio read units in the amount of \$222,000 to facilitate meeting the Water Resources Department’s goal to implement automated meter reading system wide.

**RESOLUTION BOOK NO. 30 – PAGE 17**

**D. RESOLUTION NO. 06-105 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE CLEAN WATER MANAGEMENT TRUST FUND TO ACCEPT A GRANT FOR A FEASIBILITY STUDY FOR STORMWATER RETROFITS FOR THE DINGLE CREEK WATERSHED**

Summary: The consideration of (1) a resolution authorizing the City to enter into an agreement with the Clean Water Management Trust Fund in the amount of \$133,000 for design and permitting of water quality improvements to the Dingle Creek Watershed; and (2) a budget amendment, in the amount of \$233,000, to accept these funds and budget in a grant fund the \$100,000 that the City will be contributing to the project.

In 2005 the City of Asheville requested \$579,500 of an \$875,000 effort to address stormwater and stream restoration needs in the Dingle Creek watershed in Buncombe County in the French Broad River basin. This watershed is developing, and the

impervious surface area is projected to increase from 20% currently to 40% within the next 20 years.

The Board of Trustees approved a reduced grant amount of up to \$133,000 to the City of Asheville at its meeting on November 14, 2005, to be used for design and permitting for a specific stormwater project and a specific stream restoration project, and to prepare a feasibility study that includes an analysis of and planning for stormwater retrofits and other Best Management Practices for the most developed parts of the Dingle Creek watershed.

The City of Asheville Stormwater Program has \$100,000 budgeted in Fiscal Year 2006 to study the Dingle Creek Watershed. This money will be used to supplement the Clean Water Management Trust Fund Grant to complete the feasibility study.

Considerations:

- The first consideration of this project is the cost the project. The grant is covering approximately 57% of the project cost. The City's portion of the costs is \$100,000. This money will be paid from the Stormwater Enterprise Fund. The money was programmed

-5-

for this project prior to receiving this grant. The scope of the project has increased to cover water quality issues in addition to flooding problems.

- Additionally, the Clean Water Management Trust Fund has indicated that they will consider funding some of the construction costs for this project once the feasibility study and design are complete.

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

City staff recommends City Council adopt (1) a resolution authorizing the City to enter into an agreement with the Clean Water Management Trust Fund in the amount of \$133,000 for design and permitting of water quality improvements to the Dingle Creek Watershed; and (2) a budget amendment, in the amount of \$233,000, to accept these funds and budget in a grant fund the \$100,000 that the City will be contributing to the project.

**RESOLUTION BOOK NO. 30 – PAGE 18**

**E. ORDINANCE NO. 3353 - BUDGET AMENDMENT TO ACCEPT A CLEAN WATER MANAGEMENT TRUST FUND GRANT FOR A FEASIBILITY STUDY FOR STORMWATER RETROFITS FOR THE DINGLE CREEK WATERSHED**

Summary: See Consent Agenda Item "D" above.

**ORDINANCE BOOK NO. 22 – PAGE 457**

**F. RESOLUTION NO. 06-106 - RESOLUTION ACCEPTING MAPLE SPRINGS ROAD, A PORTION OF BALLANTREE DRIVE AND OLD HAYWOOD ROAD FOR CITY MAINTENANCE**

Summary: The consideration of a resolution accepting Maple Springs Road, a portion of Ballantree Drive and a portion of Old Haywood Road for City of Asheville maintenance.

The N. C. Dept. of Transportation (NC DOT) contacted the City approximately one year ago and requested that the City take over maintenance responsibility for approximately twelve NC DOT maintained roadways. The Public Works Department along with the Engineering Department evaluated all the streets and has determined it is in the best interest of the City to take over maintenance of three of the twelve streets.

The criteria we used to make this determination included the following:

- condition on the street;
- volume of traffic on the street;
- location of the street as it relates to the city limits and other city maintained streets;
- desirability of the City to control driveway access, traffic calming, etc., on the street; and

- o land use.

The first street identified, Maple Springs Road, is approximately 0.32 miles in length known as State Route 2006. It begins at US 70, Tunnel Road to the end of the pavement. It is a residential street.

-6-

The second street identified, Ballantree Drive, is approximately 0.20 miles in length known as SR 3281. This section of Ballantree Drive is from the end of the existing City maintenance to the end of pavement. It is a residential street.

The third street identified is Old Haywood Road know as SR 1404. It is approximately 0.91 miles long and extends from Smoky Park Highway to the end of the existing City maintenance. This roadway is mixed residential and light commercial.

Considerations:

- The City will receive Powell Bill funds from the NC DOT to maintain the roadway.
- These Powell Bill funds will not cover 100% of the cost to maintain the street.

City staff recommends that City Council adopt a resolution accepting Maple Springs Road, a portion of Ballantree Drive and a portion of Old Haywood Road for City of Asheville maintenance.

#### **RESOLUTION BOOK NO. 30 – PAGE 19**

#### **G. RESOLUTION NO. 06-107 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A DONATION OF REAL PROPERTY ON WOOD AVENUE FROM THE DAN RIVER FOUNDATION**

Summary: The consideration of a resolution authorizing the Mayor to accept a donation of real property on Wood Avenue from Dan River Foundation.

The subject property lies west of Wood Avenue between the residential property on Wood Avenue and the River Hills Shopping Center. The right-of-way for Wood Avenue is combined with the I-240 right of way at this point. There are no improvements on the property and it is heavily wooded. The land slopes from South to North. The parcel is about 0.59 acre and is zoned RS-8 Residential Single-Family High Density District. The tax value is \$32,100 and the land appears to have some potential for development.

In 1986, the Dan River Foundation, a non-profit organization, executed a deed to the City of Asheville for property along Wood Avenue described as Ward 7, Sheet 13, Lot 78. The parcel is now identified as PIN 9658.18-42-2366. There is no record that the deed was ever recorded, although the tax listing was changed at that time to the City of Asheville. A search of various City records and files did not discover the original deed or any evidence that the deed was ever officially accepted by City Council. Staff has contacted Dan River Foundation and the foundation has executed a new deed to the City of Asheville dated April 19, 2006.

Staff recommends that the deed be accepted and the property be offered for resale.

The positive aspects of the donation are:

- The donor is a non-profit so property is not being removed from the tax base because it is not currently being taxed.
- The proposed donation will create an opportunity for the City to make the property available for infill development.
- The subsequent sale of the property would place it back on the tax rolls.
- The sale of the property would generate revenue for the City.

The negative aspects are:

- The deed from Dan River Foundation is a non-warranty deed, so the City will only be able to convey a non-warranty deed.

-7-

City staff recommends City Council adopt the resolution authorizing the Mayor to accept the donation of real property from Dan River Foundation.

#### **RESOLUTION BOOK NO. 30 – PAGE 23**

**H. ORDINANCE NO. 3354- BUDGET AMENDMENT TO ACCOMMODATE INCREASED TRANSIT FUNDING FROM FEDERAL 5307 PROGRAM AND TO RECOGNIZE STATE FUNDING IN EXCESS OF BUDGETED AMOUNT**

Summary: The consideration of a budget amendment, in the amount of \$509,863, to accommodate increased funding from federal 5307 program and to recognize state funding in excess of budgeted amount.

The Asheville Transit System is eligible to obtain two funding lines from the federal 5307 program. One is the operations funding which is being phased out beginning in Fiscal Year 2007 but which is available in its entirety in Fiscal Year 2006, and is included in the Fiscal Year 2006 transit operating budget. The other is a reimbursement for a portion of operating maintenance costs which is not presently included in the Fiscal Year 2006 operating budget. The Asheville Transit System will be eligible for this funding line this year and in all future years. This line was not needed in prior years, but is now. The total of the line items is \$1,425,917, an increase in the budget of \$457,873. The state assistance funding was also \$51,990 greater than expected.

This action conforms to City Council's Strategic Operating Plan in Goal 2, Objective A, Task #2: Leverage outside funding to achieve multiple Transportation goals where possible.

The benefit to the City of Asheville is:

- Increased revenue to cover increasing fuel and operating costs

Costs to the City of Asheville:

- None

City staff recommends City Council amend the budget to reflect increased federal funding.

**ORDINANCE BOOK NO. 22 – PAGE 459**

**I. ORDINANCE NO. 3355 - BUDGET AMENDMENT TO APPROPRIATE DEPARTMENT OF JUSTICE BULLETPROOF VEST REIMBURSEMENT FUNDS**

Summary: The consideration of a budget amendment, in the amount of \$7,023, to appropriate Department of Justice Bulletproof Vest reimbursement funds for the purchase of police patrol safety equipment.

The Asheville Police Department currently participates in the Department of Justice Bulletproof Vest Reimbursement Program. This program is designed to off-set the tremendous cost involved in purchasing bulletproof vests for police officers. During the current fiscal year, the City of Asheville has collected \$7,023 from the Department of Justice Bulletproof Vest Reimbursement Program. Adding these funds into the police (patrol) safety equipment budget line would assist in the purchase of additional bulletproof vests for Asheville Police officers.

This action confirms to the City Council's Strategic Operating Plan under Partnerships to Improve Critical Services and Infrastructure. Goal 2, Objective A: Research and develop strategies for securing significant new recurring revenue sources.

-8-

Pro:

- Reimbursement revenue to cover the rising cost of bulletproof vests for Asheville Police officers

Con: None noted.

City staff recommends City Council adopt the budget amendment in the amount of \$7,023, to appropriate Department of Justice Bulletproof Vest reimbursement funds for the purchase of police patrol safety equipment.

**ORDINANCE BOOK NO. 22 – PAGE 461**

**J. ORDINANCE NO. 3356 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF FEDERAL DRUG SEIZURE FUNDS TO PURCHASE EQUIPMENT AND FUND IMPROVEMENTS AND TRAINING FOR THE ASHEVILLE POLICE DEPARTMENT**

Summary: The consideration of a budget amendment, in the amount of \$174,481, to authorize the use of Federal Drug

Seizure Funds to purchase equipment and fund improvements and training for the Asheville Police Department.

The federal drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the federal government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 20% going to the federal agency adopting the seizure and 80% going to the local law enforcement agency initiating the seizure. To date, the City of Asheville Police Department has received \$174,481 in federal drug seizure funding. This proposed budget amendment would authorize the use of this funding for critical improvements, training, and equipment purchases for the Asheville Police Department.

Among the items slated for purchase with this funding include: 1) a "Hawkeye" drug surveillance camera system, wireless remote interface system and laptop computer, which will allow for covert video and audio taping of illegal drug transactions; 2) "Drug Trak" drug intelligence software and a computer mini-server to store drug intelligence information; 3) ballistic helmets & ammunition for the APD Drug Suppression Unit / Emergency Response Team; and 4) two Segway human transporters for use in patrolling the central business district. The funding will also be used to make improvements to the APD training room and to pay for training and travel expenses for several law enforcement training conferences.

This action confirms to the City Council's Strategic Operating Plan under Partnerships to Improve Critical Services and Infrastructure. Goal 2, Objective A: Research and develop strategies for securing significant new recurring revenue sources.

Pro:

- Federal seizure revenue to cover the cost of equipment and training related to street level drug enforcement and community policing

Con: None noted.

City Staff recommends City Council adopt the budget amendment in the amount of \$174,481, to authorize the use of Federal Drug Seizure Funds to purchase equipment and fund improvements and training for the Asheville Police Department.

-9-

#### **ORDINANCE BOOK NO. 22 – PAGE 463**

#### **K. RESOLUTION NO. 06-108 - RESOLUTION AUTHORIZING THE EXECUTION OF POWER LINE EASEMENT IN HUMMINGBIRD PARK**

Summary: The consideration of a resolution authorizing an easement through Hummingbird Park at Starnes and Cumberland Avenues for an underground electric power line

Progress Energy has requested an easement through Hummingbird Park, located at the intersection of Cumberland and Starnes Avenue, to install an underground power supply line to a new home located adjacent to the Park. The City will receive no consideration for this easement and historically has not received consideration for power line easements. Per State and local law, Progress Energy pays a utility franchise tax. Parks and Recreation staff have reviewed this request, and have no objection to it.

#### Considerations:

- The easement will not interfere with the City's or the public's use of the Park.
- The electric power supply line will be installed in such a manner as not to be a hazard;
- The line will be installed underground, as opposed to overhead.

If Council approves of this easement, adoption of the resolution authorizing an easement through Hummingbird Park at Starnes and Cumberland Avenues for an underground electric power line is recommended.

#### **RESOLUTION BOOK NO. 30 – PAGE 24**

#### **L. MOTION TO FORM THE ASHEVILLE-BUNCOMBE FLOOD REDUCTION TASK FORCE**

Summary: The purpose of the Asheville-Buncombe Flood Reduction Task Force is to establish a regional approach in developing a long-range plan based on best practices models to protect our floodplains/ floodways and manage our watershed. Such a plan should integrate objectives of flood control, transportation, economic development, land use and community planning,

recreation and environmental preservation.

Objectives:

- To study strategies to reduce future flood levels in the drainage basins in the Swannanoa Basin during heavy rain episodes.
- To study strategies to minimize the economic, environmental and social impacts and the risk to human life when floods occur in the future.
- To analyze whether current development patterns are affecting the severity of flooding during heavy rain events.
- To review the current flood studies underway and assess the feasibility of developing a dynamic and predictive capability to keep abreast of those variables that affect future flood potential.
- To make recommendations to Asheville City Council on these matters
- To act as a citizen advisory board for Stormwater Utility issues, as needed

Structure:

- This is a citizen task force, to be comprised of 12-15 individuals with technical expertise and experience in this topic.

-10-

- Staff support will be made available to facilitate the work product (if necessary).
- Staff will be available to present background information to commission, if requested.

Timeline:

- Six months to report back to Asheville City Council
- This time can be extend if needed

**M. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE STONELEAF FESTIVAL OPENING GALA ON MAY 26, 2006**

This item was pulled off the Consent Agenda for an individual vote.

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.

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

**ITEM PULLED OFF THE CONSENT AGENDA FOR AN INDIVIDUAL VOTE**

**RESOLUTION NO. 06-109 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE STONELEAF FESTIVAL OPENING GALA ON MAY 26, 2006**

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Stoneleaf Festival Opening Gala on May 26, 2006.

The below listed group has requested, through the Asheville Parks and Recreation Department, that City Council permit them to serve beer and/or unfortified wine at their event and allow for consumption at this event.

- The Stoneleaf Festival Opening Gala on May 26, 2006, in the grassy knoll area of Pack Square, with indoor accommodations located at Windows on the Park, A Restaurant for Private Events.

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 Stoneleaf Festival Opening Gala on May 26, 2006.

Councilman Freeborn moved for the adoption of Resolution No. 06-109. This motion was seconded by Vice-Mayor Jones and carried on a 5-1 vote, with Mayor Bellamy voting "no."



**IV. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING ALL STREETS IN THE AREA KNOWN AS CITY-COUNTY PLAZA**

**RESOLUTION NO. 06-110 - RESOLUTION PERMANENTLY CLOSING ALL STREETS IN THE AREA KNOWN AS CITY-COUNTY PLAZA**

-11-

Mayor Bellamy opened the public hearing at 5:29 p.m.

Assistant Director of Public Works Richard Grant said that this is the consideration of a resolution to close all streets in the area known as City-County Plaza. This public hearing was advertised on April 28, May 5, 12 and 19, 2006.

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

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.

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 closing all streets in the area known as City-County Plaza.

Ms. Regina Ray, probation officer that works in the Hayes & Hopson Building, was concerned that if the roads are closed there will be no access to the Hayes & Hopson Building.

Mr. Grant responded that the Hayes & Hopson is not directly adjacent to the property but still has access on two sides.

Mayor Bellamy closed the public hearing at 5:32 p.m.

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

-12-

Councilwoman Cape moved for the adoption of Resolution No. 06-110. This motion was seconded by Vice-Mayor Jones and carried unanimously.

**B. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF 3820 SWEETEN CREEK ROAD**

**ORDINANCE NO. 3357 - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE 3820 SWEETEN CREEK ROAD**

Mayor Bellamy opened the public hearing at 5:33 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to extend the corporate limits of the City of Asheville to include 3820 Sweeten Creek Road. This public hearing was advertised on April 28, 2006.

John W. Couch has petitioned the City for the annexation of one lot he owns located at 3820 Sweeten Creek Road (PIN 9654.14-34-8944) containing approximately .72 acres. The area is contiguous to the existing corporate limits and qualifies for annexation by petition as set forth in N. C. Gen. Stat. sec. 160A-31.

The lot currently contains a single-family home. The current assessed valuation for this property, according to the Buncombe County tax records, is \$109,400.00.

Pursuant to N. C. Gen. Stat. sec. 160A-31 a public hearing must be held prior to adopting any ordinance for voluntary annexation. If City Council decides to proceed with this request, it is proposed that the annexation become effective on June 30, 2006.

Considerations:

- .. Provides for the orderly growth of the City and the tax base through the acceptance of contiguous areas into the corporate limits where owners desire annexation.
- .. Marginal increase in service costs (too small to measure or respond to).

This action complies with the 2025 Plan in that it supports the strategy of promoting voluntary annexation of developing areas and meeting the goal of continued use of the urban development tool of annexation in providing for the orderly growth of the City.

City staff recommends City Council adopt the ordinance annexing one lot located at 3820 Sweeten Creek Road.

Mr. John Couch, property owner, spoke in support of his request to be annexed.

Mayor Bellamy closed the public hearing at 5:35 p.m.

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

Councilman Freeborn moved for the adoption of Ordinance No. 3357. This motion was seconded by Councilwoman Cape and carried unanimously.

-13-

**ORDINANCE BOOK NO. 22 – PAGE 465**

**C. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF PROPERTY ON ROCKWOOD ROAD**

**ORDINANCE NO. 3358 - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY ON ROCKWOOD ROAD**

Mayor Bellamy opened the public hearing at 5:35 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance for the voluntary (“satellite”) annexation of four properties located on Rockwood Road in South Buncombe County. This public hearing was advertised on April 28, 2006.

Steve Hankins of Hankins Properties, LLC, has petitioned the City for the annexation of four lots owned by the LLC and located along Rockwood Road, off of Airport Road, in South Buncombe County (PINs No. 9643.02-65-7556, 9643.02-65-8378,

9643.02-65-5483, 9643.02-65-5606) containing approximately 6.54 acres.

The lots are adjacent to the new Southridge Shopping Center and the Holiday Inn on Airport Road. The current assessed valuation for this property, according to the Buncombe County tax records, is \$4,073,100.00. The area, while contiguous to other non-contiguous ("satellite") parcels in the City of Asheville, is not contiguous to the primary corporate limits of the City and, therefore, is subject to the standards for annexation of noncontiguous areas contained in N. C. Gen. Stat. sec. 160A-58.1. One of these standards states, "no point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city....." The area proposed for annexation is closer to the corporate limits of the Town of Fletcher. However, since Fletcher's charter precludes them from annexing into Buncombe County, staff has determined that this annexation is not contrary to state statutory requirements. Council may recall that a similar situation arose last year, and legislative assistance was needed for the annexation. We have requested local legislation to address the situation created by Fletcher's proximity.

In accordance with N. C. Gen. Stat. sec. 160A-58.1, the petitioners, in addition to the submittal of the petition, have filed a statement declaring vested rights with respect to the properties. Specifically, the property owner has received approval for four different site-specific development plans from the Board of Adjustment of Buncombe County in accordance with the regulations of the Limestone Township of Buncombe County. The vested rights for two of the plans will remain in effect until April 13, 2010. The vested rights for the other two submittals will remain in effect until December 14, 2010. These four site plans have been submitted to the City Planning and Development Department and can be made available as needed. The City Planning and Development Department has confirmed the validity of the vested rights in accordance with state law.

Pursuant to N. C. Gen. Stat. sec. 160A-58.2 a public hearing must be held prior to adopting any ordinance for voluntary annexation. Should City Council decide to proceed with this annexation, it is proposed that the annexation become effective on June 30, 2006.

Considerations:

- .. Provides for the orderly growth of the City and the tax base through the acceptance of contiguous areas into the corporate limits where owners desire annexation.
- .. Provides for orderly service provision by the City of Asheville.

-14-

This action complies with the 2025 Plan in that it supports the strategy of promoting voluntary annexation of developing areas and meeting the goal of continued use of the urban development tool of annexation in providing for the orderly growth of the City.

City staff recommends City Council adopt the ordinance annexing four properties located on Rockwood Road in South Buncombe County.

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

In response to Councilman Freeborn, Ms. Cogburn explained the four development site plans.

Upon inquiry of Councilman Freeborn, Ms. Cogburn said that the developer does not have to comply with the City's landscaping requirements. However, Mr. Steve Hankins, property owner, said that they are willing to meet the City's landscaping requirements in the designated landscaped areas. He said he has a big investment in the property and hopes to be a part of the community.

When Vice-Mayor Jones asked why this area was requesting to be annexed, Ms. Cogburn said that that one restaurant would like to apply for a liquor license.

City Attorney Oast said that with respect to this project, there was an issue about the level of police and fire services that were available from the City of Asheville as opposed to either Fletcher or Buncombe County. These are fairly intensively developing commercial areas and they do require a higher level of service that the City of Asheville is able to provide.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3358, specifically noting that he is not asking the petitioner to do more landscaping than already agreed to do with Buncombe County. This motion was seconded by Vice-Mayor Jones and carried unanimously.

**D. PUBLIC HEARING TO CONSIDER RENAMING THE EXISTING STREET OF “HOLIDAY INN DRIVE” LOCATED OFF HIGHWAY 240 EAST TO “RESORT DRIVE”**

Mayor Bellamy said that the petitioners have requested this public hearing to be continued to July 25, 2006, in order to address street signage. Therefore, Councilman Davis moved to continue this public hearing to July 25, 2006. This motion was seconded by Vice-Mayor Jones and carried unanimously.

**E. PUBLIC HEARING TO CONSIDER THE REZONING OF ONE LOT LOCATED ON FAIRVIEW ROAD FROM NEIGHBORHOOD BUSINESS DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT**

**ORDINANCE NO. 3359 - ORDINANCE TO REZONE ONE LOT LOCATED ON FAIRVIEW ROAD FROM NEIGHBORHOOD BUSINESS DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT**

Mayor Bellamy opened the public hearing at 5:46 p.m.

-15-

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone one lot located on Fairview Road from Neighborhood Business District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on May 12 and 19, 2006.

The subject site is located in the western part of the Oakley neighborhood, within the City of Asheville corporate limits. The property, 0.2 acres in area, is currently zoned Neighborhood Business, and is undeveloped. The applicant, Carol L. Massey, who is hoping to purchase the property, is seeking a rezoning to RS-8 Residential Single-Family High Density District. The applicant would like to build a single-family home on the property, and under the current Neighborhood Business zoning, residential uses are restricted to parts of a building other than the first floor or street level.

More than half of the surrounding property is zoned RS-8, and the surrounding land uses are primarily residences, with small businesses located to the east. The average lot size in the vicinity is approximately 0.3 acres.

It appears that this property was assigned Neighborhood Business zoning in order to extend the district west to Unaka Avenue. The modification of the zoning district boundary requested by the applicant would create a western limit of the district that would line up on both sides of Fairview Road.

The existing Neighborhood Business district has a total area of approximately 4.4 acres. The intent of the Neighborhood Business district is to provide for the daily convenience and personal service needs of the surrounding residential neighborhood while minimizing conflicts with surrounding residential uses. This district is designed to be located within or adjacent to residential neighborhoods where large commercial operations are inappropriate, but where small neighborhood oriented businesses are useful and desirable. This particular parcel has been on the market for several years, but has not found a buyer for a suitable commercial use.

The intent of the RS-8 District is to establish a high density per acre for single-family dwellings where public infrastructure is sufficient to support such development and to stabilize and protect the district's residential character in areas of existing high density single-family development while promoting a suitable environment for single-family living.

This small parcel's location at the western tip of the district, in a situation such that three of its sides face primarily RS-8-zoned property, makes the rezoning to RS-8 an appropriate modification of the district boundaries. While the parcel is a suitable location for a small business, its failure to attract a buyer for such a purpose provides another argument in favor of the rezoning. The subject site is located in the western part of the Oakley neighborhood, within the City of Asheville corporate limits. The property, 0.2 acres in area, is currently zoned Neighborhood Business, and is undeveloped. The applicant, Carol L. Massey, who is hoping to purchase the property, is seeking a rezoning to RS-8 Residential Single-Family High Density District. The applicant would like to build a single-family home on the property, and under the current Neighborhood Business zoning, residential uses are restricted to parts of a building other than the first floor or street level.

More than half of the surrounding property is zoned RS-8, and the surrounding land uses are primarily residences, with small businesses located to the east. The average lot size in the vicinity is approximately 0.3 acres.

It appears that this property was assigned Neighborhood Business zoning in order to extend the district west to Unaka

Avenue. The modification of the zoning district boundary

-16-

requested by the applicant would create a western limit of the district that would line up on both sides of Fairview Road.

The existing Neighborhood Business district has a total area of approximately 4.4 acres. The intent of the Neighborhood Business district is to provide for the daily convenience and personal service needs of the surrounding residential neighborhood while minimizing conflicts with surrounding residential uses. This district is designed to be located within or adjacent to residential neighborhoods where large commercial operations are inappropriate, but where small neighborhood oriented businesses are useful and desirable. This particular parcel has been on the market for several years, but has not found a buyer for a suitable commercial use.

The intent of the RS-8 District is to establish a high density per acre for single-family dwellings where public infrastructure is sufficient to support such development and to stabilize and protect the district's residential character in areas of existing high density single-family development while promoting a suitable environment for single-family living.

This small parcel's location at the western tip of the district, in a situation such that three of its sides face primarily RS-8-zoned property, makes the rezoning to RS-8 an appropriate modification of the district boundaries. While the parcel is a suitable location for a small business, its failure to attract a buyer for such a purpose provides another argument in favor of the rezoning.

At the May 3, 2006, meeting, the Planning and Zoning Commission voted unanimously to recommend approval. At this meeting, one citizen expressed a desire for the site to allow higher impact use than it is currently zoned for.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- Proposed rezoning is highly compatible with surrounding zoning and uses.
- No indication of neighborhood opposition to such a down-zoning.
- Would eliminate a potential location for a neighborhood business, but:
- Property has not proven attractive to buyers for permitted commercial use.

Based on the analysis above, staff finds no compelling reason for objection to the request, and therefore recommends approval of the rezoning petition. In addition, staff finds that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation.

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

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

Councilman Mumpower moved for the adoption of Ordinance No. 3359. This motion was seconded by Councilwoman Cape and carried unanimously.

**ORDINANCE BOOK NO. 22 – PAGE 470**

**F. PUBLIC HEARING TO CONSIDER THE REZONING OF A PORTION OF PROPERTY LOCATED AT 1301 SAND HILL ROAD FROM INDUSTRIAL DISTRICT TO COMMERCIAL BUSINESS II DISTRICT**

-17-

**ORDINANCE NO. 3360 - ORDINANCE TO REZONE OF A PORTION OF PROPERTY LOCATED AT 1301 SAND HILL ROAD FROM INDUSTRIAL DISTRICT TO COMMERCIAL BUSINESS II DISTRICT**

Mayor Bellamy opened the public hearing at 5:50 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone a portion of property located at 1301 Sand Hill Road from Industrial District to Commercial Business II District. This public hearing was advertised on May 12 and 19, 2006.

The subject site is a portion of the Colbond Plant property (sometimes referred to as American Enka or BASF) on Sand Hill Road in Enka, just within the City of Asheville corporate limits. The portion of the property to be rezoned is approximately 1.5 acres in size, less than one percent of the 246 acres owned by Colbond. All of the property owned by Colbond is currently zoned Industrial.

The applicant, American Enka Credit Union, is seeking a rezoning to Community Business II District. For more than half a century, American Enka Credit Union has operated a small financial institution within the industrial site. (Financial institutions are not a permitted use in Industrial zoning districts, so the credit union facility became an existing nonconformity.) The applicant's wish to relocate to a proposed new building closer to Sand Hill Road requires a rezoning in order to establish conformity.

The applicant and the property owner have agreed that if the rezoning is approved, the property will be subdivided so that the zoning district will follow property lines and no part of the property will be split-zoned. Staff has reviewed the geometry of the proposed district (and potential future lot) and verified that it meets City requirements for a minor subdivision.

In the vicinity of the subject site, the north side of Sand Hill Road is zoned Industrial, and the south side is zoned CB-II; hence the proposed zoning would match that across the street. The surrounding land uses are vacant land, industrial operations, and the (non-conforming) current credit union location.

According to the Unified Development Ordinances Article 8, the purpose of the Industrial District is to reserve land for existing and future industrial activities and for land uses that support industrial activities. Development standards are established to ensure that land uses located outside the Industrial District are not adversely affected by the negative impacts of industrial uses. Industrial Districts shall be located to capitalize on existing infrastructure where possible, such as transportation facilities and utilities. Supporting land uses are characterized as providing supplies, raw materials, transportation, or storage services to industries or providing services to industrial employees.

The Community Business District II was established to provide areas for medium-to-high-density business and service uses serving several residential neighborhoods. Such areas may serve as a workplace for many residents in the surrounding neighborhoods and should be sensitive to a significant pedestrian population, but also provide for adequate and safe vehicular access. The Community Business II District is designed to be located primarily along minor and major thoroughfare streets which serve multiple residential neighborhoods.

The existing Industrial zoning district in which the subject site is located has a total area of more than 500 acres. Staff feels that the rezoning of such a small area to bring a use into conformance does not constitute a significant loss of industrially zoned land, nor does it

-18-

compromise the utility of the larger area for industrial use. Further, staff consensus is that a request to rezone a larger fraction of this area would be unlikely to receive staff support.

At the May 3, 2006, meeting, the Planning and Zoning Commission voted unanimously to recommend approval. Staff has received no indication of neighborhood opposition.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

#### Considerations:

- Would make a non-conforming situation conforming.
- Proposed zoning district matches the district across the street.
- Down-zoning the property is unlikely to be opposed by neighboring property owners.
- Would cause loss of industrially zoned land (approximately 1.5 acres)

Based on the analysis above, staff finds there are multiple arguments for supporting the request with no significant reason to oppose it, and therefore recommends approval of the rezoning petition. In addition, City staff finds that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation.

Mayor Bellamy closed the public hearing at 5:52 p.m.

In response to Councilman Mumpower, Mr. Esselstyn explained why staff is supporting the rezoning from Industrial District since it is in conflict of Council's policy in the Asheville City Plan 2025, which specifically states that industrial land should be

preserved for industrial uses.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3360. This motion was seconded by Councilwoman Cape and carried unanimously.

**ORDINANCE BOOK NO. 22 – PAGE 472**

**G. PUBLIC HEARING TO CONSIDER THE REZONING OF A PORTION OF PROPERTY LOCATED ON ROCK HILL ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT**

**ORDINANCE NO. 3361 - ORDINANCE TO REZONE OF A PORTION OF PROPERTY LOCATED ON ROCK HILL ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT**

Mayor Bellamy opened the public hearing at 5:54 p.m.

Urban Planner Shannon Tuch said that this is the consideration of an ordinance to rezone a portion of property located on Rock Hill Road from Commercial Industrial District to RS-4 Residential Single-Family Medium Density District. This public hearing was advertised on May 12 and 19, 2006.

Ms. Tuch said that the property owners, Ronald & Deanna Goldstein, are interested in rezoning approximately 2.23 acres of a 6.39 acre lot. The existing lot currently supports a

-19-

commercial-industrial use but leaves approximately 1/3 of the total lot undeveloped at the rear of property. Rezoning this property will provide the opportunity for medium density single-family infill development with frontage on Rock Hill Road which is exclusively residential in character. With over 530 linear feet of road frontage, these 2.23 acres could easily be subdivided to allow for up to 6-7 separate lots. A subdivision of the land is recommended but not required as part of the rezoning; however, a subdivision will be required before any single-family home permits are issued.

Commercial Industrial zoning does allow for residential uses but does not allow single family homes which are the predominant character of Rock Hill Road. It is possible to expand the existing commercial industrial use if desired but expansion would require heavy landscape buffering and the non-residential use would not be able to access the residentially zoned Rock Hill Road, limiting all access to Sweeten Creek Road. Lastly, the existing topographical change would add development challenges and cost to an expansion of the existing business, while access on the alternative through road is clear and level and is not restricted for residential development.

The rezoning proposal as presented would allow for up to seven single-family home lots while retaining the existing commercial-industrial use and zoning on the balance of the property. The residential portion of the property would be located at the rear of the site, adjacent to other single family uses and would access from Rock Hill Road; while the existing commercial-industrial use would remain and would continue to access from Sweeten Creek Road.

- The RS-4 zoning district is designed to establish and promote a suitable and medium density single-family district where public infrastructure is sufficient to support such development.
- The purpose of the Commercial Industrial zoning district is to provide areas for a wide range of commercial and industrial uses where environmental conditions and urban infrastructure are adequate to support commercial and industrial development.

At their May 3, 2006, meeting, the Planning & Zoning Commission voted unanimously to approve the 2.23 rezoning request from Commercial Industrial District to RS-4 Residential Single-Family Medium Density District.

Based on the above findings and the analysis provided in the report, staff concurs with the Planning & Zoning Commission and finds this request to be reasonable.

Considerations:

- Reduces the opportunity for a limited expansion of the existing commercial industrial use.
- Provides the opportunity for new single family residential infill development in an established neighborhood.

Mayor Bellamy closed the public hearing at 5:58 p.m.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3361. This motion was seconded by Councilman Freeborn and carried unanimously.

**ORDINANCE BOOK NO. 22 – PAGE 474**

-20-

**H. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ADJUST THE URBAN PLACE ZONING DISTRICT TO ALLOW SINGLE FAMILY DETACHED DWELLINGS AS A USE BY RIGHT SUBJECT TO SPECIAL REQUIREMENTS AND TO PROVIDE GREATER FLEXIBILITY FOR STREET SETBACKS**

**ORDINANCE NO. 3362 - ORDINANCE TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES TO ADJUST THE URBAN PLACE ZONING DISTRICT TO ALLOW SINGLE FAMILY DETACHED DWELLINGS AS A USE BY RIGHT SUBJECT TO SPECIAL REQUIREMENTS AND TO PROVIDE GREATER FLEXIBILITY FOR STREET SETBACKS**

Mayor Bellamy opened the public hearing at 5:59 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance (“UDO”) to adjust the Urban Place Zoning District to allow single family detached dwellings as a use by right subject to special requirements and to provide greater flexibility for street setbacks. This public hearing was advertised on May 12 and 19, 2006.

This code amendment is intended to allow greater use and setback flexibility in the Urban Place zoning district by allowing detached single family dwellings and greater street setbacks under certain circumstances.

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

Pros –

- Greater opportunity to address specific street setback situations.
- A wider range of land uses would be available to property owners.

Con –

- None noted.

The Planning and Zoning Commission recommended approval of this code amendment on May 3, 2006, by a vote of 5-0. City staff recommends approval of the proposed code amendment as well.

Mayor Bellamy closed the public hearing at 6:02 p.m.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3362. This motion was seconded by Councilman Freeborn and carried unanimously.

**ORDINANCE BOOK NO. 22 – PAGE 476**

**I. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 919 HAYWOOD ROAD FROM INSTITUTIONAL DISTRICT, RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR A PROPOSED MIXED-USE PROJECT**



**ORDINANCE NO. 3363 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 919 HAYWOOD ROAD FROM INSTITUTIONAL DISTRICT, RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR A PROPOSED MIXED-USE PROJECT**

Mayor Bellamy opened the public hearing at 6:03 p.m.

Urban Planner Alan Glines said that this is the consideration of an ordinance to conditionally zone property located on 919 Haywood Road from Institutional District, RM-8 Residential Multi-Family Medium Density District and RS-8 Residential Single-Family High Density District to Urban Place District/Conditional Zoning for a proposed mixed-use project. This public hearing was advertised on May 12 and 19, 2006.

Mr. Glines said that the proposed project is located at 919 Haywood Road. The St. Joan of Arc Church currently uses the block-wide site. Over the years several properties were purchased at the rear of the church property for expansion of the church. The church though is relocating further out in west Asheville. The current proposal is a conditional zoning to Urban Place District following the master plan generated during a weeklong charette (a community planning and design process) The charette process provided an opportunity for the neighborhood to participate in the design development of the site. Several evening meetings were held in order for the neighborhood to offer feedback for the schematic plans. The plan provided with the application (now more defined) is the same as was reviewed with the community.

The plan proposes 77 residential units and 33,000 square feet of commercial space (office and retail) on an almost three acre property. The primary building is oriented towards Haywood Road. The building covers the block face and is three stories tall. A section of the building towards the center is 4 stories tall. The four-story section provides a setback from the roofline on Haywood Road and will reduce the perceived height of the building. The remaining structures on the site are two stories tall. These proposed buildings at the rear of the site are scaled to be closer to the residential buildings found in the neighborhood. Driveways that are placed across from each other on Mitchell and Blue Ridge Avenues will provide access to the development. They are placed behind the main structure. Each driveway is angled to discourage commercial traffic from turning back into the neighborhood area. At the point that the driveways interact with the neighborhood, there will be a neighborhood gateway feature to provide a transition and signify that drivers are entering a neighborhood area. The primary parking for the project is being handled under the main building. A small amount of surface parking is located within the site. Across the front of the building and at regular intervals around the property, pedestrian access is provided by sidewalk connections and by a major pedestrian corridor through the interior of the building.

In addition to commercial and residential space located in the main building, there are a variety of other structures located internal to the site. There are live/ work units and artists lofts located at the center of the project. Single family and duplex units are located at the rear of the site to offer a transition back into the neighborhood fabric.

The size of the project was developed with the scale and density patterned after the Neighborhood Corridor District. However several challenges were presented during the design process and Urban Place District was thought to be a better fit for this project. The project as proposed does require a wording amendment to the Urban Place District to allow greater structure setbacks and single family uses in the Urban Place District. A wording amendment will accompany this development proposal and should be a condition of its approval.

The Institutional District was developed to set aside areas for major educational and medical facilities and other complementary uses such as office developments and public services. The current zoning causes challenges for the proposed development because of height restrictions next to residentially zoned property and density restrictions. The residential single family and multifamily districts allow single family and multifamily neighborhoods and other limited non-residential uses. Both districts allow a density maximum of 8 units per acre and other commercial uses would not be allowed in the development. This posed a challenge for the current development proposal.

The project was reviewed at the April 17, 2006, Technical Review Committee (TRC) meeting and the comments are conditions of approval. Staff added the comment that the parcels should be recombined into a single parcel if the proposal is approved

The Planning and Zoning Commission reviewed the project at their May 3, 2006, meeting and approved the project

unanimously with TRC conditions added as conditions. In addition the Commission recommended the developer provide up to \$25,000 for participation in traffic calming measures in the neighborhood following the City traffic calming policy and procedures. In addition because the City process may take some time to complete, any funds would be provided on or before the issuance of a certificate of occupancy. Although the project is not expected generate large amounts of traffic on its own, the developer is willing to help the neighborhood address the existing cut-through traffic problem. The Commission noted that the wording changes for Urban Place District be approved as a condition of the approval of the conditional zoning permit.

The developer has related that he has a contract with the current owners of the property (the Diocese of Charlotte). The Diocese is concerned that should the project be denied by City Council, they will have a required waiting period before a new zoning change can be brought forward. For this reason they are requesting that a special condition be attached to the review, that if the developer does not close on the property by August 31, 2006, then the conditional use permit will become nullified and the property will revert to the former zoning.

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 project will be built according to City and State code requirements. The developer is interested in providing traffic calming in the neighborhood to reduce the short-cut traffic from Patton Avenue. Working with the City, the neighborhood will benefit from this funding towards traffic calming.
  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 bulk of the development will occur towards Haywood Road. The buildings are being setback from the secondary streets in order to preserve significant existing trees along both Mitchell and Blue Ridge Avenues. Significant grade changes are not present on this site.
  3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.** This development proposal along this portion of Haywood Road has the potential to be a positive force for change.
- 23-
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.** The largest building in the development is located along Haywood Road. Although the scale of Haywood Road has historically been one and two story buildings, the area has the capacity for larger structures. The building is primarily a three-story structure with a fourth story section that is setback from the Haywood Road façade. This setback will reduce the perceived height of the building. The scale and massing of the development reduces significantly as the project transitions into the neighborhood. This should mitigate concern about compatibility with the neighborhood and meet the spirit of this consideration.
  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 comprehensive plan encourages redevelopment of infill sites in a sensitive way. Community planning processes are encouraged to gather stakeholder comments as the plans are being created. Mixed-use centers on commercial corridors are encouraged in the comprehensive plan because of their efficient use of land, support of mass transit, and because they provide variety of choices for housing and commerce. This development style is a preferred pattern for Haywood Road for these reasons and because there is the opportunity to increase community character and pedestrian connectivity.
  6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.** The site has sufficient infrastructure to support the development proposal. The site is on the City transit line that may be of special convenience to the project. Route One passes directly by the site and Route Nine is a quarter mile away along Haywood Road.
  7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.** Traffic concerns have been shared by the neighborhood. The scale of this development is not expected to generate significant traffic on its own. The neighborhood is already experiencing cut-through traffic because of its proximity with Patton Avenue. The developer has expressed interest in assisting with traffic calming measures along these streets.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable. The project meets City goals and planning documents and is aligned with the Asheville City Development Plan 2025.

Considerations:

- A valuable piece of real estate would come back onto the tax rolls
- The development site is an entire block along Haywood Road making it very unique
- An involved planning and design process included neighbors and other community stakeholders to provide comment on the development
- The project has the potential to be a positive catalyst for other development along this portion of Haywood Road
- Traffic entering through the neighborhood has been the primary concern of the neighborhood and some amount of additional traffic may be generated because of this project.
- The developer has expressed willingness to participate in traffic calming following the City procedure for determining traffic calming measures

-24-

The Planning and Zoning Commission at their May 3, 2006, meeting voted 5-0 to recommend approval of the conditional zoning permit for 919 Haywood Road with the following: (1) All TRC conditions being met; (2) The developer participate in neighborhood traffic calming measures an amount up to \$25,000 following the City process for determining those measures; (3) Because the City process may take some time to complete, any funds would be provided on or before the issuance of a certificate of occupancy; and (4) Wording changes proposed for Urban Place District and needed for this proposal be approved.

Staff concurs with this recommendation with a single addition that City Council address Diocese of Charlotte concerns about the timeframe for the developer to close on the property to be August 31, 2006, or the site zoning revert to the original and the permit be revoked.

Mr. Andy Worley, resident on Blue Ridge Avenue, presented City Council with a petition from the neighbors (62 signatures) which requests the City allow the developer to put in the following "(1) On Mitchell Avenue: (a) Use the standard 5-foot sidewalk, 5-foot setback from Haywood Road to the existing brick driveway; and (b) Use a 6-foot sidewalk that adjoins the curb from the existing brick driveway to the north end of the property; and (2) On Blue Ridge Avenue: (a) use the standard 5-foot sidewalk, 5-foot setback between Haywood Road and the existing stone wall; and (b) Use the existing sidewalk located at the back of curb located along the existing stone wall, only if the stone wall is to be preserved; or (c) Use a 6-foot sidewalk that adjoins the curb from the end of the stone wall to the north end of the property, except to meander around the large trees." His main concern is that the City's recommendation of a 5-foot sidewalk and a 5-foot setback will damage the trees.

Mr. Allan Wolf, resident on Blue Ridge Avenue, agreed with Mr. Worley in that they want the developer to do what they can to save the trees, one which is a 60-foot sycamore. He said that the neighborhood believes this is a good change, but they want the transition done smoothly while keeping the trees which are the character of the neighborhood.

Mr. Gerald Green, representing the developer, spoke in support of the project noting that they held a design charette in which approximately 125 community members attended. The development team would like for this project to be a model for infill development, both in terms of the extent to which they gathered community input during the planning process and for the quality of construction in trying to blend into the community. They had proposed some on-street parallel parking on Haywood Road, but have just received final word from the N.C. Dept. of Transportation to the effect that on-street parking on Haywood Road will not happen.

At 6:12 p.m., Councilwoman Cape left the meeting, but noted that she attended the charette was very impressed by the whole process and the developer's willingness to invest into this community.

Mr. Green said that they will be using modular construction to keep the costs down so it is affordable to a wide range of people. There will be a variety of housing types and sizes. Regarding the design of a sidewalk, they are working with the City on a plan to save the trees. He said that the developer hired an arborist to look at the trees. That arborist stated that the 5-foot planting strip and the 5-foot sidewalk would negatively impact not only the trees, but some historic rock walls. The City's Traffic Engineer met with the developer's staff and came up with one solution – a meandering sidewalk with a varying planting strip that meanders through the trees. He proposed that Council allow them to use a 6-foot sidewalk that abuts the street which does meet the City standard for sidewalks. He noted that they are continuing to work with the neighborhood representatives to make sure the community is involved in the continuing development of this project.

-25-

City Traffic Engineer Anthony Butzek said that he feels the staff proposal is appropriate. He disagreed with the characterization of a meandering sidewalk. There are a few transition points at which it would change the transition from a 5-foot setback to a 2-3-foot setback to the back of the curb and one or two trees which was suggested to meander around to save that tree. He feels this provides a safe environment for pedestrians, it avoids a number of existing utility poles and fire hydrants (which would otherwise be in the sidewalk, if they are allowed to do the back to curb sidewalk), and it does preserve the existing trees.

In response to Mr. Butzek stating that traffic on Mitchell Avenue is an existing problem, Councilman Mumpower felt it was generous for the developer to contribute \$25,000 to traffic calming in the area.

Mr. Kevin Crump, developer, said that his development will have a \$22-25 Million impact and the \$25,000 for traffic calming is not that much in the big scheme of things. He said he doesn't feel forced to contribute to traffic calming, but he offered. Regarding the trees, they can put in a 5-foot buffer and a 5-foot sidewalk but feels that the trees will die as a result of root damage within a few years, based on their arborist and their landscape architect. He wants to preserve the trees and is confident that a 6-foot sidewalk that adjoins the curb will save the trees.

Mayor Bellamy closed the public hearing at 6:30 p.m.

After a brief discussion regarding the sidewalks, Planning & Development Director Scott Shuford suggested the following condition: "That the sidewalk design shall be referred to City staff to involve the Asheville Tree Commission members and the City Arborist to ascertain the best alternative that balances tree health, utility considerations, and pedestrian safety." The developer agreed with this condition.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3363 to conditionally zone property located on 919 Haywood Road from Institutional District, RM-8 Residential Multi-Family Medium Density District and RS-8 Residential Single-Family High Density District to Urban Place District/Conditional Zoning for a proposed mixed-use project, subject to the following conditions: (1) All TRC conditions being met; (2) The developer participate in neighborhood traffic calming measures an amount up to \$25,000 following the City process for determining those measures; (3) Because the City process may take some time to complete, any funds would be provided on or before the issuance of a certificate of occupancy; (4) Wording changes proposed for Urban Place District and needed for this proposal be approved; (5) Timeframe for the developer to close on the property to be August 31, 2006, or the site zoning revert to the original and the permit be revoked; and (6) That the sidewalk design shall be referred to City staff to involve the Asheville Tree Commission members and the City Arborist to ascertain the best alternative that balances tree health, utility considerations, and pedestrian safety. He noted that this request is reasonable based on the information provided in the staff report. This motion was seconded by Councilman Freeborn and carried unanimously.

#### **ORDINANCE BOOK NO. 22 – PAGE 478**

#### **J. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 37 ARLINGTON STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING FOR A PROPOSED PARKING LOT**

-26-

Mayor Bellamy said that on Monday, May 22, 2006, the City Clerk received a letter from Mr. Robert Malkin, agent for Mr. & Mrs. Randall Higgins, doing business as 37 Arlington Street, Asheville, North Carolina. The letter read "we wish to request a continuance of the public hearing now scheduled for May 23 to July 11, 2006, based on a valid protest petition being filed on May 18, together with the absence of Councilman Brownie Newman during this Council meeting on May 23."

Ms. Elizabeth Ann Wyndelts hoped that the petitioner and the neighborhood will have worked some details out prior to the July 11 meeting date.

Councilman Davis moved to continue this public hearing until July 11, 2006. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Freeborn voting "no."

#### **K. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF ONE LOT LOCATED ON OLD ASHELAND AVENUE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING WITH A DENSITY BONUS FOR PROPOSED AFFORDABLE HOUSING**

**ORDINANCE NO. 3364 - ORDINANCE TO CONDITIONALLY ZONE ONE LOT LOCATED ON OLD ASHELAND AVENUE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING WITH A DENSITY BONUS FOR PROPOSED AFFORDABLE HOUSING**

Mayor Bellamy opened the public hearing at 6:36 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to conditionally zone one lot located on Old Asheland Avenue from RS-8 Residential Single-Family High Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Zoning with a density bonus for proposed affordable housing. This public hearing was advertised on May 12 and 19, 2006.

The applicant, Lisa Karen Roberts, seeks rezoning from RS-8 Residential Single-Family High Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Zoning for a multi-family residential project with 5 units. This level of density will require the development standard bonus for both affordable housing and exceptional design. The proposed project would include a single family structure to be licensed as a Family Care Home, as well as two duplexes available to the general public (and potentially adults transitioning out of the Family Care Home).

The lot, 0.316 acres in area, is located on Old Asheland Avenue south of Asheville's Central Business District, between South French Broad Avenue and McDowell Street. The site's proximity to the Central Business District makes it exempt from off-street parking requirements.

Multi-family and single-family dwellings are permitted uses in the RM-8 zoning district. With the 200% density bonus applied, the proposed number of units conforms with the density standards for the district. The combined habitable area of the residences would be approximately 5,500 square feet. The duplexes would be two stories, while the single-family home will be one story over a finished basement. The plans show a Type "B" buffer with an opaque wooden fence. Though details about the plantings will need to be provided, the buffer location and width appear to otherwise meet standards.

-27-

To qualify for the density bonus for affordable housing, the applicant has stated that the rents will not exceed the maximum rental rates of \$690 and \$1,050 per month for the two-bedroom units and four bedroom unit respectively.

To qualify as an exceptional development project for the development standard bonus, the applicant has stated that the project includes elements of higher quality building design, design sensitive to neighborhood context, and project amenities. Planning staff feels that the submitted plans and elevations exhibit all of these elements, to an extent that the minimum requirements can be met.

At the April 3, 2006 meeting, the Technical Review Committee and approved the proposed concept plan, based on the conditions outlined in the staff report.

At the May 3, 2006, meeting, the Planning and Zoning Commission voted unanimously to recommend 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 City staff and appears to meet all public health and safety related requirements once the conditions enumerated by the TRC are met. The project must meet the technical standards set forth in the UDO, the City 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 proposed use is compatible with the surrounding natural features and topography.
- 3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.** Staff does not expect that the proposed use would have anything more than a minimal impact on property

values, and expects that the impact could just as likely be in a positive direction as negative.

4. **That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.** The proposed project would be in harmony with these characteristics of the area. While the layout differs from any existing residential development in the immediate area, staff feels that the design would be complementary to the neighborhood.
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 adopted Smart Growth Land Use Policies listed in Asheville's **City Development Plan 2025** state that compatible, higher density commercial and residential infill development should be encouraged, that existing neighborhoods near Downtown Asheville should be strengthened through infill development, and that traditional neighborhood development patterns should be recognized and encouraged. Further, the plan makes numerous references to the need for affordable housing, calling it "one of the most pressing

-28-

problems facing the City of Asheville." The exceptional design elements which a project must provide to qualify for the maximum density bonus are all in keeping with the New Urbanism concepts espoused in the plan. Thus, staff finds this project to be in compliance with the Comprehensive Plan.

One of the goals expressed in the Strategic Operating Plan is increased employment training opportunities. Vocational training is among the services that the proposed family care home will offer to its residents. Another plan goal is an increased supply of affordable housing. The applicant has stated that all the units will meet the City's rental rate requirements to qualify as affordable housing. The proposed development therefore would further two of the goals of the Strategic Operating Plan.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.** The project's location near McDowell Street ensures access to transportation facilities and other services. Transit route 6, 12, and 18 serve the area. In addition, technical review from other departments has not revealed any problems for serving the development.
7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.** The proposed project has been reviewed by the City's traffic engineer and is not expected to cause undue traffic congestion or create a traffic hazard.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

#### Considerations:

- Proposed project would provide affordable housing and vocational services – both goals of the strategic operating plan.
- Proposed project exhibits elements of exceptional design.
- As of this writing, staff has received no indication of opposition to the project.
- Overall mission of project could be described as a helpful one for the community.
- Proposed design is of a higher density than the surrounding single-family developments.

Staff is of the opinion that the proposed conditional zoning and concept plan would represent a net benefit to the community and therefore recommends approval of the request.

Ms. Lisa Roberts Allen, property owner, spoke in support of the project which will offer affordable housing.

Mr. George Young, area resident, said that over 35 years ago this area was considered an East Riverside urban renewal area and designated for single-family structures. He urged Council to keep this single-family designation.

Mayor Bellamy closed the public hearing at 6:43 p.m.

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

Councilman Freeborn moved for the adoption of Ordinance No. 3364 to conditionally zone one lot located on Old Asheland Avenue from RS-8 Residential Single-Family High Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Zoning with a density bonus for proposed affordable housing, subject to the following condition that all

outstanding issues in the TRC staff report be addressed, noting that this request is reasonable based on the information provided in the staff report. This motion was seconded by Vice-Mayor Jones and carried on a 5-1 with Mayor Bellamy voting "no".

**ORDINANCE BOOK NO. 22 - PAGE**

At 6:45 p.m., Councilwoman Cape returned to the meeting.

**V. UNFINISHED BUSINESS:**

**VI. NEW BUSINESS:**

**A. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CONVENTIONAL WISDOM TO DEVELOP A COST ANALYSIS FOR REFURBISHING AND UPGRADING THE CURRENT CIVIC CENTER FACILITY**

Mayor Bellamy said that this item has been requested to be continued to the June 13, 2006, meeting in order to receive additional information. Therefore, Councilman Davis moved to continue this matter to June 13, 2006. This motion was seconded by Vice-Mayor Jones and carried on a 5-1 vote, with Councilman Freeborn voting "no."

**VII. OTHER BUSINESS:**

Councilman Mumpower encouraged citizens to attend the City's Memorial Day celebration.

Councilman Freeborn thanked the local Federal Bureau of Investigation for their citizens information session explaining how they operate locally and how they assist citizens.

The following claims were received by the City of Asheville during the period of May 5-18, 2006: Tony May (Sanitation), Charter Communications (Water), Patrick Henry (Police), Erin McQueen (Sanitation), Terry Walz (Water) and Bellsouth (Water). These claims have been referred to Asheville Claims Corporation for investigation.

**VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

**Biltmore Park Traffic Calming**

Mr. Robert Zieber presented Council with three issues regarding the Biltmore Park Traffic Calming Plan: (1) many provisions of the Traffic Calming Policy have been ignored on the basis that the City will not have to pay for the speed humps; (2) the Biltmore Park Homeowners Association (HOA) Board of Directors has spent thousands of HOA dollars misrepresenting this project to homeowners; and (3) there are significant costs to all Asheville taxpayers for this ineffective and poorly planned project. City Manager Jackson said that he will have the City's Engineer meet with Mr. Zieber to follow-up on his concerns and will distribute an update to Council.

**Use of Pritchard Park to Feed the Homeless**

Mr. David Carey spoke against the proposed use of Aston Park to feed the homeless. He felt that the Senior Opportunity Center would be a much better location.

Reverend Christopher Chiaromonte urged City Council to work with and for the homeless.

Reverend Amy Cantrell, representing Zaccaeus House Church and the Asheville Homeless Network, spoke in support of allowing Pritchard Park as a place to meet, eat and cross paths. She urged Council not to make downtown Asheville an exclusion zone.

Mr. Stephen West, downtown resident and owner of the Miles Building, explained to Council how the quality of life has improved for the downtown residents since they have stopped feeding the homeless in Pritchard Park.

Ms. Judy Swan, downtown resident, spoke in opposition of feeding the homeless in Pritchard Park.

Mr. Fred Guggenheim, downtown resident, objected only to using Pritchard Park to feed the homeless, not to keep the homeless from using Pritchard Park.

A small business owner in downtown Asheville felt that to feed the homeless in Pritchard Park is not what the park was intended for.

Mrs. Guggenheim explained that since the feeding has stopped at Pritchard Park it has become more of a neighborhood park. She feels like the City has offered them other places to eat that would be more appropriate than Pritchard Park.

Mayor Bellamy said that over the last couple of weeks, City Council has received numerous e-mails categorizing Council members about this issue. City Council was made aware of this issue after members of the community contacted Council requesting order. Mr. Ripley told Council that he was serving food in Pritchard Park, was asked to receive a permit and the permit was denied by City staff. At that time, Assistant City Manager Jeff Richardson said that he would be happy to meet with Mr. Ripley and City staff to address the concern, not knowing that the meeting with City staff had already been set up prior to Mr. Ripley addressing Council. We discovered that another non-profit agency that provides services to the homeless 24/7 offered Mr. Ripley their kitchen but Mr. Ripley turned that offer down. City staff has offered Mr. Ripley the Senior Opportunity Center, which has offered to open their doors so that during the heat and cold Mr. Ripley can access their kitchen to help provide the food service to individuals, but Mr. Ripley turned down that offer as well. Another opportunity available for Mr. Ripley is to work in collaboration with the group that already provides the service on Saturdays at the Buncombe County Department of Social Services. Regarding the location at Aston Park, it was brought to her attention that Mr. Ripley said he didn't care about some of the activities that are happening at Aston Park, but the people in Aston Park worked hard to clean up that Park and the entire West End/Clingman Avenue neighborhood. City staff has offered Mr. Ripley several different locations, but Mr. Ripley has turned them down, wanting Pritchard Park. Cities across this nation trying to address this issue and some ways Asheville is addressing this is by (1) using Community Development Block Grant dollars; (2) using Housing Trust Fund monies to create housing for the homeless; and (3) supporting non-profit organizations that support the homeless. What is unfortunate is making it seem like this Council does not care for the homeless population, especially since Council is very receptive to working for the homeless. Some Council members open their wallets to support the homeless, some clean up after the homeless after they have thrown trash on their property; and some visit parks with their children who have seen activities and paraphernalia in the parks, but didn't use their position to make political statements about the homeless. She also feels it's wrong to make Council seem like they have done something wrong by adopting a 10-Year Plan to End Homelessness which is a beginning to address the issue. She feels this Council has been made out to be villains only because they have asked for order. City Council contributes to making sure that our community is upheld by every member of the

-31-

community, whether they are homeless or affluent. She feels this is a mechanism to divide our community and it needs to stop now. She urged Mr. Ripley (a Montreat resident) to not work to divide the Asheville community, but to work with the existing structure in our community. She hopes that Mr. Ripley's goal is to really serve the community and she challenged him to work with the non-profits and City staff to achieve that goal. She is committed to working on policies that are reasonable for everyone with those who see beyond their own agenda. She hoped our community can begin a healing process by working together to address this issue.

### **Closed Session**

At 7:24 p.m., Councilman Mumpower moved to go into closed session for the following reasons: (1) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5).; and (2) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in G.S. 143-318.11(a)(4). This motion was seconded by Vice-Mayor Jones and carried unanimously.

At 8:35 p.m., Councilman Freeborn moved to come out of closed session. This motion was seconded by Councilman Mumpower and carried unanimously.

### **IX. ADJOURNMENT:**



Mayor Bellamy adjourned the meeting at 8:35 p.m.

---

CITY CLERK

---

MAYOR