

Worksession

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

Absent: None

TAX BILL EDUCATION

- Chief Financial Officer Ben Durant said that per City Council's request, staff has prepared a report on the Fiscal Year 2006/2007 tax bills for real property, which taxpayers will begin receiving during the month of August.

He said the Buncombe County Tax Office mails out tax bills on real property (residential, commercial, & industrial) in early August of each year, and the bills are due on September 1st. There is, however, a four month grace period that allows taxpayers to pay their bills up to January 5th before interest is added. In effect then, January 5, 2007, is the deadline for paying Fiscal Year 2006-07 property taxes.

All City of Asheville taxpayers pay property taxes to both the City of Asheville and to Buncombe County. In addition, approximately 65% of City taxpayers also pay the City School District property tax. Each of these taxing jurisdictions adjusted their property tax rates for Fiscal Year 2006-07 in response to the recent revaluation. The City of Asheville adopted a revenue-neutral tax rate, but Buncombe County set its rate above revenue-neutral. The table below highlights the Fiscal Year 2006-07 tax rate changes:

<u>Jurisdiction</u>	<u>FY 2005-06 Tax Rate</u>	<u>FY 2006-07 Tax Rate</u>
City of Asheville	53 cents	42.38 cents
Buncombe County	59 cents	53 cents
City School District	20 cents	15 cents

He reviewed two sample tax bills for City taxpayers whose property increased by the city-wide average of 45%.

Upon inquiry of Councilman Mumpower, Mr. Durant said that we are not realizing any more revenue this year than last year, except through growth and except for the adjustment we had to make to compensate for the loss of sales tax revenue.

In response to Vice-Mayor Jones, Mr. Durant said that the County-wide average property values went up was 45% due to re-evaluation. He explained that there are many different scenarios that could show a reduction in property taxes as well, since the City's tax rate is revenue-neutral. He said that he could provide additional information to Council showing the different property values in different areas of Asheville.

When Councilman Mumpower asked what the average increase was for a City resident's tax bill increase, noting City residents are also County residents, Mr. Durant said that it was a little more than 10%.

Mayor Bellamy proudly noted that the City started this fiscal year "in a hole" and still decreased our tax rate for Asheville citizens.

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In response to Councilwoman Cape, Mr. Durant said that the City has very little influence in the reevaluation process, since counties are statutorily responsible.

Mayor Bellamy urged elderly residents to call the Buncombe County Tax Collector to see if they are eligible for the Homestead Exemption for a reduction in their property taxes.

- **DOWNTOWN POLICY DIRECTION AND SERVICE LEVELS**

Economic Development Director Sam Powers said that the purpose of this staff report is to provide a brief review on limited specific issues and to "test the aim" on these specific issues relative to Council's policy wishes.

City Council has outlined downtown priorities through documents such as Council's Strategic Operating Plan, and the Asheville Center City Plan. These plans share a vision for Downtown Asheville as a safe, clean, physically attractive, vibrant business and residential area with a strong sense of place.

Public Restrooms: In 2002, City staff, led by Parks and Recreation staff, conducted a survey of publicly owned or available restroom facilities, and also outlined options from other cities that provide public restrooms. This survey was updated in July 2006. The updated survey shows that there are 32 publicly-owned facilities in the downtown area, some being, but are not limited to: 29 Haywood Street, Pack Library, Civic Center, Skateboard Park, City Hall, Courthouse, Transit Center, etc. Availability for use by the public and hours of operation for many of these facilities is limited. New public restrooms will be part of the new Pack Square Park when it is completed, however, the facilities will not be available until 2008.

He showed examples of public restrooms located in Black Mountain, N.C.; Boulder, Colorado; and Atlanta, Georgia, briefing outlining the budgets, type of restroom, and maintenance schedule.

Mr. Powers said that the restrooms at 29 Haywood Street were closed in February of 2002. If those restrooms are to be re-opened, the issues would be the operation and maintenance and the need for an attendant. Determination of a user profile for development of any new downtown public restrooms will be a policy decision to be answered as any process moves forward.

Cleanliness/Graffiti: Part of the challenge for downtown is the lack of a sustainable, dedicated funding source for many of the elements that community leaders observed on a recent trip to Greenville, SC. In Asheville, services such as sidewalk cleaning, litter and trash pickup and the provision of receptacles, landscaping and streetscapes, graffiti, policing, street maintenance and bulb outs, are under different city departments, and there is no "downtown" department to coordinate efforts. City staff, led by the Assistant City Manager, has convened a "Downtown Staff Task Force" to keep abreast of initiatives downtown and to coordinate activities that affect downtown, such as the Pack Square construction project. Increasingly, downtown is subject to very large amounts of pedestrian traffic from visitors/tourists which strain the City's ability to keep up with trash generated and which heavily contribute to the dirty conditions on the sidewalks.

Wayfinding/Kiosks: The need for a comprehensive Wayfinding/Signage Program has been identified as a goal of the Center City Plan. Recent public presentations by nationally known expert Roger Brooks heightened awareness of the need to redevelop a comprehensive system that includes color coding and uniformity in signage, and incorporates other elements such as kiosks and banners into the overall program. The City's MPO Coordinator, Dan Baechtold, is serving as the Project Manager for the Wayfinding initiative, and Dan has met with Buncombe

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County Tourism officials to begin development of the specifications for the signage development portion of the Wayfinding Program. Buncombe County Tourism leaders have expressed a strong interest in moving the gateway and signage element forward in cooperation with the City and other partners. Expectations for the type of kiosk system, i.e., static stationery vs. electronic interactive, to be incorporated into the overall Wayfinding program, will determine the kiosks development and where the kiosks are to be located.

Pack Square Park: The Pack Square Park is scheduled to be completed in 2008. Once the park has been completed, there will be additional operational and programming expectations. The park will become the showplace for the downtown area and will be in high demand for use by many groups and individuals. Prior to construction, over 80 groups used this area which will rise to well over 100 due to everyone wanting to be in this area. A management plan will need to be agreed upon between the City of Asheville and Pack Square Conservancy to ensure that this area is maintained to a high level and that overuse does not result in increase maintenance and destruction to the park. This management plan will need to allow for certain areas of the park to be closed periodically for protection of the grounds and turf management. In addition, a clear delegation of responsibilities will need to be outlined as it relates to programming of the space. Pack Square Park will add to the economic vitality of the surrounding area, much like what has occurred around Pritchard Park after that renovation. A strong revitalization plan for the surrounding area should be explored as completion of the new park occurs. Currently, Parks and Recreation staff is working with the Management Committee of the Conservancy to develop a management plan that will meet everyone's expectations.

He said that the Center City Plan can serve as the Master Plan for Downtown. Staff recommends that major stakeholders in the downtown area be convened to look at resource development and division of responsibilities. The stakeholders will review Council's goals relative to the Center City Plan and report back to Council with specific recommendations. These stakeholders include: Asheville Downtown Association, Tourism Development Authority, Chamber of Commerce, Buncombe County government, representatives of social service agencies such as A Hope, Quality Forward, Downtown Commission, Sustainable Economic Development Commission, City Council Planning and Economic Development Committee, DARN (Downtown Asheville Residential

Neighbors), and key city departments.

- Councilman Mumpower advocated for some action now on the public restrooms and the downtown kiosks. Regarding graffiti, Mr. Powers said that the City does work with Quality Forward by supplying materials on graffiti removal; however, the rate of graffiti is growing dramatically.

Councilman Mumpower would like to see us consider a reward fund for people who can identify vandals. He felt we could get people to contribute to that fund.

Vice-Mayor Jones also supported moving forward with public restrooms.

Councilwoman Cape asked for additional research on the cost of public restroom attendants, noting that the City should partner with groups. Mr. Powers said that some preliminary research has been done. We have talked with stakeholders and service providers and the possible solution seems to revolve around working with agencies like A Hope. They have expressed a willingness to do that and provide an attendant. He said that City staff's two issues with public restrooms are having them attended and where they are visible. A preliminary budget necessary for substantial upgrades to the 29 Haywood Street restrooms would be approximately \$70,000.

It was the consensus of City Council to move forward on opening the public restrooms at 29 Haywood Street and instructed City staff to bring forward to Council a budget.

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Mayor Bellamy said that in opening up the restrooms at 29 Haywood Street with an attendant, the idea came up about putting a kiosk in the corridor, or some public art, or individual vendor booths that have a product to sell. People will be traveling in and out of the corridor and it will make the people feel safe. In addition, we need to make sure that the parking deck stairwells are cleaned on a regular basis. She suggested some signage be placed in the stairwells of where the public restrooms are located.

Mr. Powers believed that there is funding in the budget that will help with the maintenance in the stairwells.

Councilwoman Cape also envisioned the corridor at 29 Haywood Street as being one of the kiosk areas.

Councilman Freeborn requested information on the stainless steel, self-cleaning facilities. Mr. Powers said that he would provide more information; however, they are in the neighborhood of approximately \$100-\$200,000.

Councilman Newman said that the Buncombe County Tourism Development Authority (TDA) is very excited at the Wayfinding Program and suggested that we talk to them about some capital costs out of their earmarked product development monies since Asheville is the product.

Councilman Davis agreed with Councilman Newman that we should explore with the TDA a percentage of their product development monies to maintaining our core services, like street cleaning, restrooms, signage, etc. He also felt we should consider restrooms that are family-oriented.

Councilman Davis felt it was an appropriate time to revisit the Downtown Social Issues Task Force Report, which Council accepted. They made several recommendations and we should work with them as partners. In addition, Mr. Dwight Buckner, member of the Downtown Social Issues Task Force, has requested permission from City Council to put up the "Spare Change for Real Change" boxes, the program for people to put their change in the boxes instead of to the homeless.

Upon inquiry of Councilwoman Cape, Mr. Powers said that we will talk with private companies with public restrooms, i.e., BB&T Building, Pack Place, about their hours of service when the restrooms are open.

Councilwoman Cape also asked for information if there are restrooms located under the Pack Square monument.

Councilman Mumpower said that one of the main reasons most public restrooms are not open to the public is because they are abused, and public safety should be an important component. He also spoke more strongly in stand-alone kiosks in public view.

Mayor Bellamy felt that the individuals that traveled to Greenville, S.C., recently would be a good group to be included in the stakeholders. She looked forward to having the stakeholders review the Center City Plan, with Council's goals in mind, and

bring their recommendations back to Council.

Mayor Bellamy asked that City staff investigate a policy regarding the placement and maintenance of newspaper stands.

Mayor Bellamy also asked that the Transit Facility be more inviting with perhaps hanging baskets.

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Councilwoman Cape asked City staff to look into the possibility of recycling containers downtown.

In response to Councilman Freeborn on a timeframe for the stakeholders meeting, Mr. Powers said that the TDA, last week, had a public meeting where they rolled out their marketing plan for the coming year. The TDA expressed a strong commitment in partnering with the City to push the Wayfinding issue forward. Mr. Baechtold has taken the lead role of project manager and has had several meetings with the TDA staff. As soon as the TDA designates a staff person, he will work with Mr. Baechtold. He feels we are moving at a good pace for getting a Request for Proposals developed and certainly within 120 days we should be able to start developing criteria for the Request for Proposals to move the project forward.

Vice-Mayor Jones said that in terms of the Wayfinding Program, we should design our signs or ordinances around what works for our community.

Vice-Mayor Jones stressed that cigarette butts are trash and people should be educated to not throw them on the ground. In addition, she asked that the cleaning of the sidewalk grates be cleaned on a more frequent basis.

Councilwoman Cape explained why she felt the graffiti should be removed as quickly as possible instead of having of a reward fund for people turning in vandals.

In response to Councilwoman Cape, Councilman Davis said that he would take the Downtown Social Issues Task Force Report back to the Downtown Commission for their updated review prior to bringing it back to City Council.

It was the consensus of City Council to have the stakeholders review the Center City Plan, with Council's goals in mind, and bring their recommendations back to Council.

WATER UNIFORM RATE DIRECTION

Councilman Newman said that earlier this year Council held a lot of discussions about the analysis that has been done about what we need to do to investing in the long-term repair and maintenance of our water system. We have begun a Capital Improvement Plan that begins implementing repair of our long neglected water system. We also had discussions about what is our plan going to be in terms of the overall rate structure since the City is running our water system again. Did we want to continue with the rate structure under the old Regional Water Authority or do we want to look at some other models. We had discussions about moving toward a uniform rate policy. Some members of Council were interested in making that policy during the budget process, but it was decided to deal with that as a stand-alone issue.

He reminded Council that during the budget process, we approved a new meter based fee to fund the Capital Improvement Plan. Separate from any tweaking or fundamental changes we might want to make to the meter based fee, he asked Council to consider (1) do we want to move towards phasing in a uniform water structure over the next 4-5 years; and (2) if we do move towards phasing in the uniform water structure, do we want to maintain our existing rate structure for our manufacturing customers, due to the economic climate and the importance of that sector to retain jobs in our community. He supported both.

Councilman Davis felt that he could not support moving towards a uniform water structure at this time because small businesses are having to pay a stormwater fee, business license fee, meter based fee, parking fees, etc.

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Councilman Freeborn felt we should move toward a uniform rate. He felt we should go back and review the Capital Improvement Plan meter based fee and base it on consumption, not on meter size. He felt everyone should pay the same for the quality of water they get.

Mayor Bellamy felt that next month we will have had almost 3 months data with the Capital Improvement Plan fee and that can be discussed at the next worksession. She has asked City staff to report back to Council on bonds.

Councilwoman Cape supported the uniform rate structure being phased in over five years. She felt that we needed to be a partner with businesses and residences in the community to help them find ways to make water cost-effective. We need to be good stewards and look the long term of our water usage, especially with development pressures, more people moving into our community etc. The best way to do that is to make sure that everyone is using water a cost-efficiently as possible. She thinks that in five years we should have some best practices that will help people reduce their bill, but they must also work toward efficiencies. She, too, would be interested in getting more information on possible changes to the Capital Improvement Plan meter based fee.

Councilman Mumpower felt that we should revisit this issue at another time since not only have we not ironed out some of the confusion on the Capital Improvement Plan meter based fee, but we are in serious water agreement negotiations.

Councilwoman Cape felt that if we do have the exclusion for manufacturers, that we must be clear on the definition of a manufacturer.

Vice-Mayor Jones would be supportive of a uniform water rate being phased in and asked for information on the wholesale rates.

As a secondary issue, Councilwoman Cape asked for information about the flood and the relationship with the amount of water we are overflowing.

Mayor Bellamy said that instead of making a decision at this time about a uniform water rate, to begin in 2007, it would make sense that we challenge staff at the next worksession to (1) look at our ability to issue debt; (2) see what our capital improvement needs are for the water department; (3) look at our Capital Improvement Plan rate; and (4) look at the best way to put money back into the system.

MAXWELL STREET TRUCK REGULATION

Police Chief Bill Hogan said that City Council has continued to receive concerns from citizens regarding traffic problems along Maxwell Street, specific to truck deliveries that occur at the west end of the Greenlife Grocery Store, adjacent to Maxwell Street.

I. Physical Conditions

- Area includes a mix of zoning districts (CB-II, RM-8, NCD and HB)
- Affected roadways include Merrimon Ave., Maxwell St., and Marcellus St.
- Maxwell Street is split-zoned CB-II & RM-8
- Uses in the area include single and multi-family residential, small office and service uses, and a 20K square foot grocery store with an 89 space parking lot.

II. Past Actions

- Redesign of loading dock, parking lot, and driveways to minimize use of Maxwell Street by trucks

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- Enforcement and direction as described by the Asheville Police Department (APD). A summary of citations are as follows from 1/1/05 to 6/30/06: 64 calls for service regarding improper parking on Maxwell Street. APD has issued 24 parking citations, 2 warning parking citations, and 63 other traffic citations issues to vehicles on Maxwell Street.
- Direction of trucks to enter and exit via Merrimon Avenue, using Maxwell only at the loading dock
- Posting of 'No Trucks' signs on Maxwell. ('No Truck' signs are intended to restrict through truck traffic but allow local truck delivery).
- Loading dock chained to prevent deliveries between 6 pm and 6 am.
- Trash dumpster was replaced with a trash compactor to more readily handle garbage disposal.
- Affected parties have participated in mediation efforts.
- Installation of a wood panel privacy fence along the loading dock area in addition to the landscape buffer was approved for the project.

III. Current Traffic Patterns

- Trucks are supposed to access to and from Merrimon Avenue.
- A few trucks still enter via Broadway to Maxwell.
- Some parking encroaches into neighborhood, but Greenlife has mostly curtailed this through direction to employees and

addition of more on-site parking.

- Driveway on Maxwell provides a good route to the signal at Merrimon & Chestnut, a safer means of exiting than at the Greenlife driveway on Merrimon.
- Truck Delivery Volume: Over a recent four day period, Greenlife received 56 truck deliveries. Approximately 25% of those trucks were large trucks, which assess the larger loading dock; most trucks utilized Maxwell Street in order to access the smaller loading dock because this loading/unloading area only has an entrance/exit from Maxwell Street.

IV. Concerns

- Proliferation of Traffic Violations (illegal parking & blocking of public right-of-way)
- Increased Opportunity for Noise Violations
- Land Use Conflict – although the residential area is zoned to allow medium density multi-family, the majority of residences are single family and are adjacent to a medium impact grocery retailer.

V. Options/Alternatives

Traffic Engineering Options:

1. Prohibit trucks on Maxwell except getting in and out of loading dock.

Considerations:

- Requires Council ordinance.
- Affects everyone on Maxwell Street; i.e. moving trucks would be prohibited for residences.

2. Construct devices in street to physically prevent trucks from bypassing.

Considerations:

- Removes parking.
- Limits access for all large vehicles, not just those bound for Greenlife.

3. Limit truck size and/or number. Application proposed use of ~40' single-unit trucks. Subsequent conversations estimated one large truck per day, or 4-5 per week.

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Considerations:

- Burdensome economic impact on business.

City Attorney is researching legal grounds for such restrictions.

Planning Options:

1. Add a noise wall or other noise mitigating measure around the existing loading dock area.

Considerations:

- Various mitigation measures can vary significantly in cost and effectiveness (i.e. Bamboo Screening = inexpensive & easy to install but limited effectiveness vs. Engineered Noise Wall = very costly but more effective).
- Developer has already exceeded current development requirements.
- Lack of adequate space to create a fully effective measure – cannot physically eclipse the entire loading area due to its existing configuration.

2. Possible reconfiguration of loading area to keep all truck maneuvering on site.

Considerations:

- Loading docks would remain in their present location.
- Will require additional land & development costs
- The additional property required is not owned or leased by Greenlife Grocery and would require acquisition.
- Would result in the loss of one single family home.
- Could be designed to keep all truck maneuvering and parking off of Maxwell Street.
- Would allow for additional buffering/screening of loading docks and trucks.

3. Conduct a zoning study to analyze compatibility of various zoning alternatives with the RM-8 properties in the area (two possible options are listed below).

Rezone RM-8 properties to NCD

Considerations:

- Allows for a greater mix of uses with more options for redevelopment.
- Resolves land use conflict issues over the long term.
- Eliminates the split-zoned right-of-way on Maxwell Street.
- Would correct some non-conforming uses while rendering others non-conforming.

Apply 'Adaptive Re-use' Overlay zoning to RM-8 properties

Considerations:

- Allows for redevelopment while maintaining the residential character of the structures.
- Does not eliminate the split-zoned right-of-way on Maxwell Street (underlying zoning remains the same).
- Would correct some non-conforming uses while maintaining conformity of other existing uses.
- Would encourage the conversion of residential uses to low-impact non-residential uses.

Economic Development Options:

1. Explore development plans of the Greenlife site with property owners to determine if opportunities exist to mitigate impacts through redevelopment.

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2. Explore ways to estimate cost and design issues associated with the relocation of the loading dock.
3. Explore opportunities to plan for infrastructure and parking improvements that support redevelopment of the Greenlife properties and surrounding areas.

City staff recommends continuing to enforce city statutes pertinent to this site. In addition, to approach the property owners and discuss expansion plans in an effort to proactively address long-term parking and traffic issues associated with the site development.

Councilwoman Cape wanted the City to be much better at planning than just permitting. We need to be more sensitive in the future about integrating two different uses right up next to each other. She would love to have Mr. Swann to expand his store and move the loading dock. She wanted to make sure that the intent of our buffering and landscape laws are met.

Mr. Richardson said the officers at Greenlife Grocery have been pleased with the performance of the store. The performance of the store is outdistancing its physical capabilities in some ways. They want to be a neighborhood grocery store and a partner in the community. They feel they have taken significant efforts to mitigate the issues associated with the concerns of City Council. It is his understanding that Greenlife officers have talked with property owners; however, he did not know where those discussions are at this point. But, City staff has expressed an interest to be at the table proactively at the front end of those discussions to look strategically long-term at traffic, parking and the effect on the adjacent streets.

Upon inquiry of Councilwoman Cape, Mr. Richardson said that he would research the cost to the City of the 64 calls for service.

Councilwoman Cape stated that she didn't like Maxwell Street being used for trucks and asked for clarification of the "No Truck" signs on that street. City Attorney Oast said that we run into a problem of where there is residential and commercial use on a street when we use those signs. We are still reviewing that issue. He also said that "No Truck" signs mean no trucks are allowed on that street unless the use of Maxwell Street is the only way to get to your point of destination.

Vice-Mayor Jones would like the loading dock to be moved. However, in that we don't have that power, she would like for there not be big loading trucks on Maxwell Street. If Council prohibits trucks on Maxwell Street, you are cutting off the Maxwell Street service entrance for Greenlife, which has always been there. If you prohibit all trucks on Maxwell Street, then you prohibit any trucks, including personal moving vehicles, on that street and that creates other unintended consequences. He said we have and will continue to work with the owners and operators of Greenlife Grocery in order to mitigate the traffic that has to go on Maxwell Street. Some steps have already been undertaken and have to some degree been successful. His opinion is that you will have a very difficult time prohibiting trucks on Maxwell Street and that an ordinance of that nature might be invalidated.

In response to Councilman Mumpower, Mr. Richardson said that in general "No Truck" signs mean no through trucks. You cannot use Maxwell Street as a street to carry you to a point of destination on property that does not abut Maxwell. There are two

exceptions to the Code. The one exception that applies to this matter is the one that allows for the loading or unloading of a truck to and for property located adjacent to that public street - meaning that if a truck is accessing Maxwell Street to specifically access the loading dock, it is an exception to our code.

Mr. Anthony Butzek, Traffic Engineer, said that the signs were put up as we worked with Greenlife to mitigate and minimize the amount of trucks on Maxwell Street. We placed them at

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points where trucks were coming in and making deliveries. Greenlife also made some changes to their driveway so the trucks could access to and from Merrimon Avenue. He said that we can remove the confusing "No Truck" signs and replace them with worded signs of "No Through Trucks." The intent was to make it obvious to the truck drivers that they were not to use that street.

When Councilman Freeborn asked if there was information available about how many of the 63 traffic violations were from people who live on Maxwell Street, how many generated from Greenlife, or how many were people just driving through the neighborhood. Mr. Richardson said he will have to get that detailed information, however, it is his understanding it is a combination of all those.

Councilman Freeborn felt the only real option is to make it physically impossible for trucks to go down Maxwell Street. He felt that this matter needs to be addressed and suggested a public involvement session where people from Maxwell Street and Greenlife work something out.

Councilman Newman's goal would be to get the trucks off Maxwell Street entirely for safety reasons as well. He did think there are different design ideas for that to happen and if there are future redevelopment opportunities he would be supportive of those conversations.

Vice-Mayor Jones requested that the gate that is open to the dumpster closed.

Councilman Mumpower thinks we have an unfortunate situation, but not a catastrophic situation. He thinks we are on the right track of working with the Maxwell Street neighborhood and Greenlife for a workable solution.

Mayor Bellamy said that the City Council will receive a report from Professor David Owens regarding his third party review of this issue and after that discussion, then Council can decide of how they wish to move forward.

When Councilman Davis asked what percentage are the 64 calls for service from residents living on Maxwell Street, Mr. Richardson said that approximately 90% of those calls are from Mr. Reid Thompson and some have been from Greenlife as well.

Councilwoman Cape recommended trucks be allowed in the loading docks and after they are unloaded, the gates are shut. And, that staging of the trucks not be on Maxwell Street.

Mayor Bellamy agreed there are ways to address this concern and we need the assistance of Greenlife to address this situation.

At 5:52 p.m., Mayor Bellamy announced a one-hour recess, at which time City Council would hold a closed session. Councilman Mumpower then moved to go into closed session in order to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: the City of Asheville and the State of North Carolina. The statutory authorization is contained in N. C. Gen. Stat. sec. 154-318 (a) (3). This motion was seconded by Councilman Davis and carried unanimously.

At 6:52 p.m., Councilman ___ moved to come out of closed session. This motion was seconded by Councilman ___ and carried unanimously.

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ILLEGAL IMMIGRATION POLICY DIRECTION

Councilman Mumpower said that this is a follow-up to the July 18, 2006, worksession item. He said that the problem is as follows:

1. Illegal aliens represent a significant public safety threat – DUIs, uninsured motorist risks, drug distribution, violent crime,

- repeat offenses, terrorism, etc.
2. Due to language barriers, ID falsification, legal and political restraints, and lifestyles founded outside of our society's civil structure, enforcement of our laws is spotty, inefficient, and expensive.
 3. Illegal aliens represent a persisting social expense in terms of medical care, public education, social services, the judicial system, and other unfunded drains on our system.
 4. There are currently 300,000 to 600,000 illegal aliens in North Carolina operating outside of the law under circumstances poorly conducive to cultural integration, personal accountability, and sustainable social order.
 5. With the exception of the governments of other countries that generate broad based despair in their people, those who employ illegal aliens in this country represent the primary cause and solution to many of our issues with illegal immigration. If we begin enforcing our existing laws and expanding efforts to address those who illegally fund the exodus as a means to personal gain and circumventing the self-correcting nature of a fairly applied free market economy, we can reverse that exodus and strengthen the fragile top soil of our civilization and culture.

Recent State and Federal Actions that Impact on Local Government

1. NC SB 602 – Requires proper documentation to obtain a drivers license
2. NC SB 1523 – Requires all state schools to verify legal status of all new employees.
3. NC SB 1523 – Allows authorized state and local enforcement officers to perform immigration enforcement.
4. Congressional authorization has been created for local law enforcement officers to participate in a Delegation of Authority Program (287-G of the Immigration and Naturalization Act)
5. There is a local regional pilot initiative by Congressman Taylor (the first in the Country) involving WNC law enforcement bodies (strongly led by Henderson and Buncombe Counties) to solve the need for temporary jail facilities, legal authorization, and transportation issues.

What Can We Do?

1. Seek authorization of 2 or more existing APD officers (hopefully Spanish-speaking) as in the Federal Delegation of Authority Program.
2. Begin participation in the regional initiative to identify and intervene with illegal aliens who break our laws.
3. Take action (formal resolutions, direct contact, etc.) to request Federal and State authority to hold accountable those who knowingly employ illegal aliens without proper work permits, temporary resident status or citizenship.

Councilman Mumpower read the following letter he received from Congressman Charles H. Taylor on August 10, 2006: "As you are no doubt aware, the issue of illegal immigration is one touching communities across the nation -- including our own, here in Western North Carolina. The illegal aliens present in the State of North Carolina now place us in the unenviable position of eighth in the nation for population of illegal individuals, at an estimated 300,000. While the responsibility for addressing the ever-growing illegal immigration problem rightly rests with the federal government, it is very often our own local law enforcement agencies who first encounter

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illegal aliens, during the course of their daily policing duties. In such instances, these officers can find themselves working against a morass of confusing jurisdiction, legal and bureaucratic obstacles, rather than moving swiftly toward the goal of ensuring that those who break our nation's immigration and public safety laws are incarcerated and deported. Fortunately, a federally-authorized program exists to assist our local law enforcement agencies with this growing challenge. Section 287 (g) of the Illegal Immigration Reform and Immigrant Responsibility Act created a program of intergovernmental cooperation to facilitate the handling of illegal aliens by state and local law enforcement officers. Pursuant to a memorandum of understanding between federal Immigration and Customs Enforcement (ICE) officers and their local counterparts, local law enforcement officers may receive particularized training and the necessary resources and latitude to pursue investigations relating to illegal aliens -- including violent crimes, human smuggling, gang and organized crime activity, narcotics smuggling and money laundering. Officers in the Charlotte area have executed such an agreement with ICE agenda, and have experienced tremendous success in pursuing and prosecuting criminal cases involving illegal aliens. Based on interest expressed to me by several local law enforcement agencies in Western North Carolina, it is my hope to create a regional 287 (g) program in our area. As the largest metropolitan area in the Eleventh District, the City of Asheville certainly has a role to play in the success of such a program. Accordingly, I want to extend to the City my enthusiastic invitation to participate actively in a regional 287 (g) initiative. I look forward to working with you and the City of Asheville's law enforcement community to advance this program."

Police Chief Bill Hogan responded to various questions/comments from Council, some being, but are not limited to: out of the 13,711 arrests in 2005, how many were created by illegal immigrants and what was the nature of their arrests; if City Council

approved two additional police officers, where would those officers be placed and would those officers be assigned to illegal immigrants; what is the guidelines for bail for illegal immigrants, especially relating to violent crimes; does the Police Department consider Driving Under the Influence a serious crime; have we had any illegal immigrants create violent crimes or drug trafficking in the last 90 days; what group is the leading provider of hard drugs in Western North Carolina; how many beds are in the Buncombe County Jail; how is an illegal immigrant identified if they have no identification; what percentage of illegal immigrants are in the ICE system; what percentage of the people arrested and taken to the Buncombe County Jail come from the City; are our officers experiencing frustration with arresting people who have no identification; and can you adjudicate someone with an identification.

When Councilman Freeborn asked if illegal immigrants are a problem for the Asheville Police Department since out of the 13,711 arrests in 2005 approximately 6.2% were suspected illegal immigrants, Police Chief Hogan said that this is not an overwhelming problem for us now.

Upon inquiry of Councilman Mumpower, Police Chief Hogan said he has no objection to participating in the Federal Delegation of Authority Program.

Mayor Bellamy said that at the July 18, 2006, worksession, there was support on Council to adopt a resolution.

City Attorney Oast presented City Council with a resolution adopted by the National League of Cities Board of Directors on July 21, 2006, which supports comprehensive immigration reform. He also presented City Council with a draft Asheville resolution in support of immigration reform. In the Asheville resolution, it reads "The City Council does hereby recognize the substantial contributions that immigrants have made to the City of Asheville, and requests that action be taken at the federal level to enforce immigration laws, and to devote sufficient resources to enforce those laws, as set out in the above-referenced National League of Cities resolution. The City Clerk is hereby directed to transmit a copy of this resolution to Senators Elizabeth Dole and Richard Burr, and to Congressman Charles Taylor."

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Councilman Freeborn felt that the resolution should be placed on Council's August 22, 2006, regular meeting agenda, and not the Consent Agenda.

Councilman Newman welcomed Chief Hogan's further guidance about what we need to do to address these issues in a way that is practical for our community as this is a very complex and entrenched issue. He does agree with the idea that employers should be held accountable, but we need federal policies to set up the framework to do that. He welcomed Chief Hogan's advice on if there are additional policies needed to protect our community from dangerous criminals. But absent some specific request from him, it seems like the tools are already there for him to handle those problems and there needs to be some additional processes set up that we can plug into on a national and regional level to make some meaningful differences. He understood Chief Hogan say that if regional programs are developed, certainly we would be part of them.

Councilman Davis encouraged the Police Department to get involved in what is happening in the Charlotte area with the agreement with ICE.

Councilman Mumpower confirmed that City Council supports the Police Chief in doing the things that he feels is helpful and necessary for the public safety of our community in this area.

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PUBLIC ARTIST OF THE YEAR/ASHEVILLE FILM ARTIST OF THE YEAR
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Councilman Mumpower said that this is a follow-up proposal to Asheville City Council to advance our measured support for the arts in our community.

By supporting the arts (1) We know Asheville is a premier arts destination; (2) We know that the Arts have a significant impact on our economy; (3) We know that it is Council policy to support the arts in Asheville; and (4) We know that money is tight and that the private sector carries the Arts in Asheville.

Arts matter because (1) The arts are an economic engine – one of many that pulls an important train – Asheville; (2) The arts, at least many of them, have a constructive impact on our quality of life; (3) The arts, in one form or the other, touch every living person in Asheville – through everything from Country Music to Mozart, ballet to swing, finger painting to the grand masters, majestic art deco buildings to majestic mountain touched by the hand of God – art surrounds us.

The following is what the City does to help (1) The city provides roads, streets, and sidewalks to help people access the

arts; (2) We work hard to help Asheville remain a safe place for people to enjoy the arts; (3) We fund the Civic Center – a major venue for the arts in our community; (4) We provide limited funding to nudge the arts forward in our community; and (5) We keep it on the radar screen.

He said that it is not just dollars. Some of us have philosophical disagreements with using forced tax payer monies to directly fund the arts. Yet we also realize that the arts need help – the City of Asheville can have a major impact on the arts through our policies. There are other ways we can help that involve limited dollars.

He feels we should use our clout and (1) appoint an official “City of Asheville Public Artist of the Year,” (2) And a “City of Asheville Film Artist of the Year,” (3) and once we’ve got it down, look toward other artistic groups we might support in similar fashion.

Regarding the Public Artist of the Year, he has have collaborated with Mr. David Mitchell of the Parks and Recreation staff and the Public Arts Board in reviewing and improving the

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proposed parameters for this award that he now wishes to submit to you today for policy consideration. With these broader policy guidelines, he believes the Public Arts Board can begin their good work in bringing this initiative to full potential.

He then outlined the Public Artist of the Year 10 Point Plan: (1) This would be an annual competition – culminating during an unveiling and award presentation at Bele Chere. (A visible venue that can contribute to the enthusiasm around this award while enhancing Bele Chere.); (2) The competition would be open to artists who live, work, or study in Asheville and Western North Carolina. (We need a broad pool of potential applicants to assure that we obtain quality public art annually through this initiative. Asheville is the hub of public art in WNC and this is one means to assuming a regional leadership role in the arts.); (3) There would be a \$10,000 award to the competition winner. (The Public Arts Board would be charged with raising 50% of those monies – he would assume responsibility for the first year) - additional 50% will come from general fund, grants, and other sources; (4) There would be an understanding that the winning piece would be donated to the community to be added as a permanent and maintained component of the city’s public art opportunities; (5) There would be collaboration with the organized arts community (Asheville and area arts councils, college arts programs, etc.) in implementing this awards process; (6)The model of competition used in the Bele Chere poster contest in past years and other legitimate arts competitions would be considered with an eye on developing criteria that are inclusive, fair, and conducive to the long-term success of the effort; (7) A plaque to honor winners would be placed in a prominent location in the city; (8) Potential sites for locating the public art piece would be a factor in the competition – including but not limited to city parks; (9) Judges would represent a diverse cross section from Asheville and WNC with an interest in public art and the broader cultural, economic, political and social interests of the community. The panel is to include an out of area artist of recognized talent and the judging will be conducted on a blind basis; and (10) Our goal would be to make the process fun and festive as we propel our artists with strong recognition and enhance the availability of public art in Asheville.

Regarding the Film Artist of the Year, he said there is a second group we can recognize that offers additional opportunity to support the arts in our community.

He explained that (1) This competition would be open to all Asheville and Buncombe County residents and students in the film arts; (2) It would be an annual competition – culminating during the film festival; (3) There would be a \$1,000 honorarium for the Film Artist of the Year provided through the general fund, grants, and other means; (4) The Board would be charged with raising additional funds as needed; (5) Opportunities would be developed to display recognized works on our city channel, public access channel, and other means; (6) Collaboration with the organized arts community would be requested; (7) Models of other successful competitions would be considered and/or duplicated; (8) A plaque to honor winning film artist would be placed in a prominent location in the city; (9) The full spectrum of film art skills should be eligible for award – including production, acting, direction, screenplay, etc.; and (10) Judges are to represent a diverse cross section from the community with an interest in film art and the broader cultural, economic, political and social interests of the community.

From here, City Council can (1) Deliberate the merit of these requests; (2) Officially endorse the efforts if the majority wishes; (3) Refer the concepts to the respective Boards with these broad parameters for developing and implementing a plan; and/or (4) Fund up to \$11,000 per year, but only with the understanding that this program will result in our obtaining a public art piece for our community each year.

In conclusion, he said that (1) The money matters, but what really matters is the recognition and honor; (2) Through this program we can begin building our public art in meaningful, but economic fashion – it’s past due; and (3) We have an opportunity to use the national reputation of Asheville to propel local artists forward toward their own fuller potentials...

Councilman Davis felt this was a good thing; however, he was concerned about keeping the piece of art forever. He also felt we may consider giving more than a \$1,000 honorarium for the Film Artist of the Year.

Upon inquiry of Councilwoman Cape, Mr. Butch Kisiah, staff member to the Film Commission, said that the Film Commission reviewed Councilman Mumpower's proposal but took no official action. They were intrigued with the idea; however, they wanted to take a closer look at it. Regarding the \$1,000 honorarium, the Commission discussed using that money to support other agencies that are involved in the arts.

Councilwoman Cape noted that the Film Commission was concerned about having to be fund-raisers and that was not the purview of their Commission. She expressed concern in that film-making is different from art in that film-making is a collaborative process and takes a team and didn't know where we would draw the line on who contributed the most. The Commission was concerned about the criteria that would be used to award the honorarium. She felt that if the City is interested in supporting the arts, there is a lot of ways to leverage that through existing organizations that are trying to do that. She felt we should work with what is existing already and see how the City can assist.

When Mayor Bellamy suggested Councilman Mumpower present this proposal to the Film Commission for their support, Councilman Mumpower said that the Film Commission formally approved the concept a couple of years ago when he was a member of the Commission and they were positive about it.

Councilman Freeborn felt we should remand this back to the respective boards and charge Councilman Mumpower to come up with an actual formalized plan with buy-in from the various players in the community.

Mayor Bellamy liked the idea of taking the proposal back to the boards for the criteria, but first asked if there was Council support for the initiatives or not.

Councilwoman Cape asked for additional information on what money already exists with the Public Art Board and what they are charged with. She wanted to know if we are honoring the money we have already given to the Public Art Board. She was frustrated when the Council reviewed the outside agency requests and didn't give any money to existing agencies that are supporting the arts in incredible ways. She would not support funding these two initiatives and would rather see the money go to the existing organizations to leverage that money.

When Vice-Mayor Jones asked if the Public Art Board was supportive of them raising money, Councilman Mumpower said that he would relieve them of that responsibility and try a three-year pilot program in which he would take personal responsibility for raising the \$5,000, if the Public Art Board doesn't raise it. Vice-Mayor Jones would be supportive of that and suggested an evaluation at the end of the first year.

Regarding the Asheville Film Artist of the Year, Councilman Mumpower said he would be happy to let Councilwoman Cape take the proposal back to the Film Commission for review. But, with regard to the Public Artist of the Year, he asked for Council's support in providing the Public Art Board with these broad guidelines for them to work with and come back to Council with a proposal.

Mayor Bellamy said that the majority of Council supported giving the Public Art Board these broad guidelines for them to work with and come back to Council with a proposal.

Councilman Davis asked at some point to be brought up to date on the Film Festival.

BOARDS AND COMMISSIONS:

Mayor Bellamy suggested that City staff meet with Chairmen of the various boards they are responsible for to advise them of their role.

After a brief discussion on the appointment process for the five vacancies on the Community & Economic Development Alliance, it was the consensus of City Council to (1) appoint Scott Dedman; (2) interview Steve Cochran, Joyce Dorr, Cheryl McMurry and Ty Hallock; and (3) consider as candidates, but not interview: Greg Walker-Wilson; Chuck Tessier, David McConville, Becky Anderson and Kim MacQueen.

It was the consensus of Council to reappoint Tom Byers and Steven Sizemore to the Planning & Zoning Commission.

It was the consensus of Council to reappoint Herman Turk to the Buncombe County Tourism Development Authority.

OTHER BUSINESS:

Councilman Newman was pleased to report that on the first day of the pilot free ride on the Asheville Transit System program, our ridership was up almost 60%.

ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 8:23 p.m.

CITY CLERK

MAYOR