

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

**GROVE ARCADE UPDATE**

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Ms. Ruth T. Summers, Executive Director of the Grove Arcade Public Market Foundation, updated City Council on the Grove Arcade Public Market. She said that concerted efforts have been made by the Foundation and staff to evaluate tenant mix and to seek out and attract sustainable businesses that enhance the Grove Arcade and its tenants. She explained that the successes which include the retail floor is 96% leased; 10 new businesses opened; 5 businesses have expanded; and only one retail space is vacant (682 square feet). She then explained the tenant mix in the Grove Arcade consists of fresh food; prepared food & restaurants; service providers; specialty stores; and arts & crafts. She said the Grove Arcade exemplifies the entrepreneurial spirit and unique homegrown business model.

She explained they are continuing to face the challenges of addressing inherited financial problems by: (1) streamlined management; and (2) reduced receivables and administration costs. To move forward they have (1) restructured foundation board and added new members; and (2) redefined mission statement and adopted the following to guide our actions - "To effectively operate a premier destination in downtown Asheville, filled with successful businesses and educational programs that reflect our mountain heritage and cosmopolitan taste". They are a community gathering space and they have also become a venue for neighborhood events.

Ms. Summers responded to various questions/comments from Council, some being, but are not limited to: how many residential units and office space is vacant on the second floor; how was the new mission statement created; is the Grove Arcade looking at the public component and reaching out for events; are the tenants happy with the new direction away from more of the agricultural field to food and specialty shops; and is a public market feasible in the Grove Arcade.

In response to Councilman Mumpower, Ms. Summers explained that the lack of parking does have an economic impact on the success of not only the Grove Arcade but all downtown businesses. She wondered if Council could work with the federal government to open up the federal building parking lot because the federal court people are using the Wall Street Parking Garage and there are many times the garage is full and not available for transient parking. She also mentioned the difficulty of finding the existing parking garages. In addition, she said that the Grove Arcade is in the process of compiling information to present to the City in the future about the restructuring of the Certificates of Participation Loan for a longer period of time.

In response to Mayor Bellamy, the Grove Arcade Board of Trustees would like to participate with the City and possibly the Chamber of Commerce in surveying downtown merchants about parking in the downtown.

On behalf of City Council, Mayor Bellamy thanked Ms. Summers for the informative update and expressed the asset the Grove Arcade is to Asheville and Western North Carolina.

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**POLICE ADVISORY REPORT**

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Mr. Tim Flora, Chair of the Citizens/Police Advisory Committee, said that in January of 2006, and in conjunction with the rollout of new districts created by the Asheville Police Department to enhance its policing effectiveness, the Citizens/Police Advisory Committee decided to sponsor a series of five community meetings to give residents the opportunity to (1) meet the police officers responsible for patrolling their neighborhoods; (2) participate in a discussion of the public safety concerns of their community; and (3) share ideas on how the police and the community - working together - can address those concerns.

A community meeting was held in one of the five represented areas of the City each month starting in March, 2006. These meetings were promoted via the local print and broadcast media as well as through neighborhood associations, targeted mailings, and area postings. An agenda was specifically designed to enhance the flow of community in both directions. As a result of these meetings, a 14-page report was compiled listing both the top issues identified in each respective area and the community's suggestions for addressing these issues.

In North Asheville, traffic safety, vehicle/home break-ins and vandalism/graffiti issues were identified. In West Asheville, traffic safety, vehicle/home break-ins, drugs and Hispanic-related issues were identified. In South Asheville, traffic safety, vandalism/graffiti and drugs were issues identified. In East Asheville, traffic safety, drugs and illegal aliens were issues identified. And, in Central Asheville, drugs, repeat offenders, homelessness and gangs were issues identified. Traffic safety and drugs were the two major issues in all communities.

The following is a sampling of the solutions provided by the community on mitigating the top concerns: Traffic Safety - cameras at stop lights, particularly the most troublesome areas; increased ticketing for illegal parking; more use of electronic speed boards; and print traffic citations in the newspaper. Drugs - more officers dedicated to illegal drug enforcement; use closed-circuit TV cameras in troubled areas; increase prevention initiatives; and more prosecution of drug dealers. Vandalism/Graffiti - requirement to remove all graffiti immediately after event; and provide a public wall where it would be legal to paint. Vehicle/Home Break-Ins - increase police communications with pawn/second-hand shops; and establish more community watch groups/neighborhood associations.

In response to Councilman Mumpower, Mr. Flora said that the Asheville Police Department is already responding to some of these issues and he would be happy to come back to Council in the next couple of months to talk about turning this information into action.

Police Chief Bill Hogan said that Captain Benson has met with the appropriate Police personnel and asked for specific strategies on what they were going to do in the different districts to respond specifically to these issues. They will be coming back with plans and accomplishments.

It was the consensus of Council to ask Mr. Flora and/or Police Chief Hogan to come back to Council in the January or February to hear further updates on the progress made to date. Mayor Bellamy felt it would be good to hear intermediate updates from the Public Safety Committee as well.

## **PUBLIC SAFETY PARTNERSHIPS**

Mr. Gene Bell, Executive Director of the Housing Authority of the City of Asheville (HACA), said that the Asheville Housing Authority, in its on-going efforts to continue its partnership with the Asheville Police Department, has continued to evaluate its public safety needs at its various housing locations throughout the City.

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At its November 2006 meeting, the City Council Public Safety Committee heard a presentation from the Asheville Housing Authority regarding its on-going efforts to bolster public safety throughout areas of concern within the Asheville Housing Authority properties. To that end, the Authority is prepared to move forward with additional coordinated efforts aimed at increasing public safety throughout these properties.

The purpose is to develop and implement short- and long-term security strategies to impact high crime areas within the HACA developments. The Asheville Police Department (APD) call for service statistics from 10-1-05 through 10-1-06 indicate that there were 2,312 calls from Pisgah View Apartments, 1,277 calls from Lee Walker Heights, 1,200 calls from Deaverview, 1,078 calls from Livingston/Erskine/Walton combined, and 967 calls from Hillcrest, with lower numbers from other developments.

The following is their plan: (1) Pisgah View: HACA Safety Team will focus additional overnight resources to disrupt illegal drug and alcohol markets. Primary strategy in Pisgah View will be multiple patrols in the short term, with implementation of cameras and gates over the next six months; (2) Hillcrest: HACA Safety Team will focus additional overnight resources to disrupt illegal drug and alcohol markets. Primary strategy in Hillcrest will be to staff the gatehouse and check identification of all persons entering the development during high crime hours; (3) Deaverview: Resident officer is making a difference; HACA Safety Team will continue to monitor conditions; (4) Lee Walker Heights: HACA will ask APD to mirror HACA Safety Team efforts in developments above by staffing the entrance to Lee Walker during peak hours; (5) Livingston/Erskine/Walton: HACA will ask APD to mirror HACA Safety Team efforts in developments above by increasing patrols in this area; (6) HACA Safety Team and APD will continue periodic patrols of other HACA developments, adjusting these plans as necessary; (7) HACA will support an APD request for additional City funding to match HACA Safety Team funding if deemed necessary by APD leadership; and (8) HACA leadership will work on infrastructure needs including (a) acquiring four radios compatible with APD system; (b) upgrading street lights at Pisgah View Apartments and Hillcrest; (c) installation of cameras at Pisgah View Apartments; and (d) implementation and funding of gate plan at Pisgah View Apartments.

Councilman Mumpower, Chair of the Public Safety Committee reported on the 2007 Public Safety for Public Housing Partnership Initiative ~ Renewing Our Efforts. Public housing continues to be ground zero for much of the open drug trafficking and related criminal activities that occur in our communities. Under the leadership of our Chief Hogan and the efforts of the Asheville

Police Department, good progress has been made over the past year and a half, but there is a need for persistent diligence and new initiatives to counter the adaptation and enthusiasm of those who use public housing as a playground for illegal activity.

Our 2007 plan centers on the implementation of 4 distinct creative crime prevention initiatives in 4 separate public housing developments. The impact of each initiative will be tracked and at the end of a reasonable period of implementation, we will evaluate the effectiveness of these interventions. Efforts will then be made to expand the most workable options to other public housing development and high crime neighborhoods.

#### Components

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Initiative 1	Gated community	Establish a gated community that is better able to filter out non-residents who affect the safety of the development. This initiative would be supported by APD but implemented through the Housing Authority.
Initiative 2	Beat police on the street	Establish 24 hour beat police presence dedicated to monitoring and supporting crime prevention in a specific public housing development.
Initiative 3	"I" Can Do It Program	An extension of the High Point "hug a thug" program, this approach centers on <i>investigation</i> , involvement of <i>influentials</i> , and <i>intervention</i> with street dealers. It would require a partnership between APD, DA's office, housing authority, neighborhood churches, residents, family members and other concerned individuals.
Initiative 4	Dedicated Drug Suppression	High intensity attention provided by the APD Drug Suppression Team with a dedication to creating a "zero tolerance" environment for drug trafficking of any form in the identified public housing development.

This would need to be a team effort involving a wide array of community minded people, organizations, government entities, churches, neighborhoods and others with an eye on the impact and harm of drugs in our community.

To hold the line and limit the harms of drugs in our communities we must demonstrate a higher level of creativity, enthusiasm, intentionality, and persistency that those who traffic in drugs. This initiative is about proactive community action, cooperative effort, and dedication to the importance of public safety. These are just for creative opportunities – there are more and better ideas out there for us to discover and bring to life. That's the real opportunity and need – to renew our efforts to assure public safety in public housing.

In tandem, the Asheville Police Department has been and will continue to analyze additional strategies to better provide more effective public safety at these properties.

The Public Safety Committee asked that the Council endorse Asheville Police Department in its efforts as it continues to analyze and evaluate public housing public safety strategies in coordination with the Asheville Housing Authority's on-going efforts.

Mr. Bell responded to various questions/comments from Council regarding efforts to assure public safety in public housing, noting that the residents and neighborhoods want to be involved in positive solutions.

In response to Vice-Mayor Jones, Mr. Bell asked that the Meals on Wheels Office contact him regarding delivering hot meals to residents in public housing.

Police Chief Hogan said that they are looking at the High Point model which studies the social network of neighborhoods. The point is you are not going to stop people from dealing drugs but what you can do is break the marketing system that occurs at the street level drug-dealing. What that does is takes the violence out of the neighborhoods and basically by following

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their model, it actually collapses that market and it doesn't come back. He will also be looking at other alternatives and will report

back to Council in 60-90 days with a complete analysis.

It was the consensus of Council to endorse Asheville Police Department in its efforts as it continues to analyze and evaluate public housing public safety strategies in coordination with the Asheville Housing Authority's on-going efforts. In addition, it was the consensus of Council to ask the Police Chief to report back to Council within 60-90 days with his complete analysis.

### **THE EXPLODING CRISIS OF CHILD PORNOGRAPHY AND INTERNET PREDATORS**

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Mr. Grier Weeks, Executive Director of the National Association to Protect Children, first explained what child pornography is, noting that the three types of child pornography crimes consist of (1) production/manufactures; (2) distribution; and (3) possession. In a 2005 study funded by Congress - Child-Pornography Possessors Arrested - Internet-Related Crimes; Findings from the National Juvenile Online Victimization Study, it showed (1) 83% had images of children 6-12 years old; 39% had images of children 3-5 years old; and 19% had images of children younger than 3 years of age. Said study had 80% images of children of sexual penetration; and 21% had images of children subjected to "bondage, rape or torture. Most of these were ... gagged, bound, blindfolded or otherwise enduring sadistic sex." The study revealed that 1% limit their collections solely to images that researchers termed "soft-core" ("nude or semi-nude minors").

Law enforcement says that victims are getting younger; many are babies or toddlers; abuse is getting more violent and sadistic; and live "pay for view" and streaming videos.

In said study, it showed that who possesses child pornography that 55% were known to be direct threats; and 40% were known to have directly sexually abused a child. The crisis is big - there are over 100,000 websites; over 3.5 million images identified; estimated 20,000 new images each week; and federal and state law enforcement completely overwhelmed, outnumbered and outspent.

In the peer-to-peer trafficking study of worst images revealed that in North Carolina there are over 65,000 IP addresses.

He explained that every North Carolina child online is at risk; children are quickly enticed online; predators are "cataloguing" children; and the state Internet Crimes Against Children (ICAC) Task Force agents are overwhelmed, leaving children unprotected as a result.

He then explained the weak laws in North Carolina.

Law enforcement is overwhelmed - cases are triaged (major commercial rings, identifiable children believe to be in immediate danger); vast majority of cases cannot be investigated; very few victims identified and rescued; and high profile undercover operations typically net dozens, less than 200.

He explained the federal spending priorities for Fiscal Year 2005-06, with only \$14.5 Million being allocated for the Internet Crimes Against Children Task Force Program (50 states).

He suggested the following ways Asheville can help: (1) Fund a dedicated child exploitation investigator with APD with salary and benefits of approximately \$8,000 (\$4k afterwards), 3,000 for laptop, desktop and peripherals and \$1,000 for software. This would be an enormous potential to assist and improve other sexual abuse investigations; (2) Become a model ICAC Task Force Partner, which could consist of (a) creating a dedicated APD position; (b) joining the NC ICAC Task Force; (c) have a strong commitment to training (d) have a strong

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partner in ICAC data network; (e) cross-training, cooperation with child abuse investigations; and (f) show leadership nationally; (3) Call on state legislature to take action/support Representative Goforth and delegation for stronger penalties, model laws, more funding for ICACs and more funding for forensic labs; (4) Provide leadership and invest in state, regional or local forensic capacity because the great single bottleneck is 8 month waits are common and there is no one solution but more capacity is urgently needed; and (5) Fund educational programs for parents in community and schools about online child safety: (a) 1,000's of Asheville children online are at risk; (b) parents have very limited knowledge of dangers and safeguards; (c) weakest parental link endangers kids; (d) sporadic efforts to education; and (e) return on investment would be high.

On behalf of City Council, Mayor Bellamy thanked Mr. Weeks for the opportunity for this Council to lend its support to help our children be safe and by being a part of this initiative.

In response to Councilman Mumpower, Mr. Weeks said that even though Buncombe County does have a person who does

these types of investigations now, he would request that the City of Asheville dedicate an officer because two full-time people could save a lot of children.

Vice-Mayor Jones urged parents to continually stress to children to call 911 and ask for help if anyone is harmful to them.

Mr. Weeks responded to Councilman Mumpower regarding how much child pornography is related to other crimes.

In response to Councilwoman Cape on how the City can play a role in helping parents become educated, it was the consensus of Council to charge City Manager Jackson, Police Chief Hogan and Community Relations Director Lauren Bradley to take on this task, by perhaps a link on the City's website, information on how blocks can be placed on a computer and an informative program on the government channel.

It was the consensus of Council to (1) ask Police Chief Hogan to look at this issue and come back with recommendations of how those recommendations could be folded into our budget process and report back to Council in 60-90 days, or sooner if possible; (2) add the issues outlined by Mr. Weeks requesting legislative support on Council's legislative agenda; and (3) explore regional and Buncombe County partnerships.

At 4:31 p.m., Mayor Bellamy announced a short recess.

## **STRATEGIC PLAN ACCOMPLISHMENTS**

Ms. Lauren Bradley, Community Relations Director, said that on January 12, 2006, City Council hosted a *Goals for Asheville* forum where citizens were invited to participate in focus groups to develop consensus on their top three community priorities. City Council reviewed the citizen input collected at the forum at Council's January 20-21, 2006 retreat. During the retreat, Council worked to incorporate the community's feedback into the City's Strategic Vision and Goals document, which was officially updated in February.

Throughout the year, City Council has received periodic updates on progress related to City Council's goals.

She explained that the goals for the Asheville forum's top community priorities were (1) Development & Growth; (2) Employment, local businesses & economic development; (3) Natural environment & Public/Alternative Transportation; (4) Public Safety & Drug Issues; (5) Affordable Housing; and (6) Public Education & Youth.

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Council's seven priority areas were (1) Economic Development, Job & Business Growth; (2) Growth, Development & Land Use; (3) Community Building; (4) Housing Opportunities; (5) Natural and Built Environment; (6) Partnerships to Improve Critical Services and Infrastructure; and (7) Sense of Place, Heritage & Arts.

She reviewed accomplishments in the area of critical services and infrastructure: (1) Civic Center roof, street and sidewalk construction, public safety communication enhancements and fleet replacement; (2) \$2.5 million investment in critical capital needs; (3) Added five new 30-foot low floor buses, improving access for elderly and handicapped riders; (4) Began implementation of a strategic capital improvement plan for the water system; and (5) Received positive results from the American Waterworks Association QualServe peer assessment of the city's water system (designed to help water utilities achieve superior performance).

In the area of growth and development, we (1) Extended services into the extraterritorial jurisdiction (2) Conducted stakeholder processes for: Shiloh Neighborhood Plan, Merrimon Avenue Corridor Study, and Haywood Road Corridor Study; and (3) Bringing forward freestanding amendments and comprehensive revision of Unified Development Ordinance: Steep Slope, Enforcement, and Landscaping.

More accomplishments in the Housing Opportunities field consist of (1) Significant progress on the 10 Year Plan to End Homelessness; and (2) Application of CDBG, HOME and HTF funds to the Woodfin and Griffin Apartments. An accomplishment in the Economic Development field includes the Request for Proposals for City-owned property. In addition, an accomplishment in the Natural & Built Environment includes (1) John B. Lewis Soccer Complex; (2) Covington Clubhouse at Aston Park Tennis Facility; and (3) Hall Fletcher Park in West Asheville.

A sample of ongoing initiatives include (1) Construction of downtown public restrooms; (2) Comprehensive wayfinding program; (3) Wilma Dykeman Riverway Plan; (4) Ongoing participation in the HUB project; (5) Sustainable Advisory Committee on Energy & the Environment; (6) Regional partnership to address flood issues; and (7) Addition of planning staff to enhance enforcement and long-term planning initiatives.

She said that as key programs and initiatives continue to progress, it is recommended that Council use this summary as well as any additional updates to continue to update the Strategic Vision and Goals document during the City Council retreat in early 2007.

Ms. Bradley and Planning & Development Director Scott Shuford responded to various questions/comments from Council, some being, but are not limited to: how is this information being distributed to the community; what is the timeline on the steep slope ordinance and the ordinance regarding point incentives; and will the Unified Development Ordinance amendments be brought to Council in a whole package or piece-meal.

At 4:56 p.m., Mayor Bellamy announced that City Council would take a short recess which would include a closed session. Councilman Mumpower then 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 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 Councilwoman Cape and carried unanimously.

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At 5:35 p.m., Mayor Bellamy recessed the closed motion to return to the formal meeting, noting that the closed session would continue at the end of the formal meeting.

## **UDO AMENDMENT REVIEW**

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City Attorney Oast said that this Unified Development Ordinance (UDO) amendment is being brought before City Council in order that staff may respond to questions Council may have prior to the public hearing, which has been scheduled on November 28, 2006. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

### **Homestays UDO Amendment**

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance to provide for "homestays" in single family residential zoning districts.

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This code amendment provides for "homestays" (currently known as "bed and breakfast homestays") in single family residential zoning districts as uses by right subject to special requirements. Since the initiation of proactive enforcement on illegal short-term (less than 30 days) rentals in various Asheville neighborhoods, staff has been meeting with a focus group of realtors, B&B owners, Tourism Development Authority staff, and Coalition of Asheville Neighborhood (CAN) members to discuss areas for compromise. One area of apparent agreement is the provision of homestays as uses by right subject to special requirements in single family residential zoning districts. Bed and breakfast homestays are currently allowed as uses by right subject to special requirements in multi-family zoning districts.

A bed and breakfast homestay is defined as: a private, owner-occupied residence with one to three guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building. This definition would be applied to "homestays".

Section 7-16-1 provides the conditions under which uses by right subject to special requirements can be established. Bed and breakfast homestays must meet the following requirements:

- Current use districts: RM-6, RM-8, RM-16.
- No displays of goods, products, services, or other advertising shall be visible from outside the building.
- Shall be carried on by a resident of the property.
- A maximum of one full-time equivalent (one FTE) non-resident of the dwelling may be employed.
- On premise retail sales shall not be a component of the bed and breakfast homestay.
- A maximum of 25 percent of the gross floor area of the dwelling unit may be used for the bed and breakfast homestay. For the purpose of calculating the area of the structure devoted to the bed and breakfast use, only the floor areas of the bedroom and bathroom areas used by the bed and breakfast guests shall be considered in such calculations.
- No activities other than lodging, a morning meal, and an evening and/or afternoon refreshment shall be provided.
- Activities shall be provided for overnight guests only.

- Off-street parking shall be provided as required by subsection 7-11-1(c) of this chapter. Parking shall be located on the same lot on which the bed and breakfast homestay is

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located, at the rear of the lot and screened with vegetation from adjacent properties and from the street.

- No accessory structures shall be used to accommodate guests.
- The owner shall reside in the principal structure.
- The length of stay of guests shall not exceed 14 days.
- No home of less than 2,500 heated square feet shall be used for a bed and breakfast homestay.
- Signage shall be limited to a single sign, not to exceed four square feet, attached to the home.
- Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
- Bed and breakfast homestays shall be located a minimum of 500 feet from other bed and breakfast homestays and bed and breakfast inns. In calculating the 500 foot distance between bed and breakfast establishments, measurements shall be taken from the closest property line of the lot of the existing bed and breakfast establishment to the closest property line of the lot of the proposed bed and breakfast homestay. Existing, legally established bed and breakfast homestays that do not meet this separation requirement of 500 feet are permitted to expand to the maximum limits allowed under this chapter, as long as all applicable development standards are met.

This amendment allows the added flexibility for these extremely restricted uses to be accommodated in all residential districts. Additionally, the length of stay is proposed to change from 14 to 30 days and a prohibition on external signage in single family residential districts is proposed to increase neighborhood compatibility.

A suggestion was made by a citizen to increase the distance between homestay uses to 1,000 feet. He used a map that illustrates the effect of various separation distances. A request from Rebecca Manning has also been received for additional short-term rental uses in residential districts.

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

#### Factors for Consideration:

- This would allow an Edwin Avenue property previously denied by City Council to likely qualify as a homestay.
- The City's rich architectural heritage can be shared with more visitors.
- There are many neighborhoods and properties that can benefit from the positive effects of these uses, just as Montford has.
- The regulatory limitations on these uses mitigate their impacts.
- There would be an opportunity for persons negatively affected by the City's short-term rental enforcement efforts to legitimately establish a homestay use.

On October 4, 2006, the Planning and Zoning Commission recommended partial approval of the proposed code amendment by a vote of 6-1 (Ms. Weeks opposed). The Commission was concerned about the expansion of "commercial" uses like homestays into single family districts so their recommendation was to delete the portions of the ordinance dealing with expansion of the uses and retain the change in nomenclature. One version of the ordinance represents the ordinance recommended by the Commission. The other version is the ordinance change originally prepared by City staff. City staff also requests that Council provide direction to staff concerning whether additional efforts should be undertaken to "legalize" short-term rental of properties in residential areas.

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Councilwoman Cape was generally supportive of homestays in our community when they are regulated appropriately. She feels this is a viable economic opportunity for people to stay in their homes with our aging population and rise in taxes.

Mr. Shuford responded to various questions/comments from Council throughout their discussion about the 2,500 square foot requirement for a home to be a homestay and the 500 feet separation from one homestay to the other.

In response to questions from Council, City Manager Jackson said that the benefit of having this controversial UDO amendment before Council at this worksession is not to encourage a debate, but to ask questions for clarification on the amendment.

Mr. Shuford then responded to various questions, some being, but are not limited to: what is the economic impact on the property owner; will the owner have to pay room tax; and are there alternative ways to get at the spacing requirement goal not to

have the residential neighborhood overwhelmed by these issues.

After a brief discussion about the necessity of worksessions, it was the consensus of Council to instruct the City Clerk to bring forward a resolution on November 28, 2006, changing the 2007 City Council meeting schedule to hold three formal meetings a month (the second, third and fourth Tuesdays of each month) at 5:00 p.m. in the Council Chamber (thus deleting the third Tuesday worksession).

Mayor Bellamy asked that the record show that City Council received this information and instructed the City Manager to place this public hearing on the next formal City Council agenda.

**REQUEST FOR QUALIFICATIONS OF DISPOSITION OF CITY-OWNED PROPERTY IN THE DOWNTOWN AREA**

Planning & Development Director Scott Shuford said that this is the second phase offering of City-owned property for redevelopment.

Staff is prepared to proceed with the preparation of a Request for Qualifications (RFQ) for additional City-owned property. Prior to moving forward, we are requesting policy direction from Council so that we can structure an RFQ that will meet your expectations.

There are four key issues that require Council concurrence and direction. These are:

- Whether Council is in agreement with the staff proposal to structure an RFQ that includes some properties as linked and other properties that may be separately proposed for development.
- Whether Council is in agreement with the staff proposal to include other properties not under direct City control in the RFQ.
- Whether Council is in agreement with the staff proposal as to which properties should be included in the RFQ.
- Whether Council is interested in a 'directive' RFQ or whether it agrees with the staff proposal to not limit the creativity of the proposers through a more open-ended RFQ while still ensuring that key city goals are met.

With regard to 'linking' properties, staff notes that the 'prize' property is the so-called "Parkside" site to the immediate south of City Hall. There has been considerable developer interest in this site. Staff proposes to leverage this interest to facilitate the development of other nearby City-owned property with workforce-housing. We would require responders to commit to developing the City-owned property on the west side of Charlotte Street, at a minimum, as a

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condition of being able to acquire development rights to the "Parkside" site. Other properties in this proposed RFQ may be proposed for separate development, exclusive of developer interest in "Parkside."

With regard to which properties are proposed for inclusion in the RFQ, staff has suggested the following list of properties:

- "Parkside"
- Property located on the east and west sides of Charlotte Street
- Rankin parking garage site
- Civic Center parking garage site
- 29 Haywood Street
- Civic Center site
- Properties acquired to site the Battery Park parking garage west of the Civic Center
- Transit Center site on Coxe Avenue
- Parks and Recreation maintenance facility site on Hilliard
- Transit offices/maintenance facility in the WECAN neighborhood

He reviewed in more detail the City-Owned property to be considered for RFQ as follows:

	<b>Identification</b>	<b>Address</b>	<b>Acres</b>	<b>Tax Value</b>	<b>Description</b>
1	Parkside	Marjorie Street	2.47	\$3,862,400	Parking Lots South of City Hall
2	William Wolcott Bldg.	161 S. Charlotte St.	2.73	2,730,000	Public Works building & parking



3	Public Works Compound	171 S. Charlotte St.	4.55	2,502,500	Building, sheds, storage
4	Fleet Management	173 S. Charlotte St.	2.17	2,170,000	Building & parking
5	Water Maintenance	S. Charlotte St.	3.76	6,928,200	Two Buildings & parking
6	ABC Store	179 Biltmore Ave.	0.84	840,000	Store building & parking
7	Service Station	45 McCormick Pl.	0.46	496,500	Service Station facilities
		<b>Sub-Total</b>	<b>16.98</b>	<b>19,529,600</b>	
8	Office of Econ. Dev.	29 Haywood St.	0.18	685,400	Building/Hallway to Parking garage
9	Rankin Street Garage	4042 College Street	0.92	8,420,700	Parking deck
		<b>Sub-Total</b>	<b>1.1</b>	<b>9,106,100</b>	
10	Civic Center	87 Haywood St.	3	22,741,300	Civic Center & Thomas Wolfe Aud.
11	Parking Lot	52 Rankin St.	0.64	785,000	Surface parking
12	Civic Center Garage	68 Rankin St.	0.95	5,708,000	Parking deck
13	Handy Park	68 Haywood St.	0.25	807,300	Parking Building
14	Flying Frog	76 Haywood St.	0.3	806,100	Building & Parking
15	33 Page	33 Page Avenue	0.11	961,200	Building
16	Parking Lot	Page Avenue	0.11	510,000	Parking lot
		<b>Sub-Total</b>	<b>5.36</b>	<b>32,318,900</b>	
17	Park Maintenance	Hilliard Avenue	2.35	57,300 235,000*	Maintenance building & storage
18	Transit Center	360 Haywood St.	3.51	101,300 351,000*	Building & parking
		<b>Total</b>	<b>29.3</b>	<b>61,113,200</b>	
				<b>61,540,600*</b>	

\* Estimated land value

With regard to including non-City-owned properties in the RFQ, potential RFQ responders may be interested in expanding the scope of their responses to include sites not

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owned by the City. For example, the Hayes-Hopson building owned by Stewart Coleman, the property owned by Buncombe County between City-County Plaza and Marjorie Street, and the Harrison family property may be appropriate to include due to their proximity to Parkside properties. At the November 14, 2006, Council meeting, the Eagle Market Street Corporation expressed interest in this approach as well. The RFQ could be structured to invite potential responders to indicate how they might optionally assemble various non-City properties into a development plan.

Finally, with regard to whether the RFQ should be "directive" vs. open-ended, staff notes that, while City Council may be very interested in having an affordable housing component, additional public parking, or a new performing arts center, precisely where (or on which properties) these uses should be located may be better determined by RFQ responders than by the City. To pre-plan the location of certain uses will limit responder creativity. Instead, staff proposes to structure the RFQ so that the following goals previously identified by City Council are clearly known and that responders clearly understand that their opportunity to obtain City-owned property for development is dependent on their prior experience and success in meeting similar goals in other situations.

- Provision of workforce housing
- Potential to promote new or revitalized entertainment venues
- Consistency with City plans or policies, including Smart Growth and environmentally-friendly/green building development practices
- Place-making design that complements our unique Downtown business and residential communities and takes constructive public input into consideration
- Provision of strategically-sited public parking
- Ability to accommodate all modes of transportation
- Potential for significant tax base enhancement

He went into detail for the pros and cons. The pros being (1) the RFQ has the potential to achieve significant results in Council identified goals in housing, public venues, public parking, density, and infill development; (2) the RFQ has the potential to generate interest on a national level by firms with portfolios that include experience in very large scale, mixed use projects; (3) land assembly can be the most prohibitive component of urban development projects, and the offering of City-owned property reduces risk of the developer and should promote increased response; (4) the RFQ process offers the ability for national firms to team local firms in the design, development, and construction phases; and (5) linking the Parkside and S. Charlotte sites provides an opportunity to develop along the new Pack Square Park, along The Block, and along S. Charlotte Street. The cons include (1) redevelopment of city-owned properties will require complex facility master planning to determine relocation/consolidation of existing public facilities on redevelopment sites; (2) there is no assurance that respondents will possess the financial capabilities, qualifications, and experience required for the projects; and (3) linking the Parkside and S. Charlotte Street sites may limit qualified respondents due to the large scale nature of the project.

Once staff has received direction from Council on these four areas, the City Manager will negotiate a contract with a firm having experience in developing complicated RFQs for assistance in the design and distribution of the RFQ and assistance in evaluating the responders' qualifications.

Staff requests Council provide direction on the four identified critical RFQ components and authorize the City Manager to retain consultant assistance in the design and distribution of the RFQ and the evaluation of the RFQ responses.

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He asked for Council's guidance on whether you want staff to link the Parkside and S. Charlotte Street properties together or whether you want more information on that; whether you are content with the list of properties put on the table; whether you want to look at the possibility of including some non city-owned properties in the RFQ; and whether you want to have an open-ended RFQ, which staff is recommending. He said that staff is suggesting we get a consultant to help us phrase the RFQ to make sure that we are going to get respondents that have experience in workforce housing, green building, etc., so that it increases the likelihood of those goals being met.

Mr. Shuford responded to various questions/comments from Council, some being, but are not limited to: what is the current value of the facilities we are currently using in relation to what we are going to get back in terms of selling them off and the tax value; and what is the proximate land and building value of the Public Works Facility when it was built and what is the value at today's dollars.

Councilman Newman felt that regarding linking properties, we should encourage that but not require it. We need to keep our options open. He didn't see any downside to putting all the properties on the RFQ; however, the Civic Center and the two parking decks would be a low priority because we are not trying to lose parking. He hoped we would focus on the large tracks that are clearly underutilized, like the Park Maintenance facility on Hilliard Avenue. He feels that is very valuable property and we could probably find a better place for that facility. Also, the Housing Authority has property adjacent to this land and he encouraged us to talk with the Housing Authority and if they are interested, potentially having some of their property marketed in the RFQ with ours as well. He would support being flexible in the RFQ to achieve as many Council goals on the properties as we can.

City Manager Jackson said that regarding the Civic Center, staff will come back at Council's December 12 meeting to discuss the Capital Improvement Program and the direction for the Civic Center. At that time Council can discuss whether those properties should be included in the RFQ. In the meantime we can engage someone to craft the RFQ and then get direction on where you want to go with the Civic Center.

Councilman Mumpower had a problem with properties that we are currently using for services (e.g., S. Charlotte Street property and the Park Maintenance facility) and was curious to where we would relocate these facilities. We have talked about the value of the proximity services and having them clustered to the core of the City and how it saves money and accomplishes other things for us. Also, RFQ's and RFP's cost people a lot of money and we need to be sensitive about that. He was particularly disturbed about the William F. Wolcott Jr. Building at 161 S. Charlotte Street and wondered if we are taking something off the table that really has a lot of value to us. He questioned a facility that new being torn down. Personally, he is comfortable exploring and experimenting with vacant property, but not currently used property.

Upon inquiry of Councilman Freeborn, Mr. Shuford said that we are not developing a plan to relocate existing uses until we find that Council has interest in putting those properties out there. We did some initial exploration about some possible sites, but nothing in any formal or comprehensive way. There is an opportunity to relocate these maintenance facilities into a single location and we might want to do that eventually because there are economies to be had there and an opportunity to capitalize on the value of the land.

In response to Councilman Freeborn, Mr. Shuford said that the West End/Clingman Avenue Neighborhood would like for the transit offices to be relocated. The neighborhood is willing to tolerate a more dense development there. The site has outstanding views and has the potential to be an attractive multi-family site and the site is large enough to generate a project that would be a source of neighborhood pride.

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Councilman Freeborn felt we should include all the properties in the RFQ along with Council's goals and then see what we get back.

It was the consensus of Council to add the transit station on Coxe Avenue to the table of City-owned property to be included in the RFQ.

Vice-Mayor Jones agreed with not requiring linkages, but encouraging them. She was not interested in having the parking garages included in the RFQ. Regarding the transit station on Coxe Avenue, she felt it was built not long ago and we have already had to transition the people who use it once already. She felt this was a bold initiative and endorsed the goals, particularly for workforce housing and the potential for tax base enhancement.

Councilwoman Cape also was not interested in including the parking decks in the RFQ. She wondered if it's best for staff to look at where is this consolidation land, what would that cost us, what would that look like, and what is its real solid on the ground value before we commit to getting rid of these existing facilities. It might cost us a lot more to get what we need than we would realize.

Councilman Davis said that the Civic Center and the parking decks are functioning well and we are not eager to sell, but we owe it to ourselves to be open to a better use or function of those things. We don't want to take away from the parking decks, but there may be an opportunity for some mixed-use to make those decks bigger. He thinks there are a lot of opportunities here to see what interest there is in being a part of our community. He did not support giving away the things we have, but we should look to see what we can do better.

Mayor Bellamy was excited about the Parkside development and how it relates to what can happen in the Eagle/Market Street area. She felt there may be some opportunities on the property across Charlotte Street on Martin Luther King Jr. Drive for infill and/or town houses up Martin Luther King Jr. Drive. She did not have a problem with keeping the ABC store property on the list, however, she wanted the service station property to be taken off the list because it provides gas for our service vehicles and we just brought the new CNG station on line. She also supported taking the parking decks out of the RFQ. She is totally in support of the Handy Park, Flying Frog, 33 Page Avenue and Page Avenue parking lot being included in the RFQ and suggested we work with nearby land-owners to see if we can support their endeavors. She is supportive of the transit offices being located understanding the relocation issues. She doesn't see the transit offices or the Park Maintenance facility on Hilliard Avenue being the highest and best use of those properties. Regarding the Park Maintenance facility on Hilliard Avenue, she said that Assistant City Manager Jeff Richardson is working on an initiative for housing in that immediate area and suggested contacting him on this issue. She also felt that we should talk to the owners of the vacant land next to the transit station on Coxe Avenue about its potential. She felt the transit station would be a complimentary addition to what could be built on that property.

Councilman Newman encouraged Mr. Shuford to talk with the N.C. Dept. of Transportation about getting the right-of-way released near the old Valley Street that is next to the City Employee parking lot.

Mayor Bellamy felt the William F. Wolcott Jr. Building parking lot could serve as a location for a deck to service the Parkside development and parking for City employees. But, she did have concerns whether the Wolcott building was old enough to be torn down. She also felt that the pedestrian bridge across S. Charlotte Street would be better utilized if staff would maintain the property, especially cutting the kudzu back on a regular basis.

Mr. Shuford said that one of the reasons why the William F. Wolcott Jr. Building was chosen to be a permit center is it does offer easy parking, but by the same token that parking is

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largely taken up by City employees. In addition, we are not able to accommodate all the staff that needs to be involved in the permit center at that location. He suggested Council adding a goal that there be a way to accommodate the office needs and other needs of the City facilities as part of the RFQ. We could add that there needs to be a great deal of sensitivity with regard to addressing parking needs, facility relocation and the possibility that we could actually have a consolidated permit center that would accommodate all the City staff.

It was the consensus of Council to add the City's Purchasing Division on Hunt Hill to be included in the RFQ as that is not the highest and best use of that property.

Vice-Mayor Jones said that we have some other properties in our ownership that we could use for relocation, e.g. the Armory property in west Asheville.

City Manager Jackson summarized by (1) eliminating from the RFQ the parking garages; (2) bringing back the Civic Center issue in December for further direction; (3) including the transit station and the Purchasing Division property on Hunt Hill in the RFQ; and (4) regarding the Charlotte Street property to craft the RFQ to say we have some very valuable buildings and facilities that we want to retain but that we are willing to entertain opportunities that are place-making in nature to address the goals in a phenomenal way.

### **ANNEXATION SERVICES POLICY**

City Manager Jackson said that before staff gets into the rationale and the criteria used in putting together an annexation plan, staff would like Council's feedback on the merits with proceeding with the annexation plan.

Planning & Development Director Scott Shuford said that we have already started our initial investigation of areas that would qualify for annexation and they are in a variety areas around the periphery of the City. We realize there are opportunities for our annexation laws to change since something is brought up at each session of the General Assembly. We are entering into discussions with the Town of Woodfin and Town of Fletcher about where their boundaries might ultimately be and our boundaries might ultimately be. We have determined that we do not need an agreement with the Town of Weaverville or the Town of Black Mountain because of their distance away from us. We would like to continue the policy established by Council of proceeding with annual annexations over the past seven years, noting that we do them in an incremental way and a fiscally responsible way. He asked if Council would like for them to proceed with an annexation plan for 2007.

Upon inquiry of Councilman Freeborn, Mr. Shuford said the benefits of not annexation in 2007 would be the savings of staff time, emotional response from citizens, and the savings of Council time.

City Manager Jackson said that Council has the following three options - (1) continue to be proactive and thoroughly analyze areas that meet statutory thresholds; (2) scale back the annexation areas for more connectivity; and (3) postpone annexation.

Mr. Shuford said that we have been able to keep taxes at essentially the same level to some extent due to annexation and the growth that has occurred in our community. Without those tools we do lose some of the revenue potential we might otherwise get. Council has the option of delaying the effective date of annexation up to 400 days after the annexation ordinance passes, and, there are other options to delay the effective date of annexation to give people more time to adjust. Again, we face challenges on our borders and there may be some state-wide action to tie our hands.

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Vice-Mayor Jones supported moving forward in a scaled back version. She felt that annexation done in a fiscally appropriate way is about advocating for the citizens of Asheville. It's about equity and fairness for our citizens.

Councilman Newman said that we have not been aggressive with our annexations and would support moving forward in a scaled back version. He would support having our staff analyze the areas around the City that are rapidly urbanizing and then bring forward the ones that clearly meet the criteria and let Council make their decisions about each one of them on their merits. We are having more and more people living around the City of Asheville coming into the City and using our services and infrastructure and asking them to pay no taxes is unfair to the Asheville resident.

Councilman Mumpower is against involuntary annexation. He feels that it is divisive and creates a number of problems for us. If Council chooses to involuntary annex, he felt we should provide services comprehensively. He would not support any annexations in 2007.

Councilman Davis is a proponent of annexation where it is normal and where urbanization has occurred. With our situation the way it is with the Water Agreement, we should have a tool in the future for voluntary annexations. He would support a scaled back version especially in the areas that have some potential to be precluded from annexation for other reasons. Regarding the other areas that are not in jeopardy, he would support holding off any annexations in 2007.

Councilwoman Cape was concerned about the state-wide legislation restricting cities from having the ability to annex in general. While she is not in support of actively pursuing annexation in all areas, we need to be careful that we don't lose the

opportunity at all.

Mayor Bellamy supported the scaled back version because Council has a lot to accomplish in 2007.

Mr. Shuford said there may be some mutual exclusivity about what direction we have been given. Councilman Davis mentioned that there may be some areas that if we don't act in the relatively near future, they could be potentially precluded from our ability to annex. And to some extent, having some good healthy annexation agreements is a way to address that in lieu of annexation. We will certainly pursue that as well. Also, by the same token, we may have some areas that aren't necessarily fill-in that would be in jeopardy of not being able to be annexed for other reasons.

Mr. Shuford responded to Councilman Mumpower about why our state legislators are contemplating doing away with forced annexation.

Mayor Bellamy felt it was important for our legislators to understand the need for Asheville to have true control of our water system with regard to annexation.

It was the majority of Council's decision to proceed with the annexation on a scaled down version.

Mr. Shuford said that regarding Council direction regarding certain annexation policies prior to developing the next proposed annexation phase, the provision of sewer services is one that staff will bring back to Council at a future date because a policy change would have to be in effect for 180 days for water and sewer policy changes and so this would not affect anything staff will bring forward to Council in 2007. Regarding the acceptance of private streets and private sidewalks, he suspects we will not be in a situation where those would be of a concern in the

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2007annexation. Regarding the annexation of manufacturing uses, staff will avoid using manufacturing uses to the extent as possible based on prior Council direction.

Vice-Mayor Jones was explicit that she did not want to annex any manufacturing uses.

Regarding the manufacturing facilities, Councilman Newman felt that adding additional financial burdens to manufacturing facilities is valid, but we have manufacturing facilities in the City and they pay twice the amount of what other manufacturing facilities pay. If we follow these policies year after year of not growing naturally as growth and development occurs, the path we will be on is high taxes and lousy services. He wondered if there may be some proactive ways for our City to grow and still support these economic engines.

Mr. Shuford said that clearly if manufacturing facilities are brought into the City they have the ability for lower insurance premiums. In addition, our Economic Development Director is in the process of developing some economic development incentives for businesses in our City.

Councilman Davis felt that we need to be careful in thinking about manufacturing facilities when there are many small businesses in the City as well.

Councilman Mumpower spoke against annexation of manufacturing businesses.

#### **BOARDS AND COMMISSIONS:**

After a short discussion, it was the consensus of Council to instruct the City Clerk to (1) prepare the proper paperwork to reappoint Kenneth Kaplan to serve an additional 3-year term, term to expire November 13, 2009, or until his successor has been appointed; and (2) re-advertise for the other appointment with a January 2007 deadline (since Ms. Holmes-Young has served two full successive terms).

Regarding the vacancies on the Educational Access Channel Commission, Vice-Mayor Jones, Chair of the Boards & Commissions Committee, explained that Mr. Tim Amos, Chair of the Educational Access Channel Commission, sent a letter to City Council on September 18, 2006, outlining their reasons recommending that City Council abolish the Educational Access Channel Commission because it has served its useful purpose. In the letter, he said they have completed their initial implementation and oversight of the city- and county-wide educational access channel. They have secured non-city funding for the at least near term needs of the channel, and have established a collaborative oversight consortium of educational institutions to ensure its future. Also, the community has benefited from the successful operation of the Educational Access Channel for several years now which has yielded nothing but positive feedback from viewers and stakeholders. As a result, there has been little or no action required by the

Commission for quite some time. For these reasons, they recommended that the City Council abolish the Educational Access Channel Commission. Vice-Mayor Jones said that she has talked to Mr. Amos at length about this. It was the consensus of Council to (1) invite Mr. Amos to an upcoming Council meeting to present his request; and (2) instruct the City Attorney to prepare a resolution dissolving the Educational Access Channel Commission to be considered at the time Mr. Amos makes his presentation.

After City Attorney Oast explained the role of the Board of Directors for Victoria of Asheville, it was the consensus of Council to have the City Clerk prepare the proper paperwork to reappoint Assistant City Manager Jeff Richardson, Chief Financial Officer Ben Durant and City Attorney Oast to each serve an additional three year term respectively to the Victoria of Asheville Board of Directors, terms to expire November 29, 2009, or until their successors have been appointed.

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After a brief discussion about the mission of the Film Commission, it was the consensus of Council to invite a representative of the Film Commission to an upcoming Council meeting to discuss their goals and ways Council can help strengthen the Commission, and then proceed with making appointments to that Commission, if appropriate.

It was the consensus of Council to have the City Clerk arrange the following interviews for vacancies on the Sustainable Advisory Committee on Energy and the Environment: Sylvia Farrington, Jane Mathews, Jonathan Barnes and Lach Zemp. After a short discussion on the different ways to ensure that Progress Energy has a seat on the Committee, it was the consensus of Council to restructure the membership so that one of the "designated" energy management seats be re-designated for the Progress Energy Regional Vice President (or other appropriate official) or his/her designee.

At 8:37 p.m., Councilman Freeborn moved to continue the closed session. This motion was seconded by Councilman Newman and carried unanimously.

At 9:20 p.m., Councilman Freeborn moved to come out of closed session. This motion was seconded by Vice-Mayor Jones and carried unanimously.

**ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 9:20 p.m.

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CITY CLERK

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MAYOR