

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Diana Hollis Jones; 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: Councilwoman Robin L. Cape (participating in an Inter-City visit to our Sister City, Saumur, France)

PLEDGE OF ALLEGIANCE

- Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Mumpower gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items "B", "C", and "D" were removed from the Consent Agenda for individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 12, 2007

Councilman Davis requested that the minutes be amended to read as follows regarding partisan elections: "Councilman Davis did not support the ordinance in that he felt it goes against the very thing that democratic parties are built around and that is inclusiveness."

B. BUDGET AMENDMENT TO APPROPRIATE N.C. DEPT. OF JUSTICE BULLETPROOF VEST REIMBURSEMENT FUNDS FOR THE PURCHASE OF POLICE PATROL SAFETY EQUIPMENT

This item was removed from the Consent Agenda for an individual vote.

C. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH JORDAN JONES & GOULDING FOR THE PROJECT KNOWN AS WATER MASTER PLAN

This item was removed from the Consent Agenda for an individual vote.

D. BUDGET AMENDMENT TO FUND THE LEASE PURCHASE AGREEMENT WITH THE TRUST FOR PUBLIC LAND FOR THE ACQUISITION OF 29.62 ACRES OF LAND ON BEAUCATCHER MOUNTAIN

This item was removed from the Consent Agenda for an individual vote.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Newman moved for the adoption of the June 12, 2007, minutes as amended. This motion was seconded by Councilman Mumpower and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. ORDINANCE NO. 3486 - BUDGET AMENDMENT TO APPROPRIATE N.C. DEPT. OF JUSTICE BULLETPROOF VEST REIMBURSEMENT FUNDS FOR THE PURCHASE OF POLICE PATROL SAFETY EQUIPMENT

Summary: The consideration of a budget amendment, in the amount of \$20,576, to appropriate Department of Justice Bulletproof Vest reimbursement funds for the purchase of police patrol safety equipment.

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The Asheville Police Department currently participates in the Department of Justice Bulletproof Vest Reimbursement Program. This program is designed to off-set the tremendous cost involved in purchasing bulletproof vests for police officers. During the current fiscal year, the City of Asheville has collected \$20,576 from the Department of Justice Bulletproof Vest Reimbursement Program. Adding these funds into the police (patrol) safety equipment budget line would assist in the purchase of additional bulletproof vests for Asheville Police officers.

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

Pro:

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

Con: None noted.

City staff recommends City Council approve a budget amendment in the amount of \$20,576 to appropriate Department of Justice Bulletproof Vest reimbursement funds for the purchase of police patrol safety equipment.

Councilman Mumpower felt that at a time when the national debt is in the trillions of dollars, he felt it was inappropriate to take money from the federal government.

Vice-Mayor Jones moved to adopt Ordinance No. 3486. This motion was seconded by Councilman Freeborn and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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C. RESOLUTION NO. 07-122- RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH JORDAN JONES & GOULDING FOR THE PROJECT KNOWN AS WATER MASTER PLAN

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Jordan Jones & Goulding, in the amount of \$550,000, for the project known as Water Master Plan.

This project consists of a professional engineering firm to provide professional services for the preparation of a new Water Master Plan. The last water Master Plan was completed in 1995. Typically water utility master plans are updated every five years.

The Water Resources Department advertised a Request for Qualifications (RFQ) on Thursday, March 15, 2007. Four (4) RFQ's were received from Brown and Caldwell, Hazen and Sawyer, Jordan Jones & Goulding, and Stearns & Wheler. After a thorough review of the RFQ documents by Water Resources Department staff, Jordan Jones & Goulding was selected based upon professional qualification. Staff negotiated a price of \$550,000 for the scope of work for the Master Plan.

This project totaling \$550,000 for professional services has been funded in the Water Capital Projects Fund.

Jordan Jones & Goulding has performed several projects of this nature in the past in a satisfactory manner. They are a financially stable company that has been in existence for almost 50 years. Former clients were pleased with their work, and they have one of the largest engineering staffs doing water system modeling and master planning.

Considerations of adopting a resolution authorizing the City Manager to execute this contract are as follows:

Pros:

- The execution of this contract will allow the City of Asheville Water Resources Department to create a water distribution system model, identify existing water demands and forecast those demands in five-year increments over the planning period, analyze and assess water storage and distribution needs for domestic and fire supply, project population demands for water for a 30-year planning period, develop a GIS-integrated water computerized hydraulic model and map; identify pressure zones and make recommendations for reductions in pressure throughout the system, make recommendations for flow meter installations throughout the system, and identify projects within the system that meet the qualifications of the revenue bond financing, including the Town Mountain Project and Fairview Storage Tank Project which are vital components of the \$35 million revenue bond and future pay-as-you-go projects.
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- The Master Plan will determine storage requirements for the Town Mountain service area including tank and pump station location which will enable the Patton Mountain tank to be taken out of service and demolished. The Fairview area is the

fastest growing part of our system and the Master Plan will address current and future needs and storage capacity required to serve this part of the water system.

- The bid amount of \$550,000 for the professional engineering services of the Water Master Plan is equitable and comparable to others in the water industry.

Cons:

- There are no cons to this project. The current master plan is outdated and needs to be updated. Funds area available.

Staff recommends that City Council adopt a resolution authorizing the City Manager to execute a contract with Jordan Jones and Goulding, in the amount of \$550,000 for the project known as Water Master Plan.

Water Resources Director David Hanks responded to Councilman Mumpower when he asked how many of the recommendations we followed when the last plan was adopted approximately 12 years ago.

Councilman Mumpower felt that until we resolve our legal issues regarding the Sullivan Acts, he would be hesitant to spend additional moneys on additional plans.

Vice-Mayor Jones moved for the adoption of Resolution No. 07-122. This motion was seconded by Councilman Freeborn and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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D. ORDINANCE NO. 3487 - BUDGET AMENDMENT TO FUND THE LEASE PURCHASE AGREEMENT WITH THE TRUST FOR PUBLIC LAND FOR THE ACQUISITION OF 29.62 ACRES OF LAND ON BEAUCATCHER MOUNTAIN

Summary: The consideration of a budget amendment to fund the lease purchase agreement with The Trust for Public Land for the acquisition of 29.62 acres of land on Beaucatcher Mountain.

On March 20, 2007, City Council approved in concept the acquisition of 29.5 acres of land on the west slope of Beaucatcher Mountain. In addition, on May 15, Council approved a resolution authorizing an agreement with The Trust for Public Land to finance acquisition of this land through installment purchase contracts. The budget amendment will provide the necessary legal and technical adjustment to fund the \$575,000 that the City has committed to this purchase.

Staff is recommending that the funding for this lease purchase agreement be taken from two sources. In March, City Council approved a budget amendment in the amount of \$250,000 to purchase land at the Asheville Regional Airport. Staff has since learned that this land purchase will not take place, thus this \$250,000 is available to fund a portion of the \$575,000 needed for the Beaucatcher Mountain lease purchase agreement. Staff is recommending that the remaining \$325,000 needed for the Beaucatcher Mountain lease purchase agreement be appropriated from fund balance. This appropriation will lower the City's Fiscal Year 2006-07 year-end fund balance to an estimated 31.5%. Based on current revenue and expenditure trends, staff does not believe that this appropriation will have a negative impact on Fiscal Year 2006-07 or Fiscal Year 2007-08 fund balance levels.

PROS:

- Fully funds land purchase agreement agreed to at prior Council meeting.

CONS:

- Will cause a slight decrease in fund balance

City staff recommends City Council approve the budget amendment to fund the lease purchase agreement with The Trust for Public Land for the acquisition of 29.62 acres of land on Beaucatcher Mountain.

Councilman Mumpower felt that changes were made from the original proposal presented and although he believes this is a good purchase, he was uncomfortable in voting in support.

Vice-Mayor Jones moved for the adoption of Ordinance No. 3487. This motion was seconded by Councilman Freeborn and carried on a 5-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

III. PRESENTATIONS & REPORTS:

A. NEW ASHEVILLE SPEEDWAY MEMORIAL FUNDRAISING KICK-OFF NIGHT OF THUNDER-DOWN ON THE RIVER REUNION

Councilman Davis said that the Asheville City Council, in coordination with Buncombe County Commissioners, has been working in tandem to coordinate fundraising efforts aimed at erecting a Memorial at the City's Carrier Park, in an effort to honor the history of NASCAR and automobile racing at this former racing venue. He showed Council the conceptual design of the Asheville Speedway Memorial, which they hope will be built by the fall of 2007.

With the City Council's support, he has been serving on a local committee, including Commission Chair Nathan Ramsey, and we have been working in an effort to fundraise enough money to build an appropriate NASCAR Memorial sometime later this year at the City's Carrier Park. The committee's first opportunity will be a community kick-off, scheduled for Thursday, June 21, 2007, at Carrier Park. The committee has set a fundraising goal of at least \$30,000 for this Memorial with hope to surpass that amount, raising as much as \$50,000 over the next several months. Eblen Charities has agreed to receive charitable donations during the entirety of this community fundraising effort, as a pass through agency, with all proceeds going toward construction of the Memorial.

The June 21st New Asheville Speedway, Night of Thunder Down on the River Reunion Night is a collaborative effort from the City, the County, Eblen Charities, and key local NASCAR celebrities to host an event filled with fun excitement, as local NASCAR legends share their memories of what racing has meant to this community. The evening's events include live music and food as well as the following events:

Admission to the event will be \$10.00 for adults, \$5.00 children under 12 and free for children under 6. Admission will include the event poster with a border for autographs.

- 5:00 p.m. NASCAR Legends Welcome: Brad Daugherty and Andy Petree, Masters of Ceremonies.
- 5:15 p.m. Autographs and Pictures with NASCAR Legends
Driver Car Displays, Driver & Fan Informal
- 6:30 p.m. NASCAR Memories: A Panel of Drivers will field questions from fans about race memories. Stories will be shared.
- 7:30 p.m. NASCAR Raffle of Racing Memorabilia:
Grand Prize Auction: Four Tickets to Bank of America 400
- 8:00 p.m. Autograph and Picture Opportunities
- 9:00 p.m. Conclusion

The committee has enjoyed tremendous staff support from Jeff Richardson, Jim Orr and Al Kopf.

He noted that the Buncombe County Commissioners will match the City's contribution, but anticipated that amount would be minimal because their goal is to raise the entire amount by public donations.

Councilman Mumpower moved to continue support for this fundraising kick-off and other efforts with all proceeds going to the NASCAR Memorial at Carrier Park. This motion was seconded by Councilman Freeborn and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING A SINGLE LOT LOCATED ON HAYWOOD ROAD FROM RM-8 TO COMMUNITY BUSINESS II DISTRICT

ORDINANCE NO. 3488 - ORDINANCE REZONING A SINGLE LOT LOCATED ON HAYWOOD ROAD FROM RM-8 TO COMMUNITY BUSINESS II DISTRICT

Mayor Bellamy opened the public hearing at 5:23 p.m.

Urban Planner Alan Glines said that this is the consideration of rezoning a single lot located on Haywood Road from RM-8 Residential Multi-Family Medium Density District to Community Business II District. This public hearing was advertised on June 8

and 15, 2007.

Mr. Glines said that the proposal is to rezone a single parcel from Residential Multifamily-Medium Density (RM-8) to Community Business II (CB II). The parcel is wooded and has a fairly steep natural slope. It appears that the lots were never built on. The only access for the properties is Haywood Road. Properties adjacent to this to the south are commercial uses and are zoned CB II. Across the street the properties are zoned CB II and River and both are currently vacant. The property relates to Haywood Road by access and general orientation. Haywood Road is a busy connecting corridor and commercial uses have expanded from the center of west Asheville out along to the ends of the street over time. As a part of this expansion the single family style structures along the corridor are expected to either convert to commercial uses or the parcels will be redeveloped with new structures for commercial uses. As the corridor redevelops, residentially zoned areas will be provided a property line buffer to shield the commercial uses.

Although unofficial at this time and continuing in the discussion phase, the Haywood Road Corridor Committee is considering a zoning change for properties along Haywood Road. This zoning change is expected to include properties fronting along Haywood Road from the French Broad River and continuing most of the way to Patton Avenue. In general the new zoning district will have design requirements in a similar way to the proposed mixed-use district and is to modified to reflect Haywood Road for height, building scale and residential density.

Because this application is termed a 'straight' rezoning there is no site plan associated with this parcel included with this request.

The residential multi-family medium density district (RM-8) is established to provide areas for medium density residential uses including both multi-family and single family units. A limited list of neighborhood related non-residential uses are also permitted in the district. Residential density is limited to eight units per acre.

The Community Business II district (CB II) is established to provide areas for medium to high density business and service uses for multiple residential neighborhoods. This community business center may serve as a workplace for many residents in the surrounding neighborhoods and should be sensitive to both pedestrian movement and automobile access. Residential density is limited to sixteen units per acre.

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

Pros:

- An infill parcel may be developed
- The Haywood Corridor is primarily a commercial connecting roadway.
- The parcel is a good candidate for small scale mix-use development
- Property line buffers will require landscaping that will protect residential neighbors if the property develops

Cons:

- The site will require grading in a similar way to other properties along Haywood Road

This rezoning request was recommended for approval by a 6-1 vote by the Planning and Zoning Commission. No one spoke at the meeting. Two people called in the days leading up to the meeting to inquire about the request.

The Planning and Zoning Commission at their May 2, 2007, meeting voted 6-1 to recommend approval of the rezoning request because it meets the goals of the comprehensive plan. Staff concurs with this recommendation.

Mayor Bellamy closed the public hearing at 5:27 p.m.

Mr. Glines responded to various questions and/or comments from Council, some being, but are not limited to: what standards will be applied for the stability of the lot; what type development could be built on that shallow site; how close can grading occur to the next door lots; and what types of buffer will be required for a development.

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

Vice-Mayor Jones moved for the adoption of Ordinance No. 3488. This motion was seconded by Councilman Davis and carried unanimously.

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH NEW LEVEL III THRESHOLD ADJUSTMENTS

Mayor Bellamy opened the public hearing at 5:37 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to establish new Level III threshold adjustments. This public hearing was advertised on June 8 and 15, 2007.

This code amendment is in response to direction from City Council to develop an approach that would provide threshold adjustments for certain types of Level III projects that promote City goals and objectives. This amendment would provide for increased review thresholds for developments that promote housing, environmentally-friendly construction, natural resource conservation, community building, and transit goals. In other words, developments which accumulated sufficient point totals under this amendment would receive procedural relief as an incentive to meeting key City of Asheville goals.

The selected categories include items that can be independently verified and enforced prior to issuance of a certificate of occupancy.

Staff is exploring future, general development amendments. These "next steps" are not part of this ordinance and are provided for informational purposes only.

Pros:

- Provides developments that meet certain key City goals with review incentives.
- Streamlines the development review process.

Con:

- Removes Planning and Zoning Commission and City Council review from certain types of developments.

The Planning and Zoning Commission spent considerable time on this ordinance, recommending adjustments to include the listed definitions and a "Community Building" category. The amendment has been routed to CAN, CREIA, and CIBO, among others, for review and comment.

On May 2, 2007, the Planning and Zoning Commission recommended approval of the proposed code amendment by a vote of 6-1 (Mr. Byers was opposed due to not being able to specifically view the several changes before voting). City staff recommends approval of the proposed code amendment.

Ms. Elaine Lite expressed concern about the lack of accountability.

Mayor Bellamy closed the public hearing at 5:42 p.m.

In response to Councilman Newman, Mr. Shuford said that this only applies to projects that are allowed under that zoning district.

Councilman Newman felt we should not apply this in all zoning categories, but only in those areas where we want to focus on intense development. He also questioned how the greenbuilding aspects were chosen and if people really involved in the greenbuilding community had input. He felt that incentivizing renewable energy technology in new development projects should be included since it is measurable and can be verified up front.

Mr. Shuford explained how the greenbuilding aspects were chosen noting that there is an opportunity for more discussion.

Councilman Newman also questioned if we are giving incentive points for things that people already have to do, e.g., stormwater, open space preservation, or awarding points for things that are done above and beyond the basic requirements, which is how he felt it should be. Mr. Shuford explained how points would not be awarded for something already required.

Councilman Newman questioned the priority places aspect on the City's website. Mr. Shuford explained that the priority places item is to put areas and properties Council designates into a very market-driven type of situation to encourage development, e.g., Broadway corridor, River areas, Central Business District, individual sites designated in the 2010 Comprehensive Plan, etc. He suggested, with regard to Council's concern about steep slope areas, that we indicate that areas designated as steep slopes are not eligible for consideration under this provision.

Councilman Newman liked a lot of these concepts, but felt the ordinance needed more work.

Mayor Bellamy felt the concept is good; however, it takes out public comment at two levels, since the Planning & Zoning Commission and City Council will not be reviewing the projects. Since we have the Sustainable Energy & Environment Committee in place, she wondered if there should be a policy in place that requires them to review an ordinance of this type. She felt the increased thresholds are too large for our community without more public input. She questioned how the different categories were chosen and how can we tighten them up to make better policy.

Mr. Shuford suggested Council table this action and refer it to the Sustainable Energy & Environment Committee for review and comment, and then it be sent back to the Planning & Zoning Commission for additional review. After that, then it can come back to City Council for consideration.

Mayor Bellamy felt an incentive should be given to those developers who reach out to the community on the front end of a project.

Councilman Mumpower would have to speak against the ordinance because he felt Council gives staff mixed policy guidance. Council asks staff to simplify the UDO, but then tries to exert greater control. He felt this is an example of such.

Councilman Freeborn felt this is a good foundation. He suggested (1) this ordinance be limited to the priority places only; (2) a design charette or a community forum should be required by developers on the front end; and (3) incentives should only be awarded for things that go above and beyond the basic requirements.

Vice-Mayor Jones supported the community involvement at the front end and also the incentives being awarded only for going above and beyond the basic requirements. In simplifying facets of this ordinance, we should take out zoning districts that we know the zoning will trump it.

Vice-Mayor Jones moved to table this action and refer it to the Sustainable Energy & Environment Committee for review and comment, and then it be sent back to the Planning & Zoning Commission for additional review. After that, then it can come back to City Council for consideration. This motion was seconded by Councilman Newman.

Councilman Davis said that this ordinance was reviewed at the Planning & Economic Development Committee (PED) and they had some of the same questions and concerns raised by Council at this meeting. He felt this was a good way to get green goals accomplished, but was concerned about the lack of review.

Councilman Newman questioned if in some cases we should tighten up on some of our standards and in other cases make it easier when projects are doing things that the community wants.

Councilman Davis, at Vice-Mayor Jones' suggestion, made a friendly amendment that the ordinance go back to the PED first and then to Planning & Zoning Commission.

Mayor Bellamy could not support the motion because she feels this is an issue of public trust. Since we have changed the UDO quite a few times recently, we need time to show the public that we can make our ordinances work properly.

When Councilman Freeborn suggested a broad community conversation about development as a whole, Vice-Mayor Jones said that there are a lot of themes in this ordinance from the development forum that was held last May.

Vice-Mayor Jones restated the motion and moved that the ordinance be remanded to the Planning & Economic Development Committee for further review and further input by appropriate committees and public groups and interested parties. This motion was seconded by Councilman Newman and carried on a 4-2 vote with Mayor Bellamy and Councilman Mumpower voting "no."

C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE FOR COTTAGE DEVELOPMENTS AS A USE BY RIGHT SUBJECT TO SPECIAL REQUIREMENTS IN CERTAIN RESIDENTIAL ZONING DISTRICTS

ORDINANCE NO. 3489- ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE FOR COTTAGE DEVELOPMENTS AS A USE BY RIGHT SUBJECT TO SPECIAL REQUIREMENTS IN CERTAIN RESIDENTIAL ZONING DISTRICTS

Mayor Bellamy opened the public hearing at 6:16 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to provide for cottage developments as a use by right subject to special requirements in certain residential zoning districts. This public hearing was advertised on June 8 and 15, 2007.

This code amendment provides for cottage developments as a use by right subject to special requirements in certain residential zoning districts (RS-8, RM-6, RM-8, and RM-16). Cottage developments are small single family homes clustered around a common open space area, generally at greater density than the underlying zoning would allow for more traditional single family development. The impact of the density increase is offset by the size of the homes. This style of development is becoming more common as an infill development strategy that is compatible with surrounding development.

City Council has expressed interest in allowing cottage developments. This ordinance has been developed to facilitate that direction and is the result of considerable research on how such ordinances have been developed in other jurisdictions. Additionally, the Planning and Zoning Commission spent considerable time on this ordinance, recommending adjustments to maximum floor area, accessory structure provisions, applicable zoning districts, and separation between cottage developments.

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

Pros:

- Provides infill development opportunities
- Adds new style of housing to local market

Con:

- Increases density

On May 2, 2007, the Planning and Zoning Commission recommended approval of the proposed code amendment by a vote of 7-0. City staff recommends approval of the proposed code amendment.

Mr. Joe Minicozzi, President of the Coalition of Asheville Neighborhoods, supported the concept. He felt Council's appointments to the Planning & Zoning Commission should contain a more well-rounded board of professionals, e.g., planners, architects, etc.

Mayor Bellamy closed the public hearing at 6:26 p.m.

It was the majority of Council's consensus to ask the Boards and Committees Committee to review the board make-up of the Planning & Zoning Commission, with input from Planning staff.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3489. This motion was seconded by Councilman Freeborn and carried unanimously.

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D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO APPLY HILLSIDE GRADING REQUIREMENTS TO SINGLE FAMILY AND DUPLEX DEVELOPMENTS

ORDINANCE NO. 3490 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO APPLY HILLSIDE GRADING REQUIREMENTS TO SINGLE FAMILY AND DUPLEX DEVELOPMENTS

Mayor Bellamy opened the public hearing at 6:28 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to apply hillside grading standards to single family and duplex developments. This public hearing was advertised on June 8 and 15, 2007.

This code amendment has been requested by the City Council to more broadly apply the hillside regulations to single family and duplex uses. This change allows the density and grading requirements to apply to those types of uses.

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

Pro:

- Hillside regulations will be able to be applied to single family and duplex development.

Con:

- Applying hillside regulations to these situations may make it more difficult for such development in hillside situations.

The Planning and Zoning Commission recommended approval of this code amendment on June 6, 2007, by a vote of 4-1. City staff recommends approval of the proposed code amendment.

Mr. Jake Quinn spoke in support of this amendment.

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

Councilman Mumpower felt this ordinance exerts an unnecessary level of control on private property.

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

Councilman Freeborn moved for the adoption of Ordinance No. 3490. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 3491 - ADOPTION OF THE FISCAL YEAR 2007-08 ANNUAL OPERATING BUDGET

Mayor Bellamy said that the public hearing on this matter was held on June 12, 2007.

Chief Financial Officer Ben Durant said that this report presents the Fiscal Year 2007/2008 Annual Operating Budget for City Council's consideration before adoption.

The Fiscal Year 2007-08 Annual Operating Budget was formally presented to City Council on May 8, 2007. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the Public Hearing was published on June 1 and June 8, 2007. City Council conducted a public hearing on the budget on June 12, 2007.

General Fund

The net operating budget presented to City Council on May 8 was set at \$129,864,448, including a General Fund appropriation of \$89,323,929. The proposed budget presented to Council for adoption tonight includes changes that were made after the proposed budget was published on May 8. Those changes are discussed below:

- At the June 12 budget work session, Council voted to make two fee changes which impacted the General fund revenue budget. The first change that Council endorsed was a 50% reduction in the household recycling fee. This fee reduction, which will save Asheville households \$15.78 per year, resulted in a \$400,000 reduction in the General Fund revenue budget.
- Council also voted at the June 12 work session to eliminate the maximum fee caps on business privilege licenses for retail, wholesale, and service establishments. This change will produce approximately \$75,000 in additional revenue in FY 2007/2008.
- Finally, Council agreed to increase the ABC revenue budget by \$100,000 based on updated revenue information provided by the ABC Board.

In summary, the changes endorsed by Council on June 12th left the General Fund budget out of balance by \$225,000. To re-balance the General Fund budget, staff is proposing two adjustments:

- Reduce the Manager's Contingency by 50%. This reduction will produce a savings of \$100,000.
- Adopt a managed savings program to take advantage of attrition savings opportunities and other possible contract savings. Staff believes it can save an additional \$125,000 utilizing a managed savings approach.

The table below summarizes the changes to the proposed budget presented to Council tonight.

<u>Council Action:</u>	<u>Effect:</u>
1) Reduced Recycling Fee by 50%	(400,000)
2) Eliminated Privilege License Caps	75,000
3) Adjusted ABC Revenue Estimate	100,000
Total Revenue Reduction	<u>(225,000)</u>

<u>Proposed Reductions to Balance Budget</u>	
1) Reduce Manager's Contingency by 50%	(100,000)
2) Managed Savings Program	(125,000)
Total Expenditure Reduction	<u>(225,000)</u>

Firefighter Retirement Benefit

In addition to the budget changes noted above, Council also directed staff to prepare a funding strategy for a firefighter retirement benefit program in which the City provides a 2.0% match. Human Resources staff estimates that it will take at least 90 to days to implement this new retirement program. With an October 1 estimated start date, a 2.0% City match will require \$130,000 in funding for FY 2007-08. It is estimated that full year funding for the program will cost approximately \$177,000.

If Council adopts this new firefighter retirement plan, staff is recommending that Council fund the program with additional revenue. In the current proposed FY 2007-08 budget, staff projected tax base growth of 3.0% for next fiscal year. The City's tax base has grown by an average of 3.4% over the last ten fiscal years. Based on this growth rate average and continued strong building permit activity, staff is recommending that we adjust the projected tax base growth upward to 3.3%. This small adjustment in the FY 2007-08 property tax revenue projections will produce the necessary revenue to fund the firefighter retirement plan while not adversely impact the General Fund.

Outside Agencies

Outside Agency funding is presented in accordance with the Revenue & Finance Committee's recommendations and is included in the budget presented tonight for adoption.

Parking Fund

Council also directed staff to reduce the fees in the Parking Fund for surface lots and on-street permit parking by \$5.00 each. This fee reduction will lower the Parking Fund revenues by an estimated \$20,000. To offset this reduction and keep the Parking Fund balanced, staff will reduce the amount set aside for future parking deck construction by \$20,000.

Other Fees & Charges

In addition to the parking fee reductions and the changes to the household recycling fee and the business privilege license fee that Council has agreed to implement, the Revenue & Finance Committee also made recommendations on various other changes to the fees & charges schedule based on requests submitted by staff during the budget process. These proposed changes were presented to Council at the May 22 work session. Council did not take action on these recommendations at that May 22 work session; thus, they are *not* included in the budget presented tonight for adoption. Council, however, may elect to review these recommendations and provide direction along with adoption of the budget.

Staff requests that Council review the FY 2007-08 Annual Operating Budget, including the changes noted above, and make necessary recommendations or adjustments followed by adoption of the Budget Ordinance.

Vice-Mayor Jones believes this budget is incredibly strong. It commits to a significant investment in our infrastructure particularly water, an unprecedented increase in public safety for our entire community, basic community priorities such as sidewalks and downtown cleanliness, and a long-standing benefit issue for our firefighters of a 2% match to a 401-A. In addition, it offers some tax and fee relief for families that live in Asheville. She sees the genesis of this budget coming out of the community forum in January, following by subsequent Council retreats culminating in this document. This is a produce of hours and hours of Council deliberation.

Vice-Mayor Jones moved for the adoption of the Fiscal Year 2007-08 Annual Operating Budget to include the changes outlined above. This motion was seconded by Councilman Freeborn.

Councilman Newman was proud of the commitment to begin looking at energy challenges facing our community in promoting sustainable energy conservation in the City organization; the downtown planning process; increase of funds for law enforcement; and providing some relief to Asheville taxpayers.

Councilman Mumpower felt Council should have further deliberation on the issue of firefighters. He agreed that they have a legitimate concern, however, he questioned if the 2% match into a 401-A is fair consideration. He had hoped for a permanent fix as he felt this will be an on-going budget consideration in future years when the firefighters will request Council to raise the 2%.

Councilman Freeborn felt that input from the community forums and retreat represent this budget. We have funding for better planning and enforcement relating to the Unified Development Ordinance; continued increase in funding for our transit system; significant increase in funding for the Police Department; funding for a Downtown Master Plan; funding to revise our Greenway Master Plan; funding to look at our Parks & Recreation Master Plan; and addressing a retirement inequity for our firefighters. He did urge the firefighters, however, to vote for Social Security because in the long-run it would be a much better system.

Councilman Mumpower felt the Council deserves credit for capital improvements efforts and for maintaining our savings account at a significant level; however, he would have to vote against the motion. He felt (1) this budget has thrown money and personnel at our drug problem without accountability and established goals that would ensure it's success; (2) we are setting up our firefighters to be pitted against Council in the future and isolating them from the rest of the City employees; (3) appropriating a quarter of a million dollars to non-profits who should solicit tax free donations; and (4) this budget includes a token tax decrease as a screen for the real issue of some of our policies and methodologies which result in the expenditure of substantial funds for things he personally disagrees with - things that represent a distraction from the essential issues, such as public safety and going after our open air drug market.

Mayor Bellamy recognized Chief Financial Officer Ben Durant and Budget Director Tony McDowell for their willingness to work hard for this Council. For the second year now, City staff has gone a great job in tightening their belt under the leadership of City Manager Jackson, with cost-saving measures. Council heard a detailed analysis from City staff of how can we re-focus and re-prioritize what we are doing as a City to make sure that we have cost-cutting measures in place to better serve the public. She explained the issue of the inequity with the firefighters. She said that most people who have a job contribute 6.2% into Social Security and your employer matches that 6.2%. But in North Carolina (particularly Asheville) our firefighters have the opportunity to opt out and they do not contribute to Social Security. Council was tasked with the question of how do we make that equitable as far as other City employees who get that 6.2% for their retirement. Since 1999 when she was elected to City Council, being equitable to our firefighters was always an issue. This year for the first time our firefighters have put something on the table that they and Council agree with. She's not sure this is the best solution; however, she will support the motion.

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

The motion made by Vice-Mayor Jones and seconded by Councilman Freeborn carried on a 5-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

B. SECOND READING OF ORDINANCE NO. 3481 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR ASHEVILLE RADIO GROUP LOCATED AT 1190 PATTON AVENUE FOR THE CONSTRUCTION OF A TELECOMMUNICATION TOWER

Mayor Bellamy said that the public hearing on this matter was held on June 12, 2007.

Vice-Mayor Jones moved to adopt on the second and final reading Ordinance No. 3481. This motion was seconded by Councilman Davis carried unanimously,

C. CONTINUATION OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING STEEP SLOPE AND RIDGETOP REQUIREMENTS

Mayor Bellamy said that this public hearing was opened on April 24, 2007, and continued to May 8, 2007, at which time the public hearing was closed. The action was continued until June 12, 2007, in order for Council to review specific data.

Planning & Development Director Scott Shuford said that this ordinance returns to Council's agenda at the June 19 meeting. The conversation following the June 12 worksession and Steep Slope discussion item indicated some Council interest in potentially continuing this item to July 10, owing to Council members' travel commitments in late June. Should Council still find the July date to be preferable, staff is prepared for the change in schedule. The Open Space and Retaining Wall Unified Development Ordinance amendments, which had been scheduled to accompany this item, could be kept as scheduled or continued to the later date as well.

Staff's hope is that the June 12 worksession discussion served to provide additional clarification regarding the elevation and slope thresholds, as well as the proposed single-family home site and subdivision design changes. Staff has added the visualization presentation to the City web site, as the Mayor requested.

Councilman Freeborn moved to continue this matter until July 10, 2007. This motion was seconded by Councilman Mumpower and carried unanimously.

D. CONTINUATION OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REVISIONS TO THE OPEN SPACE STANDARDS

ORDINANCE NO. 3492- ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REVISIONS TO THE OPEN SPACE STANDARDS

Mayor Bellamy said that this public hearing was opened on April 24, 2007, and continued to May 8, 2007. However, due to the length of the May 8 meeting, this public hearing was continued until this date.

Planning & Development Director Scott Shuford said that this code amendment is intended to implement goals, objectives and tasks of the City Council's Strategic Operating Plan (SOP) related to the Natural and Built Environment. The SOP proposes enhanced recreational facilities, especially greenways, as well as a fee-in-lieu program. The Unified Development Ordinance (UDO) currently contains requirements for open space provision for property being developed or redeveloped for residential and for tourist accommodation purposes. These requirements note the connection between development and loss of open space, and include measures to compensate for this loss. In practice, however, the current requirements are not especially effective in providing meaningful compensatory open space and may, in some cases, actually be at odds with City smart growth policies that promote a more urban development pattern. The proposed ordinance provides a more balanced approach to open space provision by better relating it to the use proposed for the property, the associated zoning district or districts, and any related park, greenway and open space plans and policies. Additionally, there is greater flexibility created by providing for fee-in-lieu of open space.

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

Pro:

- Creates a simpler, more flexible set of open space regulations.

Con:

- Some projects may not be pursued due to expense of compliance.

Staff recommends City Council approve an ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville revising the open space requirements. The Planning and Zoning Commission recommends approval of the proposed code amendment by a unanimous vote (6-0).

Mayor Bellamy closed the public hearing at 6:57 p.m.

Councilman Newman questioned what responsibility would a developer have if their property was in the Greenway Master Plan. Mr. Shuford said that if they get a density bonus to build, they are required to give the property necessary for the greenway.

At 7:00 p.m., Mayor Bellamy announced a moment of silence for the nine firefighters who lost their lives battling a furniture

warehouse fire in Charleston, South Carolina.

Councilman Mumpower felt that instead of simplifying the UDO this amendment adds to our difficulties and he would not support the amendment.

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

Councilman Newman moved for the adoption of Ordinance No. 3492. This motion was seconded by Vice-Mayor Jones and carried on a 4-2, with Councilman Davis and Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

D. CONTINUATION OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE CREATING RETAINING WALL REQUIREMENTS

ORDINANCE NO. 3493 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE CREATING RETAINING WALL REQUIREMENTS

Mayor Bellamy said that this public hearing was opened on April 24, 2007, and continued to May 8, 2007. However, due to the length of the May 8 meeting, this public hearing was continued until this date.

Planning & Development Director Scott Shuford said that since the steep slopes and ridgetop ordinance will result in the increased construction of retaining walls to minimize grading and land disturbance, a separate ordinance regulating retaining walls has been developed in concert with that ordinance, although the retaining wall requirements will apply to a broader range of circumstances than just steep slope and ridgetop situations.

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

Pro:

- Provides a mechanism to address the impacts of retaining walls.

Con:

- Will likely add to the cost of retaining walls.

Staff recommends approval of an ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville creating retaining wall requirements. The Planning and Zoning Commission recommends approval of the proposed code amendment by a unanimous vote (7-0).

Mr. Joe Bassett recommended language that limits the total height of retaining walls.

Mr. Joe Quinn also recommended language that limits the height of retaining walls. He also noted that the screenings and coverings for retaining walls are insignificant.

Mayor Bellamy closed the public hearing at 7:08 p.m.

There was a brief discussion about limiting the height of retaining walls. Mr. Shuford explained that we cannot anticipate what engineering circumstances might occur that would result in a wall in excess of whatever height Council would approve. He suggested if Council is going to place a height limit that Council exempt public works projects, whether they be highway projects, projects necessary to support roads, etc. He noted that developers and engineers would prefer wider road corridors so they wouldn't have to put in retaining walls because they are expensive and would only be a last resort.

Councilman Mumpower spoke against the amendment in that we are continuing to add complexity, costs and controls.

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

Councilman Newman moved for the adoption of Ordinance No. 3493 and instructed City staff to review the question of a height limit for retaining walls. This motion was seconded by Vice-Mayor Jones and carried on a 5-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

VI. NEW BUSINESS:

A. CONSIDERATION OF APPOINTMENTS TO THE BOARD OF ADJUSTMENT, THE CIVIC CENTER COMMISSION, THE GREENWAY COMMISSION, THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION, THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AND URTV, INC.

It was the consensus of City Council to instruct the City Clerk to arrange the following interviews for an Alternate vacancy on the Board of Adjustment: Eric Zetterholm, Carolyn Burton and Kristy Carter.

Councilman Davis moved to instruct the City Clerk to prepare the property paperwork to reappoint John Broadbooks to the Civic Center Commission. This motion was seconded by Mayor Bellamy and carried unanimously. In addition, it was the consensus of City Council to instruct the City Clerk to readvertise for the vacancy on the Civic Center Commission in order to have diversity on said Commission.

It was the consensus of City Council to instruct the City Clerk to arrange the following interviews for vacancies for the Greenway Commission: Thomas Mesk and Christopher Gilbert.

After a brief discussion of the Asheville-Buncombe Historic Resources Commission make-up and whether it complies with our ordinance, Councilman Mumpower moved to instruct the City Clerk to prepare the proper paperwork to reappoint Marsha Shortell, Todd Williams and Susanne Jones to the Historic Resources Commission. This motion was seconded by Mayor Bellamy and carried unanimously. Vice-Mayor Jones requested the City Clerk contact the Buncombe County Clerk to update their appointments on said Commission.

Councilman Mumpower moved to instruct the City Clerk to prepare the proper paperwork to reappoint Mark Wilson and Sandra Bradbury to the URTV Inc. Board of Directors. This motion was seconded by Councilman Davis and carried unanimously.

VII. OTHER BUSINESS:

Legislative Matters

City Attorney Oast said that the Asheville City School Board's attorney has included the City of Asheville in legislation that would facilitate the sale of real property pursuant to the police and fire / school teacher housing assistance program that the City is currently exploring. The legislator who is sponsoring this bill has requested the Council formally request inclusion of the City on this legislation.

Also, the School Board's attorney has contacted him requesting that the City take a position opposing legislation (HB 1284) that would have the effect of extending the statute of limitations for certain claims arising out of construction contracts. The actual limitations period of two years would not be changed, but the time of its accrual would be changed from the date of the occurrence to the date of substantial completion of construction. On major construction projects this could be a difference of over a year. The problem this presents for school boards and other local governments is that claims could be made long after a project is completed and the budget for it is closed out.

Councilman Mumpower would vote against any action in that it is a last minute addition to the agenda.

Vice-Mayor Jones moved for Council to request inclusion in the bill to facilitate the sale of real property, and that Council authorize City staff to contact our local delegation to express our concern about HB 1284. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Charlie Hume spoke in opposition to changing to a partisan election without allowing the public to vote on the issue. He urged Council to be mindful of costs incurred until after the petition to remain non-partisan is found valid or invalid.

Mr. Mike Fryar spoke against partisan elections and felt it is the people's vote.

Mr. Gillian Kerns felt that if Council is going to have partisan elections, he hoped the City would move to the direction of both district and at large representation. He felt Council should have allowed the people to vote on this.

Closed Session

At 7:45 p.m., Councilman Mumpower 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: City of Asheville, State of North Carolina, County of Buncombe, Reid Thompson and Greenlife Grocery. The statutory authorization is N. C. Gen. Stat. sec. 143-318.11 (a) (3). This motion was seconded by Councilman Freeborn and carried unanimously.

At 9:35 p.m., Councilman Freeborn moved to come out of closed session. This motion was seconded by Vice-Mayor Jones and carried unanimously.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:35 p.m.

CITY CLERK

MAYOR