

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Freeborn gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 31, 2007, AS “JANET ‘WONDERWOMAN’ RHODES DAY”

Mayor Bellamy read the proclamation proclaiming October 31, 2007, as "Janet 'Wonderwoman' Rhodes Day" in the City of Asheville. She presented the proclamation to Ms. Rhodes who is retiring from the City of Asheville after working 25 years, most of which was in the General Administration Department of the City.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items “B”, “F”, “G” and “H” were removed from the Consent Agenda for individual votes.

- A. APPROVAL OF THE MINUTES OF THE SPECIAL MEETING HELD ON OCTOBER 3, 2007, AND THE REGULAR MEETING HELD ON OCTOBER 16, 2007**
- B. RESOLUTION AUTHORIZING THE EXECUTION OF ANY AND ALL DOCUMENTS TO REGISTER A TRADEMARK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE FOR “THE ASHEVILLE PROJECT”**

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

C. RESOLUTION NO. 07-188 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE INSPECTION OF BRIDGES ON THE MUNICIPAL STREET SYSTEM

Summary: The consideration of a resolution authorizing the Mayor to execute a Municipal Agreement with the N.C. Dept. of Transportation (NCDOT) for the inspection of bridges on the municipal street system.

In 1983 the Federal Highway Administration developed the Federal Off-System Bridge Replacement Program. The program is funded 80% through federal funds and 20% through City funds and administered by the NCDOT. To remain eligible for replacement funds and avoid penalties, it is required that all public bridges are inspected every two years. The NCDOT offers three options for meeting the bi-annual inspection requirements:

- (1) Do the inspection with City forces;
- (2) City to hire a consultant to do the inspections;
- (3) City to allow NCDOT to do the inspections through a qualified private engineering firm.

Since 1983 the City has elected to execute an agreement with NCDOT to accomplish the required inspection through their personnel or engineering consultants. This process allows high numbers of bridges to be inspected under one contract or operation, and therefore, results in minimum inspection cost per bridge. It is anticipated the inspections cost to be \$2,600 per bridge for the upcoming inspections. The City has 30 bridges requiring inspection this year, which bring the cost to \$78,000. The City's share of 20% is \$15,600. Funds for the City's share are budgeted in the Public Work's Contracted Services budget line.

Pros:

- Lower cost of bridge inspection due to high volume.
- Use of qualified engineering firms through NCDOT.
- Fulfills requirement for bi-yearly bridge inspections.
- Indicates areas for repair for Public Works staff.

Con:

- None identified.

The Public Works Department, Streets Division, recommends City Council authorize the Mayor to execute a Municipal Agreement with the NCDOT for the inspection of bridges on the municipal street system.

RESOLUTION BOOK NO. 30 – PAGE 447

D. RESOLUTION NO. 07-189 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING PROPERTY OFF BAXTER STREET

Summary: The consideration of a resolution directing the City Clerk to advertise an offer of purchase for upset bids regarding property off Baxter Street.

A bid has been received from David Freck in the amount of \$1,700 for the purchase of land off Baxter Street.

The land off Baxter Street was acquired by the City as part of the East End/Valley Street Community Improvement Program. It is a rectangular shaped fragment lot comprising 0.02 acre±. It has no access and was intended to be sold to an adjoining property owner. It is zoned RS8, and it is not suitable to build on. The bid from David Freck is in the amount of \$1,700. We have in file an appraisal letter prepared by Troy Flack dated May 18, 2007, estimating the market value of the property. Mr. Freck proposes to acquire the subject parcel for assemblage with the property he owns next door.

Pros:

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

Con:

- There is no negative impact.

The proceeds from the sale of this parcel will be Community Development Block Grant Program Income.

Economic Development staff recommends City Council approve a resolution directing the City Clerk to advertise an offer of purchase for upset bids regarding property off Baxter Street.

RESOLUTION BOOK NO. 30 – PAGE 448

E. RESOLUTION NO. 07-190 - RESOLUTION ACCEPTING THE BID OF EXTERIOR DIAGNOSTIC SERVICES INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH EXTERIOR DIAGNOSTIC SERVICES INC. FOR RESTORATION REPAIRS TO THE CIVIC CENTER PARKING DECK

Summary: The consideration of a resolution accepting the bid of Exterior Diagnostic Services, Inc. in the amount of \$486,280 and authorizing the City Manager to execute an agreement with Exterior Diagnostic Services, Inc. for restoration repairs to the Civic Center Parking Deck.

The City of Asheville owns and operates three parking decks, Civic Center, Rankin Avenue, and Wall Street. The Civic Center deck was built in 1976 and the other two in 1988. Like any structure, these parking decks deteriorate over time.

In 2003 Carl Walker Parking conducted an assessment on the condition of all three facilities. As would be expected they identified numerous conditions that needed repair. It is estimated that the total cost of repairs to the three decks will be approximately \$1.5 million with the Civic Center deck, being the largest and oldest, requiring the most repairs. Their assessment was divided into emergency repairs and non-emergency repairs. The emergency repairs were completed in 2005.

Earlier this summer a contract was signed with Carl Walker Inc to act as construction management for the non-emergency repairs to Civic Center Parking Deck. They prepared the construction specification and drawings. Repairs will include repairs to tension cables, patching and sealing holes in the concrete, stairwell repairs, sealing and coating the deck surface, and restriping the parking area. Requests for bids were sent out and the bids were publicly opened on August 31, 2007. Bids ranged from \$1,181,260 to \$486,280. Exterior Diagnostic Services was the low bidder at \$486,280. These funds are budgeted and do not require further budget action.

The advantage of this to the City is by correcting problems in the deck now will prevent more costly repairs later and will extend the useful life of the parking facility.

The disadvantages are that there will be some inconveniences to parking patrons as the work progresses. With proper planning these can be minimized.

City staff recommends City Council approve a resolution accepting the bid of Exterior Diagnostic Services, Inc. in the amount of \$486,280 and authorizing the City Manager to execute an agreement with Exterior Diagnostic Services, Inc. for restoration repairs to the Civic Center Deck.

RESOLUTION BOOK NO. 30 – PAGE 449

F. RESOLUTION STATING THE CITY’S INTENT TO ACCEPT GRANT FUNDS FROM THE N.C. DEPT. OF ENVIRONMENTAL AND NATURAL RESOURCES TO IMPLEMENT STREAM RESTORATION ALONG REED CREEK

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

G. RESOLUTION STATING THE CITY’S INTENT TO ACCEPT GRANT FUNDS FROM THE N.C. DEPT. OF ENVIRONMENTAL AND NATURAL RESOURCES TO IMPLEMENT A RAIN GARDEN/WATER MANAGEMENT PROJECT AT RICHMOND HILL PARK

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

RESOLUTION BOOK NO. 30 - PAGE

H. BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE IMPROVEMENTS TO THE BURTON STREET RECREATION CENTER

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

I. ORDINANCE NO. 3544 - BUDGET AMENDMENT TO RECEIVE GRANT FUNDS FROM THE FRIENDS OF THE NATURE CENTER TO SUPPORT GENERAL IMPROVEMENTS TO THE GRAY WOLF HABITAT

Summary: The consideration of a budget amendment in the amount of \$6,500 to received grant funds from the Friends of the Nature Center to support general improvements to the gray wolf habitat.

The Friends of the Nature Center is a 501 (c) 3 non-profit organization whose purpose is to act as an advocate for the Western North Carolina Nature Center, and to raise funds to support the programs and enhancements at the Nature Center.

The Friends recently acquired a \$6,500 grant from the Earl M. Wilson and Helen K. Jones Trust to support general improvements to the gray wolf habitat, purchase wolf toys and replace the wolves’ water bowl.

Pros:

- Make improvements to the gray wolf habitat, purchase toys for the wolves, and replace the water bowl that leaks and no longer adequately supplies water for the wolves.
- Support the overall well being and safety of the gray wolves living at the Nature Center.

Con:

- None

The Parks and Recreation Department recommends City Council approve a budget amendment in the amount of \$6,500 to receive grant funds from the Friends of the Nature Center to support improvements to the gray wolf habitat.

ORDINANCE BOOK NO. 23 - PAGE

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 Freeborn moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Cape and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION NO. 07-187 - RESOLUTION AUTHORIZING THE EXECUTION OF ANY AND ALL DOCUMENTS TO REGISTER A TRADEMARK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE FOR “THE ASHEVILLE PROJECT”

Summary: The consideration of a resolution authorizing the Mayor to execute any and all documents to register

trademarks with the United States Patent and Trademark Office for "The Asheville Project".

To protect this name and other names unique to the City of Asheville, the City Attorney's Office has recommended that the City register such names with the United States Patent and Trademark Office.

For more than a decade, the City of Asheville has been a pioneer with its Wellness Initiative, providing City employees with a wellness program that has attracted nationwide attention. The program is cost effective and sensitive to the medical problems and concerns of employees by providing proactive evaluation, counseling, monitoring and no cost prescription treatment for diabetes, asthma, high blood pressure, high cholesterol, and depression. The program has been instrumental in successfully intervening in and changing the lives of employees who, without the program, may have waited until a critical incident to seek medical help. In addition, this program has allowed the City to significantly control health care costs. This wellness initiative has been successfully marketed by the City as "The Asheville Project."

Recently, what Asheville is doing with its wellness initiative and the name in particular, "The Asheville Project," was discussed favorably on the floor of the United States Senate. Because of this enormous success and the national recognition, it is important for the City to ensure that those who use its name do so consistent with the standards and requirements of the City.

Pros:

- Allows the City to control uses for the name
- Provides recognition to the City as a pioneer in the health care field

Con:

- Requires monitoring for enforcement

City staff recommend City Council approve a resolution authorizing the Mayor to execute any and all documents to register trademarks with the United States Patent and Trademark Office for "The Asheville Project."

After Councilman Mumpower was concerned about trying to police a whole country, Assistant City Manager Jeff Richardson explained the importance of registering this particular trademark.

Councilman Freeborn moved for the adoption of Resolution No. 07-187. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no".

RESOLUTION BOOK NO. 30 – PAGE 446

F. RESOLUTION NO. 07-191 - RESOLUTION STATING THE CITY'S INTENT TO ACCEPT GRANT FUNDS FROM THE N.C. DEPT. OF ENVIRONMENTAL AND NATURAL RESOURCES TO IMPLEMENT STREAM RESTORATION ALONG REED CREEK

Summary: The consideration of two resolutions stating the City's intent to accept grants from the N.C. Dept. of Environmental and Natural Resources (1) to implement stream restoration along Reed Creek in the amount of \$32,000 and (2) to implement a rain garden/water management project at Richmond Hill Park in the amount of \$55,000.

Funds are available through the N.C. Dept. of Environmental and Natural Resources, Division of Water Resources to implement water quality projects at Reed Creek Greenway, Phase I and Richmond Hill Park via a partnership North Carolina State University Water Quality Group.

The first grant is \$32,000 for stream restoration and storm water wetlands along Reed Creek, a heavily impaired stream, which drains over 600 acres of downtown Asheville. The project will redirect stream flow to decrease stream bank erosion as well as establish a new native plant riparian buffer. The second grant is \$55,000 for creating a rain garden at Richmond Hill Park to filter storm water from the existing parking lot. The rain garden is a Low Impact Development (LID) feature that will help return this formerly eight acre forested area of Richmond Hill Park to its predevelopment hydrology.

The Division of Water Resources receives funding from the North Carolina Department of Environmental and Natural Resources. The North Carolina State University Water Quality Group identified and steered the grants towards the City and will be contacted to design the projects, provide construction observation, post construction monitoring and testing and public educational tours of the completed projects.

Each grant requires a match from the City for which in-kind services are acceptable. The in-kind match consist of construction services previously rendered via the Parks and Recreation Department for the grading and paving contracts for the Richmond Hill Park parking area and Reed Creek Greenway, Phase I. Both projects are complete and these water quality projects are enhancements that have been accounted for in the design and construction for each project. The Parks and Recreation Department will manage and oversee all aspects of the projects. The grant requires both projects must be completed by June 2008 and the City expects to meet that deadline.

Pros:

- Projects will strengthen the City of Asheville's commitment to water quality.
- Projects will serve as public examples of the type of LID that the City has endorsed through its ordinances.
- Fulfill the full intention of the Richmond Hill Park master plan.

- Fulfill the full intention of the Reed Creek Greenway master plan.

Con:

- Increases the Parks and Recreation Department's capital projects above the proposed Fiscal Year 2007-08 capital projects. The Parks and Recreation Department recommends City Council approve two resolutions stating the City's intent to accept grants from the N.C. Dept. of Environmental and Natural Resources (1) to implement stream restoration along Reed Creek in the amount of \$32,000 and (2) to implement a rain garden/water management project at Richmond Hill Park in the amount of \$55,000.

Councilman Mumpower moved for the adoption of Resolution No. 07-191. This motion was seconded by Vice-Mayor Jones and carried unanimously.

RESOLUTION BOOK NO. 30 – PAGE 450

G. RESOLUTION NO. 07-192 - RESOLUTION STATING THE CITY'S INTENT TO ACCEPT GRANT FUNDS FROM THE N.C. DEPT. OF ENVIRONMENTAL AND NATURAL RESOURCES TO IMPLEMENT A RAIN GARDEN/WATER MANAGEMENT PROJECT AT RICHMOND HILL PARK

Summary: See Consent Agenda "F" above.

Upon inquiry of Councilman Mumpower, Mr. Seth Henler-Voss explained that the rain garden/water management project was part of the original Richmond Hill Park plan.

Councilman Mumpower moved for the adoption of Resolution No. 07-192. This motion was seconded by Vice-Mayor Jones and carried unanimously.

RESOLUTION BOOK NO. 30 – PAGE 452

H. ORDINANCE NO. 3543 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE IMPROVEMENTS TO THE BURTON STREET RECREATION CENTER

Summary: The consideration of a budget amendment in the amount of \$215,000 to establish a budget for the improvements at the Burton Street Recreation Center.

The City of Asheville applied to Community Development Block Grant (CDBG) in January 2007 for a grant to support building improvement cost at the Burton Street Recreation Center. A \$155,000 grant was recently awarded and is matched by a \$60,000 appropriation from the Fiscal Year 2007-08 general capital improvement budget funding allocation for the Parks and Recreation Department.

Funds will be used to support general improvements to the interior of the building including replace HVAC, improve ADA accessibility, make minor kitchen upgrades, add storage areas and paint the interior of the building. The funds will also be used to replace exterior doors and windows, replace the floors in the weight room, craft room and kitchen, and replace restroom fixtures.

Pros:

- Provide funds to make needed improvements to the interior of the Burton Street Recreation Center to maintain the facility and to support programming needs.
- Fulfill commitment to the Burton Street neighborhood to make improvements to the facility.

Con:

- None

The Parks and Recreation Department recommends City Council approve a budget amendment in the amount of \$215,000 to establish a budget for the improvements at the Burton Street Recreation Center.

At the request of Councilman Mumpower, Parks & Recreation Director Roderick Simmons explained what improvements would be made to the Burton Street Center.

Councilman Mumpower felt that neighborhoods are not improved with perfection of facilities. He believed that people make that difference.

Mayor Bellamy said that this came to the Housing & Community Development's level a few months. The neighborhood residents explained how they are taking back their community. One year ago you couldn't walk up the street without someone approaching you to buy drugs. The neighborhood energized themselves and have taken back their community. A lot of the issues they have been plagued with, they are overcoming. They are now requesting some assistance from the City. They have asked for

the recreation center to be improved and speed humps on their street. This action will show that City Council has bought into the overall picture of that community and together, we can make that community grow.

Councilman Newman moved for the adoption of Ordinance No. 3543. This motion was seconded by Councilman Freeborn and carried on a 6-1 vote with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

III. PRESENTATIONS AND REPORTS:

A. GANG SUPPRESSION AND COMMUNITY CENTER SECURITY RECOMMENDATIONS

City Manager Jackson said that this agenda includes a staff presentation to inform Council of the immediate action plan that we are implementing to prevent gang activity and improve recreation center security. He asked for Council's endorsement.

Police Chief Bill Hogan summarized the management plan being implemented. He said the APD presentation on local gang activity has been made to: the Buncombe County Sheriff's Office, Buncombe County Gang Violence Prevention Project, AmeriCorps, West Riverside Operation Weed & Seed, and UNC-Asheville seniors class. The following are presentations scheduled to be made to: TC Roberson PTO, Asheville Housing Authority Board, Asheville High School staff/faculty, and City of Asheville Operating Department.

There is ongoing communication and cooperation on gang-related issues with Dept. of Juvenile Justice, Dept. of Social Services, Dept. of Probation and Parole, Henderson Co. Sheriff's Dept, Buncombe Co. Sheriff's Office, District Attorney's Office, and Buncombe Co. Gang Violence Prevention Project.

Regarding staffing and training: (1) 3 officers trained in the use of GangNet, a statewide database that aids law enforcement in tracking and validating gang affiliations; and (2) adding 2 APD gang investigator positions. These detectives will track, analyze and manage gang intelligence internally and via GangNet, with a special emphasis on prosecuting gang members under RICO laws.

There is partnership with the Parks & Recreation Department: School Resource Officer Jason Briscoe has been providing after school security at the Reid Center. In the 10 months that Officer Briscoe has been at the center, there has been a 52% reduction in calls for service from the facility. Most of Officer Briscoe's time is now spent on mentoring, rather than on security issues at the center.

Two new Gang Investigator positions will be added at a first year cost of \$140,470. The investigators filling these positions would be responsible for tracking, analyzing, and investigating gang members and gang crimes, with an emphasis on prosecuting gang members as part of a continuing criminal enterprise and racketeering organization. They would also help fill a missing educational component, helping guide youth away from gang activity. The County has also agreed to expand its gang-related investigations and an Assistant District Attorney has been assigned to enhance judicial prosecution.

Parks & Recreation Director Roderick explained the security assessment and the short-term improvements: A team of staff members developed short-term security recommendations in these areas: access management, enhanced staff supervision, enhanced police presence, other low-tech investments (examples include making entry/exit points one way, upgrading and updating security systems, etc.)

A team of City employees from the Parks & Recreation, Police and Fire Departments recently convened to develop enhanced security measures for the City's recreation centers. The team developed a set of short-term improvements that fall into four categories:

- Access Management: Parks' staff at the four Gym Centers will implement a sign-in/check-out system that will allow staff to monitor and track the attendees who are using the Centers;
- Enhanced Staff Supervision: The Parks & Recreation Department will add additional part-time staff members, which will allow the Department to provide three staff members at each Gym Center at all times.
- Enhanced Police Presence: Off-duty Police Officers will be added to provide an additional security presence at each of the Gym Centers.
- Low-Tech Security Investments: The City will implement measures to enhance security monitoring at the Gym Centers.

The costs for the enhanced staff supervision and police presence for the remainder of the current year totals \$74,400. The annual cost for these enhancements, which will need to be included in next year's budget, will be \$128,960. Funding for the

technology improvements will come from the \$80,000 that Council approved during the budget process for citywide building security enhancements. The access management system can be implemented at no cost. The short-term measures that staff is recommending to Council tonight represent an initial low-cost effort to make immediate security improvements at the Gym Centers.

Regarding the security assessment of the long-term improvements, staff will make recommendations for implementing long-term security improvements through the annual budget process. Examples could include improved security equipment and software, photo ID system, park patrol program, etc. Staff will continue to evaluate other long-term solutions and report back to Council at a later date on additional security options and the costs for implementing them.

Costs associated with gang prevention and center security will be absorbed via currently budgeted funds for security enhancements and savings in other expenditures.

The Action Plan consists of (1) Add two Gang Investigator positions; (2) Continue community education on gang prevention & intervention; (3) Increase part-time staffing at Community Center gyms; (4) Assign off-duty police personnel to provide additional security at Community Centers; (5) Implement other low-tech security enhancements; and (6) Support and assist community partnerships.

Councilwoman Cape said that we can measure this in terms of sustainability. The measurable components would be "what is the environment and what can we do to fix the environmental situation," and "what is the cultural component?" But, the component we are not addressing is "what other economic options can we offer these kids other than getting involved in crime." She would like more information on that component.

Councilman Freeborn felt this is a good approach for the short term but agreed with Councilwoman Cape on all three components. He felt we need to charge staff with bringing forward in the next budget a more comprehensive after-school job program.

Mayor Bellamy said that there are other community partners who are looking to expand the City of Asheville Youth Leadership Academy Program because it was so successful for the young people who participated. Other partners, like Mission Hospitals, UNC-Asheville and hopefully the Chamber of Commerce and other business leaders, are looking at providing jobs for individuals after school so that the kids not only have an opportunity for something to do, but they also have money. The Housing Authority is also working diligently within their agency which will impact how people hang out. They will need Council support to have the support of the police officers to enforce the rules they would like to put in place. There are a lot of things happening so the goal for the community is not just a police problem, not just a city program, not just a parent problem, but a whole community problem. Another issue is how peer pressure plays a part in this. Not all kids that are in gangs are doing it because they want to sell drugs and commit crimes, but they want someone to love them and the gangs provide that. So, how do we make sure they are loved outside of that - in their homes - and make sure their parents have jobs so they can provide them with things they need to be successful.

Police Chief Hogan responded to various questions/comments from Councilman Mumpower, some being, but are not limited to: what are the differences of the gang problems now than 3 years ago; how much gang activity is related directly or indirectly to drugs; are we talking about formal gangs or groups and associates with common goals; is there any sense where illegal immigrants play in these gang equations; and what percentage of the people who call themselves gang members are "wannabes".

Councilman Mumpower felt we have had a drug thug culture in our community for years. Last year we made a commitment to eliminate the open air drug market and he believed we have backed off that commitment to everybody's detriment. Drugs are at the core of almost everything. As long as we have drug thugs openly dealing on the streets with kids around, with no parent around, or with no community involvement, we can't save those kids, no matter how nice the recreation center is. The explained a program the Drug Commission started which meets every Thursday night to work with the drug dealers to help them get off the street. They helped 7 men get good jobs, but they lost every one of them back to the street. The point is once people get caught up in the drug world, it is extremely hard to get out of it and prevention is the only way to solve the problem. The gangs won't flourish unless the drugs do.

Councilman Freeborn asked that when staff comes back with a more comprehensive approach to the issue, will there be an element to deal with gang related graffiti.

City Manager Jackson said that staff will be providing updates as they become available on the following different initiatives: (1) graffiti abatement pilot program for downtown; (2) expanding job opportunities, internships and training programs through public-private partnerships and with non-profits; (3) working with Housing Authority on the de-concentration of poverty and as their proposals are developed we will report to Council; (4) periodic reports on the success of the high schools and overall

education system of dealing with the drop-out rates; (5) developing specific recreational programs to expand our efforts with teenagers and at-risk youth as part of our budget process; (6) social services information; and (7) Ministerial Alliance is developing some ideas for special events, activities and partnerships.

Vice-Mayor Jones shared a brief inspirational story of a prevention effort of a woman who lives in Pisgah View Apartments.

It was the consensus of Council to instruct the City Manager to move forward with the action plan and in the direction outlined.

B. FINANCIAL QUARTERLY REPORT

Chief Financial Officer Ben Durant updated Council on the Water System Revenue Bond issue. They recently made a presentation to the bond rating agencies of Moody's and Standard & Poore, with the hopes of getting an increase in our bond rating. The economic overview is as follows: Asheville's unemployment rates are low below state and national levels; the City's average population growth grew 1.46% from 2003 to 2006; Asheville has the largest per capital retail sales of any city in North Carolina; construction permits demonstrate consistent growth; City assessed valuations exhibit strong growth; and Asheville has enjoyed average annual customer growth of 2.44% from 2003 to 2007.

Highlights since 2005 include: (1) \$20 million from operations for maintenance; (2) implemented new asset management system; (3) first utility in the nation to achieve ISO 14001 environmental performance standards, (4) rate increases began; (5) Capital Improvement Plan fee \$6.0 million annually year to accelerate funding of needed maintenance; and (6) excess water capacity for future growth of service area.

He showed charts of (1) average usage and peak demand; (2) a comparative rate structure of North Carolina cities monthly rates as of June 30, 2006; and (3) how our financial strength fuels fund balance growth.

They were impressed on how we manage our system and upgraded our bond ratings as follows: Moody's - before A1 and now Aa3; and Standard & Poor - before A+ and now AA-.

Mayor Bellamy thanked Council and staff because when we took the water system over there was a lot of conjecture in the community about our ability to run the system. We are managing our finances much better with transparency. We are running the Water Resources Department as a utility and we are putting money back into the system and making a big difference regarding water quantity and water quality.

When Councilman Newman asked what kind of financial difference a better bond rating would be for Asheville, Mr. Durant explained that there will be lower insurance costs, but would ask the underwriters to provide a more specific answer for Council.

Budget Director Tony McDowell reviewed the current budget, outlining the amendments made to date, for a total budget of \$90,584,498.

General Fund revenue highlights include: (1) Property tax revenue will come in slightly over budget. More detailed information from the County in January; and (2) Sales tax will come in slightly under budget: (1) Retail sales are slowing; (2) City's share of County sales tax revenue decreased by 6.1% due to County not lowering its property tax rate as much as the City did following revaluation; (3) Strong construction activity locally is pushing up building permit revenue; (4) Powell Bill revenue exceed budget by \$200,000; and (5) Overall, general fund revenues are projected to exceed budget by \$586,000.

He reviewed a chart showing the Powell Bill's 10-year history.

General Fund expenditure highlights include: (1) Departments projected to save \$495,000 through normal attrition & operating savings; and (2) Expected Fund Balance Usage: \$4.7 million.

He showed how the Fund Balance year-end estimate is 20.1%.

He also reviewed the enterprise funds of Water, Civic Center, Transit, Parking, Festivals, Golf and Stormwater.

Throughout discussion, Mr. Durant and Mr. McDowell responded to various questions/comments from Council, some being, but are not limited to (noting that information not available at this meeting will be provided to Council): do we know the total amount of sales tax collected in Buncombe County and the other cities in Buncombe County; regarding water of the cities identified on a chart shown, are those rates for all their customers, or just the municipal customers; and request for an update on the Civic

Center roof project.

Vice-Mayor Jones noted that anytime a city lowers the tax rate, they are penalized by how much of the sales tax allocation will come to them.

After a brief discussion initiated by Mayor Bellamy, it was the majority of Council's consensus to ask staff to look at and report back on some best practices about how we can creatively help homeowners when their homes are impacted by stormwater from public infrastructure, possibly with the use of Housing Trust funds or stormwater fund money.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 55 PINEY MOUNTAIN DRIVE FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A RETIREMENT RESIDENCE FACILITY

ORDINANCE NO. 3545 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 55 PINEY MOUNTAIN DRIVE FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A RETIREMENT RESIDENCE FACILITY

Mayor Bellamy opened the public hearing at 6:18 p.m. and turned over the gavel to Vice-Mayor Jones to preside.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to conditionally zone property located at 55 Piney Mountain Drive from RS-2 Residential Single-Family Low Density District to Institutional District/Conditional Zoning for the development of a retirement residence facility. This public hearing was advertised on October 12 and 19, 2007.

The subject property, 13.52 acres in size, is located on the edge of the current City of Asheville limits and in the extraterritorial jurisdiction of the City. The property is located at 55 Piney Mountain Road off of Chunns Cove Road, and overlooks I-240 and Tunnel Road to the west. The property was graded in 2004 and 2005 in the anticipation of the development of a church; however, the church was never constructed and the property was placed on the market.

This property is surrounded primarily by property that is zoned RS2, also the current zoning of the property. To the north the zoning is RS2 and Office Business; the Centre Park Office complex is located almost immediately to the north of the site. To the east there are single family homes. The property to the south is the site of a church. Further out Piney Mountain Road, a multi-family development (condominiums) is located. As previously stated, to the west is Piney Mountain Road and I-240.

The petitioners, Curry Architecture and Holiday Development, are requesting that the property be rezoned from RS2 (Residential Single-Family Low Density District) to INSTCZ (Institutional Conditional Zoning District) to allow for the development of a 120-suite retirement residence facility. The suites are not considered dwelling units as they do not have complete kitchens. (There are two complete dwelling units in the facility for the managers). This facility is, therefore, reviewed as an institutional development even though the residents of this facility are self-sufficient. There is no facility-provided medical component. The suites are proposed to be housed in two buildings that total approximately 110,000 square feet in gross floor area. Common areas for socializing and eating are also proposed. The proposed height for the buildings is primarily forty (40) feet. There are some portions of buildings that reach sixty (60) feet in height as measured per our ordinance. There is no maximum height in the Institutional District except when a property is within one hundred (100) feet of a residentially zoned area. In these instances the maximum height is that allowed in the adjacent zone. Staff is recommending that the additional height being shown in the elevation drawings be permitted for two reasons. The first reason is that the additional height shown is largely attributable to the developer's interest in working with the land in grading and the location of buildings. Secondly, the adjacent property (adjacent to the buildings) that is zoned RS2 is a small sliver of property that borders the Centre Park Office Complex. Staff, therefore sees no negative impact for residential development. In addition to the facility structures, there are two garage structures proposed for the eastern portion of the parking area to house six vehicles each.

The developer is proposing to work as much as possible with the existing contours as previously graded and plans to disturb no more than 3.07 acres of a 13.52 acre site. This property is subject to the previous hillside development regulations; the proposed development complies with those regulations. Several new retaining walls are proposed and a number of the previously installed retaining walls are proposed to remain. The developer has submitted a geotechnical analysis with their application.

In an effort to work within the existing contours and with the existing retaining walls, the developer needs Council to grant the height modification detailed above and alternative compliance approval for buffering. The buffering requirements now state that

regardless of the use of the property, a property zoned Institutional must provide a 30 foot buffer if located next to a property zoned residentially. Again, due to the existing topography and retaining walls, this becomes a hardship for a developer trying to work with the current contours of the land. The developer has proposed some landscaping to soften the view of the retaining walls and landscaping to shield the buildings as well. A fifteen (15) foot buffer area will contain the plantings. Staff is supportive of both the height modification and the buffering alternative compliance request.

The developer has received commitment approval from both the Asheville Water Resources Department and the Metropolitan Sewerage District. Water Resources is requiring the extension of an existing 8-inch waterline on the west side of Pine Mountain Road to serve the subject property.

The developer held a neighborhood meeting on July 11, 2007, at the Asheville Apostolic Church (located next to the subject property) to review the project and answer questions of property owners and residents.

At a meeting on August 6, 2007, the City of Asheville Technical Review Committee (TRC) reviewed the conditional zoning request and made a positive recommendation (with conditions) that the project be forwarded to the Planning and Zoning Commission. The developer resubmitted since that time, addressing a number of comments.

At a meeting on September 5, 2007, the Asheville Planning and Zoning Commission reviewed this request and unanimously recommended this conditional zoning to the Asheville City Council. This recommendation was with the conditions as set forth in the TRC report, the standard conditions recommended by staff, and with the recommendation that Council grant alternative compliance for buffering and a modification for building height. Staff and the commission also recommend that the project be conditionally rezoned with the condition that the use be limited to a retirement suite facility only and that an "urban level" of service be provided for the development. The Commission also added the requirement that the reflectivity provisions in the new steep slope ordinance be applied to this project.

No one spoke on this matter at the Planning and Zoning Commission except for the development team. There have been no calls in opposition to this project.

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

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The project, if approved must meet the technical standards set forth in the City's Unified Development Ordinance and Standards and Specifications Manual. All indications are that all standards can be met related to safety issues.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The developer of the site proposes to work as much as possible (both grading and the location and design of buildings) with the existing contours of the land as previously graded. A large portion of the site (10.45 acres) is proposed to remain undisturbed.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The proposed use of the property for a retirement residence facility is very compatible with surrounding residential uses (multi-family and single-family) and the office complex and church uses that abut the land. As previously stated, the use of the property for a retirement residence facility fits in well as a buffer between the highway and single family residential uses and is very compatible with the adjoining institutional and office uses. The traffic to be generated by this project is limited and mostly off-peak as many of the residents do not have vehicles.

4. That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The primary proposed height of the buildings in the development does not exceed four (4) stories or forty (40) feet, which is the allowed height of buildings on adjacent properties. While single family residential uses are located up slope from the site of the proposed retirement residence facility, the adjoining office complex is similar in scale and coverage. Even

though this use is classified as an institutional use by City standards, it is a residential facility. This project fits well with the character of the surrounding area.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The development, as proposed, meets a number of goals set forth in the 2025 Plan for the City of Asheville:

- The plan supports the City's goal of pursuing compatible infill development close to and within the City Limits.
- The design of the development, in accordance with the environmental quality goals of the City, proposes to work primarily within the already graded portions and contours of the site, keeping disturbance of additional area at a minimum.
- Due to the concept of the development, the project cannot be qualified under the definition of "affordability" established by the City; however, it does present a more affordable alternative for retirement living in Asheville.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The proposed use is located on a street that is in very close proximity to a major thoroughfare (Tunnel Road) and I-240. The developer has been requested to detail provision of an urban level of service regarding fire and police protection and other services. As part of the project, the developer will extend an 8-inch water line on the west side of Piney Mountain Road to serve the subject property.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The City's Traffic Engineer has reviewed the project and indicates no issues with respect to traffic. According to the developer, the proposed use is one that generates little traffic due to the age of the residents and the traffic that is generated is generally off-peak.

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

Pro:

- The plan supports the City's goal of pursuing compatible infill development close to and within the City Limits.
- The design of the development, in accordance with the environmental quality goals of the City, proposes to work primarily within the already graded portions and contours of the site, keeping disturbance of additional area at a minimum.
- The plan provides an appropriate use adjacent to other institutional and office uses and is suitable for a location in such close proximity to I-240.

Con:

- The site is visible from the interstate and some might be concerned with a four-story structure on this property.

At 6:28 p.m., Mayor Bellamy returned to the meeting and Vice-Mayor Jones turned the meeting back over to her.

Mr. Ron Jackson, representing Curry Architecture, said that Holiday Retirement Residence is the number one provider of senior care. Holiday caters to those seniors that desire a slower life pace and a catered life style. Most residents are within the age of 70 to mid-80's and don't drive. The major difference between us and a nursing home is we do not provide any on-staff medical care. Included in the month-to-month lease is 3 meals a day, housekeeping, laundry service, transportation, etc. There are no kitchens or laundry facilities. They tried to place their buildings on as much of the existing on-site grading as possible. He explained the different social environment aspects of the building. They have also provided a walking trail (along with the planned activities inside the buildings), with overemphasis on landscaping. He said that they agree with all the staff recommendations.

Mr. Mark Kurdys, Chair of the Trustees with the First Congregational United Church of Christ, owners of the property, explained how they graded on the property to expand their church, but due to the cost of materials, they were no longer able to complete their dream. He felt that Holiday Development has financial backing and they are committed to senior housing.

Mr. Alan Ditmore, Leicester resident and Treasurer of the Asheville Homeless Network, spoke about the benefit to affordable housing.

Rev. Christopher Chiaromonte felt it was too easy for developers to come into Asheville and get property rezoned for their particular development.

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

Throughout discussion, Ms. Cogburn and Mr. Jackson responded to various questions/comments from Council, some being, but are not limited to: did the Fire Marshal have any concerns with the height modification; how many additional acres will need to be disturbed on the property; what does the existing buffer look like currently vs. the modification; what is the developer proposing to enhance in the buffer area if a modification is granted; what is the staff's rationale for justification of modifying the zoning; can a church be built on RS-2 property; is the company building the suites a for-profit company; and, will sidewalks be constructed or the developer pay a fee in lieu of along Piney Mountain Road.

Councilman Davis felt this is a good use of the land that has already been graded and it will have a better look than if it was developed solely as an RS-2 district. The property contains 13 lots and it could contain many single, individual houses and was unsure how the property was originally zoned RS-2.

Mayor Bellamy asked for a condition that the new retaining wall use the type of materials outlined in the new ordinance, have vegetative screening and a terrace approach.

Councilwoman Cape welcomed conditional use zoning as it allows us to create a better product than the existing base-line zoning.

When Councilwoman Cape asked what the energy commitments were, Mr. Dan Roach, representing Curry Architecture, said that not all of their buildings are LEED certified. He said that Holiday Development is a large organization and they understand the demands on energy and resources in a community. They are very low on water usage, not generating a lot of traffic and the residents have the ability to control the air conditioning and heating within the suites, thus cutting down the overall heating costs. He said they are not LEED certified in every case, but Holiday Development is looking towards that. Regarding their willingness to be LEED certified, he said that he is not able to make the commitment to be LEED certified because they don't know what the impact will be on the affordability of the retirement residents.

Mayor Bellamy suggested that the developer consider some of the elements of green building for residences in the Healthy Built Homes program. Mr. Roach reiterated that he cannot commit to meeting LEED standards without consulting with representatives from Harvest Development, but they will definitely have discussions with staff at the TRC process. He said that Holiday and Harvest has a significant interest in energy conservation and green construction.

In response to Vice-Mayor Jones, Mr. Jackson said the rental suites will be approximately \$1,800/month for a studio and \$2,400/month for 2-bedrooms (which includes meals, utilities, transportation, housekeeping, laundry, etc.). However, the prices may be reduced after the 10-mile radius demographics study is completed.

When Councilwoman Cape asked if the project includes any affordable units, Mr. Roach said that they don't have certain units designated as affordable, but none of them couldn't necessarily be geared towards affordability.

Councilwoman Cape said that energy efficiency and affordable housing are concerns we deal with and hoped they would be considered in the planning processes.

Councilman Newman felt it was clear that we need to, through our planning process, make it more clear to people up front how important energy efficiency is to the community and Council. Mayor Bellamy said this will be part of Council's retreat agenda.

Councilman Mumpower felt this is a good project; however, he was uncomfortable with the giant leap from RS-2 zoning to Institutional zoning

Vice-Mayor Jones moved to conditionally zone property located at 55 Piney Mountain Drive from RS-2 Residential Single-Family Low Density District to Institutional District/Conditional Zoning for the development of a retirement residence facility (and find that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation), subject to the conditions and modifications recommended by staff and the Planning & Zoning Commission and the conditions listed as follows: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) All existing vegetation that is to be preserved must be clearly indicated on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) The new retaining wall use the type of materials outlined in the new ordinance, have vegetative screening and a terrace approach. This motion was

seconded by Councilman Davis.

At the suggestion of Mayor Bellamy, it was the consensus of the majority of Council that the applicant be in attendance at Council meetings when their project is being considered. Mayor Bellamy explained that the Council meeting is the place where Council decides what conditions are to be placed on the development and if the applicant is not available, no agreement on the conditions can be reached.

Ms. Cogburn said that representatives from Curry Architecture are willing to postpone the matter until they can get a commitment from the applicant on the green building elements that will be included in the project.

After a brief discussion, Councilman Freeborn moved to postpone action on this matter until November 13, 2007. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

Closed Session

Mayor Bellamy said that during City Council's break, they would conduct a closed session. At 7:31 p.m., Councilman Mumpower moved to go into closed session in order (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 contracts for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5); and (2) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations; provided, that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in G.S. 143-318.11(a)(4). This motion was seconded by Councilman Freeborn and carried unanimously.

At 7:56 p.m., Councilman Mumpower moved to continue the closed session until after the regular meeting. This motion was seconded by Councilman Newman and carried unanimously.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 673 SAND HILL DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A MULTI-FAMILY APARTMENT PROJECT

ORDINANCE NO. 3546 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 673 SAND HILL DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A MULTI-FAMILY APARTMENT PROJECT

Mayor Bellamy opened the public hearing at 7:58 p.m.

Urban Planner Nathan Pennington said that this is the consideration of an ordinance to conditionally zone property located at 673 Sand Hill Drive from RM-6 Residential Multi-Family Low Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Zoning for the development of a multi-family apartment project. This public hearing was advertised on October 12 and 19, 2007.

Mr. Pennington said the applicant seeks the conditional zoning of 2.66 acres (total project site is 5.95 acres, adjacent parcel of 3.29 acres was previously rezoned in 2004) currently zoned RM-6, to RM-8/CZ for an affordable multi-family residential project with 23 new units. The property is located off of Sand Hill Road within the City's corporate limits.

Multi-family residential with the proposed density is a permitted use in the RM-8 district. This district was created to permit a full range of medium density multi-family housing types along with single-family detached and attached residences. This district is intended to provide a transitional area between high density single-family and multi-family areas, and to permit medium density multi-family development in areas where existing conditions make higher density development inappropriate. Non-residential development normally required to provide the basic elements of a balanced and attractive residential area is also permitted.

The site slopes gently towards Sand Hill Road from the rear of the property and is currently vacant and wooded. Thirty percent of the site has been designated as open space and tree save area with the majority of this space located along the northern periphery of the site. In addition, the property requires a 20-foot wide Class "B" buffer to the north. The proposed design includes six buildings containing twenty-three rental units, fifteen of which will be two bedroom and eight of which will contain three bedrooms.

The subject property is bounded to the north by a single-family residence and vacant land zoned RS-4, to the east by single family residences and vacant land, to the south by a single-family residence and a church, and to the west by a single-family residence all zoned RM-6.

At their August 20, 2007, meeting, the Technical Review Committee (TRC) approved the project with the conditions listed in the staff report. At the TRC meeting, one individual expressed concern about the extent to which the proposed sidewalk connecting the development to the existing apartment complex would be compliant with ADA accessibility regulations.

At their September 5, 2007, meeting, the Planning and Zoning Commission reviewed the project where concerns regarding stormwater runoff, erosion, light trespass, and inadequate buffering were heard during public comment. There was discussion amongst the Commissioners about these concerns and a motion was made to recommend approval of the proposal with an additional condition that lighting and erosion control be investigated and brought into compliance (if applicable). The motion failed 3-3.

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

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements once the conditions enumerated by the TRC are met. The project must meet the technical standards set forth in the UDO, the City Standards and Specifications Manual, the North Carolina Building Code and other applicable laws and standards that protect the public health and safety.
2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
The proposed use is compatible with the surrounding natural features and topography. The project must comply with all City standards in regards to grading and erosion control. The applicant is proposing to preserve a significant sloping, wooded area to the rear of the property that adjoins a creek as an open space area. A 20-foot wide Class "B" buffer will be installed that will further buffer the proposed buildings from this area as well.
3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
Staff does not expect that the proposed use would have anything more than a minimal impact on neighboring property values.
4. **That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
The requested change in zoning from RM-6 to RM-8 will allow a net increase of six (6) additional units from the seventeen (17) units that the property could support under the density standards of the current RM-6 zoning. The proposed development is consistent with the density of the existing adjacent development that was approved by City Council in 2004. Therefore, the development would be in character and harmony of the neighborhood in which it is located.
5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
*The application of compatible infill growth and affordable housing supports several goals and objectives as described in both ***The Asheville City Development Plan 2025*** and the ***Strategic Operating Plan*** (See ***Compliance with Comprehensive Plan and Strategic Operating Plan Considerations*** in above staff report).*
6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**
The proposed development is located near transportation facilities and other utilities appear adequate. The initial technical review by other technical agencies and utility providers has not revealed any problems for serving the use.
7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**
The proposed project has been reviewed by the City's traffic engineer and is not expected to cause undue traffic congestion or create a traffic hazard.

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

Pros:

- Provides another opportunity to further the City's goal of compatible infill growth.
- Furthers the City's goal of providing affordable housing.

Cons:

- Some citizens may perceive the rezoning as an effort to increase the allowable density in this area.
- Proposed design is deficient in providing an ADA accessible pedestrian connection to the existing apartment complex. A redesign with coordination of the Building Safety Department could remedy this deficiency.

Staff recommends approval of the proposed project and Conditional Zoning request subject to the conditions in the TRC staff report and those listed by City staff.

Mr. Anthony Willis, owner/developer with Madison properties, said that they have built affordable houses in Asheville and the surrounding area since 1991. They have started building energy efficient homes, while keeping them affordable.

Mr. Gerald Green, representing the developer, said that this project addresses the affordable housing issue in Asheville. They are incorporating energy efficiency, preservation of open space and existing vegetation. This is the third phase of a three phase project and these additional six units will allow the project to be financially feasible for the developer. There have been no problems identified by the City in the first two phases. In total, with the existing vegetation being preserved and the new landscaped areas and open space, approximately 69% of the total almost 6 acre site will be pervious surfaces. The buffer to the nearest neighbor, Mr. Dula, is approximately 100-120 feet of existing vegetation supplemented by additional plantings. One issue identified was site lighting. The site lighting does comply with the City standards. Erosion control and stormwater management will comply with the existing City regulations. Regarding traffic, the City's Traffic Engineer said the project is not expected to cause any undue traffic congestion. Residents along Sand Hill Road have requested traffic control measures and signals, however, the N.C. Dept. of Transportation traffic count did not warrant those signals. Mr. Green summarized said that benefits of this project is that all units are affordable, there is a large buffer with existing vegetation, there is significant pervious area on the site, the project complies with all City development standards, and the energy usage will be minimal.

Ms. Amy Musser, the developer's energy consultant, said that the developer is not just willing to certify the units with the Energy Star Program, which requires a modest energy efficiency increase over what Code would require, but going further. His goal is 50% of the heating and cooling energy that a typical code-based apartment building would use. The heating/cooling portion of the electrical bill for the units is projected to be about \$15/month. He is using the most efficient air source heat pump that we can find in that size range. We have also looked at what his other green features are - energy efficiency has been his primary goal, but we have also talked about low VOC paints, water efficiency, landscaping, etc There are a lot of green features and we are certifying those.

Mr. Ron Dula and his wife Beverly, residents on Hillside Terrace, felt that Mr. Willis did a tremendous job with the other two phases, but was concerned about the management of the units. He opposed the six additional units for several reasons: (1) traffic on Sand Hill Road is astronomical and the entrance to the units is on a dangerous curve so the additional traffic trying to get onto Sand Hill Road will be problematic; (2) the existing project has a turn-around for fire trucks, however, people park in it. He suggested signs be posted; (3) garbage is left outside along with items stored which is an eyesore, noting that he cannot see this from his property; (4) lighting issue, however, we will work with Mr. Willis; and (5) erosion control problems. He did, however, thanked Mr. Willis for building the fence between their properties.

Mr. Alan Ditmore, Leicester resident and Treasurer of the Asheville Homeless Network, explained how he felt that homeowners have a conflict of interest with all affordable housing.

Ms. Franklin, adjoining property owner on Sand Hill Road, spoke against the project in due to the existing traffic on Sand Hill Road.

Mr. Willis said that they do have a full-time manager and have gone above and beyond in trying to be good neighbors. The pictures of the trash are not the standard.

Mayor Bellamy closed the public hearing at 8:20 p.m.

Councilman Davis felt that the property might be better suited to allow the number of homes for the existing RM-6 zoning with an area to be built for the children to play. Mr. Willis responded that the children are encouraged to play in the big flat field next to the church (adjoining their property). Even though it is not on their property, the church welcomes the children.

In response to Councilwoman Cape, Mr. Willis said that their existing homes contain professionals, block masons and retired people.

Councilman Freeborn, member of the Transit Commission, responded to Councilwoman Cape's inquiry about transit projections on Sand Hill Road.

Councilman Mumpower moved for the adoption of Ordinance No. 3546 to conditionally zone property located at 673 Sand Hill Drive from RM-6 Residential Multi-Family Low Density District to RM-8 Residential Multi-Family Medium Density District/Conditional Zoning for the development of a multi-family apartment project, (and find that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation), subject to the recommendations by staff and the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) The applicant must make application for lot recombination within sixty days of zoning permit issuance; (3) An ADA accessible connection acceptable by the Building Safety Department must be provided between the existing apartment complex and the proposed development before zoning permit issuance; (4) A deed restriction must be placed on the property limiting any rental increase to no more than 4% per year for the first 10 years in a form approvable by the City Attorney; (5) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (6) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (7) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans must gain approval through the Planning and Development Department; and (8) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Vice-Mayor Jones and carried on a 4-3 vote, with Vice-Mayor Jones, Councilwoman Cape, Councilman Mumpower and Councilman Newman voting "yes" and Mayor Bellamy, Councilman Davis and Councilman Freeborn voting "no."

City Attorney Oast said that because of the vote, this matter will need to come back for a second reading on November 13, 2007.

ORDINANCE BOOK NO. 23 - PAGE

C. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF 2345 HENDERSONVILLE ROAD TO COMMUNITY BUSINESS II DISTRICT

ORDINANCE NO. 3547 - ORDINANCE ZONING 2345 HENDERSONVILLE ROAD TO COMMUNITY BUSINESS II DISTRICT

Mayor Bellamy opened the public hearing at 8:32 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to initially zone 2345 Hendersonville Road to Community Business II District. This public hearing was advertised on October 12 and 19, 2007.

The City of Asheville has recently completed the voluntary annexation (effective July 31, 2007) of an approximately 1.0 acre tract located at 2345 Hendersonville Road in South Buncombe County. A sports bar/amusement facility is close to completion on the property. This project was permitted by Buncombe County. This parcel was zoned CS (Commercial Service) by Buncombe County.

Properties immediately across Hendersonville Road that are within the corporate limits of the City of Asheville are zoned CBII (Community Business II). Staff proposes, at the request of the property owner, the same zoning for this parcel.

The Technical Review Committee had no issues with the annexation or the zoning classification in this area. At a meeting on September 5, 2007, the Asheville Planning and Zoning Commission unanimously recommended this initial zoning to the Asheville City Council. No one spoke at the meeting on this issue.

Pro:

- Complies with the strategy of identifying appropriate areas for the location of commercial uses. The plan sets forth that these areas should be adequately served by public services, particularly transportation.

Con:

- None noted.

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

meeting on September 5, 2007, the Asheville Planning and Zoning Commission unanimously recommended this initial zoning to the Asheville City Council.

Mayor Bellamy closed the public hearing at 8:33 p.m.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3547. This motion was seconded by Vice-Mayor Jones and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

D. PUBLIC HEARING TO CONSIDER VOLUNTARY ANNEXATION OF NON-CONTIGUOUS PROPERTY LOCATED AT 420 AIRPORT ROAD

ORDINANCE NO. 3548 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE NON-CONTIGUOUS PROPERTY LOCATED AT 420 AIRPORT ROAD

Mayor Bellamy opened the public hearing at 8:33 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to voluntarily annex one lot located at 420 Airport Road. This public hearing was advertised on October 12 and 19, 2007.

William C. Burgin on behalf of Airport Road, LLC has petitioned the City for the annexation of one lot located at 420 Airport Road (PIN 9643.02-75-5760) containing approximately 1.97 acres.

The lot is located on the western side of Airport Road in South Buncombe County near the intersection of Airport Road and Rockwood Road. The area, while adjacent to and near other areas recently annexed as "satellite" annexations or legislative annexations by the City of Asheville, is not contiguous to the primary corporate limits of the City and, therefore, is subject to the standards for annexation of noncontiguous areas contained in N.C. Gen. Stat. sec. 160A-58.1. This parcel and petition meet all applicable requirements of the State of North Carolina.

Pursuant to N. C. Gen. Stat. sec. 160A-58.2 a public hearing must be held prior to adopting any ordinance for voluntary annexation. If City Council decides to proceed with this request, it is proposed that the annexation become effective on October 31, 2007.

Pro:

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

Con:

- Marginal increase in service costs (too small to measure or respond to).

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

City staff recommends City Council approve an ordinance extending the corporate limits of the City of Asheville by annexing one lot located at 420 Airport Road.

Mayor Bellamy closed the public hearing at 8:33 p.m.

Mayor Bellamy thanked Mr. Burgin for voluntarily annexing into the City of Asheville.

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. 3548. This motion was seconded by Councilwoman Cape and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 3549 - BUDGET AMENDMENT REGARDING RE-ENGINEERING OF THE HOMELESS INITIATIVE

From Staff Report: "The consideration of changes to the organizational structure of the Homeless Initiative and a budget amendment in the amount of \$50,250 to cover partial year cost of operating the Homeless Initiative as a City program.

This report summarizes the goals, organization, and achievements of the Homeless Initiative, the community effort to implement the Asheville-Buncombe 10-Year Plan to End Homelessness and makes recommendations for some organizational changes to take the Initiative into its third year.

Background

The 10-Year Plan to End Homelessness in Asheville and Buncombe County was developed through a community-driven planning process in 2004 and adopted by City Council and the County Commission in January 2005. The plan aims to drastically reduce the impacts of homelessness by focusing primarily on ending chronic homelessness, defined as persistent or frequent episodes of homelessness in association with a disabling condition such as mental illness or long-term substance abuse.

The Plan moves away from managing and alleviating homelessness towards helping people to exit homelessness altogether by placing them immediately in permanent housing and linking them to needed services: an approach known as Housing First/Housing Plus. The Plan recommended the Affordable Housing Coalition as the lead agency, and the City and County started funding the AHC's coordinating efforts, collectively known as the Homeless Initiative, early in 2006.

Current Structure & Funding

The AHC's initial tasks have been:

- Hiring a homeless coordinator
- Creating a structure to coordinate the efforts of service provider agencies
- Identifying and obtaining additional resources
- Implementing the statewide Homeless Management Information System (HMIS)
- Acting as a liaison to local government
- Providing regular progress reports to the community

The coordinating structure currently consists of three work groups reporting to an Advisory Group of stakeholders. The work groups, drawn from involved agencies and individuals, focus on: Services and Prevention, Housing, and the Homeless Management Information System (HMIS).

The current annual budget for the Initiative is \$54,000, derived from a \$30,000 City Community Development Block Grant (CDBG) grant, a \$20,000 County grant, and additional resources developed by AHC. 80% of the budget is salary and benefits for the homeless coordinator, who has little access to clerical or other support.

The revenue sources for the partial year funding are:

\$18,750	CDBG funds
\$12,500	Buncombe County
<u>\$19,000</u>	City of Asheville General Fund allocation
\$50,250	

Results to Date

Achievements of the Homeless Initiative from January 2005 to date include:

- At least 228 homeless people assisted into permanent housing.
- Number of chronically homeless individuals reduced by 38%.
- Research initiated to identify costs and benefits of the Housing First approach.
- Project Homeless Connect – an annual one-day event to link homeless people to the widest possible array of services. The November 2006 event was the first in North Carolina.
- Successful grant application for \$600,000 of state funds for housing homeless mentally ill people – one of only three in the state.
- Training for and implementation of the HMIS in four key agencies.
- Training for 35 caseworkers on speeding up access to disability benefits.

Community input collected in June 2007 indicated three key areas of concern: the continuing incidence of homelessness, downtown social issues, and the maintenance and operation of Pritchard Park. Addressing social issues, such as panhandling, and the operation of Pritchard Park were not identified as goals of the Homeless Initiative when the 10 Year Plan to End Homelessness was developed.

Instead, City Council has received reports and recommendations from the Downtown Social Issues Task Force on these and other issues in 2004 and 2007. The Asheville Downtown Association has taken a lead role on some of the Task Force's recommendations, and the Downtown Commission has recently served as the city's liaison for reviewing recommendations. Progress in this area includes:

- Implementation of the Spare Change for Real Change program.

- Opening of downtown public restrooms along with a coordinated effort to publicize the availability of public restrooms.
- Planning for Buncombe County's opening of six wet shelter beds and the Crisis Stabilization Center by the end of 2007.
- Ongoing meetings with district court judges to discuss options for developing a Nuisance/Quality of Life Court.
- Implementation of the Pilot Graffiti Removal Program in January 2008.
- Infrastructure improvements in Pritchard Park to enhance ongoing maintenance.
- Creation of a Park Ranger position for Pritchard Park.
- Ongoing work of the Pritchard Park Task Force to explore options for community programming in the park.

Pros

- Enhances effectiveness of Homeless Initiative by providing greater stability and access to City resources such as Information Services and public outreach efforts.
- Improves liaison with other City departments including the Asheville Police Department, Public Works and the city's affordable housing efforts in the Planning Department.
- Increases effectiveness and accountability of the informal advisory group by making it a City advisory Board with a formal structure and role and Council-appointed membership.

Cons

- Some service providers and potential grantors may be less willing to work with the City than with a non-profit.
- Net annual cost increase of about \$26,000.

There is much work still to be done by the Homeless Initiative, including: developing preventive measures, particularly for people exiting institutional care and prison; linking the homeless to mental health and substance abuse services; improving public education and outreach about the Initiative's efforts; enhancing coordination with city departments; and identifying additional resources. In order to pursue these core recommendations of the 10-year plan, the Initiative needs additional support. Staff recommends that:

1. The City of Asheville should become the lead agency for the Homeless Initiative, with the homeless coordinator reporting through the Community Development Director effective November 12, 2007.
2. A VISTA volunteer, or equivalent, should be recruited to assist the homeless coordinator with community education, outreach and participation.
3. The Homeless Initiative Advisory Group should become a properly constituted City Board, encouraging and guiding coordination of homeless services and advising City Council.

The annual budget required for the program would be about \$76,000 of which \$30,000 could continue to be covered from the CDBG fund. Buncombe County has indicated it will continue to provide \$20,000 for the Homeless Initiative as a City of Asheville program in Fiscal Year 2008-2009.

Staff recommends City Council approve a budget amendment in the amount of \$50,250 to cover partial year cost of operating the Homeless Initiative as a City program."

Rev. Christopher Chiaromonte spoke about the need of true affordable housing in Asheville.

Mr. Lance Edwards, Co-Chair of the Homeless Initiative, said that since working with the Homeless Initiative for the last two years, he has seen remarkable growth. The Affordable Housing Coalition has done a wonderful job as the lead entity but reached a capacity limitation on what they can do. The primary focus of the 10-Year Plan is chronic homelessness and the alleviation of that through Housing First. He hoped City Council would take this to the next level as we continue to work to alleviate chronic homeless and to better serve all who are homeless. He supported staff's recommendation for the transition.

Mr. Alan Ditmore, Leicester resident and Treasurer of the Asheville Homeless Network, felt that the Homeless Initiative deserves more.

Throughout discussion, City Manager Jackson and Community Development Director Charlotte Caplan responded to various questions/comments from Council, some being, but are not limited to: how will this structurally work; will the County's interest in this initiative go beyond 2008-08; clarification of the homeless coordinator's job description; have we considered the fact that some foundations do not give grants to governmental entities; are there any internal city conflicts between departments; why doesn't the Affordable Housing Coalition want to continue to be the lead entity; what is the added value of the City running the program opposed to another organization; will the homeless coordinator be just as successful in building community buy-in as a City employee opposed to being a member of the community; are there any cautions of the City getting involved in social services as a direct service provider; what percentage of the 100 people housed are addicts; what percentage of the chronic core homeless group are addicts; and how much of a reduction have we seen in the cost of providing police service, ambulance service and hospital care for the 38% reduction in chronic homeless.

In response to Councilman Mumpower, Mr. Howard Stone, representative from Homeward Bound, said that treatment is not

a requirement for housing. The entire premise of the Housing First model is that it is not housing ready, it is housing first. In fact, studies from across the country have shown that when you take addicts and put them into housing, with the necessary supportive services that follow, there is a great receptivity to receiving treatment. Those that we are housing under the grant from the State need not be clean and sober in order to be housed. We are tracking very carefully to see if they are getting clean.

Councilman Mumpower doesn't question the motives of the people involved; however, he does question the method, the research and the theories that are used to support it. He has no faith in government uplifting people and all we have to do is go to public housing and understand why the equation is great in theory but not in practice. He questioned the 38% reduction of chronically homeless individuals and was curious how that figure was arrived at. The basic premise of this program that if you give people housing, they get clean. That runs counter to every bit of historical research in the country on addiction.

Vice-Mayor Jones said that there are lot of people at the university who are tracking these very indicators, but they don't have the final numbers. When those numbers come back, she challenged Councilman Mumpower to decide now whether or not he wants to believe them.

Councilman Mumpower said we can't demonstrate any significant impact on investment; however, we can get pin the number of 38% reduction of chronic homeless. He said there seems like there is a selective application of the research or efforts to define the success or failure of the program.

Mayor Bellamy thanked the Affordable Housing Coalition on their leadership for the past 18 months on this issue. The City and County approved the Plan, but the Coalition took the project on, without any commitment for funding. Since that time, the Coalition has realized it needs more support to do the work. And, after the Coalition's reorganization, they realized this could be better housed somewhere else. Ms. Sawyer, the homeless coordinator, has been doing a fantastic job, without any support. We are holding her accountable without providing enough resources to help her be successful. This is our 10-Year Plan. A lot of the service providers receive dollars through the City of Asheville, through CDBG funds, and by having a City employee at the table brings more accountability. The volunteer committee who is helping the homeless coordinator has committed to remain in place because they want to make sure the Plan continues to move forward. If some members of Council don't like the direction of the Plan, then we need to talk about that.

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

Mayor Bellamy moved for the adoption of Ordinance No. 3549. This motion was seconded by Councilman Freeborn.

Councilman Davis supported moving the Plan in-house because it gives us more accountability and more credibility.

Councilman Mumpower felt this is a decoy program that will distract us from more meaningful existing efforts to help people.

Councilman Newman doesn't think we are doing enough to hold people accountable who are chronically violating our laws and that is a separate issue that warrants our attention. However, he does support moving ahead with the things we need to be doing as a community.

Vice-Mayor Jones felt that one of the first things that we can ask Ms. Sawyer to do when she becomes a City employee is to research whether this does increase people coming to Asheville. She tends to think that if we work on the enforcement piece that Councilman Newman talked about then the "bright light" attracting homeless people to Asheville won't be as "bright." If that is a concern of the community, then let's measure it.

Mayor Bellamy said that the Secretary of HUD has sent his "homeless guru" to Asheville to look at what we have because they are talking about what we are doing in Asheville all over the country as a model of success. We have built coalitions and partnership that major cities can't even get together. That is amazing. Asheville is making a difference but it's not being appreciated in some aspects. She is excited about the potential of having more accountability and regular updates about the successes, failures and realities we have in addressing homelessness in the community. With a person on staff we can actually get that information on a consistent basis and track that data so our community does know what is going on. As a Council, when there is something that needs to be addressed, we can address it or change the policy direction. Again, she thanked to the volunteers who have committed to come along and to the Affordable Housing Coalition.

At the request of Councilwoman Cape, Mayor Bellamy said that at Council's retreat the issue of Council respect will be discussed.

When Councilman Freeborn called the question and no one objected, Mayor Bellamy called for a vote.

The motion made by Mayor Bellamy and seconded by Councilman Freeborn carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

At 9:21 p.m., Mayor Bellamy called for a short recess.

VI. NEW BUSINESS:

A. ORDINANCE NO. 3550 - ORDINANCE DIRECTING THE DIRECTOR OF THE BUILDING SAFETY DEPARTMENT TO DEMOLISH THE BUILDINGS LOCATED AT 1500 TUNNEL ROAD

ORDINANCE NO. 3551 - BUDGET AMENDMENT TO DEMOLISH THE BUILDINGS LOCATED AT 1500 TUNNEL ROAD

Building Safety Director Robert Griffin said that this is the consideration of an ordinance directing the Director of the Building Safety Department to demolish the buildings located at 1500 Tunnel Road and the associated budget amending in the amount of \$353,000.

1500 Tunnel Road is the site of the former "Days Inn Motel", consisting of 3 separate buildings. Prior to its condemnation in 2004 by the Building Safety Department, (BSD), the Property operated as the Mountain View Inn.

The property has a troubled history especially in maintaining communication with the property owner. In 2005, the BSD condemned the buildings as unsafe and ordered the buildings repaired so as to comply with the Building Code. Upon failure to comply with the Order and failure to prosecute an appeal to this Council, this Council dismissed the appeal in March of 2006. The Owner again disappeared between July 2006 and March 2007. During the owner's extended absence, vagrants accessed the Property, removed the plywood boarding, and pilfered sections of the plumbing, electrical, and HVAC systems. Following a hearing in April 2007, the BSD ordered the buildings demolished, which Order the Owner appealed to the Council. This Council heard the Owner's appeal on July 24, 2007, and affirmed the Order of demolition. No further appeals have been taken by the Owner, nor has the Owner demolished the buildings, submitted sealed drawings for renovation of the buildings and there are no approved improvements being undertaken on the property. The BSD assert that the buildings represent a public health and safety hazard, as acknowledged and admitted by the Owner's attorney during the July 24, 2007, hearing before this Council. If allowed to continue to exist, the buildings will continue to remain in violation of the North Carolina Building State Code.

Pros:

- Eliminates frequent calls to police, fire, building and housing staff.
- Eliminates the health and safety hazards to the neighborhood.

Cons:

- Requires the City to fund the cost of demolition
- Requires the initiation of a lawsuit to commence the foreclosure process.

This action complies with City Council Strategic Operating Plan on Partnerships to Improve Critical Services and Infrastructure by providing sufficient, safe, and affordable housing for Asheville residents. As long as places as the present property exist within a City, its most vulnerable residents will always be prey to those who without proper permits, rent out such decrepit lodgings.

The funds to demolish the buildings will come out of the City's fund balance.

Staff recommends that City Council approve an ordinance directing the Director of the Building Safety Department to demolish the buildings located at 1500 Tunnel Road and the associated budget amending in the amount of \$353,000.

Mr. Griffin said that on July 24, 2007, on appeal by the owner, City Council instructed City staff to give the owner 45 days within with to begin demolition or renovation. In the last 90 days since July 24, at the beginning we had minimal contact from the owner's representatives but in the past several weeks we have had no contact at all. Today received an e-mail from the owner's attorneys who wrote that his client intends to pull the demolition permit and do the demolition himself. Mr. Griffin said he contacted the architect involved and she advised him that she has had no contact with the owners.

Mr. Alan Ditmore, Leicester resident and Treasurer of the Asheville Homeless Network, felt that the hotel could be made into affordable housing.

In response to Councilman Freeborn, Assistant City Attorney Martha McGlohon said that upon demolition, the City will file a demolition lien for the cost of the demolition. If the owner fails to pay the entirety of the demolition lien in 30 days, the City will file a lawsuit to foreclose the property.

In response to Councilman Newman, Ms. McGlohon said that the tax value of the property is close to \$2 Million and the

property owner has received an offer of \$4 Million.

Vice-Mayor Jones was disturbed about the number of staff hours involved in this matter. She felt that Council should look for ways that we can begin to fine people that don't make an effort to remedy the problems.

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

Councilman Freeborn moved for the adoption of Ordinance No. 3550. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

Councilman Freeborn moved for the adoption of Ordinance No. 3551. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

B. RESOLUTION NO. 07-193 - RESOLUTION AMENDING THE CITY'S 2007 CONSOLIDATED ACTION PLAN TO PROVIDE ADDITIONAL COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO HOMEWARD BOUND INC.

Community Development Director Charlotte Caplan said that this is the consideration of a resolution to amend the City's 2007 Consolidated Action Plan to provide additional Community Development Block Grant (CDBG) funds in the amount of \$28,000 to Homeward Bound, Inc.

Homeward Bound's A-Hope day shelter was previously open seven days a week from 7:00 am until 12:00 noon, but has recently extended its hours of operation until 4:00 pm every day. Full day operation began the first week of September at an estimated additional cost of \$52,000 for the period September 2007 through June 2008. The agency has requested additional CDBG funding in the amount of \$28,000 to cover part of this cost.

As other funds are available, Homeward Bound will also phase in enhanced services, including: nurse/triage services to reduce the use of hospital emergency rooms; substance abuse counseling; literacy, GED and computer classes; independent living skills classes.

Homeward Bound was allocated \$90,000 in CDBG funds for the A-HOPE Day Center in the 2007 Action Plan. The agency also received a CDBG housing services grant of \$30,000 and a HOME tenant-based rental assistance grant of \$44,076 for its supportive housing program.

\$120,000 in CDBG funds was allocated this year for the relocation of the McCormick Heights residents. We now anticipate that the actual expenses of that program will be much lower, leaving at least \$28,000 available for re-allocation.

No public hearing is required because the grant increase is not a "substantial change" as defined in HUD regulations. The request has been reviewed by the Housing & Community Development Committee, which recommends approval.

Pros:

- Will provide a place for homeless people to congregate in the afternoons, relieving congestion in downtown parks, business areas, and Pack Library
- Additional opportunities for use of showers and restrooms
- Additional opportunities for service delivery
- Respite from cold weather this winter.

Cons:

- None

Staff recommends City Council approve a resolution to amend the City's 2007 Consolidated Action Plan to provide additional Community Development Block Grant (CDBG) funds in the amount of \$28,000 to Homeward Bound, Inc.

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

Councilman Mumpower moved for the adoption of Resolution No. 07-193. This motion was seconded by Councilman Freeborn and carried unanimously.

RESOLUTION BOOK NO. 30 – PAGE 454

C. RESOLUTION NO. 07-194 - RESOLUTION AMENDING THE 2007 CONSOLIDATED ACTION PLAN TO

ALLOCATE \$128,000 IN HOME FUNDS TO THE HOUSING ASSISTANCE CORPORATION INC. FOR NEW CONSTRUCTION OF HOUSING FOR HOMEOWNERSHIP

ORDINANCE NO. 3552 - BUDGET AMENDMENT TO ALLOCATE HOME FUNDS TO THE HOUSING ASSISTANCE CORPORATION INC.

Community Development Director Charlotte Caplan said that this is the consideration of a resolution amending the 2007 Consolidated Action Plan to allocate \$128,000 in HOME funds to the Housing Assistance Corporation, Inc. for new construction of housing for homeownership, and the associated budget amendment in the amount of \$47,000.

The Housing Assistance Corporation (HAC) is planning to develop a subdivision of 13-15 new single family homes on a site in Henderson County. The agency was awarded \$81,276 of HOME funding in the 2007 Action Plan to develop four homes on unspecified sites in or near Hendersonville, but has since acquired an option on 13 acres in East Flat Rock, known as the "Three Seeds" site. Only part of the site is suitable for development because of a ravine and an area of archeological interest.

HAC has requested an additional \$128,000 in HOME funds to be allocated to this project. Funds are available from three different sources:

1. \$88,000 originally allocated to HAC for acquisition, rehabilitation, and resale of dilapidated homes (known as the HOWSER program) but not spent because HAC can no longer find suitable properties at an affordable price.
2. \$22,000 recaptured from a Buncombe County program, which used \$91,000 of 2004 HOME funds to build four homes in Swannanoa. Only three of the homes were sold to income-eligible families, resulting in the recapture of part of the funding.
3. \$25,000 recaptured from a Henderson County program, which used \$50,000 of 2002 HOME funds to buy land for six homes. Only three homes were built and the remaining lots were sold, resulting in the recapture of half of the funding.

The Asheville Regional Housing Consortium has recommended that the \$88,000 in unspent funds and \$40,000 of the recaptured funds should be allocated to HAC's single-family new construction program. The remaining \$7,000 will be carried forward for allocation in 2008.

No public hearing is required because the funding increase is not a "substantial change" as defined in HUD regulations.

Pros:

- Utilizes available HOME funds
- Supports the production of at least 13 new affordable homes instead of 4
- Increases cost-effectiveness: subsidy reduced from \$20,000 to \$16,000 per unit
- Will preserve a site of archaeological interest.

Con

- Site is previously undeveloped land (not infill) without sewer access.

Staff recommends City Council approve a resolution amending the 2007 Consolidated Action Plan to allocate \$128,000 in HOME funds to the Housing Assistance Corporation, Inc. for new construction of housing for homeownership, and the associated budget amendment in the amount of \$47,000.

Mayor Bellamy said that members of Council have previously received copies of the resolution and ordinance and they would not be read.

Councilman Freeborn moved for the adoption of Resolution No. 07-194. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 – PAGE 455

Councilman Freeborn moved for the adoption of Ordinance No. 3552. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

D. RESOLUTION NO. 07-195 - RESOLUTION ALLOCATING \$120,000 IN HOUSING TRUST FUND LOANS FOR AFFORDABLE HOUSING

Mr. Randy Stallings, Community Development Specialist, said that this is the consideration of a resolution allocating \$120,000 in Housing Trust Fund (HTF) loans for affordable housing developments.

The following two HTF applications have been evaluated by the HTF review panel and recommended for approval by the

Housing and Community Development Committee at its September 17 meeting. Currently \$434,045.00 is available in the HTF.

1. Tim and Wendy Vorst; 13 Hamilton Street; \$60,000 HTF loan; 2 units for rent.

Terms: 2% Interest, 30 year term

Strengths: The developer has an excellent history with HTF projects, and has consistently provided timely completion of projects and a commitment to affordability. Cost per unit, location and efficient land use are also positive features.

Concerns: The builder does not propose the external monitoring needed to attain Energy Star certification. Rents are affordable to those below 80% of the Area Median Income, but not to those below the 60% level. Long-term affordability beyond the required three years cannot be guaranteed.

2. Peter Nordeen; 13 Fern Street; \$60,000 HTF loan; 2 units for rent.

Terms: 2% Interest, 30 year term

Strengths: The developer serves as his own contractor on the proposed project, keeping costs per unit exceptionally low. Location, efficient land use, and compatible neighborhood design are positive aspects of the project. Although this is Mr. Nordeen's first HTF application, his prior experience as the general contractor on similar projects is a positive factor.

Concerns: The Pro-Forma as presented does not clearly establish a need for HTF financing. Because of the low development costs, net cash flow would be sufficient to produce a 10% return on investment with conventional financing alone. The developer does not propose the external monitoring needed to obtain Energy Star certification. Long-term affordability cannot be guaranteed beyond the required three years.

Pros:

- Assists with the development of four (4) units of affordable rental housing.
- Provides effective land use through infill development.

Con:

- Reduces available HTF funds to \$314,045, limiting the fund's ability to support a major rental development in FY 2008, for example in the next Low Income Housing Tax Credit (LIHTC) competition.

City staff recommends City Council approve a resolution allocating \$120,000 in HTF loans for affordable housing developments.

Councilman Mumpower questioned the 30 year term at 2% interest with the City only controlling the affordability for three years. Councilman Newman said that the Housing & Community Development Committee has looked at the question extensively. We would like to have requirements for much longer, but if we require affordability much longer than 3 years, we will have no private sector developers applying.

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

Councilman Newman moved for the adoption of Resolution No. 07-195. This motion was seconded by Councilman Freeborn and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 – PAGE 456

E. CONSIDERATION OF APPOINTING MEMBERS TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Vice-Mayor Jones said that the term of Mary Robertson, as a member on the ADA Compliance Committee, expired on August 22, 2007.

On October 16, 2007, City Council instructed the City Clerk to arrange interviews for Ms. Kelly Rowe Rodriguez and Mr. Thomas Marshall Redding.

After Council spoke highly of the candidates, it was the consensus of Council to appoint Ms. Kelly Rowe Rodriguez as a member of the Americans with Disabilities Act Compliance Committee (representing the disabled community) to serve a three-year term, term to expire August 22, 2010, or until her success has been appointed.

Mayor Bellamy instructed the City Clerk to place the resolution on the next Consent Agenda.

F. CONSIDERATION OF APPOINTING MEMBERS TO THE FILM COMMISSION

Vice-Mayor Jones said that the terms of Councilwoman Robin Cape, Ms. Mary Trimarco, Diane Linden, D. Smith, Lee Nesbitt and Stephen Lutz, as members of the Film Commission, will expire on November 1, 2007. There currently exists a vacancy of Ms. Melinda Rains, whose term also expires November 1, 2007.

In addition, there currently exists two vacancies of Ms. Robbie Williams and Mr. Michael Rangel whose terms also expire November 1, 2007. The Film Commission has asked that City Council amend the composition of the Film Commission from 13

members to 11 members, and suggested removing the vacancies of Ms. Williams and Mr. Rangel. Vice-Mayor Jones said that this issue will be considered at a future date.

On October 16, 2007, it was the consensus of City Council to reappoint Councilwoman Cape, Ms. Trimarco, Ms. Diane Linden and Ms. D. Smith to each serve a three-year term respectively, terms to expire November 1, 2010, or until their successors have been appointed.

In addition, on October 16, 2007, City Council instructed the City Clerk to arrange interviews for Ms. Nancy Sokolove, Mr. Adam Brantley Hobbs and Ms. Sandra Holden.

It was the consensus of Council to appoint Adam Brantley Hobbs and Sandra Holden to each serve a three-year term respectively, terms to expire November 1, 2010, or until their successors have been appointed.

Vice-Mayor Jones said that the Boards and Commissions Committee will discuss the remaining vacancy at their next meeting.

Councilwoman Cape applauded the community in offering to serve, but stressed that the applications need to be filled out completely.

Mayor Bellamy instructed the City Clerk to place the resolution on the next Consent Agenda.

VII. OTHER BUSINESS:

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jesse Junior was disappointed in (1) the time limits allotted developers vs. individuals; and (2) that only one member of Council attended a recent NAACP dinner. Council responded that they received numerous invitations and they must balance their time between their families and their City obligations. Councilman Mumpower noted that he did not receive an invitation.

Mr. Paul VanHeden explained a concern that he has with the new buses in that four of the seats are over the wheel-wells and it's not enough room for a reasonably sized adult person to sit. Mayor Bellamy instructed the City Manager to take note of this concern when new buses are purchased.

Mr. Dwayne Barton suggested the City create a green apprenticeship program for youths and adults and for the City to create incentives for developers to support the program. He also noted that when development in the community occurs, the community would like to be a part of it in terms of jobs and/or training. Mayor Bellamy felt this is an innovation idea and instructed the City Manager to investigate how the City might be involved. Councilwoman Cape noted that A-B Technical Community College is doing a green building program and felt there may be some partnership opportunities.

Mr. Gilian Kearns drew the community's attention to a good brochure from the League of Women's which is a comparison of partisan and non-partisan elections. He said that "Let Asheville Vote" is not endorsing any candidates or working with any political action committees. Their goal is to encourage voters to educate themselves on the upcoming referendum and vote.

Ms. Ann Kadar, representing South Broad Neighborhood Association, spoke about how they are banning their community together against crime in their neighborhood - prostitution and rampant drug dealing. She explained how they are working toward short-term solutions along with long-term goals. She asked City Council's support for additional lighting and trash cans along South French Broad Avenue. Mayor Bellamy thanked Ms. Kadar and the Association for working with the overall neighborhood. Mayor Bellamy asked the City Manager to see how the City can accommodate these requests and report back to Council.

Mr. Alan Ditmore, Leicester resident and Treasurer of the Asheville Homeless Network, suggested ABC stores not accept cash as a barrier for alcoholics.

Mr. Danny Lack reiterated Mr. Kearns comments relative to partisan vs. non-partisan elections and why "Let Asheville Vote" opposed City Council's action to change to the election process. He, too, mentioned the brochure distributed by the League of Women Voters.

Closed Session

At 10:20 p.m., Vice-Mayor Jones moved to continue their closed session. This motion was seconded by Councilman Newman and carried unanimously.

At 10:40 p.m., Councilman Freeborn moved to come out of closed session. This motion was seconded by Councilman Newman and carried unanimously.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 10:40 p.m.

CITY CLERK

MAYOR