

Regular Meeting

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

Absent: Councilwoman Robin L. Cape (attending the National League of Cities Conference)

PLEDGE OF ALLEGIANCE

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

INVOCATION

Councilman Mumpower gave the invocation.

I. PROCLAMATIONS:

Mayor Bellamy acknowledged the great Veterans Day program that was held in collaboration with the Veterans Administration Hospital, Buncombe County and the City of Asheville.

A. PROCLAMATION PROCLAIMING DECEMBER 21, 2007, AS "HOMELESS PERSONS MEMORIAL DAY"

Mayor Bellamy read the proclamation proclaiming December 21, 2007, as "Homeless Persons Memorial Day" in the City of Asheville. She presented the proclamation to Ms. Amy Sawyer, representing the Affordable Housing Coalition, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items "D", "G", "H", "J", "K" and "L" were removed from the Consent Agenda for individual votes.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 23, 2007, AND THE SPECIAL MEETING HELD ON NOVEMBER 7, 2007**
- B. RESOLUTION NO. 07-193-A - RESOLUTION APPOINTING A MEMBER TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE**

Summary: The term of Mary Robertson expired on August 22, 2007.

On October 23, 2007, it was the consensus of Council to appoint Ms. Kelly Rowe Rodriguez (representing the disabled community) to serve a three-year term, term to expire August 22, 2010, or until her successor has been appointed.

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C. RESOLUTION NO. 07-194-A - RESOLUTION APPOINTING MEMBERS TO THE FILM COMMISSION

Summary: The terms of Councilwoman Robin Cape, Mary Trimarco, Diane Linden, D. Smith, Lee Nesbitt and Stephen Lutz expired on November 1, 2007. There also currently exists a vacancy of Melinda Raines whose term expires on November 1, 2007.

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

On October 23, 2007, it was the consensus of Council to appoint Adam 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.

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D. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PISGAH LEGAL SERVICES FOR THE DEVELOPMENT OF A COMPREHENSIVE AFFORDABLE HOUSING PLAN

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

E. ORDINANCE NO. 3553 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR FUNDS RECEIVED FROM THE

ASHEVILLE PARKS & GREENWAYS FOUNDATION AND THE ASHEVILLE ART ARTS COUNCIL TO SUPPORT PROGRAMMING COSTS FOR THE FISCAL YEAR 2007-08 CULTURAL RENAISSANCE ART PROGRAM AT THE W.C. REID CENTER FOR CREATIVE ARTS

Summary: The consideration of a budget amendment, in the amount of \$25,269, to establish a budget for funds received from the Asheville Parks and Greenways Foundation and the Asheville Area Arts Council to support programming cost for the Fiscal Year 2007-08 Cultural Renaissance Art Program at the W.C. Reid Center for Creative Arts

The Asheville Parks and Greenways Foundation is a 501 (c) 3 non-profit organization dedicated to advocating for and supporting public parks, greenways and recreation services in conjunction with the City of Asheville. During the last year, the Foundation has served as the recipient of funds raised from grants, donations and a variety of fundraising activities to support the FY 2007-2008 programming cost of the Cultural Renaissance Art Program at the W.C. Reid Center for Creative Arts. The funds total \$17,269 and the City of Asheville has drawn down the funds to use for the program.

The City of Asheville recently applied for and received an \$8,000 grant from the Asheville Area Arts Council 2007-2008 Grassroots Arts Program Grant to support the Fiscal Year 2007-08 programming cost of the Cultural Renaissance Art Program.

Pros:

- Provide funding to support programming cost for FY 2007-2008.
- Continue to provide the cultural art program at the W.C. Reid Center as a summer and after-school arts and humanities program for youth ages 5-18. The program fills a void for structured, safe and supervised programs during summer months and after school hours when youth are most at risk to get involved in negative activities.

Con:

- None

The Parks and Recreation Department recommends City Council to approve the budget amendment, in the amount of \$25,269, to establish a budget for funds received from the Asheville Parks and Greenways Foundation and the Asheville Area Arts Council to support programming cost for the Fiscal Year 2007-08 Cultural Renaissance Art Program at the W.C. Reid Center for Creative Arts.

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F. RESOLUTION NO. 07-196 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PAYNE, MCGINN & CUMMINS, INC. FOR THE INSTALLATION OF A NEW 12-INCH WATERLINE ON CLINGMAN AVENUE

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Payne, McGinn & Cummins, Inc. in the amount of \$509,623, for the installation of a new 12-inch waterline in Clingman Avenue.

Sealed bids were received by the Water Resources Department on October 2, 2007, for the Clingman Avenue Water System Upgrade Project. Four bids were received but the apparent low bidder; DPI Construction Company's apparent low bid was ruled not to be responsive due to failure to submit required Minority Business utilization forms with their bid. Responsive bids received are summarized as follows:

Clingman Avenue Water System Upgrade

Payne, McGinn & Cummins, Inc. \$ 509,623.00
Travelers Rest, South Carolina

Buckeye Construction Company, Inc. \$ 517,720.20
Canton, North Carolina

Thomas Construction Company, Inc. \$ 528,756.01
Johnson City, Tennessee

The low bid submitted by Payne, McGinn & Cummins, Inc. is within the project budget. The bid has been reviewed by the Office of Economic Development for compliance with the City of Asheville's Minority Business Program which approved the minority outreach effort by Payne, McGinn & Cummins, Inc.

PRO:

- Planned street improvements along Clingman Avenue will make future replacement of this line more difficult and expensive. The existing waterline on Clingman Avenue is old and undersized. Previous surveys by the Insurance Service Organization (ISO) cited fire flow deficits along the Clingman Avenue corridor. Installation of this new waterline will have a positive impact on fire protection and the City's fire insurance rating. Funds are available for this project in the water capital improvement projects fund.

CON:

- Failure to replace this waterline now will increase the possibility that the new Clingman Avenue will have to be dug up either to make repairs to the existing waterline and or eventually replace the existing waterline and could have a negative effect on fire protection and possibly the City's fire protection rating.

City staff recommends City Council approve a resolution authorizing the City Manager to execute a contract with Payne, McGinn & Cummins, Inc. in the amount of \$509,623, for the installation of a new 12-inch waterline in Clingman Avenue.

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G. APPROVAL OF GANG VIOLENCE PREVENTION INITIATIVE

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

H. BUDGET AMENDMENT FOR GUN BUY-BACK PROGRAM

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

I. RESOLUTION NO. 07-197 - RESOLUTION ACCEPTING EASEMENTS FROM RIVERLINK INC. FOR THE N.C. DEPT. OF TRANSPORTATION ENHANCEMENT PROJECT #4585, "FRENCH BROAD RIVER CORRIDOR CONNECTOR"

Summary: The consideration of a resolution accepting easements from RiverLink, Inc. for N.C. Dept. of Transportation (NCDOT) Enhancement Project #4585, "French Broad River Corridor Connector".

The City of Asheville is in need of an easement through 190 Amboy Road (the old Edaco salvage yard) in order to construct an 8' sidewalk that will connect two existing greenway trails as part of NCDOT Enhancement Project #4585, "French Broad River Corridor Connector." The owner of the property, RiverLink, has offered to donate the easement to the City. Once accepted, the City will have 100% of the right-of-way required for the project.

The total size of the property is 4.8 acres. The total easement being donated is 10,708 square feet or 0.25 acres. The City has not commissioned a professional appraisal of the property; however sales data indicates that the entire property sold for \$900,000 in October of 2006. The total value of easement being donated to the City is estimated at \$23,045. The City will pay for all transaction costs associated with the easement.

Pros:

- The easement is being donated, allowing significant costs savings for the City.
- Acceptance of the easement will allow the project to be completed.
- Increases the City's inventory of park space.

Con:

- Added maintenance costs.

Staff recommends that City Council approve a resolution accepting easements from RiverLink, Inc. for NCDOT Enhancement Project #4585, "French Broad River Corridor Connector."

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J. BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$40,000,000 WATER SYSTEM REVENUE BONDS OF THE CITY OF ASHEVILLE, N.C.

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

K. RESOLUTION AUTHORIZING THE APPROVAL, EXECUTION AND DELIVERY OF VARIOUS DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF CITY OF ASHEVILLE, N.C., WATER SYSTEM REVENUE BONDS; PROVIDING FOR THE SALE OF THE BONDS; SETTING FORTH THE TERMS AND CONDITIONS UPON WHICH THE BONDS ARE TO BE ISSUED; AND PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF THE BONDS

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

L. BUDGET AMENDMENT OF REVENUE BOND PROCEEDS

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

M. APPROVAL FOR THE FLOOD DAMAGE REDUCTION TASK FORCE TO MEET AS AN ADVISORY COMMITTEE ON A BI-MONTHLY BASIS TO CONTINUE TO STUDY, EDUCATE AND ADVOCATE ON FLOOD ISSUES

Summary: A letter from Mary Leonard White, Chair of the Flood Damage Reduction Task Force, reads in part: "The Flood Damage Reduction Task Force has worked for a year, meeting frequently, listening to many experts from over the state, and engaging in thoughtful discussion, and has therefore come to the conclusions contained in the following White Paper (note by City Clerk - The White Paper is not attached. See City Clerk for a copy). This paper simply fleshes out the recommendations made in the presentation to Council on June 12, 2007.

From the beginning we have been dedicated to the idea that there are practical ways to prevent the level of damage that happened in the Swannanoa watershed during the Ivan and Frances floods in 2004. We are even more insistent that educated efforts can and should save lives and property in frequent flood events. We are pleased at recent actions taken by City Council to strengthen enforcement of protective ordinances and at the positive reception that we received in our presentation to Buncombe County Commissioners. They also will receive copies of these recommendations. We are excited that the regional efforts that you initiated will continue.

Our Task Force has voted to ask your approval to meet as an advisory committee on a bi-monthly basis to continue to study, educate and advocate on flood issues. It doesn't feel to us that we are finished with our assignment.

We are appreciative of the assistance that has come from city staff – Cathy Ball, Chad Pierce, Laurie Saxton, Leslie Oliver, Stephanie Decker and intern Allana Young. Thank you for entrusting us with an important task that we have enjoyed. If there are questions or comments, we would be happy to hear from you."

N. ORDINANCE NO. 3556 - ORDINANCE REDUCING THE MEMBERSHIP OF THE ASHEVILLE FILM COMMISSION FROM 13 TO 11 MEMBERS

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O. GREENLIFE CONDITIONAL ZONING APPLICATION UPDATE

Summary: The City Manager committed to providing the Asheville City Council a follow-up staff report following the discussion with Council on October 16, 2007, regarding progress made with the Greenlife Grocery site re-design process.

Greenlife Grocery officials shared preliminary plans with City Council earlier this year in a public meeting, which is aimed mitigating continued traffic congestion problems that continue on and around the Greenlife Grocery property. At that time, Greenlife indicated a commitment to move forward with engaging a site design professional and begin a rezoning and site design process through the Asheville Planning and Development Department.

A pre-application meeting, the first step in the conditional zoning process, with Asheville's Technical Review Committee is scheduled for Monday, November 12, 2007. As result of this upcoming meeting, staff is expecting to expedite this process forward and would like the opportunity to share preliminary findings with City Council at its November 27, 2007, regularly scheduled meeting. Staff anticipates that a formal timeline for project completion can be determined at that time.

No formal action is necessary at this time. An informational update is also scheduled at the November 27, 2007, City Council meeting.

Mr. Joe Minicozzi presented Council with a timeline of the Greenlife issue and requested that this matter be discussed as he received a letter from the City Manager stating that there would be discussion on this date.

Ms. Brandy Boggs, resident on Maxwell Street, urged Council for action on the Greenlife issue as her concerns are noise and odor from the dumpsters and diesel trucks.

Mr. Paul Bidwell, attorney representing Mr. Reid Thompson, requested the matter be heard today in order to get some peace for the people who live in the community. He explained that Mr. Thompson is only trying to get answers as to why the City won't follow their own ordinances and procedures.

City Manager Jackson said that we are in the process of dialogue with the design professionals and have scheduled a pre-review conference. On November 27, 2007, we will have detailed information provided by the design professionals.

Mayor Bellamy noted that Mr. Reid Thompson is not banned, without escort, from the City buildings because this issue is before Council, but because of his other behavior.

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

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

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D. RESOLUTION NO. 07-195-A - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PISGAH LEGAL SERVICES FOR THE DEVELOPMENT OF A COMPREHENSIVE AFFORDABLE HOUSING PLAN

Summary: The consideration of a resolution authorizing the City Manager to execute an agreement with Pisgah Legal Services, Inc. in an amount not to exceed \$50,000, for the development of a Comprehensive Affordable Housing Plan.

As part of the Fiscal Year 2007-08 budget, City Council approved \$50,000 for the development of a Comprehensive Affordable Housing Plan.

In order to move this initiative forward, staff recommends contracting for professional services with Pisgah Legal Services. The scope of services covered in the contract includes conducting research on best practices, convening an advisory task force and subcommittees to guide the process, and the writing and presentation of the final plan.

Mayor Bellamy has created a Mayor's Affordable Housing Task Force and invited 26 citizens to serve on the committee. She has charged this task force with guiding the development of the City's Comprehensive Affordable Housing Plan.

Pros:

- Fulfills a City Council strategic goal originally identified in 2003 and funded in the fiscal year 2007-08 budget process to develop a comprehensive affordable housing plan.
- Process is scheduled for completion by June 30, 2008.
- Utilizes the services of a non-profit agency that is uniquely qualified to implement the project based on its past experience facilitating a similar model with the 10 Year Plan to End Homelessness.
- Requires the guidance of a community stakeholder group to incorporate citizen expertise and input.

Con:

- None identified.

Staff recommends City Council approve a resolution authorizing the City Manager to execute an agreement with Pisgah Legal Services, Inc. in an amount not to exceed \$50,000, for the development of a Comprehensive Affordable Housing Plan.

Councilman Mumpower was concerned of turning the City's responsibilities over to the non-profit and disagreed with investing up to \$50,000 in that agenda. He felt we are creating another study which in turn becomes a shield for decisions that City Council was elected to make.

In response to Councilman Davis, Assistant to the City Manager Lauren Bradley said that this plan will be modeled after the 10-Year Plan to End Homelessness and we have seen tangible results from that Plan.

Councilman Newman was impressed with the group of people who will be investing a significant amount of time to look at innovative strategies to address this important challenge facing our community.

Mayor Bellamy said that the Community Development Division is short in staffing and this is a time-sensitive matter. She hoped Council will get behind this Plan and implement some of the short- and long-term recommendations that will be put forward.

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

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G. APPROVAL OF GANG VIOLENCE PREVENTION INITIATIVE

Summary: Based on a request from Mayor Bellamy, Councilman Jan Davis and members of the community, the Police Department is seeking approval to plan and execute a structured gun buy back program designed to remove as many guns as possible from the streets of Asheville. All functional guns turned in will be accepted by police personnel with no questions asked. All weapons will be destroyed after the program's conclusion and after an independent audit of all monies and weapons is completed.

Times and Locations: Various methods will be used to advertise the gun buy back program to include the City Cable Channel, flyers, and media coverage of this buy back effort.

Dec. 7, 2007	Stephens Lee Center	2-6 p.m.
Dec. 8, 2007	Burton St. Community Center	1-5 p.m.
Dec. 14, 2007	Shiloh Center	TBA
Dec. 15, 2007	Montford Community Center	TBA

Confidential Gun Turn Ins: A contingency is in the plan for individuals who may have fears of bringing guns to a public space. Officer Germaine Weaver's information will be made available so that he can arrange to meet such people privately. A 30-day extended period will be in place for citizens to turn in guns after the final public location on Dec. 15. Guns will be received confidentially through Jan. 15. Guns may be turned in to the Police Department during that time. All guns will be checked through NIBRS and ATF prior to destruction.

Police Personnel: There will be a minimum of two officers assisting Officer Weaver and Sgt. Eric Lauffer at each reception site. All guns will be appropriately tagged and the money exchanged will be in front of witnesses.

Money: Sgt. Lauffer will be the point of contact for all money issues. Any individual turning in a gun will receive \$50 for a handgun or long gun, and \$100 for an assault rifle. Sgt. Lauffer and the recipient will both sign the receipt. If someone does not want to sign, Sgt. Lauffer will have an officer on the scene sign the receipt.

The Brad Daugherty Foundation and the Eblen Foundation will be involved by accepting donations for the funding from the community. There is a community effort to match the City's \$25,000.

The City of Asheville expenses will not exceed \$25,000. The budget amendment provides funding for this program from the City Manager's contingency account.

Mr. Jessie Junior was concerned that there was not enough input from the African American community in terms of where this initiative is going and exactly what is going to take place.

Pastor Alphonso Mcglen, St. James AME Church, spoke in support of this initiative so we can move forward with trying to rectify some of the problems affecting our community.

Mayor Bellamy said that there are many ways to address gang prevention and violence and the gun buy-back was originated from the African American community. The goal is to get guns off the street. The Police Chief is committed to talking to the community and ministers about how it will be implemented. She noted that there are many programs in the community aimed at gang prevention and it will take a multitude of those initiatives to bring the community together. She is working toward a coalition so that everyone will know that others are doing. There are other initiatives that have been approved by Council and others that will be brought forward for City Council consideration. She urged the community to pull together to see how we can help our young people, because her goal is inclusive, not exclusive.

City Manager Jackson said that we will work toward better communication with the community to better understand what we are trying to accomplish with the program. He noted that the program is not set and the Police Chief can arrange a community meeting to invite input before they make final arrangements for the actual buy gun-back events.

Councilman Davis agreed that we need better communication with the business sector and the community. He did note that this program is a proven model and even though it is far from a total cure, it is an incremental step.

Councilman Mumpower liked the concept of the program; however, his concern was of a procedural nature. He felt that since we have a City Council Public Safety Committee, this matter should have been reviewed at that level, prior to City Council making a commitment.

Mayor Bellamy responded that as the person who worked to establish the four City Council committees, she will ask, at the Council retreat, that they be reviewed and dissolved.

Councilman Mumpower felt that the policy has been side-stepped and therefore resigned as Chair of the City Council Public Safety Committee and as a member of the City Council Revenue & Finance Committee. Mayor Bellamy accepted his resignation.

Councilman Freeborn felt it was appropriate to side-step the City Council Public Safety Committee in order to bring the issue forward in a timely manner. He felt that we need to continue to use every outlet possible to inform our citizens about programs and initiatives being considered by Council.

Councilman Freeborn moved to approve the plan and execute a structured gun buy back program designed to remove as many guns as possible from the streets of Asheville. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

H. ORDINANCE NO. 3554 - BUDGET AMENDMENT FOR GUN BUY-BACK PROGRAM

Summary: See Consent Agenda Item "G" above.

Councilman Freeborn moved for the adoption of Ordinance No. 3554. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

J. RESOLUTION NO. 07-198 - BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$40,000,000 WATER SYSTEM REVENUE BONDS OF THE CITY OF ASHEVILLE, N.C.

Summary: The consideration of a (1) Bond Order authorizing the Issuance of Not to Exceed \$40,000,000 Water System Revenue Bonds of the City of Asheville, North Carolina; (2) Resolution authorizing the approval, execution and delivery of various documents in connection with the issuance of City of Asheville, North Carolina Water System Refunding Revenue Bonds; providing for the sale of the bonds and setting the terms and conditions upon which the bonds are sold; and (3) Budget amendment, in the amount of \$40,000,000, of revenue bond proceeds.

City Council has previously adopted a resolution directing that actions be initiated to enable the issuance of Water Revenue Bonds. Consistent with the North Carolina General Statutes, after the LGC approves the bond issue (which occurred on November 6th, City Council has to approve a Bond Order authorizing the issuance of the Bonds. City Council also must approve a Bond Resolution authorizing the forms of the final documentation for the bond issue which sets forth the parameters of the financing.

The Bond Order provides the following:

- In order to raise the money required to finance the projects for the improvement, repair and renewal of the water system, the 2007 bonds are authorized by City Council and shall be issued pursuant to North Carolina General Statutes, Section 159-80;
- The principal amount of the 2007 bonds shall not exceed \$40,000,000;
- The 2007 bonds shall be paid solely from the revenues from the operation of the water system; NOT from the general funds, credit or taxing powers of the City;
- The proceeds from the sale of the 2007 Bonds shall be deposited in accordance with the Series Indenture to pay the costs of the identified projects;
- The Bond order shall be effective upon adoption;

The resolution for the sale of bonds provides the following:

- Approves the issuance of 2007 refunding bonds in a principal amount not to exceed \$40,000,000;
- Approves, confirms and incorporates by reference the provisions of the General Indenture and Series Indenture;
- Stipulate that the bonds shall be special obligations of the City and shall not be payable from the general funds of the City;
- Authorizes and directs the Mayor, City Manager, City Clerk and Chief Financial Officer to execute and deliver the Series Indenture and do all things necessary to issuance of the bonds and to carry out and comply with the Series Indenture;
- Approves the form and content of the Purchase Contract and stipulates that the bonds will be sold to the underwriters pursuant to the terms of the Purchase Contract to be executed on November 15th.
- Authorizes and approves the form and content of the Preliminary Official Statement and Official Statement (to be dated on or about November 15, 2007) and their use by the underwriters in the sale of the bonds.

City staff recommends City Council adopt the Bond Order, resolution and budget amendment.

Councilman Mumpower didn't argue the need for the bonds, but felt it is short-sighted to enter into such a demanding responsibility before we resolve our legal conflict with Buncombe County and the State of North Carolina on the Sullivan Acts.

Mayor Bellamy was extremely excited about the investment of \$40 Million into our water system. We were known as having an aged system across the state and by making this investment we will have one of the newer systems since we are making this investment. This is long over-due.

Councilman Newman noted that the City's bond rating has been upgraded as a result of the City's management of the water system and because we are willing to make these significant investments to take care of this long neglected infrastructure. By investing the dollars now and running it in a sound business fashion, every dollar we invest in the system will have a bigger return.

Councilman Freeborn moved for the adoption of Resolution No. 07-198. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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K. RESOLUTION NO. 07-199 - RESOLUTION AUTHORIZING THE APPROVAL, EXECUTION AND DELIVERY OF VARIOUS

DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF CITY OF ASHEVILLE, N.C., WATER SYSTEM REVENUE BONDS; PROVIDING FOR THE SALE OF THE BONDS; SETTING FORTH THE TERMS AND CONDITIONS UPON WHICH THE BONDS ARE TO BE ISSUED; AND PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF THE BONDS

Summary: See Consent Agenda Item "J" above.

Councilman Freeborn moved for the adoption of Resolution No. 07-199. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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L. ORDINANCE NO. 3555 - BUDGET AMENDMENT OF REVENUE BOND PROCEEDS

Summary: See Consent Agenda Item "J" above.

Councilman Freeborn moved for the adoption of Ordinance No. 3555. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

III. PRESENTATIONS & REPORTS:

A. RECREATION BOARD ANNUAL REPORT

Mr. Jim Drummond, Chair of the Recreation Board, said that the Recreation Board's mission is advisory to the City of Asheville in matters affecting recreation policies, programs, finances and land acquisition related to total community recreation programs. He then mentioned the Recreation Board members.

Some fast facts regarding Parks & Recreation in Fiscal Year 2006-07, include (1) nearly 500,000 visitors - recreation centers, special facilities and programs; (2) offer 600 programs = 82,000 program hour; (3) host 245 community events = 126,000+ attendance; (4) 3,900 attendance Therapeutic Recreation Program; (5) 76,000+ meals food service programs; (6) 15,000+ contacts summer youth program; and (7) 42,000 rounds of golf. In addition, there have been 5 major festivals; 500,000+ visitors; and \$25 Million+ economic impact.

The Fiscal Year 2007-07 goals include (1) Master Plan; (2) Parks & Recreation budget; (3) relationship building; (4) advocacy; (5) partnership with the Asheville Parks & Greenways Foundation and the Buncombe County Parks & Recreation; and (6) facility tours.

The Parks & Recreation Master Plan timeline is (1) start-up in November, 2007; (2) demographic - benchmark - inventory - service analysis in November, 2007 -February, 2008; (3) public process - financial analysis - funding - partnerships in January-March, 2008; and (4) Action Plan - Council review in April-June 2008.

Mr. Drummond invited Council to a play at the Reid Center to see why the Center is receiving such national attention.

Councilman Freeborn was pleased with the performance of the Recreation Board. He noted that the Parks & Recreation Department is responsible for economic development in the community. He praised the swimming program at Malvern Hills pool.

Councilman Newman looked forward to understanding the different funding options of the Parks & Recreation Master Plan and how it will work together with the budget process.

On behalf of City Council, Mayor Bellamy thanked Mr. Drummond and the entire Recreation Board for their willingness to work together with staff and the community.

B. STRATEGIC OPERATING PLAN QUARTERLY REPORT

Assistant City Manager Jeff Richardson said that the Asheville City Council identified short and long term goals at its last strategic planning retreat this past January and staff is providing a quarterly update on progress in several keys areas.

City Council has asked City staff to provide quarterly updates on key strategic initiatives associated with the eight priority areas reflected in the City's Strategic Plan. He then provided detailed performance indicators and measurements to date through the first quarter of Fiscal Year 2007-08.

This information is to update City Council on key operational initiatives specific to City Council's Strategic Operating Plan. No action is necessary at this time.

ECONOMIC DEVELOPMENT KEY INDICATOR REPORT

Economic Development Director Sam Power outlined key economic indicators for the City of Asheville and the Asheville MSA for the 2nd quarter 2007. These key indicators are provided to assist City Council in measurement of performance and future focus of Council Strategic goals, including economic development initiatives designed to support a dynamic and robust Asheville economy with balanced growth.

Employment in the Asheville Metro continues to grow at a positive rate, up 1.5% from one year ago. That figure is in line with the state growth (up 2.0%) and is slightly higher than the national average (1.3%). One highlight in job growth is in financial services, which grew 7.3% and significantly outpaced state and national averages.

Retail sales continue to provide strong growth reinforcing the City's place as a regional destination, and out performing the statewide growth. 2nd quarter sales are up 19.9 % over last year, while state wide, sales were up 11%.

In terms of local business environment, city business license revenues look to continue positive growth. City staff members are developing a revised business license application/renewal that will include improvements to our processes that allow staff to provide Council with better information to make decisions. The revised business licenses will be implemented with the new budget year.

Additionally, the 2nd quarter value of commercial building permitted in the city (new and alternations and additions) is substantially higher than last year, at \$86.4 million in new value and \$32.1 million in alterations and additions value.

In response to Council's comments, Mr. Powers said that he would provide additional information concerning (1) why the business licenses dropped; and (2) tracking the investment City Council has made into economic development.

Councilman Freeborn commended the City Manager, Assistant City Manager and Department Directors on acting on Council's priorities and not being shy to ask for the resources they need to carry it forward.

City Engineer Cathy Ball responded to Councilman Newman's request for an update on the Kenilworth Traffic Calming Project and the sidewalks in Haw Creek.

In response to Councilman Newman about the new state law surrounding ABC recycling, City Manager Jackson said that we have been working with the Downtown Association exploring some options of a role the City can plan. We have it scheduled on the City Council Planning & Economic Development Committee meeting for a staff report. He said that we will be looking for policy direction from the Committee and then bring the recommendation forward for the full Council consideration.

POLICE DEPARTMENT DRUG & COMMUNITY POLICING QUARTERLY REPORT

Police Chief Bill Hogan said the first quarter results addressing the Drug and Community Policing Seven Point Plan reveal significant results including some very promising possibilities in neighborhood housing areas traditionally less engaged with police. Following is a brief review of each point:

Seven Point Plan

1. Increase Criminal Interdiction Traffic Enforcement:

Our five K-9 officers were trained in interdiction procedures which has resulted in time spent on highway interdiction and assisting other officers with searches.

97 Criminal narcotics interdictions

30 Narcotics arrests from searches = Schedule VI Marijuana 368.4g \$1,965

Methamphetamine 1.7g \$200

Schedule II Cocaine 12.4g \$1,300

Cash Seized: \$57,383.00

2. Increase Drug Investigative Special Operations:

264 arrests of which 52 were dealers

2,401 crack cocaine rocks = \$36,015

1,523.1g powder cocaine = \$138,369

658.7g marijuana = \$26,256

31.7g methamphetamine = \$3,170

100 hits LSD = \$500

25.8g mushrooms = \$2,580

249 units prescriptions = \$2,490

Cash Seized: \$303,671

Firearms Seized: 48

15 executed search warrants

26 new investigations from Drug Tip Line

Many of the charges are not drug related but occur as this unit contacts individuals in their drug suppression efforts, and subsequently discover outstanding warrants or other criminal activity.

3. *Increase Current Drug Suppression Unit Staffing by 25%:*

The Drug Suppression Unit was fully staffed in May 2007. Newly assigned and current officers have been attending numerous classes to build additional skills. The results of our increased efforts are referenced above.

4. *Increase Partnership with U.S. Attorney's Office in Federal Drug Prosecution:*

Specific investigative efforts are ongoing to build cases against the major drug Suppliers to include sources outside our region. These cases are long term efforts that result in numerous arrests with long federal prison sentences. We work daily with federal agencies to further these investigations. Our cooperative efforts with ATF and the U.S. Marshal Service Fugitive Task Force also aides in the capture and prosecution of drug dealers.

DEA	One full time task force officer
ATF	One part time task force officer for guns and drugs
U.S. Marshal	12 part time AFIST officers
FBI	Future plan to add one full time officer to task force

5. *Invest Additional Resources in Crime Prevention/Neighborhood Enhancement in Public Housing and High Crime Areas:*

We have assigned one full time officer to dedicated crime prevention/community resource duties in public housing areas as of mid July 2007.

10 community events

Scheduling of regular meetings and dialogue with development managers

6. *Increase Community Policing and Outreach Initiatives:*

Summer youth camp, "Back to Basics"

Inaugural "Junior Citizen's Police Academy"

CAYLA summer intern program with 4 students

Renewal of Explorer Post is underway

Mentoring efforts at the Reid Center

The police department is working with IT Services and the County in an effort to track all officer time in targeted neighborhoods by using the Automatic Vehicle Locator System for tracking of community policing efforts.

7. *Explore Additional Policy Considerations:*

NarTest personnel in final training stage for courtroom testimony

High Point Model underway

Police Chief Hogan also noted that the Charlotte District Office of the U.S. Drug Enforcement Administration requested an unofficial review of the Asheville Police Department Narcotics Unit (APDNU) . In summary, DEA Group Supervisor James Kenney and Major Levins were very impressed with the APDNU. "The unit is professional, tactically sound and innovative in their approach to a significant challenge. The unit leaders are progressively minded in their approach to dealing with the drug threat in the community. It is clear that this mindset starts at the very top of the APD."

In response to Councilman Mumpower, Chief Hogan said that the recommendations received by the DEA basically include: (1) additional narcotics training for officers assigned to the APDNU; (2) the creation of additional satellite police offices located in close proximity to the areas most effected by drug trafficking; (3) additional surge operations based on long-term intelligence and evidence collection that result in a large number of arrests and the execution of multiple search warrants; (4) additional detectives are need in the CDU to investigate the higher level of traffickers that supply the street dealers; (5) the defined goals of the unit need to be in line with the overall department goals; and (6) look for a link analysis system to track and connect suspects, locations and methods of operation. He said that they will work towards implementing the recommendations.

Police Chief Hogan responded to Councilman Mumpower about the overwhelmed judicial system.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO PERMANENTLY CLOSE A PORTION OF THE RIGHT-OF-WAY FOR ROSSCRAGGON ROAD

RESOLUTION NO. 07-200 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF THE RIGHT-OF-WAY FOR ROSSCRAGGON ROAD

Mayor Bellamy opened the public hearing at 6:47 p.m.

Assistant Public Works Director Richard Grant said that this is the consideration of a resolution to permanently close a portion of the right-of-way for Rosscraggon Road. This public hearing was advertised on October 19, 26, November 2 and 9, 2007.

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

Pursuant to this statute, David Matney, on behalf of 2130 Hendersonville Road, LLC, requested the City of Asheville permanently close a portion of the right of way for Rosscraggon Road.

Public Works Department staff has researched and contacted all agencies and the Greenway Commission and determined easements are required for the Metropolitan Sewage District and the City of Asheville Water Department.

Pro: The closure allows the property to be used to its maximum potential by adjacent property owners.

Con: In consideration of the portion of Rosscraggon Road, staff can find no potential challenges regarding this closure.

City staff recommends City Council approve a resolution to permanently close a portion of the right of way for Rosscraggon Road.

Mayor Bellamy closed the public hearing at 6:49 p.m.

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

Councilman Mumpower moved for the adoption of Resolution No. 07-200. This motion was seconded by Councilman Davis and carried unanimously.

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B. PUBLIC HEARING TO PERMANENTLY CLOSE A PORTION OF ATKINS STREET

RESOLUTION NO. 07-201 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF ATKINS STREET

Mayor Bellamy opened the public hearing at 6:50 p.m.

Assistant Public Works Director Richard Grant said that this is the consideration of a resolution to permanently close a portion of Atkins Street. This public hearing was advertised on October 19, 26, November 2 and 9, 2007.

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

Pursuant to this statute, David Matney, on behalf of 2130 Hendersonville Road, LLC, requested the City of Asheville permanently close a portion of Atkins Street.

Public Works Department staff has researched and contacted all agencies and the Greenway Commission and determined an easement is required for The Metropolitan Sewage District.

Pros: The closure allows the property to be used to its maximum potential by adjacent property owners.

Cons: In consideration of the location of the portion of Atkins Street, staff can find no potential challenges regarding the closure.

Staff recommends City Council approve a resolution to permanently close a portion of Atkins Street.

Mayor Bellamy closed the public hearing at 6:51 p.m.

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

Councilman Mumpower moved for the adoption of Resolution No. 07-201. This motion was seconded by Vice-Mayor Jones and carried unanimously.

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C. PUBLIC HEARING TO REZONE 11 AND 17 LARCHMONT ROAD FROM COMMERCIAL BUSINESS II DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 3557 - ORDINANCE TO REZONE 11 AND 17 LARCHMONT ROAD FROM COMMERCIAL BUSINESS II DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Mayor Bellamy opened the public hearing at 6:52 p.m.

Interim Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance to rezone 11 and 17

Larchmont Road from Commercial Business II District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on October 26 and November 2, 2007.

When property owners were notified for the Merrimon Avenue rezoning study, the property owners for 11 & 17 Larchmont Road (Phillip and Edna Ashley) contacted staff and expressed interest in a separate zoning consideration to rezone both residential properties from the existing CB-II zoning to the adjacent RS-8 zoning.

CB-II (Community Business II) was established to provide areas for medium to high density business uses serving several residential neighborhoods. The CB-II district is designed to be located primarily along minor and major thoroughfare streets.

RS-8 (Residential Single family, High Density) was established to provide for a high density per acre of single family dwellings where public infrastructure is sufficient to support such development, and to stabilize the district's existing residential character in areas of existing high density single family development while promoting a suitable environment for single family living.

While CB-II zoning does allow for residential uses, the property owner has expressed no interest in redeveloping the properties for any commercial or higher intensity use. Based on the existing single family use, the RS-8 zoning is a more appropriate match. Additionally, there is a topographic separation between the subject properties and the commercially developed properties to the east where access is most easily achieved through a private residential driveway that is not suitable for commercial activity.

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

At their August 14, 2007, meeting the Planning and Zoning Commission considered the rezoning request as part of the Merrimon Avenue zoning study. The Commission unanimously recommended approval of the rezoning request (7-0). Staff recommends approval of the rezoning request as well.

Pros

- Preserves existing housing stock
- Ensures buffering protection between residential and commercial uses
- Zoning matches existing land use

Cons

- Results in a slightly irregular zoning line

One of the adjacent property owners wanted the area to stay residential.

Mayor Bellamy closed the public hearing at 6:53 p.m.

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

Councilman Freeborn moved for the adoption of Ordinance No. 3557. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

D. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR VOLVO CONSTRUCTION EQUIPMENT NORTH AMERICA INC.

RESOLUTION NO. 07-202 - RESOLUTION AUTHORIZING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR VOLVO CONSTRUCTION EQUIPMENT NORTH AMERICA INC.

ORDINANCE NO. 3558 - BUDGET AMENDMENT FOR VOLVO CONSTRUCTION EQUIPMENT NORTH AMERICA INC.

Mayor Bellamy opened the public hearing at 6:54 p.m.

Economic Development Director Sam Powers said that this is the consideration of an economic development incentive grant for Volvo Construction Equipment North America Inc. and the associated budget amendment, in the amount of \$85,600. This public hearing was advertised on November 2, 2007.

This is consideration for an economic development incentive grant under the City of Asheville Economic Development policy. Volvo Construction Equipment North America, Inc. (herein "Volvo") operates and maintains a manufacturing facility in Buncombe County substantially all of which is located in the City of Asheville. Volvo is proposing new, taxable, capital investment of \$20,000,000 for additional production equipment and facility improvements at the local facility, and has requested consideration for a cash grant under the City of Asheville Economic Development policy. The purpose of this investment is to allow Volvo to modernize its operations, and is projected to result in the retention of jobs that pay at or above the average wage for Buncombe County.

The City of Asheville proposes to offer Volvo a performance-based grant not to exceed \$599,200. The performance-based grant

will be paid over a seven year period. Payments begin after the investment is made, taxes are paid and verified, and the company requests payment. The amount of the annual payment will take into consideration the estimated annual ad valorem property tax revenue attributable to the capital improvements, and each annual payment is projected to equal approximately 75% of said estimated revenue.

The City will fund the payments from the general fund. Staff believes that the project will stabilize and improve the economic prospects of the City and the area.

Staff recommends City Council approve a resolution authorizing an economic development incentive grant in the amount not to exceed \$599,200 for Volvo Construction Equipment North America, Inc.

A representative from Volvo explained to Council they have invested almost \$20 Million over the past 18 months into the company. By the end of this year, they will have hired 75 new employees and they will add another 250-300 jobs over the next 3-4 years. He explained that the average wage for the new hires (once they have gone through progression) will be in excess of \$17 per hour. In addition, they have worked closely with A-B Technical Community College in developing training programs.

Councilman Mumpower noted that Asheville is lucky to have Volvo in that they provide good, high paying jobs; however, he felt this is corporate welfare and he disagreed with that concept.

Mayor Bellamy spoke in support of the economic development incentive grant and was pleased that they chose Asheville to locate. She said we appreciate their investment in our community.

Councilman Newman said that in a perfect world every community could compete for businesses based on quality of life, good schools, etc. but Asheville can't dictate that reality across the rest of the state or country. If we don't participate, then we lose good jobs for our community. He felt that until our federal legislators make it a level playing field, to stop Asheville from competing for good jobs is a mistake.

Mayor Bellamy closed the public hearing at 7:00 p.m.

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. 07-202. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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Councilman Freeborn moved for the adoption of Ordinance No. 3558. 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

Closed Session

At 7:05 p.m., Mayor Bellamy announced a short recess, at which time City Council will go into closed session. Councilman Mumpower then moved to go into closed session for the following reason: To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following matter: Special Proceeding involving Deed of Trust held by Vision Bank on property owned by Asheville Mountainside, LLC, and known as McCormick Heights. The statutory authorization is contained in N.C.G.S. 143-311(a)(3). This motion was seconded by Councilman Freeborn and carried unanimously.

At 7:25 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Councilman Freeborn and carried unanimously.

V. UNFINISHED BUSINESS:

A. PARKS CAPITAL IMPROVEMENT PLAN

Parks & Recreation Director Roderick Simmons said that \$640,000 in Parks & Recreation capital improvement program (CIP) funding from the Fiscal Year 2007-08 budget remains unallocated. This report details staff's proposal for allocating that funding and presents additional Parks & Recreation CIP project decisions for Council's consideration.

The Fiscal Year 2007-08 adopted budget included \$700,000 in unallocated funding for Parks & Recreation capital projects. Staff indicated to Council that we would return during the fiscal year and identify specific projects to be funded with this \$700,000 allocation. At the October 23rd meeting, Council voted to allocate \$60,000 from this \$700,000 to fund the City's share of renovations at the Burton Street Community Center. This leaves \$640,000 in current year CIP funding to be allocated to other projects.

An analysis of existing Parks & Recreation capital projects revealed funding needs that exceeded the \$640,000 available in the

current year's CIP. Therefore, before deciding on the funding priorities for the current fiscal year allocation, staff is recommending that Council address outstanding issues in existing projects.

Decisions on Existing Projects

Memorial Stadium

As outlined in the Parks & Recreation Capital Project Audit that was recently presented to Council, the Memorial Stadium Phase I capital project currently has a cash deficit. This deficit is due to: 1) unfulfilled fundraising pledges; 2) budget authority derived from the State PARTF grant was used to cover the cost of other project elements; and 3) general cost overruns due to inflation. The total deficit in the Memorial Stadium Phase I project is currently \$589,830.

Staff is recommending that Council appropriate funding from the capital reserve portion of fund balance to cover this deficit. The City's capital projects fund balance currently has \$638,000 set aside for capital project needs. This money has also not been allocated to any specific project, and is therefore available to be used. Since this \$638,000 is reserved for capital improvements, and thus not included in the City's general fund unreserved fund balance, appropriating this money would not impact the year-end general fund fund balance percentage.

Phase II of the Memorial Stadium project involves completing the elements of the project that are associated with state PARTF grant, which include: picnic shelter, soccer field, fitness trail, basketball court, event plaza, stadium seating renovation, landscaping, scorer's stand/press box, parking lot, sidewalks and walkways for ADA access. The total cost of completing Phase II is \$1,527,000. Of this amount, \$248,800 would be covered by the PARTF grant. The City contribution needed to complete Phase II is \$1,278,200. The State is requiring that the City make a decision on this project by November 14 or forfeit the PARTF grant.

Phase III of the Memorial Stadium project involves construction of a veterans' memorial. The total cost of this phase as currently designed is \$377,000. A federal grant of \$247,500 has been awarded for this phase of the project; therefore the City contribution needed to complete the Veteran's Memorial is \$132,500.

Reid Center Renovation

City Council approved \$455,000 in funding for the Reid Center renovation as a part of the FY 2006-07 adopted budget. This funding was designated as the City's match for a State grant that had been awarded for the Reid Center project. Staff is recommending that we use a portion of this funding to cover the development of a final design and initiate immediate center improvements to the theater, weight room, doors and windows as a start to this project.

Staff recommendations for existing projects:

- **Memorial Stadium Phase I:** Close out with capital reserve funding.
- **Memorial Stadium Phases II & III:** For Phase II, return the PARTF grant and seek community input through the master planning process before proceeding with additional park elements. For Phase III, defer the decision on the veterans' memorial, and through the master planning process, consider a re-design of the memorial that would allow that portion of the project to proceed independently of the other park elements.
- **Reid Center Renovation:** Reallocate a portion of the \$455,000 already approved for the project for design of the renovation to cover the development of a final design and initiate immediate center improvements to the theater, weight room, doors and windows as a start to this project; and defer a decision on the scope of the renovation until after the master planning process is complete.

Decisions on FY 2007-08 CIP Funding

Aston Park

The Aston Park project has a current budget of \$611,576. To date, funding for this project has come entirely from private donations and a state grant. Staff is requesting City funding to add a retaining wall and security lights to the project as recommended by the community.

Reed Creek Greenway Phase II

In order to receive state grant funding for next phase of the Reed Creek Greenway project, City matching funds are needed in the current fiscal year. Additional City funding will be required in future CIP's in order to complete Phase II of this project.

Deferred Maintenance Projects

Parks and Recreation staff has identified three high priority deferred maintenance projects for funding in Fiscal Year 2007-08:

Roof repairs at the Montford, Oakley and East Asheville recreation centers;

- Swimming pool improvements that will address safety & maintenance concerns at three (3) pool sites. We would use these funds to start to address the following ongoing maintenance issues: Upgrade plumbing, water leaks, bathhouses, ADA issues, pool decks, security lights, and motor pumps.
- Begin replacing the water supply system at the Municipal Golf Course, which currently does not meet state regulations for backflow prevention. This project will be completed over a two-year time period with half of the system replaced each year. An additional appropriation will be needed in the FY 2008-09 CIP to complete this project.

Staff recommends that Council adopt funding for the projects outlined above.

The following is a financial summary of staff's recommendations for existing and new project allocations:

<u>Projects</u>	<u>Amount</u>
Memorial Stadium Phase I Deficit	589,830
Aston Park	70,000
Reed Creek Greenway Phase II	36,500
Deferred Maintenance Needs:	
Recreation Facility Roof Repairs	150,000
Swimming Pool Maintenance	100,000
Golf Course Water Supply Phase I	<u>250,000</u>
-	-
Total Projects	1,196,330
-	-
<u>Funding Sources</u>	<u>Amount</u>
FY 2007-08 Unallocated CIP Funding	640,000
Capital Reserve Funding	<u>556,330</u>
-	-
Total Funding	1,196,330

Pros:

- Funds the deficit in the Memorial Stadium Phase I project,
- Allows the City to complete Aston Park Phase I and meet grant deadlines associated with Reed Creek Phase II,
- Begins to address some key deferred maintenance at other Parks' facilities,
- Stays within current resources with no appropriation from unreserved fund balance.

Cons:

- Does not provide funding for additional phases of the Memorial Stadium project, which means the City must return a State PARTF grant,
- Requires a significant contribution from the City capital reserve funds that could be used for other projects.

Staff recommends that City Council review the CIP information presented in this report and provide direction on funding Parks & Recreation Capital Improvement Projects.

Throughout considerable discussion, Mr. Simmons and City Manager Jackson responded to various questions/comments from Council, some being, but are not limited to: explanation of the Municipal Golf Course water supply system and can we look to raise fees for those who play to help pay; will we move forward with renovations to the Reid Center, will those renovations conform with the Parks & Recreation Master Plan; will returning a State PARTF grant for Memorial Stadium put the City in a bad light with the State; and is the State grant for the Reid Center renovation in jeopardy.

Ms. Leah Karpen urged Council to fund the Reid Center renovations.

It was Mayor Bellamy's hope that before we take on any new initiatives, the Reid Center, other existing projects and even deferred maintenance needs be completed. She felt we will get more community support when they see a project started and finished.

Councilman Mumpower spoke about the Memorial Stadium project and the donations we have received from other communities that are tied to the existing Plan. We need a memorial for our war dead and we have done a lot of work and have a wonderful design. If we move forward on the memorial and do what is necessary to bring life to the project in the existing form, he committed to raising the \$132,500 to complete Phase III.

In response to the some of the elements in Phase II of the Memorial Stadium Project, Mr. Simmons explained that as we proceed through the Parks & Recreation Master Plan process, they will come up with a priority list and use that as a guide.

Councilman Mumpower said that even though he wouldn't support it, Council has the opportunity to go into their savings account

to come up with the funds to complete this or any project in order to not lose a grant. The other issue is that we need to go forward with some clear plans and if not, we need to communicate with everyone that we have collected money from and let them know what is happening.

Mayor Bellamy looked forward to an update on the Parks & Recreation Master Plan process. She called on the community to become involved in the Master Plan process in order to let Council know what they want in the City of Asheville.

Councilman Freeborn moved to instruct City staff to accept and approve the Parks & Recreation Capital Improvement Projects as outlined by Mr. Simmons. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

B. CONTINUATION OF 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

Mayor Bellamy said that this public hearing was held on October 23, 2007, and continued until this date in order for the person who has authority to make decisions regarding the project is present and confirmation on energy efficient and/or green items.

Urban Planner Julia Cogburn said that on October 23, 2007, City Council held a public hearing on a request for rezoning of 13.52 acres located at 55 Piney Mountain Road. The request was for rezoning from RS-2 to Institutional for the purpose of developing a 120 suite retirement residence facility.

After the public hearing and discussion, City Council continued the item until November 13, 2007, for additional information. A motion was on the table to approve the rezoning with the staff recommended conditions (including a condition that the use be restricted to a retirement suite residence facility with no facility provided medical component) and that the retaining walls in the development meet the new standards for retaining wall design and vegetation even if they are not of a height that would require the same. Questions were raised regarding green building and energy efficiency.

Since that meeting, the developer has provided the following list of "green" and/or energy efficient items that they propose to incorporate into their development.

Water/Sewer

- No kitchens – use 1/3 less water than apartment
- Low flow, flapper less toilets
- Low flow sink aerators
- Low Flow Shower heads
- Central Water heating system for entire building
- High efficiency water heater
- Re circulating Hot water system to reduce heat loss in pipes

Electricity/Heating

- Fluorescent lighting throughout building w/ electronic ballasts
- Motion sensors in all common areas
- High efficiency site lighting w/ astronomical timer for increased accuracy: uses photo, time and calendar to determine on/off
- Individual thermostats in suites
- Programmable thermostats in common areas
- High efficiency AC units
- Low E Argon windows

Site

- On site recycling center
- Trash compactor to reduce number of truck pickups
- Lower impervious area due to lower parking requirements
- Van service provided to reduce traffic impact
- Building designed to work with existing grades
- Shielded lighting to prevent light pollution to neighboring sites

If Council is accepting of this list the motion should add a condition that the green features identified at this meeting be required.

The developer has also discussed with staff plans to voluntarily annex the facility property into the City of Asheville. Staff failed to mention this matter at the meeting on October 23, 2007. The property is in the extraterritorial jurisdiction but not presently in the corporate limits.

The developer is in agreement with the condition concerning the retaining walls.

Ms. Cogburn said that the developer has requested that this matter be continued until November 27, 2007, in order to bring forward to Council some further engineering changes. Therefore, Councilman Freeborn moved to continue this matter until November 27, 2007. This motion was seconded by Vice-Mayor Jones and carried unanimously.

C. CONTINUATION OF SECOND READING OF 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 MEDIUM DENSITY DISTRICT FOR THE DEVELOPMENT OF A MULTI-FAMILY APARTMENT PROJECT

Interim Planning & Development Director Shannon Tuch said that the petitioners have requested that the second reading be continued until November 20, 2007, in order to avoid a tie vote. Therefore, Councilman Newman moved to continue the second reading of Ordinance No. 3546 to November 20, 2007. This motion was seconded by Vice-Mayor Jones and carried unanimously.

VI. NEW BUSINESS:

A. RESOLUTION NO. 07-203 - RESOLUTION RESCINDING APPOINTMENT TO ASHEVILLE CIVIL SERVICE BOARD, DECLARING VACANCY AND APPOINTING JOHN P. MIALL TO THE BOARD

Vice-Mayor Jones, Chair of the Boards & Commissions Committee, said that there currently exists a vacancy on the Civil Service Board from Barbara Marlow who no longer resides in the City limits. Since there is no resource list, John Miall was recruited to fill the vacancy.

City Attorney Oast read the resolution as follows: "The Civil Service Law for the City of Asheville, N.C., S.L. 1999-303, provides for a board of five persons, all of whom must be qualified voters in the City of Asheville. At the time of her reappointment to the Board in June of 2007, Barbara Marlowe no longer resided in the City, having moved her residence in April of 2007, and was therefore ineligible for appointment to the Board. John P. Miall is a qualified voter residing in the City of Asheville, and otherwise possesses the qualifications for appointment to the Civil Service Board. Now, therefore, be it resolved by the City Council of the City of Asheville that (1) the resolution appointing Barbara Marlowe to the Asheville Civil Service Board (City Council Resolution No. 07-116 adopted June 12, 2007) is hereby rescinded, and a vacancy on the Civil Service Board is declared to exist; (2) John P. Miall is hereby appointed to the Asheville Civil Service board to serve a two-year term; and (3) John P. Miall is further appointed as the temporary Chair of the Asheville Civil Service Board for the sole and limited purpose of presiding during the Board's organizational meeting and until his successor is duly appointed by the City Council, as provided by law."

Councilman Freeborn moved for the adoption of Resolution No. 07-203. This motion was seconded by Councilman Mumpower and carried unanimously.

RESOLUTION BOOK NO. 31 - PAGE 18

VII. OTHER BUSINESS:

A. THE ELECTION OR APPOINTMENT OF CITY SCHOOL BOARD MEMBERS

Councilman Mumpower requested the issue of the election or appointment of City School Board members be discussed and felt that when his request was made in March of 2007, the delay in scheduling it in January of 2008 was unreasonable. Therefore, Councilman Mumpower moved to add the discussion of appointment vs. election of City School Board members to an agenda in November of 2007. This motion was seconded by Councilman Davis

Mayor Bellamy explained that the November agendas are full and, as seen by the continuance of two matters at this meeting, there are times when the agendas become unusually heavy. She apologized that she couldn't get the issue on the November agenda due to many end-of-the-year necessities. Even though this is not the first time she has had complaints about not placing an item on a certain agenda, Council agreed that the Mayor would manage the agenda process and she has strived to do a good job in that management.

After a brief discussion about whether the issue should be brought to Council by the community or Council should initiate the discussion, the motion made by Councilman Mumpower and seconded by Councilman Davis failed on a 1-6 vote, with Councilman Mumpower voting "yes."

B. CLAIMS

The following claims were received by the City of Asheville during the period of November 2-8, 2007: Janice Kelly (Parks & Recreation), Jason D. Lambert (Parking Services), Hanna Raskin (Transit Services), Travelers Insurance (Parking Services), Enterprise Leasing (Parks & Recreation), Mary Ellen Ensign (Streets) and Eric Johanson (Water). These claims have been referred to Asheville Claims Corporation for investigation.

C. LAWSUITS

The City received the following Complaint on October 26, 2007, which is generally described as follows: E. Jerome Jensen, Jr., et al. v. City of Asheville. The nature of the proceeding is to declare the annexation ordinance for the Biltmore Lake area to be null and void or order a remand if the Court determines that the ordinance may be corrected, and staying the annexation proceedings. This matter will be handled by an outside attorney.

The City received the following Complaint on November 7, 2007, which is generally described as follows: Mary Byrd Daniels v. City of Asheville. The nature of the proceeding is a Complaint for personal injury resulting from negligence at the Civic Center. This matter will be handled by an outside attorney.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Richard Cosgrove asked Council to investigate further the automobile accident his son had when a tree on the City's right-of-way fell on his son's car on Montford Avenue. Ms. Anita Irby agreed with Mr. Cosgrove in that a similar incident occurred to her. She too asked for Council's review. City Manager Jackson said that he and the City Attorney will review these particular cases and satisfy Council that they have been taken care of with all due consideration.

Mr. Ken Huck explained that he owns a vacant piece of property that is undergoing a natural regenerative process of germination, growth and ecological succession, the final outcome of which is a healthy forest. He is content to leave the land alone for the use of native plant and animal communities. However, he received a letter from the City of Asheville stating that the "long grass/weeds requires cutting." He feels that the City's letter demonstrates that Asheville sees the plant communities that pollinators and other creatures require to live as an unwelcome annoyance. He encouraged Council to clarify Section 15-7 of the Code of Ordinances to allow nature to flourish in abundance in our midst.

Ms. June Beachboard and Ms. Audrey Dotson, residents on Harmony Lane, urged Council to assist them with water from the street running onto their property and deteriorating the foundation of their homes. Mayor Bellamy noted that she has brought up the issue of alternative solutions to address this issue. After a brief discussion, and a suggestion made by Councilman Newman about investigating a program that MSD currently uses, City Manager Jackson said that he will provide Council with some detailed information on their locations and update Council on the schedule for Council to review the options. Mayor Bellamy asked the City Manager to send Ms. Beachboard and Ms. Dotson the report as well.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 8:55 p.m.

CITY CLERK

MAYOR