

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 Acting City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

The students from the 8th grade of Francine Delany New School for Children led City Council in the Pledge of Allegiance.

INVOCATION

Mayor Bellamy gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING NOVEMBER 2007 AS “NATIVE AMERICAN HERITAGE MONTH”

Mayor Bellamy read the proclamation proclaiming November, 2007, as "Native American Heritage Month" in the City of Asheville. She explained why the Veterans Administration Hospital has been re-named to "Private First Class Charles George Hospital" noting that Mr. George is from the Cherokee Tribe.

B. PROCLAMATION PROCLAIMING NOVEMBER 2007 AS “NON-PROFIT AWARENESS MONTH”

Vice-Mayor Jones read the proclamation proclaiming November, 2007, as "Non-Profit Month" in the City of Asheville. She presented the proclamation to Ms. Ann Von Brock and Ms. Allison Jordon, who briefed City Council on some activities that took place during the month.

C. PROCLAMATION PROCLAIMING DECEMBER 13, 2007, AS “SOUTH FRENCH BROAD NEIGHBORHOOD DAY”

Councilman Freeborn read the proclamation proclaiming December 13, 2007, as "South French Broad Neighborhood Day" in the City of Asheville. He presented the proclamation to Professor Ann Mahoney who briefed City Council on some activities taking place during the day.

Mayor Bellamy thanked Professor Mahoney for her leadership and for her reaching out to the West End/Clingman Avenue neighborhood as well.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items “C”, “D”, “E” and “I” were removed from the Consent Agenda for individual votes.

A. RESOLUTION NO. 07-208 – RESOLUTION ADOPTING THE 2008 SCHEDULED CITY COUNCIL MEETINGS

RESOLUTION BOOK NO. 31 – PAGE 23

B. ORDINANCE NO. 3562 – BUDGET AMENDMENT TO APPROPRIATE REVENUE AND BUDGET EXPENDITURES ASSOCIATED WITH THE SARDIS ROAD AND SCHENCK GATEWAY ANNEXATION AREAS

Summary: The consideration of a budget amendment, in the amount of \$249,089, to appropriate revenue and budget expenditures associated with the Sardis Road and Schenck Gateway annexation areas.

In August 2007, City Council approved the annexation of three areas - Sardis Road, Schenck Gateway, and Biltmore Lake - into the City. Under state law, property owners are allowed sixty days to file legal challenges to any annexation. The period for filing legal challenges to the annexations has now passed, and the City has received a legal challenge from the Biltmore Lake

area. As a result, this area will not be coming into the City as scheduled. The two remaining areas, Sardis Road and Schenck Gateway, will become part of the City on December 31, 2007. Therefore, the City needs to amend the current year budget to reflect expenses associated with serving these two areas between December 31st and June 30, 2008.

The cost of providing services to these areas for the remainder of FY 2007-08 will be \$249,089. This amount includes \$180,000 to begin design work for the installation of sewer lines in the Sardis Road area. The full cost of the sewer installation project for Sardis is approximately \$1.8 million. The remaining sewer project costs will be included in the FY 2008-09 capital improvement budget which will be presented to Council next spring.

The City will receive a half-year of property tax and fee revenue from the Sardis Road and Schenck Gateway areas in FY 2007-08. In total, these two areas will generate \$222,051 in revenue in FY 2007-08. In order to cover the one-time capital costs, the City will need to appropriate \$27,039 in fund balance.

City staff recommends City Council adopt the budget amendment to appropriate revenue and budget expenditures associated with the Sardis Road and Schenck Gateway annexation areas.

ORDINANCE BOOK NO. 24 – PAGE

C. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS WITH WOLFPEN ASSOCIATES INC.; TURNER-MURPHY CONSTRUCTION; BUCKEYE CONSTRUCTION COMPANY; COOPER CONSTRUCTION COMPANY; PAYNE, MCGINN & CUMMINS; PIPELINE UTILITIES; AND HICKORY CONSTRUCTION COMPANY FOR THE REVENUE BOND WATER SYSTEM UPGRADE PROJECTS

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

D. RESOLUTION AUTHORIZING A CHANGE IN WATER POLICIES TO REFLECT THE ADDITION OF FUNDING INCENTIVES TO ENCOURAGE AFFORDABLE HOUSING AND INFILL DEVELOPMENT THROUGHOUT THE WATER SYSTEM SERVICE AREA

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

E. BUDGET AMENDMENT TO REFLECT THE ADDITION OF FUNDING INCENTIVES TO ENCOURAGE AFFORDABLE HOUSING AND INFILL DEVELOPMENT THROUGHOUT THE WATER SYSTEM SERVICE AREA

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

F. RESOLUTION NO. 07-212 – RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE AIR SPACE AT 150 COXE AVENUE, ASHEVILLE, NORTH CAROLINA

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer to purchase air space at 150 Coxe Avenue.

A bid has been received from Zona Lofts LLC in the amount of \$1,872.36 for the purchase of 398 square feet of air space at 150 Coxe Avenue.

The property at 150 Coxe Avenue is the currently being used as a low density parking area. The project called Zona Lofts proposes to build a 15 story building that will house 161 residential units. This project has received approval from the Downtown Commission, the Planning and Zoning Commission, and the Final TRC approval was granted on October 1, 2007. Council approval was granted on August 28, 2007.

The façade of the building includes three architectural details that will require the purchase of air space and are specifically (1) an 18" deep cornice that wraps around the entire building above the tenth story at 49 feet above grade, (2) two architectural fins that protrude 4 feet by 1 foot 4 inches at the top level of the building, at 183 feet, 9 inches above grade and (3) a column of rounded overhangs placed at the center of the front façade of the building, at 49 feet above grade. The total area of these architectural details that encroach into public right-of-way equals 398 square feet.

Past appraisals indicate that the value of air space over public rights of way is 20% of the per square foot land value of the property applied to the horizontal area of the airspace. This method was used to extrapolate a value for the air space using the tax assessment for the property at 150 Coxe Avenue. The estimated value of the air space for 398 square feet is \$1,827.36. The bid from Zona Lofts, LLC is to acquire the air space for the architectural details for the sum of \$1,827.36.

The Tree Commission has reviewed the request for air rights for this building and has agreed that the architectural details will not interfere with urban landscaping in this area.

On August 28, 2007, Council requested staff to research the implementation of fees to cover the administrative time required in relation to air rights conveyance. At this time, staff is developing a fee charge to be applied to real estate issues such as this, ultimately to be reviewed by the Fees and Charges committee for the upcoming budget cycle. In the interim, a \$500 administrative fee will be assessed at closing to cover advertising costs.

The positive aspects of the transaction are:

1. The sale will be at fair market value.
2. The architectural details will provide a more visually interesting façade on the building.
3. The rounded overhangs serve as a green feature to provide sun shade to reduce cooling needs.

There is no negative impact.

Economic Development staff recommends adoption of the resolution which will initiate the sale of the air space through the upset bid process.

RESOLUTION BOOK NO. 31 – PAGE 28

G. RESOLUTION NO. 07-215 - RESOLUTION TO APPROVE THE CONFLICT OF INTEREST STATEMENT AS REQUIRED BY THE STATE OF NORTH CAROLINA FOR DISBURSEMENT OF THE ANNUAL STATE OF NORTH CAROLINA ALLOCATION VIA THE GRASSROOTS SCIENCE PROGRAM TO THE WNC NATURE CENTER

Summary: The consideration of a resolution authorizing the City Manager to execute all contractual documents and approval of a conflict of interest statement for an annual allocation to the WNC Nature Center.

Each year the State of North Carolina allocates and distributes funds to the 25 to 30 member museums, science centers and nature centers in North Carolina for the Grassroots Science Program as supported by North Carolina Senate Bill 1741. The total state funds available in FY 2007-2008 are \$3,481,340. The Nature Center allocation for the same period is \$112,879. Funds will be used to enhance the efforts of the Nature Center to develop exhibits, educational programs and collection to better accomplish the Nature Center's mission to improve public understanding and appreciation of the region's natural history.

Along with execution of the contract documents, the City is required to file a conflict of interest statement as required by House Bill 914 of the 2006 Session Laws, which repealed N.C.G.S. §143-6.2, effective July 1, 2007, and recodified into Chapter 143C of the State Budget Act.

Pros:

- Fulfills all contractual requirements of Chapter 143C of the State Budget Act to for the release of operating funds to the City of Asheville for the WNC Nature Center.
- Provide assurance to the Grantor that the City of Asheville has a conflict of interest statement in place as required by Chapter 143C of the State Budget Act.

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Cons:

- None

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The Parks & Recreation Department recommends City Council authorize the execution of all contractual documents and approve the conflict of interest statement.

RESOLUTION BOOK NO. 31 – PAGE 29

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H. RESOLUTION NO. 07-214 – RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT, AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT, WITH JLS COMPANY, LLC, FOR THE PROJECT KNOWN AS “KENILWORTH ROAD/SHILOH COMMUNITY TRAFFIC CALMING PROJECT”

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with JLS Company, LLC in the

amount of \$186,106.00, for the project known as Kenilworth Road/Shiloh Community Traffic Calming Projects.

This project generally consists of the construction of traffic calming devices/measures in the Kenilworth and Shiloh communities. The traffic calming devices/measures include 14-foot and 22-foot asphalt speed humps, a mountable traffic separator, lateral shift islands, median islands, intersection re-alignment, signage, and various sidewalk, driveway, and drainage structure repairs.

The Transportation & Engineering Department received and publicly opened two bids on Monday, November 12, 2007, at 2:00 p.m. The bids were received from JLS Company, LLC and APAC – Atlantic, Inc. in the amounts of \$186,106.00 and \$219,171.00 respectively. After a thorough review of the bid documents by the Transportation & Engineering Department and the Office of Minority Affairs, JLS Company, LLC, was found to be the lowest responsible bidder with a total bid of \$186,106.00 (*\$83,904.00 Shiloh community and \$102,202.00 Kenilworth Road*). All contract work was solicited using the “informal bidding procedures” in accordance with State guidelines and as a result, there was no requirement to receive a minimum number of bids. Bids for this project were solicited on three separate occasions; the previous two occasions no bids were received.

The project will be financed with monies from the Housing Trust Fund (*\$84,000.00 approved by the City Council on May 11, 2004 for the Shiloh community*) and with monies already in the budget (*\$106,628.00*) for the Kenilworth community. Budget amendments are **not** needed for the subject monies.

JLS Company, LLC, has demonstrated in a satisfactory manner that she has satisfied all of the requirements as stated in the contract documents including evidence that she will adhere to the requirements of the City of Asheville’s “DRUG FREE WORKPLACE”.

The construction time for the project is identified as 120 calendar days from the written notice to proceed as stated in the contract documents. The work to be performed shall commence within 10 calendar days from the written notice to proceed as stated in the contract documents. The contractor will be required to pay the sum of \$250.00 as liquidated damages for each and every calendar day that he shall be in default after the time stipulated in the contract.

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

- The execution of this contract will allow the City to meet the requirements of the traffic calming policy for the Kenilworth and Shiloh communities;
- The execution of this contract will satisfy the wishes of the Kenilworth and Shiloh communities as indicated in the verified 60% petitions for both communities;
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- The bid amount of \$186,106.00 for the construction of the Kenilworth Road/Shiloh Community Traffic Calming Project is equitable, as compared to the engineer’s estimate of \$150,315.10, considering current economic conditions, and is within the established budget amounts;
- The only foreseeable disadvantage of adopting a resolution authorizing the City Manager to execute this contract is that up to 40% of the affected community members might be opposed to the recommended traffic calming devices/measures.

- Staff recommends that City Council adopt a resolution authorizing the City Manager to sign a contract with JLS Company, LLC in the amount of \$186,106.00, for the project known as Kenilworth Road/Shiloh Community Traffic Calming Project.

Mayor Bellamy said that we have heard a lot about the issues of traffic on Kenilworth Road and we tried twice, unsuccessfully, to get this project moving. This Council has been working to get these safety measures done on Kenilworth Road and in the Shiloh area and was pleased we can now begin work.

RESOLUTION BOOK NO. 31 – PAGE 31

I. RESOLUTION SUPPORTING THE DESIGN FOR A PERFORMING ARTS CENTER IN ASHEVILLE, NORTH CAROLINA

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

J. RESOLUTION NO. 07-216 – RESOLUTION AUTHORIZING EXECUTION OF AN EASEMENT TO PROGRESS ENERGY FOR POWER TRANSMISSION FACILITIES ON CITY PROPERTY – UNDERGROUND LINE IN

MARKET STREET AND VAULT TO SERVE PAVILION IN RENOVATED CITY-COUNTY PLAZA AREA

Summary: The consideration of resolutions approving the conveyance of easements in City property and rights-of-way to Progress Energy Company for power transmission facilities.

Progress Energy is requesting easements on City property and rights-of-way to enable the installation of power transmission facilities to provide or improve service to new or expanded operations in the City.

The first is an underground line and vault that will serve the pavilion that is to be built in the renovated Pack Square / City County Plaza. The easement is being requested for the vault and for the service line, which will run from an existing underground line in Market Street to the vault, which is proposed to be located within the park area.

The second is a stub pole or support pole on the north side of Victoria Road, above the McDowell Street overpass. This pole will not carry a power line, but will provide additional support via guy-lines to a pole on the south side of Victoria that holds a line that serves the hospital complex.

The potentially affected City departments have reviewed this request, and no objections were noted.

Progress Energy Corporation pays a franchise tax annually for the use of City rights-of-way; the City typically does not require financial consideration for easements of this nature.

Pros:

- Facilitates the provision of utility service to facilities that provide a public service
- Market Street line is underground

Cons:

- None noted

Adoption of the resolutions is recommended.

RESOLUTION BOOK NO. 31 – PAGE 33

K. RESOLUTION NO. 07-217 – RESOLUTION AUTHORIZING EXECUTION OF AN EASEMENT TO PROGRESS ENERGY FOR POWER TRANSMISSION FACILITIES ON CITY PROPERTY – STUB POLE ON NORTH SIDE OF VICTORIA ROAD NEAR MCDOWELL STREET OVERPASS FOR LINE TO SERVE MISSION HOSPITAL

Summary: See Consent Agenda Item “J” above.

RESOLUTION BOOK NO. 31 – PAGE 35

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 Councilman Newman and carried unanimously.

ITEMS PULLED OFF THE CONSENT AGENDA FOR INDIVIDUAL VOTES

C. RESOLUTION NO. 07-209 – RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN CONTRACTS WITH WOLFPEN ASSOCIATES INC.; TURNER-MURPHY CONSTRUCTION; BUCKEYE CONSTRUCTION COMPANY; COOPER CONSTRUCTION COMPANY; PAYNE, MCGINN & CUMMINS; PIPELINE UTILITIES; AND HICKORY CONSTRUCTION COMPANY FOR THE REVENUE BOND WATER SYSTEM UPGRADE PROJECTS

Summary: The consideration of a resolution authorizing the City Manager to sign contracts with eleven (11) construction companies for eleven (11) Water System Improvement projects to be funded with \$ 40 million in revenue bond proceeds.

At the direction of City Council, the Water Resources Department retained engineering firms this summer to design major water system improvements projects. These projects were to be funded with future Revenue Bond proceeds. These projects have been designed and over the past six (6) weeks sealed construction bids totaling \$ **35,518,672** have been received for the eleven (11) projects resulting from this effort. Following is a summary of the bidding activity for each of these projects:

West Asheville / Wood Avenue Neighborhood Enhancement Water System Improvements

City of Asheville Project Number: WC 07-08-001

Consulting Engineer: Cavanaugh & Associates

Bids Opened @ 2:00 PM on September 26th

Bids Received:

Wolfpen Associates, Inc. \$ 1,243,005.00
Maggie Valley, North Carolina

Buckeye Construction Company \$ 1,414,292.80
Canton, North Carolina

DPI \$ 1,443,390.00
Arden, North Carolina

Payne, McGinn & Cummins, Inc. \$ 1,545,403.00
Travelers Rest, South Carolina

Cooper Construction Company \$ 1,714,845.00
Hendersonville, North Carolina

Carolina Specialty Construction \$ 1,717,556.11
Asheville, North Carolina

Buncombe Construction Company \$ 1,781,900.00
Asheville, North Carolina

Pump Station Back-Up Power Generators

City of Asheville Project Number: WC 07-08-002

Consulting Engineer: Cavanaugh & Associates

First Bid Opening: 3:00 PM on September 26, 2007
(No bids were received at this time)

Second Bid Opening: 10:00 AM on October 19, 2007

Bids Received:

Turner-Murphy Construction \$ 5,530,176.00
Rock Hill, South Carolina

Hickory Construction Company \$ 5,772,000.00
Hickory, North Carolina

Hendersonville Road Water System Improvements

City of Asheville Project Number: WC 07-08-003

Consulting Engineer: McGill Associates

Bid Opening: 3:00 PM on October 4, 2007

Bids Received:

-
Buckeye Construction Company \$ 3,142,080.00
Canton, North Carolina

Payne, McGinn & Cummins, Inc. \$ 3,759,324.00
Travelers Rest, South Carolina

Cooper Construction Company \$ 3,901,931.50
Hendersonville, North Carolina

Ruby-Collins, Inc. \$ 4,948,281.00
Smyrna, Georgia

Hobby Construction Company \$ 5,257,408.75
Newberry, South Carolina

Thomas Construction Company \$ 5,596,581.34
Johnson City, Tennessee

Brevard Road and Clayton Road Water System Improvements

-
City of Asheville Project Number: WC 07-08-004

Consulting Engineer: McGill Associates

Bid Opening: 2:00 PM on October 4, 2007

Bids Received:

-
Buckeye Construction Company \$ 1,872,007.00
Canton, North Carolina

Payne, McGinn & Cummins, Inc. \$ 2,102,181.75
Travelers Rest, South Carolina

Cooper Construction Company \$ 2,325,885.00
Hendersonville, North Carolina

Ruby-Collins, Inc. \$ 2,406,412.00
Smyrna, Georgia

Hobby Construction Company \$ 2,694,162.05
Newberry, South Carolina

Thomas Construction Company \$ 2,877,165.27
Johnson City, Tennessee

Royal Pines Area Water System Improvements

-
City of Asheville Project Number: WC 07-08-005

Consulting Engineer: McGill Associates

Bid Opening: 1:00 PM on October 4, 2007

Bids Received:

-
Cooper Construction Company \$ 2,279,155.00
Hendersonville, North Carolina

Payne, McGinn & Cummins, Inc. \$ 2,354,895.99
Travelers Rest, South Carolina

Buckeye Construction Company \$ 2,629,148.95
Canton, North Carolina

Hobby Construction Company \$ 3,534,467.50
Newberry, South Carolina

Town Mountain Distribution, Storage & Pump Station Improvements

-
City of Asheville Project Number: WC 07-08-006

Consulting Engineer: Camp-Dresser & McKee

Bid Opening: 3:00 PM on October 10, 2007

Bids Received:

-
Buckeye Construction Company \$ 1,556,986.00
Canton, North Carolina

AGR&R Corporation \$ 1,697,000.00
Brevard, North Carolina

Turner-Murphy Construction \$1,948,412.00
Rockhill, South Carolina

Haren Construction Company \$ 1,968,000.00
Etowah, Tennessee

Central Business District Water System Improvements

City of Asheville Project Number: WC 07-08-007

Consulting Engineer: Camp Dresser & McKee

First Bid Opening: 2:00 PM on October 10, 2007
(Only 2 bids were received at this time)

Second Bid Opening: 1:00 PM on October 19, 2007

Bids Received:

Payne, McGinn & Cummins, Inc. \$ 10,907,029.10
Travelers Rest, South Carolina

Valve Installation Program – Water System Improvements

City of Asheville Project Number: WC 07-08-008

Consulting Engineer: Brown & Caldwell

First Bid Opening: 2:00 PM on October 11, 2007
(Only 2 bids were received at this time)

Second Bid Opening: 11:30 on October 19, 2007

Bids Received:

Pipeline Utilities \$ 1,976,962.90
Raleigh, North Carolina

Buckeye Construction Company \$ 2,297,658.00
Canton, North Carolina

Bee Tree Junction Improvements

City of Asheville Project Number: WC 07-08-009

Consulting Engineer: Brown & Caldwell

First Bid Opening: 3:00 PM on October 11, 2007
(Only 2 bids were received at this time)

Second Bid Opening: 11:00 on October 19, 2007

Bids Received:

Hickory Construction Company \$ 711,675.00
Hickory, North Carolina

Buckeye Construction Company \$ 824,670.00
Canton, North Carolina

Weston Road Water System Improvements

City of Asheville Project Number: WC 07-08-110

Consulting Engineer: Brown & Caldwell

Bid Opening: 3:00 PM on October 18, 2007

Bids Received:

Buckeye Construction Company \$ 2,474,089.47
Canton, North Carolina

Payne, McGinn & Cummins, Inc. \$ 2,772,466.95
Travelers Rest, South Carolina

Hobby Construction Company \$ 2,790,951.68
Newberry, South Carolina

Beaucatcher – White Fawn 24-inch Waterline

City of Asheville Project Number: WC 07-08-111

Consulting Engineer: Brown & Caldwell

Bid Opening: 2:00 PM on October 18, 2007

Bids Received:

Buckeye Construction Company \$ 3,825,506.20
Canton, North Carolina

Payne, McGinn & Cummins, Inc. \$ 4,674,086.45
Travelers Rest, South Carolina

Hobby Construction Company \$ 5,140,205.95
Newberry, South Carolina

Lowest Responsible Bidder Summary:

West Asheville / Wood Avenue Neighborhood Enhancement Water System Improvements

Wolfpen Associates, Inc. \$ 1,243,005.00
Maggie Valley, North Carolina

Pump Station Back-Up Power Generators

Turner-Murphy Construction \$ 5,530,176.00
Rockhill, South Carolina

Hendersonville Road Water System Improvements

Buckeye Construction Company \$ 3,142,080.00
Canton, North Carolina

Brevard Road and Clayton Road Water System Improvements

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Buckeye Construction Company \$ 1,872,007.00
Canton, North Carolina

Royal Pines Area Water System Improvements

-
Cooper Construction Company \$ 2,279,155.00
Hendersonville, North Carolina

Town Mountain Distribution, Storage & Pump Station Improvements

-
Buckeye Construction Company \$ 1,556,986.00
Canton, North Carolina

Central Business District Water System Improvements

Payne, McGinn & Cummins, Inc. \$ 10,907,029.10
Travelers Rest, South Carolina

Valve Installation Program – Water System Improvements

Pipeline Utilities \$ 1,976,962.90
Raleigh, North Carolina

Bee Tree Junction Improvements

Hickory Construction Company \$ 711,675.00
Hickory, North Carolina

Weston Road Water System Improvements

Buckeye Construction Company \$ 2,474,089.47
Canton, North Carolina

Beaucatcher – White Fawn 24-inch Waterline

Buckeye Construction Company \$ 3,825,506.20
Canton, North Carolina

The respective engineers for the projects have reviewed the bids and have recommended award to the lowest responsive bidder for each project. The bids have also been reviewed by Brenda Mills, Minority Business Program Coordinator, for compliance with the City of Asheville Minority Business Plan. These projects cumulatively have a 9.1% utilization of minority owned business and Ms. Mills has concurred that each lowest responsive bidder has complied with the City's Minority Business Plan.

PRO:

- Award of these bids to each of the lowest responsive bidders will further emphasize the City's resolve to systematically repair / replace our aging water system infrastructure. The reliability of water service to affected customers and available fire protection will be enhanced by these projects. The escalation of maintenance and repair costs for this aging infrastructure will be avoided. The budget amendment for these projects was approved by City Council at its November 13, 2007, meeting.

CON:

- Some of these projects are located in busy commercial corridors, including significant areas in Downtown Asheville. Construction of these projects will result in temporary inconveniences to the traveling public, affected merchants and their customers. An extensive public information campaign will aim to minimize these short term conflicts / inconveniences.

City staff recommends City Council approval of the City Manager signing a contract agreement with the lowest responsive bidder for each of these eleven (11) water system improvement projects.

Councilman Mumpower said there are arguments for upgrading our water system; however we are in a legal bind with Buncombe County and our State legislators and to invest this money with other loans before us is not in our best interest.

Councilwoman Cape was very supportive of moving forward in this process.

Mayor Bellamy said that the rate payers are paying back the revenue bonds and these are not property tax dollars. She was happy to see us become better stewards of the system than has taken place in many years. This Council has taken a strong initiative to improve the system and this is only a continuance of that process.

Councilman Newman moved for the adoption of Resolution No. 07-213. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 24

D. RESOLUTION NO. 07-210 – RESOLUTION AUTHORIZING A CHANGE IN WATER POLICIES TO REFLECT THE ADDITION OF FUNDING INCENTIVES TO ENCOURAGE AFFORDABLE HOUSING AND INFILL DEVELOPMENT THROUGHOUT THE WATER SYSTEM SERVICE AREA

Summary: The consideration of a resolution authorizing the change in Water Policies to add incentives for promoting affordable housing and infill development in areas where the current water lines or no water lines exist to support new development; and a budget amendment, in the amount of \$250,000, prorating annual contribution for current fiscal year to \$250,000 for January through June, 2008 incentive contribution.

A dedicated funding source is required to address infill and affordable housing issues in areas of the water system where small lines prohibit new building or water line extensions are required to support new development.

Staff has reviewed current policies and limitations on the water system per the Sullivan Acts. The City Attorney has reviewed the limitations and has confirmed the City's ability to offer water line extension incentives to encourage affordable housing and infill development in areas served by the Asheville water system. The recommended policy additions have been reviewed and endorsed by the Planning and Economic Development (PED) Committee at its November 14, 2007, meeting.

Recommended Policy:

IV. EXTENSION POLICY. D. Construction, Installation, and Project Close-Out.

12. (Added) Affordable Housing and Infill Development Incentives.

- a. The water fund will budget \$500,000 annually to be allocated to affordable housing and infill development water line upgrade and extensions throughout the water system. Funds will be available annually on a first-come, first serve basis based upon project participation criteria.

- b. Budget line item will be established to transfer funds annually from the water capital improvement program funds with \$500,000 to be used on a first come, first serve basis for infill development and affordable housing water line upgrades or water line extensions.
- c. Single project incentive amount shall not exceed \$100,000 per project with a minimum 20 year return on investment payback. Water projects meeting affordable housing and infill development criteria in Buncombe County and Northern Henderson County are eligible to apply.
- d. Funds not expended annually will be rolled over to the next Fiscal Year. Funds will be allocated to ensure \$500,000 balance is maintained annually.
- e. Approval will be based upon applicant receiving minimum score of 80 points per established criteria form.
- f. Developers must provide the City with any necessary right-of-way or easements.
- g. Approved projects with four or fewer units that do not require water line extension may use funds to pay for water line taps and meters. These fully funded projects would not be eligible for any water fee rebates through the City of Asheville affordable housing rebate program.

PRO:

- This water policy change will address funding needs to help support affordable housing initiatives and encourage infill development throughout the water system where line size or no water lines exist is an impediment to development.

CON:

- Funding could become an issue due to declining revenues based upon decreased consumption in the water system through conservation measures.

Staff recommends City Council adopt the resolution authorizing the change in Water Policies Ordinance to reflect the addition of Affordable Housing and Infill Development Incentives, with the change become effective January 1, 2008. In addition, based upon current budget staff recommends Council adopt a budget amendment, in the amount of \$250,000, prorating annual contribution for current fiscal year to \$250,000 for January through June, 2008 incentive contribution.

Councilman Mumpower felt we are establishing a 1/2 million dollar fund to support affordable housing initiatives; however, a lot of the people who will be paying for this money are people who struggle to make their own ends meet.

Councilman Newman said we are looking at creative ways to encourage the kinds of community development that we want to see happening in Asheville. The scarcity of housing that is affordable to working and lower class families is one of the central challenges facing Asheville. He felt this is a good policy. However, in the incentive evaluation form, he favored giving more weight (currently 5 points) to "accessible to public transportation, jobs and services". He suggested we assign 10 points for projects that are within 1/4 mile of from City transit stops or 20 points that are within 1/8 mile of a mile of City transit stops.

Mayor Bellamy noted that if the point assignments change to the "accessible to public transportation, jobs and services" then we would want to change the weight given for "affordable houses/units" (currently 10 points) because we want the overall goal of affordable housing to be the highest or equally rated to that as well.

Councilwoman Cape suggested separating "access to public transportation, jobs and services" to "access to public transportation" (5 points) and "access to jobs and services" (5 points). She also suggested weighting energy efficiencies. She said this is a best management practice that is being used in other communities. If we could run our water utility as everyone else in the state, we would have the option of using water as a planning tool. But we don't get to. This is a way to help us use our water to get the projects where we want them to be.

Mayor Bellamy said that Council could approve the resolution and ask City staff to bring back the Affordable Housing and Infill Development Incentives, taking into Council's recommendations.

Vice-Mayor Jones said that the number one issue that the private sector brings forward has to do with the expense of infrastructure upgrades. There is a secondary benefit in this strong message in that it makes a statement to the private sector that we've heard their issues and here is a step to help bring them to the table.

Councilman Newman moved for the adoption of Resolution No. 07-210. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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E. ORDINANCE NO. 3563 – BUDGET AMENDMENT TO REFLECT THE ADDITION OF FUNDING INCENTIVES TO ENCOURAGE AFFORDABLE HOUSING AND INFILL DEVELOPMENT THROUGHOUT THE WATER SYSTEM SERVICE AREA

Summary: See Consent Agenda "D" above.

Councilwoman Cape moved for the adoption of Ordinance No. 3563. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 24 – PAGE

I. RESOLUTION NO. 07-215 – RESOLUTION SUPPORTING IN PRINCIPLE THE DESIGN FOR A PERFORMING ARTS CENTER IN ASHEVILLE, NORTH CAROLINA

When Councilman Mumpower wanted to make clear that there is no commitment of City dollars in this action, Mr. Louis Bissette said that there is no expectation of City dollars in this action. He explained how they are trying to meet the contingency proposed by the Suzanne Marcus Collins Foundation grant, which pledged \$1 Million towards this effort.

Councilman Davis, liaison to the Civic Center Commission, said that the Civic Center Commission reviewed this action and noted that their main purpose is the consideration of the existing Civic Center. They had concerns how this proposed building would affect the existing building and its operations. After discussion, however, they moved to strongly support the proposal noting concerns about the adaptive reuse portion affecting that building. Their consideration is that it would be better to be considered a stand alone because of operations at the existing building. They also wanted Council to consider a little more seating than what is proposed in the Council's performing arts proposal

Mayor Bellamy did think the City should fund, in the future, some part of the performing arts endeavor. She wanted to be clear that this action does not preclude this group from coming back to the City requesting funding.

City Manager Jackson said that he working with the performing arts group specifically to not put a timeline or a specific dollar amount in this action; however, it does pledge Council's support for that design and leaves the funding question open for future policy direction.

After a short discussion and with the understanding that there is no expectation that the City of Asheville is going to fund, at this point, any part of this process, Councilman Mumpower moved to amend the resolution to read "Resolution supporting in principle the design for a performing arts center in Asheville." This motion was seconded by Councilman Davis and carried unanimously.

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III. PRESENTATIONS & REPORTS:

A. PARKS & RECREATION MASTER PLAN UPDATE BY GREENPLAY LLC

Parks & Recreation Director Roderick Simmons said that the City of Asheville recently retained GreenPlay, LLC to lead the Parks and Recreation master plan process.

City Council approved \$120,000 for the creation of a new Parks and Recreation Master Plan for the City of Asheville. After a thorough selection process via a request for proposals and a review by a selection panel of staff and board members, the Parks and Recreation Department selected GreenPlay, LLC as the best consultant for this project.

GreenPlay is a professional management consulting firm located in Broomfield, Colorado providing comprehensive parks and recreation master planning services throughout the United States. Ms. Chris Dropinski, Senior Principal serves as the principal-in-charge, and Mr. Pat O'Toole, Principal serves as the project manager.

The Master Plan Committee consists of key staff and two representatives each of the Recreation Board, Greenway

Commission and the Public Art Board. The committee will serve as the steering group throughout the process. GreenPlay and the Master Plan Committee will meet prior to the City Council meeting on November 27 to kick off the master plan process.

Ms. Chris Dropinski and Mr. Pat O'Toole presented Council with the following PowerPoint presentation:

"Asheville Character and Resources: (1) natural beauty, concern for environment; (2) magnet for tourism and regional hub; (3) moderate growth, culturally diverse, young professionals and retirees; (4) engaged citizenry; (5) increasingly urbanized, neighborhood revitalization, historic preservation; and (6) university presence.

"Asheville Parks & Recreation Department (1) accredited department; (2) Gold Medal winner; (3) broad responsibilities; (4) fairly new leadership; (5) wide variety of services; (6) long history; and (7) 2005 – obtained new multiple facilities from County.

"The project approach was (1) start-up – setting expectations (a) review of documents, schedule, communications, official success factors; (2) public input process (a) public meetings/open houses/stakeholder meetings/survey (3) inventory and analysis of existing conditions for facilities and programs (a) GRASP LOS analysis/SWOT/best practices; and (4) recommendations and Action Plan (a) establish areas of focus; (b) identify priorities for redevelopment, improvement, new facilities and services, protection and preservation, property acquisition, financing, policy; and (c) develop a Capital Improvement Plan and funding mechanisms.

"Setting expectations: (1) project vision and critical success factors; (2) roles and responsibilities; (3) project goals, scope and methodologies; and (4) schedule for milestones and approvals. The key issue is strong communication strategies.

"Public input process: (1) define stakeholders – strong representation; (2) strategy for input – specialized focus groups (a) recreation programs; (b) special event attendees; (c) cultural/public arts representatives; (d) park and recreation users; and (e) greenway users; (3) other strategies (a) public meetings; and (b) interviews; and (4) facilitate discussion – identify special needs and priorities. The key issue is getting input from a diverse community.

"Statistically valid survey (1) mail survey with option to follow-up by phone; (2) customized (a) specific to the City of Asheville's issues, including awareness, needs, satisfaction, participation, desires, priorities and willingness to pay; (3) mail to 5,000 households with expected return of 500-750 responses; (4) allows sub-analysis by planning areas and by respondent demographics, voters/non-voters, length of residency, etc.; and (5) additional strategies – e-mail, door knob hanger, higher level of City participation in administration available as options.

"The tool kit (1) community input; (2) demographics; (3) trends; and (4) level of service analysis (a) program evaluations; and (b) physical infrastructure.

"Existing conditions (1) inventory of relevant components (a) physical assets – developed parks; wildlife habitat; recreation/cultural facilities; (b) programs and services; and (c) alternative providers; (2) scoring of amenities; (3) qualitative; and (4) quantitative. The key issue is it's much more than just counting and mapping.

"Assigning value – scoring of relevant components: (1) quality; (2) condition; (3) location/connectivity; and (4) modifiers (a) comfort; (b) convenience; and (c) ambience.

"Recommendations and Action Plan (1) updates goals and policy statements for a clear vision and prioritized road map – based on discovery of needs and desires and identification of gaps and shortfalls; (2) addresses acquisitions, improvements, operations, maintenance, programs, standards, policy changes and funding; and (3) complete with Implementation and Action Plans specifically addressing (a) recreation programs; (b) special events; (c) cultural/public arts; (d) park and recreation facilities; and (e) greenways."

Ms. Dropinski and Mr. O'Toole responded to various questions/comments from Council, some being, but are not limited to: is City Council going to be a part of the forums; how are the City's different plans operationalized and how have you seen them implemented; what is the communication plan for the community; will GreenPlay look at facilities management and/or program management; will GreenPlay be identifying potential partners and how they can play into the delivery of service; how will technology play a part in the Plan; and will GreenPlan be providing Council with options used by other communities.

Vice-Mayor Jones confirmed that GreenPlay is going to help our community look at everything we want and prioritize those, understanding we have limited dollars. And with those priorities, they will set forward a very sound way that we can fiscally begin to upgrade, build, renovate, etc. In addition, even though it's great to get a capital dollar assessment, Council also needs to know what are we annually committing to add to our budget each year with each renovation, upgrade, etc.

Regarding the strong communication plan requested by Mayor Bellamy, she suggested an addendum to the City's Parks &

Recreation Department website page with possibly a calendar of events for the Master Plan, possibly an on-line survey, use of our eNews, and a request to locate the input sessions in different areas of the City so there will be a cross-section of social economic backgrounds, racial diversity, etc. for greater buy-in to the master planning process.

Mayor Bellamy said that in the Master Plan process she expects that Mr. Simmons will come back with a dollar figure for what needs to happen, like programming for the Reid Center, etc. Mr. Simmons responded that GreenPlay is looking at all the facilities and Reid Center is one that we will particularly highlight. We will look at user areas and how the Centers will need to be designed to meet those needs. Mayor Bellamy requested a budget figure be attached for each effort needed to complete that need, with figures regarding fundraising to date, and some potential steps to reach that overall budget. Ms. Dropinski said that Council will not only receive what the Plan will cost in general terms, but the operation and maintenance costs over time.

In response to Councilwoman Cape, City Manager Jackson said that the issue of the Parks & Recreation Department encompassing building maintenance is being looked at internally. He will develop a recommendation and bring that forward to Council in the first quarter of 2008.

B. AIRPORT AUTHORITY RESTRUCTURING PROPOSAL

RESOLUTION NO. 07-218 - RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A RESTATED AND AMENDED AIRPORT AGREEMENT WITH BUNCOMBE COUNTY

Airport Director David Edwards briefed Council on the timeline of this proposal. He then gave the following PowerPoint presentation to Council regarding revisions to the Joint Agency Agreement and Lease Agreement for the Asheville Regional Airport Authority.

The Asheville Regional Airport was built by the City of Asheville between 1958 and 1961 for the benefit of Western North Carolina and operated by the City of Asheville until 1979. The Asheville Regional Airport was established in 1979 as a joint governmental agency organized and created by the City of Asheville and the County of Buncombe, pursuant to Article 20 of Chapter 160A of the General Statutes of North Carolina for the purpose of maintaining, operating, regulating and improving the Asheville Regional Airport.

The success of the current Airport Authority includes (1) the Authority since its creation has been successful in the development and operation of the Airport and has matured into a fully self-sustaining enterprise requiring no local financial assistance for its operations, maintenance and capital programs; (2) the Airport has become a regional asset for all of Western North Carolina that supports economic development through aviation and non-aviation development, and critical aviation related services; and (3) the amendments to be proposed will help the Authority operate more efficiently and effectively during the remaining term of its agreements, which will have a positive effect for the community.

Using a map, he then explained the current Airport property boundary.

Key current agreement provisions include (1) the term of the joint agency agreement expires in April 2018; (2) the Authority Board is comprised of 7 members with 3 appointed by the City, 3 appointed by the County, and 2 at-large member appointed by the 6 appointed members who must reside within Buncombe County; (3) Buncombe County has financial responsibility for the airport; (4) capital projects require the approval of the City; and (5) grants require the approval of both the City and the County.

With regard to the proposed amendments to the joint agency agreement and lease agreement: (1) term of agreements (a) no requested change at this time; and (b) if the City and County accept and approve the proposed amendments, and operations of the airport by the Authority continue to be successful, the Authority would hope the City and County would consider in the future an extension of the term or the creation of an Independent Airport Authority; (2) Board composition (a) reduction from 7 to 5 members (effective July 2880) with 2 members appointed by the City, 2 members appointed by the County and 1 at-large member appointed by the 4 members; (b) the at-large member could reside in either Buncombe County or Henderson County; and (c) added language as to eliminate potential conflicts of interest of appointed members; and (3) other changes (a) acceptance of grants without approval by the County and the City; (b) the Airport Authority would be recognized as the sole sponsor of the Airport; (c) specific capital improvements would not require the approval of the City; (d) the Authority would be authorized to execute leases where such lease terms may extend beyond the Authority's lease term with the City; (e) changed the contracting authority for fire and law enforcement services; and (f) incorporation of language concerning locating a City fire station on Airport property.

Regarding payment in lieu of taxes (1) currently no ad valorem taxes are paid by the Authority and/or its tenants; (2) it is proposed that uses of Airport property that are non-aviation related and do not support aviation services would be subject to a payment in lieu of taxes at the discretion of the local unit of government having jurisdiction over such property; (3) the Authority will incorporate language into its leases requiring such lessees to make said payments if so imposed; and (4) the Authority itself would

not be subject to any such payment in lieu of taxes.

He then showed some samples of planned development.

The specific areas of oversight/involvement include (1) board appointments (City/County); (2) bond approvals (County); (3) property acquisition (City); (4) property disposal (City); (5) zoning/permitting, etc. (City/County/Other); and (6) Airport Master Planning Process as required by the Federal Aviation Administration (City/County/community).

Throughout discussion, Mr. Edwards responded to various questions/comments from Council, some being, but are not limited to: how is the Airport Authority restricted when executing leases that extend beyond the Authority's lease term with the City; and insight into the payment in lieu of taxes feature.

When Councilman Mumpower questioned the urgency noting that the Airport hasn't had to come to Council a lot in the last six years, Mr. Edwards explained that as they get closer to the 2018 lease term deadline, they will have to come before Council more frequently, since the majority of the contracts will begin to expire over the next couple of years. In addition, they anticipate, with their Land Use Planning Study, trying to develop properties in and around the Airport taking a much more aggressive role to benefit the community and operation of the Airport. They will then be dealing with a lot more longer-term contracts in the future than historically have been dealt with.

Councilman Newman was generally supportive of the resolution; however, he explained why he felt there is no compelling argument to reduce the Board from 7 to 5 members. In addition, he questioned the conflict of interest provision, which would prohibit anyone who has even the smallest financial relationship with any kind of airport business from serving on the Board.

Councilman Davis agreed with Councilman Newman. He too felt there was no argument to reduce the Board members in that 7 members will allow more oversight; and, he felt that people who have more knowledge of the airport than he does, would be good to have on that Authority.

Mr. Edwards said that 5 members are easier to work with than 7 members. In addition, when they looked at best practices for an Independent Airport Authority, 5 members made up an Airport Authority. So, if the City, in the future, wanted to move in that direction, they would already have a 5 member board. Regarding the conflict of interest provision, they do not want to exclude aviation expertise, but if Council wants to reconsider that provision that it be clear in that process as to which items those appointees need to not vote on, withdraw from that vote and not be part of that discussion.

Mayor Bellamy, who has had to be excused many times due to a conflict of interest due to her former employer, said that the U.S. Dept. of Housing and Urban Development set forth a clear conflict of interest statement and felt sure that the Federal Aviation Administration would have a set of similar standards to be used.

Mr. Bill Fishburne commented on the agreement and felt that more input from the general aviation community should be sought prior to voting on this matter.

Councilman Freeborn moved to approve Resolution No. 07-281, excluding the provision of the Board members being reduced to 5 members and excluding the new conflict of interest provision. This motion was seconded by Councilman Davis.

Councilman Freeborn, Chairman of the Airport Authority, said that after considerable review of the agreement, the Airport Authority did not have unanimous approval of the reduction of the Board; however, the proposal language was supported by a 5-2 vote.

After a brief discussion, Vice-Mayor Jones asked for a friendly amendment to the motion that an adopted conflict of interest policy be adopted by the Airport Authority within 90 days. Councilman Freeborn and Councilman Davis both accepted the friendly amendment to the motion.

Mayor Bellamy supported the 7 member Board and also supported Henderson County being a voting member on the Board. It's important to note that the City has worked with the Buncombe County on many different versions of this agreement. She clarified that the City isn't losing the Airport Authority - it's just that the City won't have to rubber-stamp everything they do, noting that they still have to come before Council on major initiatives. Again, the City Council is not losing their oversight in that they appoint members to the Board. We are not giving up anything, but streamlining the process.

City Attorney Oast clarified the action - adopt the interlocal agreement amendments as set forth herein, with the exception of the issues about the reduction of the size of the Board and the conflict of interest statement. He also noted that before Council is a restated and amended City-Airport Authority Lease Agreement. He believed that would require a separate vote and suggested

City staff come back to Council on those amendments to the Lease Agreement.

Mayor Bellamy said that when the Lease Agreement comes before Council in January that it is adequately noticed for public comment.

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

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C. SPEEDWAY MEMORIAL PRESENTATION

Councilman Davis said that the NASCAR Memorial Committee has continued its fundraising efforts over the past year, with a goal of erecting a fitting Memorial at the current Carrier Park Recreation Park, located on Amboy Road.

The Asheville City Council and Buncombe County Commissioners jointly endorsed and supported efforts by a NASCAR Memorial Committee to raise money through private donations, in an effort to design and build an appropriate memorial commemorating the history of stockcar racing in the Asheville Buncombe County area.

He was pleased to report that the committee has received contributions totaling approximately \$41,000 (none of which is City tax dollars), which is currently being held by Eblen Charities. Staff has completed a preliminary artist rendering of the size and scope of the proposed memorial. Based on this rendering, an approximate cost estimate for this project is \$45,000.

The Buncombe County Commissioners have agreed to contribute a nominal monetary amount if necessary to complete the project. The committee feels confident of its ability to fundraise the remaining 10% necessary to build the memorial. In the coming months, as this continues to move ahead, he will keep council abreast of key milestones.

The Committee requests City Council further endorse this project moving forward, to include construction of the NASCAR memorial, under the oversight of the City Manager and with continued guidance of the Memorial Committee.

Mayor Bellamy thanked Councilman Davis for his leadership and for the time he has invested to reach out and achieve his goal.

Councilman Mumpower moved to endorse the project moving forward, to include construction of the NASCAR memorial, under the oversight of the City Manager and with continued guidance of the Memorial Committee. This motion was seconded by Vice-Mayor Jones and carried unanimously.

Closed Session

Mayor Bellamy said that during City Council's break, they would conduct a closed session. At 7:08 p.m., Councilman Mumpower moved to go into closed session for the following reasons: (1) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of 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); (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); and (3) 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 potential litigation. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Vice-Mayor Jones and carried unanimously.

Because there was no further business for closed session, Mayor Bellamy adjourned the closed session at 7:53 p.m.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AMENDMENT TO A PREVIOUSLY APPROVED SIGNAGE PACKAGE IN ACCORDANCE WITH SECTION 7-13-10 OF THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PROJECT IDENTIFIED AS INGLE'S MARKET LOCATED AT 85 TUNNEL ROAD, ASHEVILLE, NORTH CAROLINA

ORDINANCE NO. 3564 – ORDINANCE AMENDING THE INGLES' MARKET SIGNAGE PACKAGE AT 85 TUNNEL ROAD, ASHEVILLE, NORTH CAROLINA

Mayor Bellamy opened the public hearing at 7:55 p.m.

Interim Planning & Development Director Shannon Tuch said that this is the consideration of an amendment to the approved signage plan for the Ingles development 85 Tunnel Road, Asheville, N.C. This public hearing was advertised on November 16 and 23, 2007.

She said that on September 25, 2007, the Asheville City Council approved the sign package presented for the two separate Ingles developments located on Hendersonville Rd. and Tunnel Rd. respectively. In staff's original report it was noted that the signage for the two sites was substantially similar with only minor differences, probably the most significant of which was the lack of franchise signage requested for a "Starbuck's" at the second site located on Tunnel Rd.

The applicant, Ingles Markets, Inc., is now requesting an amendment to the original signage package to allow a second "Starbuck's" sign at the Tunnel Road site. The reason cited by the applicant for not including the second sign originally was that, at the time, it was unclear as to whether the franchise agreement would be resolved.

Signage plans must be approved by the Asheville City Council with any amendments resulting in a greater impact (size, number, etc.) also requiring approval by the Council.

The second "Starbuck's" sign is identical to that approved with the original application and will be a 16 square-foot wall-mounted sign, located at one end of the store.

In context with the approved package, the additional request is in keeping with the stated intent and purpose for the signage.

Pro:

- Provides identification of a franchise business located inside the larger grocery store.

Con:

- Contributes to the proliferation of signage along the city's corridors.

Staff recommends Council approve the signage plan amendment for the Ingles development project located at 85 Tunnel Road to allow for a 16 square foot, wall-mounted "Starbuck's" sign.

A representative of Ingles Markets spoke in support of the amendment noting that at the original time the sign package was approved by City Council, it was not clear as to whether the franchise agreement could be resolved.

Mayor Bellamy closed the public hearing at 7:59 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. 3564. This motion was seconded by Councilman Mumpower and carried unanimously.

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V. UNFINISHED BUSINESS:

A. 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

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

At Councilman Freeborn's request, Vice-Mayor Jones moved to excuse Councilman Freeborn from participating in this matter due to a potential conflict of interest. This motion was seconded by Councilman Mumpower and carried unanimously. At

this time, Councilman Freeborn left the meeting room.

Mayor Bellamy said that this public hearing was held on October 23, 2007, and continued until November 13, 2007, 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. On November 13, 2007, the developer requested that this matter be continued until November 27, 2007, in order to bring forward to Council some further engineering changes. That request was granted.

Ms. Cogburn briefly reviewed the list of "green" and/or energy efficient items the developer has to incorporate into their development; (2) 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; and (3) plans to voluntarily annex the facility property into the City of Asheville

Councilman Mumpower thought we are taking a bigger step than is in the best interest to the City.

Mayor Bellamy said that since we cannot make annexation a condition of the zoning action, we would rely on the good word of the developer.

Councilwoman Cape moved for the adoption of Ordinance No. 3545, 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 standard 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) all green features identified at the November 13, 2007, meeting outlined by City staff. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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At this time, Councilman Freeborn re-entered the meeting.

B. RAISE THE ROOF COMMITTEE RECOMMENDATION FOR SUPPLEMENTAL W.C. REID CENTER FUNDING

ORDINANCE NO. 3565 - BUDGET AMENDMENT TO REALLOCATE \$130,000 OUT OF \$455,000 TO THE W.C. REID CENTER FOR THE GRANT MATCHING REQUIREMENT

Parks & Recreation Director Roderick Simmons said that the Reid Recreation Center "Raise the Roof" Campaign Committee is requesting that City Council fund the remaining balance of the Eckerd Family Foundation community challenge grant in the amount of \$130,000. The campaign committee's request would allow them to continue to raise the necessary funding for the project and not jeopardize losing \$900,000 in challenge grant funds.

The Eckerd Family Foundation had a stipulation that all funds raised be private dollars, which meant no public funding could be used to secure grant funding. They will now allow the committee to apply public funding towards securing grant funding.

The Raise the Roof committee is charged with raising \$1.375 of private donations towards the total Reid Center renovations project.

\$300,000 of the community fundraising total has been granted by the Eckerd Foundation, provided that another \$300,000 is raised from other private, community sources. To date the Raise the Roof committee has raised \$170,000 from private community sources. If the remaining \$130,000 is not raised by December 31, 2007, the Eckerd Foundation Challenge Grant of \$300,000 and the \$600,000 Janirve Challenge grant are at risk.

The Raise the Roof Committee learned the remaining \$130,000 to be raised may now be funded from public sources. Therefore, the committee is seeking an allocation from the city budget in this amount.

The options for funding the \$130,000 reallocation include:

- 1) Fund Balance

- 2) Reallocation of Parks and Recreation Capital Improvement Plan funds.
- 3) Other sources

Staff recommends applying a portion of the \$455,000 in the Capital Improvement Plan for the Reid Center towards the \$130,000 grant matching requirement. This leaves \$325,000 to be applied to the overall renovation and design budget. This action secures challenge grant funding while final planning occurs on the scope of total renovation/improvements for the center.

He then explained the funding sources as follows: Revenue (1) Janirve Foundation - \$600,000 - challenge grant to be met by November 2008 - funds designed for facility renovation; (2) Eckerd Family Foundation - \$300,000 - challenge grant to be met by community campaign by December 2007 - funds designated for theatre renovation, music room, dance studio, visual art classroom; (3) Raise Roof at the Reid Community Campaign - \$170,000 - meet requirement of challenge grants and matching funds for future grants - funds designated for facility renovation; (4) North Carolina Parks and Recreation Trust Fund - \$500,000 - project complete and funds spent by September 30, 2009 - funds designated for theatre renovation, art room, music room, administration office, foyer/gallery; (5) Junior League of Asheville - \$45,000 - project complete and funds spent by December 2007 - funds designated as a match for the PARTF grant; and (6) City of Asheville - \$455,000 - funds designated as match to PARTF grant.

The Reid Center project consists of (1) the Master Planning process starts November; (2) the public input process in January; (3) develop a scope of work that brings the building up to code and start basic minor improvement (theatre, weight room, doors, etc.) - December-March; (4) decide on the total project budget - March; and (5) develop a final design for major Reid Center improvement (May-June).

Councilwoman Cape moved to reallocate \$130,000 from the \$455,000 from the Parks & Recreation Capital Improvement Plan fund to be used for the grant matching requirement. This motion was seconded by Councilman Davis.

There was a brief discussion initiated by Vice-Mayor Jones about the plan for fund-raising efforts and the role of the Junior League of Asheville.

In response to Vice-Mayor Jones, Assistant Director of Parks & Recreation Debbie Ivester updated Council on how much has been raised by individuals and how much is contributed by foundations regarding the Reid Center.

After a brief discussion, Councilman Newman supported the process and said that even though it may look like we are delaying making decisions, we want to get good information in terms of what needs to be done in terms of the basic renovations and beyond.

The following individuals spoke in support of using these funds to match the grant for the Reid Center:

Ms. Leah Karpen
Ms. Shirleigh Moog
Ms. Leanna Joiner
Ms. Vivian Gaddy

When Councilman Mumpower requested to make a PowerPoint presentation on this matter, Mayor Bellamy read a portion of City Council's rules as follows "electronic presentations are limited to agenda items with presentation materials provided prior to the meeting by City staff, applicants, or organized opposition."

Councilman Mumpower presented Council with information of the Reid Center, which was a minority presentation on a plan to restore Asheville's Reid Community Center, as follows:

"The Reid Center - current realities (1) a poorly maintained facility; (2) a good resource for children in a high risk area; (3) a focus of community interest and investment; and (4) an island of safety. Current hurdles include (1) the budget has grown beyond realistic capacities; (2) grants and funding commitments are at risk; (3) deferred maintenance is creating urgency; and (4) restoration can trigger code issues that raise costs. A foundation for solutions include (1) there are broader realities beyond bricks and mortar; (2) the lack of community and parental involvement in the welfare of many of these children is a major issue; and (3) the open air drug activity, prostitution, and thug behavior on the streets leading to the Reid Center is horrific. The Reid Center is a three legged stool - (1) Leg 1 (a) adjust the restoration plan to a more realistic place; (b) do it now; (c) consider appropriations from our savings account; and (d) make the city funds conditional upon 2 other components; (2) Leg 2 (a) make the restoration conditional upon community involvement; (b) a formal commitment by all organized community groups in the area to get involved in the Reid Center and crime prevention; and (c) a commitment by 50 parents to get involved directly volunteer in the Reid Center activities and to do what's necessary to maintain that number of volunteers going forward; and (3) Leg 3 (a) create a "Reid Center Street Safety Zone"; (b) include Erskine, Walton, Livingston, Lee Walker, Aston Park, Bartlett Arms, South French Broad, Depot Street, Oakland Road Area, and the Choctaw, Short Cox areas in the zone - these are the streets the children travel to get to the

Reid Center; and (c) create an intentional APD 'surge' enforcement initiative that curtails all open air drug dealing, prostitution, and thug activity in this zone using Kimberly Avenue and surround streets as a model. The Reid Center - Why? (1) bricks and mortar are never enough; (2) parents and one on one involvement are the only thing that works; and (3) we mock the potentials of the Reid Center if the children who come there must travel through a gauntlet of crime. A one or two legged stool will not work - let's do it now, let's do it all, let's do it right - together."

Mayor Bellamy explained where Council has been on the Reid Center. On a 6-1 vote, Council allocated \$455,000 for the Reid Center with just the idea we need to do it. It came back to Council based on the work the community did to get more support for this initiative. In her opinion it's deplorable that the community had to raise funds since it's the City of Asheville's facility. We need a capital plan for our facilities. We have many facilities that need to be addressed. She felt that using a blanket statement saying that no parents are seen at the Reid Center, especially by a person who was elected to represent them, is inaccurate. There are a number of parents and church members that do come to the plays and practices to support the children. Some parents can't read themselves, but send their children to tutoring. Some parents who can't dance send their children to dance classes. What makes the City of Asheville great is our diversity in attitudes and our goal to rise together, not as an individual. The goal of the Reid Center was to raise the roof, and if we look at the overall goal, the community members who signed on for the Raise the Roof Campaign, signed on for the renovation, not rehabilitation. They're saying you rehab what is yours and let us raise money for the expansion. To be honest, she would support allocating the \$2-\$8 Million for the Reid Center because it would be a long-term investment - a safe haven for our children. But, the plans are not in place and our new Parks & Recreation Director needs time to make that happen. Not only has Council (on a 6-1 vote) allocated \$455,000 for the Reid Center, but added additional police officers, increased the pay for police officers, added new street lights and trash cans and has continued with our community walks. We are making a difference. We are working with the Housing Authority about how their future growth will take place. Incrementally, we have responded by a 6-1 vote. We have used our political capital to make a difference for this community. This initiative is truly the community's way and the community is helping drive this.

When Mayor Bellamy called for a vote on Councilwoman Cape's motion, which carried unanimously, Councilman Mumpower called for a point of order regarding proper procedure.

In response to Councilman Mumpower's point of order, City Attorney Oast said that there was no motion to call the question, but the Mayor had every right to call for a vote.

Vice-Mayor Jones moved to affirm the Mayor's role in being the convener and Order of Council. This motion was seconded by Councilman Freeborn.

Councilman Mumpower said this 6-1 Council has left an open air drug market in the Reid Center community and to pretend that if we create nice bricks and mortars and leave those children in harms way is doing them a favor is unethical. He is delighted to be on the one side of the 6-1 vote under those circumstances.

The motion made by Vice-Mayor Jones and seconded by Councilman Freeborn carried unanimously.

Councilman Mumpower moved for the adoption of Ordinance No. 3565. This motion was seconded by Vice-Mayor Jones and carried unanimously.

ORDINANCE BOOK NO. 24 - PAGE

VI. NEW BUSINESS:

A. RESOLUTION NO. 07-219 - RESOLUTION AUTHORIZING AGREEMENT TO ACQUIRE REAL PROPERTY ON MAPLE DRIVE

Mr. Roderick Simmons, Parks & Recreation Director said that this is the consideration of a resolution authorizing acquisition of property in the Haw Creek area for park purposes and a greenway link to Blue Ridge Parkway and Mountain to Sea trail.

The City has been approached by the State of North Carolina and the Haw Creek Neighborhood Association (represented by Chris Pelly) to consider participation with the neighborhood association, the State of North Carolina and Buncombe County in acquiring a 9-acre tract of land that extends from Maple Drive in the Haw Creek Area up to the Blue Ridge Parkway property.

The property is currently on the market and the proposal is for the neighborhood association to offer \$750,000 for the property. One third of this amount is to come from Buncombe County, one third from the City, and one third from the neighborhood association. The property would be acquired by the neighborhood association (as a vehicle for charitable donations) and then conveyed to the City.

As the transaction is proposed, the City would have no obligation to contribute anything until the neighborhood association had assembled its part of the funds and was ready to acquire and transfer the property. The neighborhood association anticipates this being a two-year process. The purpose of this resolution is to secure the City's commitment, through an agreement with the neighborhood association, to contribute its share of the purchase price and take title to the property when the time comes.

While this proposal has been discussed with several members of Council individually, it just came to the attention of City staff on November 19, and there has been little opportunity to review the feasibility of the proposal (including obtaining an appraisal), and how it fits into the overall Parks and Recreation facilities and capital planning process.

The Greenway Commission has reviewed the proposal but has decided to delay a decision on the project. The Recreation Board has reviewed the proposal and voted to support the idea of preserving the land, but had questions about the availability of funding and how that would affect funding of other park projects.

If Council approves this, City staff will work with the neighborhood association and others, and the budget for 2008-09 and 2009-10 will include appropriations for this purpose.

- Pros:
- Facilitates a link from City streets to Blue Ridge Parkway and Mountain to Sea Trail
 - Increase inventory of park land

- Cons:
- No other greenways or park facilities located nearby
 - Little opportunity to evaluate proposal
 - Limit funding for other park projects

If Council approves of this proposal, adoption of the resolution is recommended.

Mr. Chris Pelly, representative of the Haw Creek Neighborhood Association, gave City Council some statistics about Haw Creek, such as (1) population is 7,500 (10% of population in Asheville); (2) diverse community; (a) home values range from \$100,000 – more than \$2,000,000; and (b) churches; and (c) schools (Haw Creek Elementary and Evergreen Charter); and (3) active community association (a) Haw Creek Park; and (b) sidewalk on Avon.

Showing slides, he explained the ongoing development in Haw Creek.

The Haw Creek Community Association (1) is a 501 (c) (3) organization; (2) Neighborhood Association is open to all residents; (3) proactive; (4) goal of making Haw Creek and Asheville a better place to live and raise our families; and (5) history of working with developers and city government.

Success stories include (1) Haw Creek Park in 2001; (a) raised \$50,000; and (b) Haw creek History Trail; (2) sidewalks for Avon and Trinity Chapel Road (partnership with the City of Asheville); and (3) organize community events (a) yard sales; (b) community bar-b-que dinners; (c) Children's Patriotic Bicycle Parade for Memorial Day; and (d) candidate's forum.

Regarding the Maple Drive property, there is a commitment to vibrant livable neighborhoods. There are 9 wooded acres connecting Haw Creek Valley to the Blue Ridge Parkway and the Mountains-to-the-Sea Trail.

The following shows project financing: Private Donors - \$50,000; State of North Carolina - \$75,000; City of Asheville (1/3 – not officially committed) - \$250,000; Buncombe County (1/3 – not officially committed); Total tentative pledges - \$625,000; Projected land costs - \$750,000; Balance to close deal - \$125,000.

He explained the Haw Creek Park effort to date.

He then explained the projected partners for active involvement – funding: Haw Creek Community Association (Lead); Haw Creek private donors; Conservation Trust for North Carolina, North Carolina State Trails Program; Asheville Parks & Recreation; Asheville City Council; and Buncombe County Commissioners.

The following project partners have been briefed and have provided supportive input: City of Asheville Planning Department; Asheville Greenway Commission; Asheville Parks & Greenway Foundation; Buncombe County Parks & Recreation Department; Pigeon River Trust Fund; Blue Ridge Parkway; and Southern Appalachian Highlands Conservancy.

Councilman Mumpower said this sounds like a good project, but his concern is that we can't keep up with what we have already.

Councilwoman Cape said that as we are seeing this active development in our community, how we can start putting aside a fund, or some dedicated percentage of the increase in property tax, for just these kinds of opportunities that come along. She asked staff to bring us some examples of what other cities are doing.

Councilman Freeborn moved to adopt Resolution No. 07-219, as follows: (1) The City Manager is authorized to enter into an agreement with Buncombe County and the Haw Creek Neighborhood Association for the acquisition of the Subject Property, said agreement to include the terms set out below: (a) Total cost of acquisition not to exceed \$750,000, subject to appraisal; (b) Date of acquisition not later than December 31, 2009; (c) City's share in cost of acquisition not to exceed one third; (d) Title to property to be conveyed by general warranty deed, with any restrictions to be agreed to by the City; (e) Such other terms and conditions as meet with the approval of the City Attorney; and (f) Agreement shall terminate in the event of non-appropriation in the City's annual budget; (2) The City Manager is further directed to take appropriate steps to provide in the proposed annual budget for fiscal years 2008-09 and 2009-10 for the City's share of the acquisition cost; and (3) The City Manager is authorized to execute such other documents as may be necessary to give effect to this resolution. This motion was seconded by Vice-Mayor Jones.

Councilman Newman said that earlier today Council received a letter from some members of the Greenway Commission who were supportive of the project but also wrote about some potential ways to lower the total price of the project, (allowing some re-sale of some of the property so we can get the connection). Two aspects were (1) the property itself and the open space values it provides recreationally and environmentally; and (2) the connection from the whole Haw Creek Neighborhood to the Blue Ridge Parkway and the whole network of public land.

Mr. Pelly said that they have always viewed that as a fall back position. But the fact of the matter is they are trying to preserve open spaces as well too. The part that would be developed, if that were the direction, would be the part that fronts on Maple Drive. If that were to happen, you would lose a lot of that open space quality to the property. Their goal is to preserve the entire site and if there is no other way, they will look at all options.

Councilman Newman's perspective would be to be more supportive of what the Greenway Commission outlined for the project. We are going through the process of updating the Greenway Plan city-wide. While we are developing our Greenway Plan and determining long-term financing mechanisms to expedite completion of greenway networks throughout the City, we also have to be opportunistic when these really good opportunities come up. However, our funding is limited. If there is a way to make this vital connection from Haw Creek to the Parkway which wouldn't require not quite as big of a financial commitment at this time, he would be supportive of that direction.

Mr. Pelly said that one of their options that they had considered also is the notion of asking the City to split any contribution over 2 years.

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

RESOLUTION BOOK NO. 31 – PAGE 38

B. APPROVAL FOR THE CITY OF ASHEVILLE TO ACT AS LEAD AGENCY ON A GRANT APPLICATION FOR SIDEWALK IMPROVEMENTS IN THE EMMA COMMUNITY

Metropolitan Planning Organization Coordinator Dan Baechtold said that staff is seeking permission from City Council to act as lead agency on a grant application for sidewalk improvements located just outside the City limits in the City's Extraterritorial Jurisdiction (ETJ).

Staff is prepared to assist the Emma community in pursuing a grant for sidewalk construction through the N.C. Dept. of Transportation (NCDOT) Safe Routes to School Program. This commitment would require the City to act as lead agency on the grant application, and to assume long-term maintenance of the project.

Emma Elementary school is one out of about 30 schools across the state that has been invited to apply for a Safe Routes to School demonstration grant. The grant would provide funding for infrastructure improvements and other programs aimed at improving conditions for children to walk or bicycle to school. The Safe Routes to School program is a federal program that is managed by the North Carolina Department of Transportation. The amount of the grant would be between \$100,000 and \$250,000. The grant does not require a local match. The grant application deadline is December 14, 2007.

A citizens group called "A Safer Walk for Emma" has been working for approximately three years to try to get sidewalks in the area. The roads near the school are narrow, two-lane roads that are rural in character. There are a number of manufactured housing communities and other neighborhoods that would be within a short walking distance of the school if conditions were safe. All of the children that go to Emma Elementary live within a two-mile radius of the school. Citizens with A Safer Walk for Emma have identified North Louisiana Avenue and Emma Road as the roads that most need sidewalks. This sidewalk network is vital not only for the school, but for the community as a whole to access shopping and services along Patton Avenue.

All of these roads have been identified as needed linkages in the City's Pedestrian Thoroughfare Plan of 2005. A majority of the sidewalk needs related to the school are just outside the City limits in the City's ETJ. Sidewalks are also needed within the City limits along North Louisiana Avenue. Staff has been working with the local community, Buncombe County, and NCDOT on possible partnership arrangements.

Staff recommends that the City enter into a cooperative agreement with Buncombe County on this project at a later date. NCDOT and other sources will be pursued for funding the improvements. The City of Asheville is the best entity to take the lead on the grant application because the other agencies involved are not in the business of building or maintaining sidewalks.

The grant does not require local matching funds, but staff time would be required to administer the grant. Most of the initial maintenance costs would be minimal, depending on the needs for mowing and vegetation removal.

Provide staff with permission to pursue a grant for sidewalk infrastructure improvements in the City's ETJ, with an understanding that the City will agree to maintain any sidewalk that is installed along the public roads.

The following individuals spoke in support of the City acting as lead agency on a grant application for sidewalk improvements in the Emma Community:

Mr. Craig White, member of A Safer Walk for Emma
Ms. Cathy Ledford, member of A Safer Walk for Emma
Ms. Leanna Joiner

Vice-Mayor Jones hoped that this will be a model for us to lean about safe school routes around the City and can duplicate it in other parts of our community.

Councilman Freeborn moved to provide City staff with permission to pursue a grant for sidewalk infrastructure improvements in the Emma community, with an understanding that the City will agree to maintain any sidewalk that is installed along the public roads. This motion was seconded by Councilman Mumpower and carried unanimously.

C. RESOLUTION NO. 07-220 - RESOLUTION OF INTENT TO PARTNER WITH PUBLIC INTEREST PROJECTS ON A PUBLIC PARKING GARAGE ON BILTMORE AVENUE

Director of Transportation and Engineering Cathy Ball said that this is the consideration of a resolution of intent to partner with Public Interest Projects (PIP) to construct, maintain and operate a parking garage at 51 Biltmore Avenue with at least 300 public parking spaces. The City will in good faith continue to negotiate with PIP to this end.

PIP currently owns the surface parking lot at 51 Biltmore Avenue. PIP is in negotiations to sell/lease a portion of this lot for development. They plan to construct five hundred parking spaces. They would like to partner with the City of have 300 of the 500 spaces available for public use.

Staff and bond council would like to further analyze this recommendation prior to entering into a legally binding agreement with PIP.

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

- **Pro:** According to the initial finding of the downtown parking study, this area has a deficit of public parking (600 to 700) spaces, indicating that the three hundred public parking spaces are needed in this area.
- **Pro:** Preliminary profit and loss estimates indicate that it is more cost effective for the City to partner with PIP than to construct, operate and maintain three hundred parking spaces on this piece of property without partnering.
- **Con:** The garage would be operated by PIP (although the City would control the number of monthly verses hourly parking spaces.)
- **Con:** The City is subsidizing the additional 200 parking spaces that PIP would control.

The consideration of a resolution of intent to partner with Public Interest Projects to construct, maintain and operate a parking garage at 51 Biltmore Avenue with at least three hundred public parking spaces. The City will in good faith continue to negotiate with PIP to this end.

Mr. Pat Whalen, representing Public Interest Projects, reviewed with Council a PowerPoint presentation on "Should we build a public/private parking garage on Biltmore Avenue?" He said (1) it seems to fill a number of public purposes; (2) there is no Biltmore Avenue public parking garage. Council has already recognized the problem; (3) the 51 Biltmore Avenue parking lot is centrally located in an area of downtown with a 600-700 car parking shortage; (4) Downtown parking decks have been one of the City's most powerful strategies; (5) City-built parking garages in the 1970's and 1980's helped move us; (6) parking decks encourage mixed-income residential development; (7) surface lots in the Central Business District can be put to better use with more structured parking; and (8) or 40 years a building stood vacant and the tax value in 1991 was \$300,000. Today the building is valued at over \$11,000,000 which is an increase of over 3500% in 15 years. This would not have happened without the adjacent parking garage.

Parking decks free up land for building and make renovation of historic buildings and new buildings feasible, even with no parking. They support local storefront retail and office construction. They help make possible a wider range of housing downtown. Asheville's revitalization would never have happened without the parking garages.

A purely private project on this site would not provide public parking. A purely public project on this site would be too expensive and miss the opportunity to provide for other complementary uses.

A public/private garage at this site will (1) save money for the City and its taxpayers over the cost of owning and operating a purely public garage; (2) allow more parking to be built more cost effectively than either party could do independently; (3) allow us to make efficient multiple uses of the same spaces; and (4) reduce barriers to new businesses locating downtown and decrease sprawl pressure for outlying office parks and subdivisions.

Encouraging development at the center is the greenest form of development, reducing overall need to drive, encouraging walking, and reducing unsheltered paving and its toxic runoff. Mixed-uses on this site will maximize its beneficial effect on the adjacent areas downtown over any single purpose use. Lining the facades with mixed active uses will re-knit the downtown pedestrian fabric along Biltmore and Lexington, making downtown even more pedestrian-friendly. Improving parking availability in this very visible location will make parking easier to find for visitors.

Potential additional benefits and opportunities include (1) move by the City to the forefront on smart growth/green development issues by (a) utilizing location – efficient affordability standards for workforce housing; (b) developing special workforce-friendly downtown transit package; (c) encouraging more workforce housing development through preferential parking rights; (d) developing a joint city/private car-sharing program; and (e) developing elevated, publicly-accessible green space.

The preliminary plan is (1) deck size – 500 spaces total; (2) 300 public spaces – 200 quasi-private; (3) City leases land and owns deck; (4) PIP design-builds and manages deck; (5) City obtains financing for deck - tax-free bonds for City spaces – taxable for quasi-private spaces; (6) PIP leases back from City the 200 quasi-private spaces; (7) Biltmore liner building – private sector hotel project subsidizes land cost; and (8) Lexington liner building – PIP workforce housing.

PIP welcomes the opportunity to work with the City on this project but time is of the essence: (1) difficult to coordinate public process with private sector time limits; (2) one of few downtown sites combining proximity to local businesses, ease of access, no destruction of the historic fabric, and cooperative owner; and (3) window of opportunity may close potentially resulting in years of additional delay in getting parking for this area of downtown.

The next steps would need agreement in principle and direction to staff to work out details of transaction and report back for final approvals.

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

Councilman Newman moved for the adoption of Resolution No. 07-220. This motion was seconded by Councilwoman Cape.

In response to Councilwoman Cape, Mr. Whalen said that they want to pursue many of the potential benefits and opportunities outlined.

City Attorney Oast stated that this action is approval for the City to continue the conversation with PIP and this does not bind Council with respect to any future approvals that might come before Council, either zoning, budgetary, or any other way.

In response to Vice-Mayor Jones, Mr. Whalen said that the City will receive the revenue from all parking spaces.

The motion made by Councilman Newman and seconded by Councilwoman Cape carried unanimously.

RESOLUTION BOOK NO. 31 – PAGE 40

D. RESOLUTION NO. 07-221 - RESOLUTION TO DISPOSE OF THE CITY'S INTEREST IN 7.19 ACRES OF REAL PROPERTY AT BROTHERTON AND VIRGINIA AVENUES

Real Estate Manager Nikki Gunter said that this is the consideration of a resolution to dispose of the City's interest in 7.19 acres of real property at Brotherton and Virginia Avenues.

In 1999, the City acquired 7.19 acres at Brotherton Avenue, for the purpose of creating affordable housing. The City invested a total of \$527,000 in Community Development Block Grant (CDBG) funds to acquire and improve the site. In two previous instances, potential developers have withdrawn for financial reasons before constructing any housing.

Presently, the City has received an offer from the Asheville Area Habitat for Humanity to develop 22 single family homes on this site, all to be sold to low-income families. Habitat has delivered a letter of intent to the City stating its desire to purchase the property for the sum of \$467,500. This offer equals the value indicated in an appraisal performed for the City in June 2007. Habitat proposes to pay a \$5,000 deposit and the balance of \$462,500 will be represented by a promissory note at closing, payable in one lump sum 10 years from the closing date, at zero percent interest and may be prepaid at any time without penalty. If accepted, the City of Asheville will hold a Deed of Trust for the note. A reversionary clause or similar deed restriction will secure compliance with the commitment to build only affordable housing units.

Pros:

- Development of 22 affordable homes for purchase by low-income families supports the City's Strategic Plan goals for addressing housing needs.
- In-fill development matching established density for the area supports Smart-Growth land policies.
- Habitat has an excellent track record of building high quality, Energy Star homes;
- Habitat offers 0% interest mortgages, making its homes the most affordable new homes available;
- Agency has sufficient financial and volunteer resources to complete the project;
- Returns the property to the tax rolls with tax base increase of at least \$2,500,000.

Cons:

- Terms offered provide less return to the Community Development Block Grant fund than a sale on the open market;
- Habitat will not start housing construction on the site until late 2009.

Staff recommends approval of the offer and adoption of the resolution.

A representative of Habitat for Humanity spoke in support of the resolution and believed they will succeed in this endeavor.

Councilwoman Cape spoke in support of this action in that this is a proven organization with community support.

In response to Councilman Newman, Ms. Gunter explained in detail the terms.

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

Councilwoman Cape moved for the adoption of Resolution No. 07-221. This motion was seconded by Councilman Mumpower and carried unanimously.

E. PROPOSAL BY THE ASHEVILLE MERCHANTS CORPORATION FOR THE CITY OF ASHEVILLE TO ACCEPT THE MANAGEMENT AND OPERATION OF THE ASHEVILLE HOLIDAY PARADE

Ms. Melissa Porter, Events Coordinator, said that this is the consideration of a proposal by the Asheville Merchants Corporation for the City of Asheville to accept the management and operation of the Asheville Holiday Parade.

The Asheville Merchants Corporation has operated the Asheville Holiday Parade in partnership with the City of Asheville for 60 years making it the area's most popular holiday event and drawing thousands of people to downtown Asheville. The Asheville Merchants Corporation traditionally provides resources for event management and operation, while the City provides logistical support via parks and recreation, building safety, parking services, police, fire and public works.

The Asheville Merchants Corporation anticipates a continued presence in the Asheville Holiday Parade, but its focus has evolved in recent years and no longer has the resources to continue as the lead organizer of the parade. As part of the transition to the City, the Asheville Merchants Corporation will commit to an annual sponsorship of \$20,000 for the first four years of operation by the City of Asheville.

Parks and Recreation staff has researched the proposal resulting in the following conclusions.

Financial Review: After testing the parade for potential sponsor interest and after a review of the proposed five-year parade financial plan, Parks and Recreation and Finance staff are confident the parade will support itself for direct operating cost. She referenced a Asheville Holiday Parade financial analysis that demonstrates projected revenue and expense for both direct and indirect operating cost.

Events Task Team Review: The City of Asheville's current annual logistical support for the parade in parks and recreation, building safety, parking services, police, fire and public works is valued at \$20,461, which would continue in the event the parade is managed by the City.

The parade has significant logistical needs which require a considerable amount of planning with state, county and private agencies. The presence of private residences in the downtown area calls for additional safety and security needs. Special consideration and planning is necessary for roadway requirements and emergency services.

Public Review: Parks and Recreation staff and the Asheville Merchants Corporation hosted a public meeting on November 1, 2007, attended by 12 citizens. While most were in favor of the City of Asheville taking over parade management, two people voiced their opinion on calling it the Christmas Parade rather than Holiday Parade.

Legal Review: Government sponsored parades on public streets are activities that have significant implications under the First Amendment of the U.S. Constitution. With respect to the criteria for selection of participants, care will need to be taken to ensure that the opportunity to participate in the parade is equally available to all citizens and organizations. These concerns are not as significant for non-governmental sponsors and organizations.

Recreation Board Review: The Recreation Board reviewed the parade proposal at its regular meeting on May 14, 2007 and approved the request, and recommends acceptance of the parade by the City of Asheville.

Staffing: Parade management is an appropriate match in the Parks and Recreation Department via the festival division since it has expertise in both special event management and fundraising via sponsorships. The festival division currently consists of four full-time and one part-time staff. To absorb parade management, it is recommended to convert the one part-time position to full-time to be responsible for parade management plus assist with all other events within the festival division.

Pros:

- Provide support and management for long-term sustainability of the parade
- Provide expert event management
- Develop positive sponsorship investment opportunities
- Increase revenue in the Festival Fund to offset increase cost to support parade operations

Cons:

- Expand the Festival Fund operating budget by \$10,000 in salary cost, although the amount will be offset by increased revenue
- Timing of the event will be challenging for existing staff responsibilities since the same staff is responsible for the production of the Asheville Film Festival which occurs one week prior to the parade.

- Extra considerations for increased state regulations and presence of downtown private residencies in administering parade logistics
- Public opinion to change the name of the parade from Holiday Parade to Christmas Parade

The Parks and Recreation Department requests City Council to provide direction regarding the City of Asheville accepting management and operation of the Asheville Holiday Parade.

Councilwoman Cape moved for the City of Asheville to accept management and operation of the Asheville Holiday Parade. This motion was seconded by Councilman Davis.

Throughout discussion, Ms. Porter responded to various questions/comments from Council, some being, but are not limited to: what is the budget for Light Up Your Holidays; what are sponsorship opportunities; and explanation of the financial analysis that demonstrates projected revenue and expense for both direct and indirect operating costs.

In response to Councilman Davis, Mr. Tom Hallmark, President of the Asheville Merchants Association, said that they have not asked any other agencies or clubs to manage and operate the Asheville Holiday Parade, other than the City of Asheville.

Councilman Mumpower didn't believe the City should be involved in managing and operating parades and would speak against the motion.

Councilwoman Cape feels that the Asheville Holiday Parade is more of a community draw, not aimed at tourists as other festivals the City sponsors. For some, the Parade is the only opportunity for children to express themselves (dancers) in front of the entire community. She did feel there will be sponsors and we can build on the creativity of the Parade.

Mayor Bellamy asked for a friendly amendment to the motion for the City to have a Council-appointed Parade Committee for direct accountability and oversight. This amendment was accepted by Councilwoman Cape and Councilman Davis.

Regarding the budget, Mayor Bellamy felt we needed information on how the Parade could break even and that we are clear on our expectations. As we move forward, we need to be clear in our budget documents.

Mayor Bellamy was not completely comfortable with the City taking over the Asheville Holiday Parade. She suggested Council delay action on this item until other organizations are contacted to see if they would like to take over the management and operation of the Parade. She suggested contacting the Chamber of Commerce, Rotary Club or Kiwanis.

Councilman Davis agreed with Mayor Bellamy and felt the operation may best be left to a non-profit or a private entity to run with the City participating as it has in the past.

In response to Vice-Mayor Jones, Ms. Porter said that most parades are run by private companies or private organizations. She would be happy to provide more detail information to Council.

City Attorney Oast responded to Council's questions regarding legal issues.

Councilwoman Cape withdrew her motion in order for additional information to be brought forth.

It was the consensus of Council for staff to bring back the additional information requested in approximately 30 days. Mayor Bellamy suggested other organizations be contacted, such as the Better Business Bureau, Chamber of Commerce, Interfaith Coalition, etc. to see if there are other opportunities to partner in this endeavor, with the City participating as it presently does.

F. GREENLIFE CONDITIONAL ZONING APPLICATION UPDATE

Interim Planning & Development Director Shannon Tuch said that this report serves to provide a status report for the GreenLife Conditional Zoning application.

On August 28, 2007, the Asheville City Council considered a resolution to install traffic calming devices on Maxwell Street in an effort to control undesirable truck traffic that was occurring as a result of the loading dock activities from GreenLife grocery.

As an alternative to traffic calming, the owner/manager for GreenLife committed to pursuing an option that would expand the GreenLife property in order to reconfigure the store's loading dock area. This reconfiguration, if approved, would allow all large trucks visiting GreenLife to maneuver entirely within the store's property boundary with ingress and egress occurring on Merrimon Avenue only; smaller trucks would continue to utilize Maxwell Street and the current loading dock area located on the west side of

the store. Additionally, the re-configuration could be accomplished in such a way as to afford additional improvements to landscape buffers.

This alternative would require a Conditional Zoning application to rezone the adjacent residential property and to review the Master Plan associated with the loading dock re-configuration.

Analysis: All conditional zoning applications are required to begin the process with a pre-application conference. This is the first step in the application process and is critical to effectively communicate the specific requirements of the application and any special materials that may or may not be necessary for evaluation of the stated proposal. Additionally, this conference also provides the opportunity for the applicant to solicit feedback on a proposal from the various technical reviewers and approximately half of all pre-application conferences share a site plan to better focus the conversation and technical feedback. To make the most of this conference, applicants are offered the option of attending the Technical Review Committee (TRC) meeting to be able to garner input from all of the technical reviewers at the same time and gain a better understanding of the relationship between the various standards.

Equally common are private pre-application meetings where the applicant will sit down with a few city staff for a more focused discussion. GreenLife grocery conducted a private pre-application meeting on Tuesday, November 13th where representatives of GreenLife (owner, landscape architect, architect, construction manager) met with City staff (traffic engineering, planning, building safety, public works, and fire marshal's office) to discuss the particulars of their application requirements. A few different site plan scenarios were discussed along with the pertinent technical requirements. Specific issues discussed included:

- Possible stormwater detention requirements
- Pervious paving requirements
- Parking requirements
- Impact on traffic
- Changes to driveway locations
- Landscape requirements
- Minor changes to loading docks
- Improvements that would trigger new requirements
- Relocation of existing single family home (how and where?)
- Other related and necessary permits

Also discussed in some detail was the timeline for the overall application process; of particular concern to the applicant was the interest in moving the application too quickly. The concern stems primarily from the fact that GreenLife does not own the property that the store sits on and also does not own the adjacent residential parcel and gaining consensus from all of the different stakeholders creates logistical challenges (if GreenLife is not the owner of the property then an Owner's Affidavit must be obtained before application can be made). Additionally, given the investment in proposed re-design the applicant wishes to explore all options for re-development, including possible future needs, and carefully consider the pros and cons for each. Despite these challenges, the GreenLife representatives expressed interest in moving forward as quickly as possible and hope to have the owner's affidavit and a conceptual site plan to share at the meeting on November 27th.

She said that a conceptual plan has been submitted to not just come up with a plan to reconfigure the loading area, but to do a long-term master plan. These are very conceptual plans and they have only been received early this afternoon. It is also her understanding that the property owners haven't had time to consider the latest plans either so there is still some need for discussion between the owners and the representatives of Greenlife.

She then reviewed in detail the conceptual plan. She said it is a three-phased development plan. Phase I is the reconfiguration of the loading dock areas. The only drawback to this development plan that she could identify is that if we conditionally rezone this property to a commercial designation, our new landscape standards now establish vegetative buffers between dissimilar zoning districts. We would normally require a 30-foot vegetated buffer between one of the parcels and the adjacent single family homes. In order to have the maneuvering room that they require for the trucks and also to provide a small amount of parking that they lose with this reconfiguration, it would necessitate the narrowing of that required buffer from 30 feet to approximately 5-10 feet with an opaque privacy fence. The buffer would be against the people who own the larger property, so their approval would be garnered at the beginning of this process.

She explained how Phase II focuses on construction of a new parking deck. Then, she explained how Phase III includes a building addition.

She said that it appears to be a substantial good faith effort to develop the concept plans. No application made at this

time, but this is very typical of a conditional zoning process and this is what we would expect to see at this point.

Mr. Joe Minicozzi, President of the Coalition of Asheville Neighborhoods, questioned why the City is not adhering to Chapter 7, Article VIII, Section 7-18-03 regarding notice of violation and citation procedure. He presented the City Clerk with a copy of a letter dated August 14, 2007, stating that he has not received a response as of this date.

In response to Mayor Bellamy, Ms. Tuch said that Staples and Greenlife have valid permits to operate.

In response to Councilman Newman, Ms. Tuch said that the conditional zoning will be received by the TRC, Planning & Zoning Commission, City Council, and then back to the TRC.

In response to Councilwoman Cape, Mr. John Swann, one of the owners of Greenlife, said that they do have full support of management for this conceptual plan.

Councilman Newman hoped to see continued forward progress on this issue. He said that if the plans are not submitted within 45 days, he suggested Council revisit the issue again.

VII. OTHER BUSINESS:

A. PRIMARY ELECTION RESULTS – CITY OF ASHEVILLE – OCTOBER 9, 2007 GENERAL ELECTION RESULTS – CITY OF ASHEVILLE – NOVEMBER 6, 2007

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes in the Primary Election, City of Asheville, held on October 9, 2007. Also attached as Exhibit "B" is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 6, 2007.

B. CERTIFICATE OF REFERENDUM

Attached hereto as Exhibit "C" is the Buncombe County, North Carolina, Certificate of Referendum Results for the City of Asheville, which said referendum was held at the General Election held on the 6th day of November, 2007. "This is to certify that the question posed before the voters of Asheville amending the Asheville City Charter and changing the manner of election of the mayor and city council from non-partisan to partisan has been rejected."

C. RECOUNT OF NOVEMBER 6, 2007, GENERAL ELECTION RESULTS

Attached hereto as Exhibit "D" is the Buncombe County, North Carolina, Municipal Election, held on November 6, 2007, recount held on November 16, 2007. In addition, attached hereto as Exhibit "E" is the sample recount of November 26, 2007.

D. CLAIMS

The following claims were received by the City of Asheville during the period of October 19-November 1, 2007: Westall-Chandley (Planning), Jerrell Deaver (Parks & Recreation), Hunter Cosgrove (Streets), Anita Irby (Streets) and Matthew Wall (Streets). These claims have been referred to Asheville Claims Corporation for investigation.

E. LAWSUITS

The City received a Complaint on November 7, 2007, as follows: Terry L. Edgerton v. Florindo Forero and the City of Asheville. This matter will be handled by an attorney outside of the City Attorney's Office.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 10:35 p.m.

CITY CLERK

MAYOR