

Regular Meeting

Present: Vice-Mayor Jan B. Davis, Presiding; Councilwoman Robin L. Cape; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower (left meeting at 6:13 p.m. due to illness); Councilman Brownie W. Newman; Councilman William A. Russell Jr.; Assistant City Manager Jeffrey B. Richardson; City Attorney Robert W. Oast Jr.; and City Clerk Keisha Lipe

Absent: Mayor Terry M. Bellamy

PLEDGE OF ALLEGIANCE

Vice-Mayor Davis led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Davis gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 2008 AS “THE GREAT ASHEVILLE-BUNCOMBE CLEAN UP MONTH”

Councilman Newman read the proclamation proclaiming April 2008, as "The Great Asheville-Buncombe Clean Up Month." He presented the proclamation to Susan Roderick, Executive Director of Quality Forward, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items “B,” “C,” “G,” “I,” “L” and “M” were removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 11, 2008, AND THE WORKSESSION HELD ON MARCH 18, 2008

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM THE N.C. COALITION TO END HOMELESSNESS

This item was removed from the Consent Agenda for discussion and/or an individual vote.

C. BUDGET AMENDMENT TO ACCEPT A GRANT FROM THE N.C. COALITION TO END HOMELESSNESS

This item was removed from the Consent Agenda for discussion and/or an individual vote.

D. RESOLUTION NO. 08-55 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A UTILITY AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE UPGRADE OF AN 18-INCH WATERLINE TO A 24-INCH WATERLINE ON SAND HILL ROAD

Summary: The consideration of a resolution authorizing the Mayor to enter into a Utility Agreement with the N.C. Dept. of Transportation (NCDOT) for the upgrade of a 18 inch water line to a 24 inch water line on Sand Hill Road

The NCDOT is widening NC 112 Sand Hill Road from west of Lake Drive (SR 3437) to Sardis Road. This road project known as SA-181 includes replacing the current 18 inch cast iron water line along Sand Hill Road with a new 24 inch ductile iron line.

The current water line on this section of Sand Hill Road is over 80 years old and is a major transmission line for industrial, commercial and residential customers in the Enka-Candler area including the Brevard Road area.

This project will enhance customer service by eliminating costly line breaks which cause water outages to area customers

on the current line. This old cast iron line would probably not withstand major road construction without multiple water line breaks which could affect the daily operations of major industrial employers in this area as well as residential, education and commercial customers. NCDOT estimated cost is \$2,252,398.00. This is only an estimate from NCDOT and the actual cost could be lower or higher. This is a local NCDOT project and was not on the State NCDOT project lists for capital improvement funding so funding has not been set aside for this project.

Funds for this project will be allocated through FY 2008/2009 water capital funding.

Pro: This project will eliminate a problematic 80 year old 18 inch water line which will enhance customer service and water service reliability to major industrial, education, commercial and residential customers.

Con: Funding for this project was not programmed due to this being a local NCDOT project and was not on long term project lists for future funding. Funds will have to be allocated in FY 2008/09 capital funding.

Staff recommends City Council approve resolution authorizing the Mayor to enter into a Utility Agreement with the NCDOT for the upgrade of an 18 inch water line to a 24 inch water line on Sand Hill Road

RESOLUTION BOOK NO. 31 - PAGE

E. RESOLUTION NO. 08-56 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT AGREEMENT WITH THE CORP OF ENGINEERS TO PROVIDE PROFESSIONAL SERVICES IN PREPARING FEASIBILITY ANALYSIS FOR FLOOD DAMAGE REDUCTION

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment agreement with the Corp of Engineers to provide professional services in preparing feasibility analysis for flood damage reduction.

The current contract with the Corp of Engineers is in the amount of \$49,500. Staff is requesting an increase in the contract in the amount of \$16,000. The total contract amount after the amendment is \$65,500. The Corp of Engineers is providing a 50%-50% match. The project budget is \$131,000.

In September 2007, the City of Asheville signed a contract with the Corp of Engineers to prepare a Flood Action Plan for Biltmore Village. The Corp has completed a majority of this work in conjunction with the City and the Biltmore Village business and property owners. The Corp of Engineers has obtained additional funding in the amount of \$16,000 to assist the City. We would like to continue our relationship with the Corp.

Specifically, the Corp will assist the City in developing scopes of services, reviewing proposals and providing quality control for feasibility analysis for various ways to reduce flood damage reduction on the Swannanoa River Watershed Basin. The types of feasibility analysis that we will be completing will include the following:

- Evaluating possible locations for temporary retention during flooding events;
- Evaluating the impact of potential relocations of utilities from the floodplain;
- Identifying bridges or overpasses that have significant impact on flooding; and,
- Identifying additional properties that should be bought out to reducing flood damage.

Our match of \$16,000 is available in the current budget. This money is part of a grant provided by the State in the Senate Bill 7 funds appropriated after Hurricane Francis and Ivan.

We are hopeful that the Corp of Engineers will find additional funding beyond the \$16,000 to assist us in these efforts.

Pros:

- The Corp of Engineers is funding 50% of this work.
- The Corp of Engineers has valuable technical resources to assist the City.
- Compliance with the Corps procedures will allow us to apply for construction money from them in the future.

Con:

- The private sector could perform this work. Entering into this agreement could be considered as taking work away from the private sector. We would lose the 50% match if we were to do this.

Staff recommends City Council approve a resolution authorizing the City Manager to execute an amendment agreement with the Corp of Engineers to provide professional services in preparing feasibility analysis for flood damage reduction.

RESOLUTION BOOK NO. 31 - PAGE

F. RESOLUTION NO. 08-57 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT AGREEMENT WITH BROWN AND CALDWELL TO PROVIDE PROFESSIONAL SERVICES IN THE FACILITATION AND ANALYSIS OF THE STORMWATER AND EROSION CONTROL ORDINANCE

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment agreement with Brown and Caldwell to provide professional services in the facilitation and analysis of the Stormwater and Erosion Control Ordinance.

In August 2007, City Council adopted revisions to the Stormwater and Erosion Control Ordinance. Council directed staff to solicit additional input from the public, the Watershed Policy Committee and the Planning and Zoning Commission. Since October 2007, the Watershed Policy Committee has been meeting every two weeks for four hours to review and make recommendation to the ordinance. In addition to meeting, they have held two public meetings.

Marshall Taylor with Brown and Caldwell has facilitated the meeting, prepared agendas, provided research and compiled committee recommendations. We had anticipated this process would take three months. The Committee did not feel that three months was adequate time to hold meetings, collect data and make solid recommendations to the Planning and Zoning Commission.

The Committee hopes to have their recommendations to the Planning and Zoning Commission in mid-May and before City Council in July 2008.

Funds for this amendment are available in the current budget.

Pros:

- Extending this contract will insure that the Watershed Policy Committee will have a technical facilitator for the remainder of the process.
- It has been helpful to have these meetings facilitated by someone other than City staff. Marshall Taylor with Brown and Caldwell is an expert on the subject matter and an excellent facilitator.
- The Watershed Policy Committee has made great progress in getting additional public input as well as consensus on some of the "hot" issues on the ordinance.

Con:

- The stakeholder process has taken longer than anticipated thus costing more in support and facilitation than anticipated.

Staff recommends City Council approve a resolution authorizing the City Manager to execute an amendment agreement with Brown and Caldwell to provide professional services in the facilitation and analysis of the Stormwater and Erosion Control Ordinance.

RESOLUTION BOOK NO. 31 - PAGE

G. ORDINANCE TO ENACT OR CHANGE SPEED LIMITS ON CHUNNS COVE ROAD AND CHUNNS VIEW DRIVE

This item was removed from the Consent Agenda for discussion and/or an individual vote.

H. RESOLUTION NO. 08-58 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT DONATION AND CONVEYANCE OF REAL PROPERTY OFF LOUISIANA AVENUE FROM THE CONSERVATION TRUST FOR NORTH CAROLINA

Summary: The consideration of a resolution authorizing the Mayor to accept donation and conveyance of real property off Louisiana Avenue from the Conservation Trust for North Carolina.

The City of Asheville is interested in establishing and maintaining parks and greenway systems throughout the corporate limits of the City of Asheville. The Conservation Trust for North Carolina (CTNC) has offered to donate real property located off

Louisiana Avenue (PIN 9638.09-17-2346) known as the Falconhurst Natural Area. The property is a 7.9 acre tract of land immediately west of and adjoining an 8 acre tract owned by the City that is currently leased to the United States for an Army Reserve Center. The land is mostly rolling hillsides and is heavily wooded. It is a landlocked parcel bounded to the north by Smith Mill Creek and encumbered by a Metropolitan Sewerage District easement running along the creek bank. It has been a natural area for a number of years.

It is the intent of CTNC to convey the property subject to deed restrictions to protect the site from development and maintain its integrity as a nature preserve, while still permitting appropriate public recreational use. To summarize, the deed restrictions will allow for minimal park improvements, such as unpaved hiking trails, pedestrian foot bridges across the creek and observation/viewing platforms, subject to the written approval from CTNC. The deed restrictions prohibit the use of fertilizers, pesticides, and non-native landscaping, and also seek to protect the water quality and drainage systems on the property. Please contact staff to review the complete conservation restrictions.

The CTNC incurs substantial costs monitoring its protected properties to ensure compliance with the deed restrictions and must set aside funds in a dedicated endowment to cover the costs. Therefore a one time contribution of \$6,000 is required to cover the cost of monitoring the deed restrictions. The funding for this type of property acquisition cost is already included in the current year's budget and will be utilized accordingly. Although the property is currently non-taxable, the listed tax value is \$102,100.

A Phase I Environmental Site Assessment has been completed by Patrick Price and a description of the property is contained in the deed at Deed Book 790, Page 350. The Parks and Recreation staff have reviewed the proposed donation along with the proposed deed restrictions and found that the property is appropriate for acceptance.

The proposed donation has been reviewed by the Recreation Board at its regular monthly meeting on March 10, and the Greenway Commission at its regular monthly meeting on March 13, and both concur with staff's recommendation.

City staff recommends City Council approve a resolution authorizing the Mayor to accept donation and conveyance of real property off Louisiana Avenue from the Conservation Trust for North Carolina, for the City of Asheville to preserve as a natural area.

RESOLUTION BOOK NO. 31 - PAGE

I. RESOLUTION APPROVING A FOUR YEAR LEASE WITH THE ASHEVILLE BOARD OF ALCOHOLIC CONTROL FOR PROPERTY LOCATED AT 167 BILTMORE AVENUE

This item was removed from the Consent Agenda for discussion and/or an individual vote.

J. ORDINANCE NO. 3597 - BUDGET AMENDMENT TO APPROPRIATE REVENUE AND BUDGET EXPENDITURE ACCOUNTS ASSOCIATED WITH BILTMORE FARMS FUNDING FOR THE REMOVAL OF EXISTING STREET LIGHTS FOR THE BILTMORE PARK PHASE I DEVELOPMENT

Summary: The consideration of a budget ordinance amendment in the amount of \$11,949.00 to appropriate revenue and budget expenditure accounts associated with the removal of existing streetlights for the Biltmore Park Phase I development.

Biltmore Farms has requested the City to authorize Progress Energy to remove existing street lights on their Biltmore Park Phase I project to enable installation of new streetlights conducive to their development plans. Authorization to Progress Energy by the City is necessary because the accounts are in the City's name.

Street lights are installed by Progress Energy and monthly charges are incurred for a specific term. Since the existing streetlights are being removed prior to the term end, penalties are applicable. The calculation provided by Progress Energy for the removal of eight (8) street lights is estimated at \$11,949.00.

Biltmore Farms will provide the necessary funds prior to authorization for removal by the City to Progress Energy, to cover all costs.

Pros:

- Removal of the existing street lights will allow the new street lights to blend with the new development.
- No cost to the City.

Con:

- None identified.

City staff recommends City Council approve a budget amendment to appropriate revenue and budget expenditures associated with the removal of existing street lights for the Biltmore Park Phase 1 project.

ORDINANCE BOOK NO. 24 - PAGE

K. RESOLUTION NO. 08-60 - RESOLUTION MODIFYING THE ASHEVILLE CITY COUNCIL MEETING SCHEDULE
RESOLUTION NO. 08-71 - RESOLUTION AMENDING CITY COUNCIL'S RULES AND PROCEDURES

Summary: The consideration of resolutions implementing changes to Council's meeting schedule and rules, as discussed at the March 18, 2008, worksession.

A. Worksession meeting time. At the March 18 worksession, Council indicated that it wished to change the schedule for worksessions so that the meetings would begin at 3:00 p.m. This is a return to the schedule that was in place prior to 2006, except that the meeting on the first Tuesday, which used to be a worksession, is not being held, in lieu of the Council committee structure.

B. Worksession processing, agenda submittal deadline. Council also indicated that it wished to clarify the rules regarding taking action and receiving public comment at worksessions (essentially, codifying the practices that have developed over time), and to modify the submittal deadline for agenda items.

The resolution amends Rule 1 to defer to the resolution that Council adopts at least annually regarding its meeting schedule, and to address the issues regarding action and comment that Council discussed. This resolution also revises the agenda material submittal deadlines in Rule 4, not only as to when the deadline is, but also to recognize the effect of the worksessions on Council's schedule. This amendment also provides for modification of these deadlines in appropriate circumstances.

Pros:

- Implements Council's direction as to schedule changes
- Provides clarification as to purposes and procedures for worksessions
- Adjusts submittal deadlines to recognize re-institution of worksessions
- Eliminates potentially confusing redundancy between rules and resolution regarding meeting schedule.

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Cons:

- None noted

If the resolutions meet with Council's intent, adoption is recommended.

RESOLUTION NO. 08-60 - RESOLUTION BOOK NO. 31 - PAGE

RESOLUTION NO 08-71 - RESOLUTION BOOK NO. 31 - PAGE

L. RESOLUTION AUTHORIZING THE ASHEVILLE CITY COUNCIL TO SUPPORT THE COUNTDOWN TO ZERO INITIATIVE TO END THE EUTHANIZING OF HEALTHY ANIMALS BY 2012

This item was removed from the Consent Agenda for discussion and/or an individual vote.

M. RESOLUTION ADOPTING THE CITY COUNCILS 2008 GOALS

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Vice-Mayor Davis 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.

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

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B. RESOLUTION NO. 08-54 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM THE N.C. COALITION TO END HOMELESSNESS

Summary: The consideration of (1) a resolution authorizing the City Manager to accept a grant in the amount of \$10,000 from the North Carolina Coalition to End Homelessness (NCCEH); and (2) a budget amendment in the amount of \$10,000.

Asheville-Buncombe has exhibited best practices in 10-Year Plan Implementation since the project was implemented in 2006 under the name of the Homeless Initiative. This grant from the NCCEH will allow the Homeless Initiative to continue to move forward in three areas:

Enhancing the Advisory Group's and advocates' knowledge and experience: Representatives from Asheville-Buncombe will attend the North Carolina Homelessness Leadership Summit and participate in site visits to other programs.

Collecting research based information about the community needs and costs in Asheville-Buncombe. Through a contract with a research scientist, existing information on costs and needs for services will be collected from a variety of agencies to better inform decision-making in implementing the 10-year Plan.

Enhance community involvement and commitment to the 10-Year Plan process. The grant will pay for professional input into the Homeless Initiative's public relations plan, including a new logo, website, newsletter, and other publications.

This grant requires no local match. All funds must be spent by June 30, 2008.

Pros:

- Increase the knowledge and effectiveness of the Homeless Initiative's Advisory Board.
- Provide better data on costs and needs in serving the homeless population
- Improve dissemination of information to the larger Asheville-Buncombe community.

Con: None.

Staff recommends City Council approve (1) a resolution authorizing the City Manager to accept a grant in the amount of \$10,000 from the North Carolina Coalition to End Homelessness (NCCEH); and (2) a budget amendment in the amount of \$10,000.

Ms. Amy Sawyer responded to questions from Council, some being, but are not limited to: how many people have we provided housing to; is the grant limited to this outreach component or are there other ways the money can be utilized; and how do these particular interests benefit the Plan.

Councilman Mumpower felt that this is a misinvestment of tax dollars and a distraction for more meaningful initiatives that will help the homeless. He said that until the State fixes our court system which is directly accountable for the significant number of people who are experiencing homelessness, he is not willing to accept funds for nice things.

Councilman Newman felt that this grant will help with the clogged court system since we are working directly with the people who burden the Police Department resources and medical services.

Councilman Mumpower asked our Police Department to provide feedback, making allowances for the winter season, on how much this has solved their dilemma in terms of dealing with predatory homeless people and others who abuse downtown residents and tourists.

Councilman Newman moved for the adoption of Resolution No. 08-54. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 - PAGE

C. ORDINANCE NO. 3595 - BUDGET AMENDMENT TO ACCEPT A GRANT FROM THE N.C. COALITION TO END HOMELESSNESS

Summary: See Consent Agenda Item "B" above.

Councilwoman Cape moved for the adoption of Ordinance No. 3595. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 24 - PAGE

G. ORDINANCE NO. 3596 - ORDINANCE TO ENACT OR CHANGE SPEED LIMITS ON CHUNNS COVE ROAD AND CHUNNS VIEW DRIVE

Summary: The consideration of an ordinance to enact or change speed limits on Chunns Cove Road and Chunns View Drive.

Chunns Cove Road and Chunns View Drive have been identified for speed concerns by residents, City boards and commissions, City Council, the Asheville Police Department, Transportation Services Division staff, and/or other City staff. The Transportation Services Division staff has conducted field reviews along these streets to assess existing conditions including street geometry and conditions and/or speed studies. The Asheville Police Department supports the recommendations.

20 Miles Per Hour

Chunns View Drive is a narrow residential street with street geometry problems, including frequent crests and curves, numerous access points, and heavily used on-street parking. This street warrants a lower speed limit than the typical 25 mph. The recommended safe operating speed on this street is 20 mph:

1. Chunns View Drive, from Mountainbrook Road to its dead-end.

30 Miles Per Hour

Chunns Cove Road is primarily a residential-type street that exhibits characteristics of a collector-type street. It is a winding street with limited sight distance in a number of locations and residential frontage with numerous access points in many areas. It has frequent roadside hazards (*i.e. utility poles*) within the desired "clear zone", which is the space between the pavement edge and the hazards, necessary for 35 mph. The recommended safe operating speed on this street is 30 mph:

1. Chunns Cove Road, from Piney Mountain Drive to the city limits (*a point 0.84 mile north of Piney Mountain Drive*).

Staff recommends City Council approve an ordinance to enact or change speed limits on Chunns Cove Road and Chunns View Drive.

Councilman Mumpower felt the City is artificially lowering the speed limit, thus creating illusions of safety when we are very limited in enforcing our speed laws in the City.

Councilman Newman moved for the adoption of Ordinance No. 3596. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 24 - PAGE

I. RESOLUTION NO. 08-59 - RESOLUTION APPROVING A FOUR YEAR LEASE WITH THE ASHEVILLE BOARD OF ALCOHOLIC CONTROL FOR PROPERTY LOCATED AT 167 BILTMORE AVENUE

Summary: The consideration of a resolution approving a four year lease with the Asheville Board of Alcoholic Control for property located at 167 Biltmore Avenue.

City Council authorized publication of a notice of intent to lease the space at 167 Biltmore Avenue to the City of Asheville Board of Alcoholic Control on February 26, 2008. A notice of intent was duly published in the Asheville Citizen-Times on February 29, 2008.

The property at 167 Biltmore Avenue is owned by the City of Asheville and is located on the corner of Biltmore Avenue and South Charlotte Street. In 1985, the City of Asheville leased this property to City of Asheville Board of Alcoholic Control for a retail outlet store and the Board of Alcoholic Control is currently occupying the space on a month-to-month basis. This proposed lease will enable the Board of Alcoholic Control to maintain the current use as a retail outlet store. There is a provision which allows either party to terminate the agreement upon 180 days notice. The term of the Lease will be for four years. The monthly rent will be \$1,006.75 for the first lease year, starting March 2008, (reflecting a 20% increase over the previous rent) and increasing by 20% each year. The Board of Alcoholic Control will carry utilities, water, electricity and gas at its own expense.

Approval of this resolution will authorize the Mayor to execute a lease agreement with the City of Asheville Board of Alcoholic Control at 167 Biltmore Avenue.

Pros:

- The terms of the lease allow the existing South Charlotte Street ABC store to continue its current operation and perform the governmental function of the sale, control and regulation of alcoholic beverages and the distribution of its gross receipts according to North Carolina General Statutes.
- The rental income from this particular property benefits the Community Development Block Grant Program.

Con: There is no negative impact.

Economic Development and Community Development staff recommends City Council approve a resolution authorizing a lease with the City of Asheville Board of Alcoholic Control for the premises at 167 Biltmore Avenue.

Councilman Mumpower spoke against the action especially when you look at the actual value of the property.

In response to Councilman Mumpower, Real Estate Manager Nikki Gunter said that if the property was put up for sale, and if the property was developed to it's full potential, the fair market value per month would be \$4,500.

Councilman Mumpower felt it is the pattern of the City to request fair market value for our properties and as this is a special exception, he could not support the action.

Councilwoman Cape explained this is only a 4-year lease and the City is entering into our downtown Master Planning process to determine the highest and best use of properties. She felt this is a good short-term relationship.

Councilman Newman moved for the adoption of Resolution No. 08-59. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 - PAGE

L. RESOLUTION NO. 08-61 - RESOLUTION AUTHORIZING THE ASHEVILLE CITY COUNCIL TO SUPPORT THE COUNTDOWN TO ZERO INITIATIVE TO END THE EUTHANIZING OF HEALTHY ANIMALS BY 2012

After thanking Councilwoman Jones for bringing this matter to Council's attention, Councilman Mumpower moved for the adoption of Resolution No. 08-61. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 31 - PAGE

M. RESOLUTION NO. 08-62 - RESOLUTION ADOPTING THE CITY COUNCILS 2008 GOALS

After Council briefly commented on the strong goals set, Councilman Mumpower moved for the adoption of Resolution No. 08-62. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 31 - PAGE

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED AT 10 ENGLISH HOLLY COURT, 209 AND 215 OAK TERRACE AND 10 OLD SARDIS ROAD FROM RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT

ORDINANCE NO. 3598 - ORDINANCE TO REZONE PROPERTY LOCATED AT 10 ENGLISH HOLLY COURT, 209 AND 215 OAK TERRACE AND 10 OLD SARDIS ROAD FROM RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT

Vice-Mayor Davis opened the public hearing at 5:39 p.m.

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone property located at 10 English Holly Court, 209 and 215 Oak Terrace and 10 Old Sardis Road from RS-4 Residential Single Family Medium Density District to Community Business I District. This public hearing was advertised on March 14 and 21, 2008.

Mr. Esselstyn said that the applicants are requesting a rezoning of four parcels and adjacent right-of-way areas from RS-4 to CBI. Two parcels currently support residential use with detached single-family homes and/or manufactured homes. One parcel currently has a multi-tenant commercial development, a grandfathered non-conforming use in the residential district. The fourth parcel has been graded and graveled for parking, though this use is not permitted under RS-4 zoning. The proposed rezoning would bring the non-conforming uses into conformity, and establish an additional 2.2 acres of land zoned for commercial use.

While the area is adjacent on two sides to CBII zoning, CBI zoning was requested as it is more restrictive than CBII and could provide a transition between the CBII zoning and nearby residential areas. All of the properties front on either Oak Terrace Road or Old Sardis Road Circle; an unopened right of way divides the area and provides potential for additional access. The paved surface of Oak Terrace Road and Old Sardis Road Circle is narrower than a typical road providing access to CBI properties, although examples of similar roads serving CBI properties do exist.

Two of the subject properties lie across Oak Terrace Road from properties used as part of the Stone Ridge Tavern restaurant business. The development of this lunch and dinner destination was approved under vested rights, as development plans were initially submitted to the County before this property came into the extraterritorial jurisdiction (ETJ) in summer of 2001. (Buncombe County had not implemented zoning in this area at that time.) Mr. Barlas, the owner of the restaurant as well as the two facing properties, acquired the subject property with PIN LOT 6725 in late 2004 to provide additional space for employees to park. In spring 2005, the first notice of violation was issued specifying the prohibition of parking lots in RS-4.

The restaurant has 224 seats, plus seating for 20 on a patio in favorable weather. Mr. Barlas, the owner, says that at peak times, there are 43-46 employees on the site (wait staff, bar staff, management, bussers, host(esse)s, and kitchen staff). Under the City of Asheville's ordinance, the minimum number of parking spaces would be 97, when figured conservatively, or 105 when including the patio seats and 46 staff. (One space is required for every three seats, plus one space per two employees on shift of greatest employment.) The restaurant's commercial area currently offers 87 full parking spaces, as well as seven that appear to be in use though they do not meet typical City dimensional requirements. Incidentally, the maximum number of parking spaces that would be permitted for such a restaurant under the Unified Development Ordinance (UDO) would be 134 (145 if including patio and 46 employees). By way of comparison, Fuddrucker's on Charlotte Street has 210 seats and about 129 parking spaces.

Planning staff suggested a conditional rezoning to allow the parking lot use to continue without being in violation. The applicants' decision to request straight rezoning reflects a preference to leave multiple options open for development and not be restricted to a master plan. Additionally, the decision to include multiple parcels addresses a possible characterization of the request as spot zoning, as the map amendment would apply to a significant block of land, not just one parcel.

The RS-4 zoning currently in place for the subject properties was made effective on August 14, 2001, when the entire ETJ zoning in this area was approved. The intent of the RS-4 district is to establish "a medium density for single-family dwellings and to stabilize and protect the residential character of the district while promoting a suitable environment for single-family living. Non-single-family development normally required to provide the basic elements of a balanced and attractive residential area is also permitted".

The UDO states that the CBI District was "established to provide areas for medium-density business and service uses serving several residential neighborhoods. This community business center may serve as a workplace for many residents in the surrounding neighborhoods and should be sensitive to a significant pedestrian population, but also provide for adequate and safe vehicular access. The [...] district is designed to be located primarily along streets which serve multiple residential neighborhoods."

Ken Putnam, the City Traffic Engineer, reviewed the request and was not opposed to the streets being used to provide access for commercial uses in the event of a rezoning, but he pointed out that a large development might require improvements to one or more of the streets, possibly even an additional lane.

The proposed rezoning would allow standalone parking lots as a permitted use on these properties, and could alleviate some of the parking challenges experienced by the Stone Ridge Tavern. With a straight rezoning and no associated master plan, however, there is no *assurance* that the rezoning will result in creation of a compliant parking situation. Staff recognizes that there also could be other solutions to the parking insufficiencies which may not have been fully explored, such as shared parking with a nearby church, removal of a building in the current parking area, or reduction in the number of seats.

Given that three of the four parcels, comprising more than 2.3 acres, currently appear to support just four homes, it can be argued that land this close to dense commercial development could be put to a higher and better use, which the proposed

rezoning would facilitate. Furthermore, any development of one of the parcels adjacent to residential zoning would require the installation of a 30-foot buffer to separate the dissimilar uses. While development under the CBI standards could be appropriate, however, a rezoning without conditions could also allow development which would not be in harmony with the adjacent residential areas and the character of the existing neighborhood.

This request came before the Planning and Zoning Commission at their February 6, 2008, meeting. There was no indication of neighborhood opposition at the meeting. Commissioners noted the absence of opposition as they voted to recommend approval, 5-1 (Mr. Byers voting no because he felt the application should be for conditional zoning).

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

Pros

- Would bring two non-conforming uses into compliance.
- Highly compatible with zoning to north and east.
- Potential to provide mixed-use infill development.
- Right of way on west side of subject properties would augment the buffer on a portion of that side.

Cons

- Would result in a loss of residentially zoned land.
- Affected streets (in current condition) not well-suited to serve possible high-intensity development.
- Straight rezoning to CBI allows potential for added development incompatible with adjacent RS-4.

Enabling non-conforming situations to become conforming can often justify support for upzoning of property. In this case, one of the two non-conforming situations was established without permits, in violation of the ordinance. Had permission been sought before the use was put in place, staff might view aspects of the request differently. Staff can envision development under the proposed zoning district that would benefit the site, but a rezoning with conditions would provide more confidence in a positive outcome.

Mr. Brian Gulden, attorney representing Mr. John Barlas, explained that once Mr. Barlas was made aware that the grading for the parking lot was in violation, he took steps to rope the area off and put up "no trespassing" signs until he could come into compliance with the UDO. After talking with adjoining neighbors who joined in this petition, it was decided to go for a straight rezoning to Community Business I to meet their needs.

Vice-Mayor Davis closed the public hearing at 5:54 p.m.

Mr. Esselstyn responded to Councilwoman Cape when she questioned why the property was initially zoned RS-4.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3598. This motion was seconded by Councilwoman Cape and carried unanimously.

ORDINANCE BOOK NO. 24 - PAGE

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE PROJECT KNOWN AS MYRA PLACE LOCATED AT MYRA PLACE AND OLD HAYWOOD ROAD FOR 12 EXCEPTIONAL DEVELOPMENT UNITS WITH 20% OF TOTAL UNITS BEING AFFORDABLE AND A REQUEST FOR A MODIFICATION ON REAR SETBACKS

ORDINANCE NO. 3599- ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE PROJECT KNOWN AS MYRA PLACE LOCATED AT MYRA PLACE AND OLD HAYWOOD ROAD FOR 12 EXCEPTIONAL DEVELOPMENT UNITS WITH 20% OF TOTAL UNITS BEING AFFORDABLE

City Clerk Lipe administered the oath to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

City Attorney Oast said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory

opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Vice-Mayor Davis opened the public hearing at 5:56 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that this is the consideration of the issuance of a conditional use permit for the project known as Myra Place located at Myra Place and Old Haywood Road for 12 exceptional development units with 20% of total units being affordable; and a request for a modification on rear setbacks.

Ms. Bernstein said that this is a request to review conceptual site plans for a conditional use permit (with 150% density bonus and incorporating 20% affordable housing) due to exceptional development standards pursuant to Section 7-16-2(b)(17) of the Unified Development Ordinance (UDO) to construct a 12-unit multi-family residential development.

The project site consists of two parcels located at Myra Place, Old Haywood Road and East Starnes Cove Road (Attachment to City Exhibit 3 - Location Map). The project proposes a recombination which would result in a portion of the northern lot combining with the southern parcel, resulting in an overall project area of 1.892 acres (according to site plans) (Attachment to City Exhibit 3 - Aerial Map). The parcels are zoned RS-4 with HB zoning located immediately adjacent to the south.

The applicant is requesting to create 12 multi-family units housed in four structures. With the proposed recombination, the underlying zoning allows for a total of 8 units; however, the applicant intends to use exceptional development and affordable housing to obtain 150% greater density than the base zoning allows, which results in 12 units total.

The four one-story structures (2 triplexes, 1 duplex and 1 quad) include a mix of 2 and 3-bedroom units. There are four 2-bedroom units with approximately 1,000 square feet and eight 3-bedroom units with 1,200 square feet. Each unit has 100 square feet of outdoor storage space included with a carport (Attachment to City Exhibit 3 - Site Plan).

Access to the project is proposed both from Myra Place to individual units (6 driveways) and from Old Haywood Road to a common parking area (1 driveway). The plan proposes one parking space for each unit in a carport (total: 12 spaces) and 12 visitor spaces (including one van accessible space) located at the southernmost end of the development for a total of 24 parking spaces. There is a 4-foot wide sidewalk/pathway proposed throughout the interior of the project, connecting the visitor parking area to the units through the common open space. The project incorporates a new 5-foot sidewalk along Old Haywood Road – but does not propose a sidewalk along Myra Place (none is required).

Landscaping is proposed according to the current ordinance, and includes a property line buffer (30' type B), street trees along Old Haywood Road and Myra Place, building impact landscaping and vehicular use area plantings. It does not appear that any existing vegetation is being preserved. A tree save area is required (30%) for this project, which is sufficiently covered by the amount of open space and the property line buffer. Fifteen percent (15%) of the project area is required to be set aside as open space, which is 12,362 square feet for this site. The applicant is proposing approximately 22,000 square feet of open space which more than exceeds the City's requirement.

Stormwater will be handled by a detention basin located within the designated open space that will be natural in appearance through grass on the surface with subterranean rain tank storage and infiltration structures.

Incorporation of exceptional development practices allows for a project to seek alteration on standards for density, height, number of residential units per building, setbacks, lot size and lot with. For this project, the developer is providing higher quality building design and orientation sensitive to surrounding neighborhood context, significant use of green building techniques, enhanced landscaping through the use of additional/larger plants or bio-retention stormwater systems, pedestrian amenities (walking trail), enhanced stormwater management through the use of pervious parking areas and minimized access points by using

shared driveways with adjoining parcels.

They are also proposing to designate 20% of the units as affordable. While 10 of the units will be sold at market rate value, 2 of the units are designated to be rented according to the City's Community Development department standards.

The applicant is seeking a 150% density bonus and requests a rear setback encroachment of approximately 5' to allow for the covered walkway/carport/storage area for 5 of the units along Myra Place.

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At the February 18, 2008, Technical Review Committee (TRC) meeting, this project was approved with the conditions as listed in the staff report dated February 18, 2008. The Planning & Zoning Commission recommended approval at their March 5, 2008, meeting by a unanimous vote of 7-0. No communication from abutters has been received as of the writing of this report.

City Council must take formal action as set forth in section 7-5-5(e)(3) of the UDO, and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case pursuant to section 7-16-2(c) of the UDO. Staff's review indicates that all seven standards are met as proposed in the site plan.

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

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

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

The proposed use and development of the land is compatible with the natural features and topography of the site. Although most of the existing vegetation will be removed, the landscaping proposed is fitting and compatible with the residential neighborhoods nearby. The landscape buffer on the southern end of the site offers appropriate screening from the adjacent HB zone. There are no significant topographic features on the site.

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

The development is not expected to injure the value of adjoining or abutting properties, especially given many of the exceptional development standards being incorporated into the design.

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

This area is zoned RS-4 which is intended for single-family development but does allow for development standard bonuses. The proposal for these modestly-sized, 1-story triplexes, duplex and quadraplex units are not incompatible with the scale, bulk, coverage and character of the area. The base zoning would allow 8 units. This request incorporates a density bonus for 4 additional units by incorporating Exceptional Development Standards and affordable housing. Staff does not believe that the 4 additional units create an incompatible situation as it relates to surrounding density or character.

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

The *Asheville City Development Plan 2025* proposes a Smart Growth development pattern by encouraging compatible higher density residential infill projects and incentives for the construction of affordable housing. One way to accomplish this goal is to apply existing zoning tools to incentivize higher density residential infill development. This project utilizes the "Exceptional Development Standards" with altered site specifics and a 150% density bonus from incorporating 20% of the units as affordable.

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

This proposed development is located near major road facilities, interstate connections and within approximately one mile to a City bus route (#1). In addition, basic infrastructure appears adequate and preliminary review by other service providers has not revealed any problems for future service to the development.

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

The proposed project has been reviewed by the City's traffic engineer and is not expected to cause undue traffic congestion or create a traffic hazard.

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

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Pros

- The project offers affordable housing units, aligning with City Council's goals.
- The proposed development will complement the existing residential fabric of the neighborhood.
- Higher density infill development furthers the goals and objective of the comprehensive plan.

Cons

- The project exceeds the density allowance and does not comply with rear setbacks along Myra Place (encroachment of carports) under the RS-4 zoning district unless the Conditional Use Permit and density bonus is approved.

Based on the above findings and that the project appears to comply as Exceptional Development with affordable housing, staff recommends approval of the conditional use permit and approval of the density bonus and development standard modification as requested by the applicant.

Mr. Art Carter, appearing in a representative capacity, spoke in support of the project.

After rebuttal, Vice-Mayor Davis closed the public hearing at 6:07 p.m.

Based on the above findings and the analysis provided in the staff report, Councilman Mumpower moved to adopt Ordinance No. 3599, to approve the conditional use permit adopting the proposed master plan for Myra Place with the requested modification rear setback along Myra Place and approving the 150% density bonus, subject to the following recommendations: (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 and dimensioned 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; (6) The Brae "Rain Tank" has not been approved for use as a stormwater detention system in the City of Asheville. Approval must be obtained from the Director of Transportation and Engineering before it can be approved for use on this project; and (7) The applicant will work with the City's Community Development staff on coordinating the affordable rental units. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 24 - PAGE

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

At 6:13 p.m., and at the request of Councilman Mumpower, Councilman Newman moved to excuse Councilman Mumpower due to illness. This motion was seconded by Councilman Russell and carried unanimously.

A. RESOLUTION NO. 08-63 - RESOLUTION TO SUPPORT MAKING ASHEVILLE A WI-FI CITY

Mr. Wally Bowen, representing Mountain Area Information Network (MAIN), explained that MAIN has been a non-profit service provider in Asheville and 14 counties in the mountain region since 1996. He described an expansion of their existing wireless high speed internet network city-wide, with the vision of making Asheville a "Wi-Fi City." He mentioned several state and national endorsements being (1) e-NC Authority; (2) New America Foundation; and (3) Institute for New Generation Internet San Francisco State University.

He said their request is for an official endorsement of the "Wi-Fi City" vision by the Asheville City Council, with no request

for City money and with no City obligation to use the network.

He said they need an official endorsement (1) to add credibility with national foundation and corporate funders; (2) to leverage non-local funding for community and economic development; and (3) to create "buzz" among high-tech firms seeking big-city amenities for their employees.

"Wi Fi City" benefits include (1) security, mobility and reliability - (a) home-health delivery; (b) on-location film production; (c) construction sites; (d) tailgate markets; (e) the "Virtual Office;" (f) "Rolling Wi-Fi" on City buses; (g) small business friendly; and (h) green economy support; (2) digital divide, education and job training - (a) affordability and keeps dollars local; (b) focus on underserved neighborhoods; (c) at-risk youth (\$100 laptop); (d) after school programs; (e) community center access; and (f) media production and youth mentoring; and (3) municipal applications - (a) public safety/disaster recovery - 75%; (b) building inspections - 52%; (c) public access - 50%; (d) public works - 45%; (e) AMR/utilities management - 43%; (f) education - 39%; (g) asset tracking - 34%; (h) SCADA - 35%; and (i) parking/traffic - 23%.

Currently operating meraki "Mesh" neighborhoods include: Ivy Street/UNC-A; Max Street/S. Charlotte Street; Lenior Street/Kenilworth; Haywood Road/Westwood; Haywood Road/Sand Hill Road; Biltmore Avenue/Charlotte Street; Joyner Avenue/Riverview; Montford; and Mount Clare.

Legislative priorities include (1) U.S.: Wireless Innovation Act of 2008; and (2) N.C.: E-NC Internet Connectivity/PEG Channels (SB-1068).

City Attorney Oast said that Mr. Bowen has prepared the following resolution for Council's consideration, which if Council wishes to endorse, he will revise accordingly: "WHEREAS, affordable and secure broadband Internet access is a 21st Century necessity for citizens, students, businesses, health care providers, non-profits and government agencies in the City of Asheville; and WHEREAS, a Digital Divide exists that prevents some households and businesses in the City of Asheville from having access to affordable broadband Internet service; and WHEREAS, the non-profit Mountain Area Information Network (MAIN) has proposed making Asheville a Wi-Fi City in order to bridge the broadband Digital Divide; and WHEREAS, this Wi-Fi City proposal has been endorsed by the State of North Carolina, e-NC Authority, the Institute for Next Generation Internet, and the Wireless Future Program of the New America Foundation; and WHEREAS, making Asheville a Wi-Fi City will expand job training and small business development opportunities for our youth and for local entrepreneurs; and WHEREAS, this Wi-Fi city proposal will enhance the City of Asheville's reputation as an emerging leader in bridging the broadband Digital Divide. Now therefore, the Asheville City Council endorses MAIN's efforts to attract investment from foundations and corporate funding sources to make Asheville a Wi-Fi City."

Councilwoman Cape moved to adopt a resolution supporting MAIN's efforts in making Asheville a "Wi-Fi City." This motion was seconded by Councilman Russell.

The following individuals spoke in support of MAIN's efforts:

Ms. Lois Clement, Director of Instructional Technology for the Asheville City Schools
Mr. Terry O'Keefe, technology consultant
A resident in Biltmore Park

Councilwoman Cape recognized Mr. Bowen for working to bring back media into the hands of ordinary people.

Mr. Bowen responded to questions raised by City Attorney Oast in order for him to prepare an appropriate resolution for Council consideration.

Throughout discussion, Mr. Bowen responded to various questions/comments from Council, some being, but are not limited to: when other cities are getting out of the wi-fi business, why should Asheville be getting into it; what is the current fee structure and is the proposed fee structure; and what types of subsidies or foundation grants will be sought.

Vice-Mayor Davis wished MAIN great success, but was somewhat concerned that if they are not successful, is the City at risk for losing an opportunity to work with other providers. In addition, with his support for this action, he didn't want to imply that he was supportive of this effort being the City's wi-fi service and that the City will subsidize it.

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

At 6:50 p.m., Vice-Mayor Davis announced a 20-minute recess.

B. SWANNANOVA INCORPORATION DISCUSSION

City Attorney Oast briefly reviewed some information in Interim Planning & Development Director Shannon Tuch's staff report as follows: "In North Carolina, cities, towns and villages are incorporated municipalities. An incorporated municipality means the North Carolina General Assembly has granted a charter authorizing the establishment of a municipal corporation (government) and outlining the powers, authority and responsibilities of the municipal government. The City of Asheville has recently been approached by the bordering township of Swannanoa seeking a resolution of support for the incorporation of the Town of Swannanoa.

Under the North Carolina Constitution, municipal incorporation requires an act of the state legislature. Citizens in unincorporated areas may petition the Joint Legislative Commission on Municipal Incorporation which undertakes a phased review to determine minimum qualifications. During this time period, the incorporating municipality must notify all other cities that are over 50,000 or more and within 5 miles and request support for the desired incorporation. In the case of Swannanoa, Asheville is a city that meets this proximity test. Without a resolution of support from Asheville, the Swannanoa request for incorporation will move from the Legislative Commission to the General Assembly with a negative recommendation."

Using several maps for reference, Urban Planner Blake Esselstyn reviewed the following information from Ms. Tuch's staff report to Council: "Citizens of the proposed area of incorporation for Swannanoa have submitted their petition and have met their basic Phase 1 requirements.

The basic proposal requests the incorporation of approximately 22.05 square miles containing about 10,520 residents. The subject area is bisected by Interstate 40 and is located east of Asheville. The area proposed for incorporation generally follows the boundary of the Swannanoa fire district with five noted exclusions.

According to the information supplied by the representatives for incorporation, the Town proposes the minimum tax rate (5 cents per \$100 valuation). This is in addition to the fire district tax that is already assessed. Incorporation also requires enhanced public services in four out of eight service areas; the petition filed describes the four additional services to be:

- Fire protection through a contract with the rural fire districts that currently serve the area.
- Police protection through a contract with the Buncombe County Sheriff's Dept.
- Street lighting.
- Street maintenance through a contract with the N.C. Dept. of Transportation (NCDOT).

North Carolina municipalities are established to protect the citizens and provide residents of a particular area with urban services. With the exception of street lighting, the proposed list of services appears to be a continuation of existing County and rural fire district services. Also, the development patterns and land uses indicate a much more rural character with only a little over half the land area being used for active uses typically associated with urban/suburban areas. Similarly, the density at .7 persons per acre suggests a more rural development pattern compared to other cities and towns in the area (Asheville = 2.7 persons/acre; Black Mountain = 1.8 persons per acre). Lastly, current sewer and water service is concentrated in a much smaller area primarily north of I-40 where existing infrastructure appears to closely follow the more intensively developed areas typical of a town or city.

As proposed, the Town of Swannanoa would be approximately half the size of Asheville and the third largest municipality in the county per land area; however, they would be sixth in density (eight total).

The City of Asheville cannot grow its corporate boundary without first determining that the area(s) of interest meet an urban level of development. There are a great number of restrictions on what qualifies as "urban" and these areas must be analyzed and tested to ensure that they meet these criteria. While it may be unreasonable to expect that a newly incorporated town would follow the same strict standards that growing municipalities are required to meet, it may be appropriate to suggest a more moderate level of development before supporting incorporation. Setting minimum density standards, as an example, may also elicit a more thoughtful approach to boundary delineation that does not follow arbitrary boundaries that are traced out of convenience.

Recent interest in incorporations is a matter of concern across the state and warrants further investigation and study by the Legislature. More locally, interest in incorporation has been expressed by Swannanoa as well as Leicester, with new interest coming out of Fairview. The rash of incorporations suggests that this is a defensive act and may be a response, in part, to the recent Buncombe County zoning and potential annexation or incorporation from other municipalities. Asheville's more recent annexation efforts have been directed away from Swannanoa and have been primarily concentrated in the south and west; however, growth to the east does not present as many topographic or service delivery issues as growth to the north would. Nevertheless, the areas located within the township of Swannanoa present other challenges to Asheville's ability to annex and it is unlikely that the City of Asheville will exercise annexations options that would significantly encroach into the petition area.

While the issue of defensive incorporations appears to be a statewide concern that the Legislature may ultimately weigh in on, a more immediate and local need for study has arisen. Staff would recommend that the City of Asheville, along with other regional representatives, initiate a collaborative study of regional growth management that could establish a set of minimum qualifications for incorporation. Asheville could, in turn, delay any annexation efforts into areas that overlap areas of interest for incorporation. This would help support the Asheville City Council's new Strategic Operating Plan goal of committing to partnerships that would help achieve regional goals.

For the reasons noted above, staff does not recommend adoption of the resolution to incorporate the Town of Swannanoa as proposed (but could support a resolution for incorporation of a smaller area that would meet a set of minimum qualifications)."

Councilwoman Cape felt that the Task Force presented some good reasoning behind their movement and was supportive of it in many ways. However, she does have difficulty in the overlapping parts on Swannanoa's western boundary with parts that overlap the City's map of areas of consideration for annexation at the City's eastern boundary. She wanted to be supportive of this effort and hoped we could work together.

Mr. David Alexander, representing the Executive Board of the Swannanoa Incorporation Task Force, explained to Council how this issue began in 2006 up to current events. A community meeting was held which 450 people attended. Results from a survey showed that 62% identified the possibility of incorporation as the most important issue before them. A Task Force was then formed with seven different committees. A formal survey was launched in spring of 2007 which showed widespread support with more than 75% favoring incorporation. A petition drive gathered 1,548 signatures of registered voters residing inside the proposed boundary, which have been certified by the Buncombe County Board of Elections. This represents 25% of the registered voters and 60% more than the minimum state requirements. He asked the City of Asheville to support their application for incorporation as they have met or exceeded the benchmarks established by the General Assembly.

Mr. Geoffrey Bullock, member of the Executive Board of the Swannanoa Incorporation Task Force and member of the Maps and Boundaries Committee, shared with Council some of the rationale that was used in establishing the proposed Swannanoa boundaries. A number of widely varying scenarios were explored throughout this process. Their final boundaries do closely correlate with the existing Fire District; however, that is not what they used as a starting point. One of the criteria used was what is natural and logical for having a cohesive community. One of their goals was to preserve the history and the character of the area.

Because the Task Force's presentation extended beyond the 10-minute presentation allotted timeframe, Councilman Newman moved to permit the Task Force four additional minutes to finish their presentation. This motion was seconded by Councilwoman Cape and carried unanimously.

Mr. Bullock said that they recognize rapid growth in Swannanoa. The open areas in the proposed incorporation area are considered to be areas under development and will directly influence the quality of life for the residents of Swannanoa.

Ms. Jane Conley Hansel said the Task Force is trying very hard to be good neighbors and to provide for the opportunity of Swannanoa to create a vision to have a voice in the community. She encouraged Council to support their application.

In response to Councilman Russell, Mr. Alexander said that there is no deadline for submitting their application to the State.

Councilman Russell felt that the proposed Swannanoa boundaries do make sense. He felt the best way to find out about whether the residents want to incorporate is a referendum, noting that only the Joint Legislative Commission on Municipal Incorporation in Raleigh has the authority to permit incorporation or not - not the Asheville City Council. He wondered if Council wouldn't be better served by holding a public hearing on this matter when Mayor Bellamy and Councilman Mumpower are present.

Councilman Newman supported the incorporation of Swannanoa as a town and hoped that we can work together to get to a common ground on the boundaries on the western side of the proposed Swannanoa incorporation. Regarding the proposed boundaries, he was concerned about the area on the western end of the proposed Swannanoa boundaries. He felt that City Council owes it to Asheville residents to make sure the boundary is right. He sees that parts of the ridge lines and natural features guide the boundary decisions, but on the City's eastern edge, the boundary doesn't appear to follow property boundary lines. He hoped the City and the Task Force could sit down and discuss those concerns.

Councilwoman Cape agreed that Asheville wants to be good neighbors with Swannanoa and hoped they would be willing to meet and discuss the boundary lines on the City's eastern side. Since the Task Force has worked with Warren Wilson College to delete their property from their proposed boundaries, she feels the Task Force would be agreeable to working with the City on their concerns.

Recognizing the Task Force doesn't have staff or a budget, Councilwoman Cape moved to direct staff to (1) work with the Task Force on the eastern boundary concern and report back to Council in an expeditious manner; and (as suggested by Councilwoman Jones) (2) discuss with the Task Force an annexation plan of who is going to grow in what direction. This motion was seconded by Councilman Newman.

In response to Councilman Russell, Mr. Alexander said that a 2 or 4 week delay will not materially affect their application process. However, he noted that any change in their boundaries will also change the dynamics of the petition, which will be submitted with their application. That would necessitate further action by the Buncombe County Board of Elections. Councilwoman Cape noted that since they have such a high percentage over the minimum state requirements, this may not pose a problem with the petition.

In response to Councilwoman Cape, City Attorney Oast briefly reviewed the role of the Buncombe County Board of Elections in terms of verifying a petition.

In response to Councilman Newman, Mr. Bullock said that Swannanoa's Charter doesn't address annexation. Their position, as an Executive Board, is that they are not authorized to set policy. He felt that would be a future policy issue for the elected town council.

The following individuals spoke against the Swannanoa incorporation for various reasons, some being, but not limited to: many people who signed the incorporation petition were told that they were going to be annexed right away by Asheville, and have since requested their names be removed from that petition; they have instituted a petition drive for people who do not wish Swannanoa to incorporate and had 400 people sign their petition the first day; the Task Force is now supporting a referendum, but the state does not require that; concerns that a Planning & Zoning Committee and a Parks & Recreation Committee are not in their budget; people like the freedom of living in the County; additional extra taxes will hurt small businesses and individuals; Swannanoa residents already have a voice with the Buncombe County Commissioners; there is no plan for annexing Swannanoa for at least the next 10 years; request for a referendum; Swannanoa has over 10,000 people and the Task Force only surveyed 300 people, which 75% of the 300 people supported incorporation; not all large open areas are being developed and owners of those vacant lands should not have to pay more taxes for services they don't need; street maintenance concerns in the budget; and support for a small town of Swannanoa centered around Exit 59 off I-40, with opportunities to annex as areas grow around it:

Mr. Eric Gorny, Swannanoa resident

Swannanoa resident and business owner

Ms. Nancy Dugan, area resident and owner of large open area (requested her property be excluded from the Swannanoa incorporation boundaries)

Mr. Colin Robertson, Swannanoa resident

The following individuals spoke in favor of the Swannanoa incorporation for various reasons noted in the prior presentation:

Mr. David McMahan, Buckeye Cove resident in the Swannanoa area

Dr. Martha Stiles, Lytle Cove resident

Mr. Ron Hillabrand, member of the Task Force

Mr. Jake Quinn, Asheville resident, felt Asheville should take the lead with Buncombe County and other municipalities to develop a Buncombe County comprehensive land use plan.

Mr. Dwight Buckner, Asheville resident, felt it makes sense to clearly identify Asheville's and Swannanoa's potential growth area ahead of time.

Councilwoman Cape clarified that what is in front of City Council is that there would be a referendum and that is what City Council is supporting, noting that the State would have to make that decision.

Councilwoman Jones pointed out that Asheville needs, but does not have, the rights and privileges to grow that all other cities in North Carolina have.

Vice-Mayor Davis noted that prior to Councilman Mumpower leaving, Councilman Mumpower noted that he could be supportive of the Swannanoa incorporation, so long as there is a referendum.

Vice-Mayor Davis said that even though this Council doesn't have any decision-making authority in most of this discussion, we do care what happens to Asheville's citizens and our boundaries. We would do less a favor to our constituents if we didn't look

at the real cause and effect to Asheville residents. The realities are that all municipalities in Buncombe County need to sit down and talk about where we see growth, where do we see people needing another layer of government, where do we need services provided, etc.

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

In response to Assistant City Manager Richardson, it was the consensus of Council to have City staff meet with the Task Force and report back to Council in 4 weeks; however, Council would be amenable to an extension to that 4 weeks (due to workload of the Planning & Development Department), if necessary.

C. RESOLUTION NO. 08-64 - RESOLUTION ADOPTING THE DOWNTOWN PARKING STUDY PREPARED BY KIMLEY-HORN

Director of Transportation and Engineering Cathy Ball said that this is the consideration of a resolution adopting the Downtown Parking Study prepared by Kimley-Horn.

In July 2007, Council authorized Kimley-Horn to complete a Parking Study of Downtown Asheville. The study focused on the determining the demand versus supply for parking. The process included a public involvement component, an evaluation of existing conditions, future conditions, and parking operations and management.

The public involvement component included holding public workshops. The first public workshop was held on November 29, 2008. Approximately 50 people attended this meeting. The second workshop was held on January 30, 2008. At both meetings, the attendees were asked to take a survey of the existing parking system. The results from this information are provided in the report.

For the purpose of evaluating parking supply verses demand, the Central Business Area was broken into thirteen zones. In order to compare the data collected in this parking study with the one completed in 1998, the consultant utilized the same zones as the 1998 study.

The consultant conducted an existing parking inventory of the area. Field surveys of occupancy and turnover were conducted from August 22 to August 27, 2007.

Existing demand was collected by evaluating existing land uses. Attendees at both public workshops were asked to review this data and comment. The consultant met with Planning Department staff to evaluate future projects. If a project had been submitted to the Planning Department for consideration it was included in the future conditions. For example, projects such as the Ellington and the County Parking at the Health Department were incorporated in the future supply and demand.

The results indicated a parking deficit in the Battery Park, Lexington Avenue, City/County Plaza and Biltmore Avenue during the weekday.

The study also evaluated the parking operations and management. The results indicated the need for better wayfinding and revenue control equipment. We are currently working on both of these items.

This study cost \$97,500 and was paid for in the Parking Enterprise Fund.

Pro:

- This study provides data that allows us to make better decisions about where to locate parking facilities and/or other parking amenities.

Con:

- One person complained that we did not allow enough notice of the public meetings. We gave one to two weeks notice of both public meetings.

Staff recommends City Council approve a resolution adopting the Downtown Parking Study prepared by Kimley-Horn.

Using a PowerPoint presentation, Mr. Fred Burchett, representing Kimley-Horn, explained that a parking study (1) reviews existing land uses and parking demands; (2) reviews existing parking supply; (3) identifies existing parking deficiencies; and (4) determines existing/future parking needs. Using a map, he showed the study area and parking analysis zones.

He said that the following was included in the study: (1) Determine locations with heaviest parking demands; (2) Public workshops (November 2007 and January 2008); (3) Develop parking demand model; (4) Identify potential shared uses of parking; (5) Evaluate existing parking operations; and (6) Provide recommendations to improve parking study

He noted that only 24% of the total supply is available to the general public. In addition, the parking facilities approach or exceed occupancy between 11 a.m. and 4 p.m. on weekdays and 7:00 p.m. and 10:00 p.m. on weekends.

Public involvement included (1) what they heard (a) perception of parking in downtown is bad; (b) not enough parking; (c) need public/private shared parking; (d) wayfinding needs improvement; (e) security is lacking in garages; (f) promote alternative transportation modes; and (g) parking during special events is difficult.

The following solutions are supported: (1) increase parking rates - 6%; (2) provide additional parking - 25%; (c) satellite park and ride - 19%; (d) better wayfinding - 21%; (e) better security - 15%; and (f) easier payment methods.

As might be suspected, the largest parking deficits are located nearest to prime destinations, e.g., Grove Arcade, Lexington Avenue, Biltmore Avenue and Haywood Street.

Using a chart, he showed a parking demand model (weekday analysis).

He showed a map of the existed peak demand as well as a map of the projected future peak demand.

Regarding parking operations/management, (1) existing revenue control equipment is outdated (currently under bid to be replaced); (2) poor perception of security, particularly in the Civic Center garage; and (3) wayfinding system needs improvement (Task Force currently finalizing plans).

He showed a parking rate comparison for on-street and off-street parking with other cities: Greenville, South Carolina; Knoxville, Tennessee; and Chattanooga, Tennessee.

The financial analysis shows: (1) parking system currently operates with a surplus; and (2) with projected growth of staff and new parking facilities, the system is projected to operate at a deficiency by the 2012-2013 fiscal year.

Recommended improvements include (1) better payment options (a) smart cards; (b) pay stations; and (c) pay by phone; (2) better way finding (a) consistent signage; and (b) technology (parking availability on the website); (3) park and ride (a) satellite lots outside of downtown; (4) update revenue collection equipment; and (5) increase night time security in parking garages.

Potential improvements include (1) continue to increase rates periodically (a) keep first hour free; (b) charge hourly rates on nights and weekends in parking garages; and (c) increase daily maximum rate; and (2) potential new facilities (a) Rankin Avenue; (b) Biltmore Avenue; and (c) Grove Arcade area.

Throughout discussion, Mr. Burchett and Ms. Ball responded to various questions/comments from Council, some being, but are not limited to: what is the feasibility of the park and ride and what would be the first steps to proceed in that direction; could some of the park and ride study analysis be built into the route analysis of the transit system; what is the consultant's opinion on the first hour free parking in the garages; if new decks are built, should we continue with the first hour of free parking in the new decks; are there some creative solutions that other cities have done to offer incentives to local businesses to allow parking during certain times; what type of challenges would staff have working with local businesses to reach an agreement on public parking on private lots; this plan is a good piece of data to incorporate into the Downtown Master Planning process; how can this plan be referenced when Council reviews development projects; how will the plan be used; and request that staff look for ways to better direct people to parking garages.

Upon inquiry of Councilman Newman, Ms. Ball said that there are monthly parking spaces available in the Civic Center Garage, as well as some on the paid street parking lots, and some are quite affordable.

Vice-Mayor Davis noted that prior to Councilman Mumpower leaving, Councilman Mumpower noted that the plan was expensive and doesn't tell us anything we don't already know.

In response to Councilwoman Cape, Ms. Ball said that Kimley-Horn is on the team of the Downtown Master Plan.

Vice-Mayor Davis 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. 08-64. This motion was seconded by Councilwoman Cape and carried unanimously.

Due to the oversight of public comment not being taken prior to the vote, Vice-Mayor Davis apologized and asked for public comment.

Mr. Jake Quinn felt that the people who need parking downtown are downtown merchants and out of town tourists and they should be the ones who pay for any additional parking.

Mr. Dwight Buckner, member of the Asheville Downtown Association, explained how having an accessible downtown and parking is important to the entire community. He spoke briefly on some of the recommendations and thanked Council for having the study prepared.

RESOLUTION BOOK NO. 31 - PAGE

D. DOWNTOWN MORATORIUM DISCUSSION

City Attorney Oast said that while not used frequently, development moratoria have been used in various contexts across the country. Development moratoria have also been used in North Carolina, but issues regarding the process for adoption and the scope and duration of those moratoria were the subject of litigation. In 2005, the N.C. General Assembly amended the planning enabling statutes to provide for moratoria. This amendment essentially codified the case law on this topic.

If Council decides to proceed with a moratorium, the scope and duration of it, as well as the conditions necessitating its adoption, must be clearly identified. Unless the moratorium is in response to an emergency and is of very limited duration, a public hearing is required. The notice requirements for the public hearing vary depending on the duration of the moratorium.

If adopted, the moratorium would only apply prospectively. The effectiveness of a moratorium as to certain types of development approvals varies depending on the nature of the permit or approval. In general, however, projects for which permits have been issued, or for which completed applications have been submitted, would not be affected by a moratorium. The moratorium must also specify the steps that the City proposes to take to address the conditions leading to the adoption.

If Council decides to proceed with a moratorium, the parameters of the moratorium (duration, scope, conditions, etc.) should be identified.

Councilwoman Cape said that many people in our community were concerned that with so many items coming forward that we might be compromising the downtown Master Planning process (which has a duration of approximately 6-9 months). Council has supported the Master Planning process, which will begin in April, and urged people to participate in that process. She said that since it will take approximately 4 months to get a moratorium in place, a moratorium could moot if people participate in the Master Planning process. This is a very important endeavor for the future of downtown.

Vice-Mayor Davis, member on the Downtown Commission, said that the Downtown Commission considered the matter and the majority consensus was opposition to a moratorium. In addition, the Downtown Commission felt that they should have been contacted prior to the issue being considered by Council, since they are the advisory body appointed by City Council to have input on downtown issues.

Councilwoman Cape felt there should be a process on how Council members get an item placed on the agenda. She would have been happy to have the Downtown Commission review this matter, however, since there are so many layers of committees, it's not clear on how Council should bring matters forward.

After Vice-Mayor Davis polled Council on whether to take public comment since there was no motion or proposal on the table, public comment was invited.

Mr. Jesse Junior urged Council to proceed with a moratorium in order to analyze if Asheville is moving in the right direction.

Ms. Elaine Lite spoke in favor of a moratorium, which is a legal planning tool in the State of North Carolina.

Mr. Dwight Buckner, member of the Asheville Downtown Commission, spoke in support of the Downtown Master Plan and spoke against a moratorium.

Councilman Russell noted that that there was extensive community involvement in the 2025 City Plan, which calls for a vibrant Central Business District.

E. RESOLUTION NO. 08-65 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Board of Adjustment.

The terms of Tom Muncy (Regular), Beverly Robinson (Regular) and David Brown (Alternate) expired on January 21, 2008.

On February 19, 2008, City Council instructed the City Clerk to arrange interviewed for the following individuals: David Brown (current Alternate) Lee McElrath (current Alternate), Anthony Palazoo and Ester Manheimer.

After Council spoke highly of the candidates, David Brown received 1 vote, Lee McElrath received 5 votes, Anthony Palazoo received no votes and Ester Manheimer received 4 votes. Therefore, Councilwoman Jones moved to (1) appoint Lee McElrath and Esther Manheimer as Regular members to the Board of Adjustment to each serve three-year terms respectively, terms to expire January 21, 2011, or until their successors have been appointed. This motion was seconded by Councilman Russell and carried unanimously.

Councilwoman Cape moved to reappoint David Brown as an Alternate member to serve an additional three-year term, term to expire January 21, 2011, or until his successor has been appointed. This motion was seconded by Councilman Newman and carried unanimously.

In addition, Council instructed City Clerk Lipe to advertise for the Alternate vacancy left by Mr. McElrath whose term will expire on January 21, 2010.

RESOLUTION BOOK NO. 31 - PAGE

F. RESOLUTION NO. 08-66 - RESOLUTION APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Civic Center Commission.

Mr. Tim Laughlin has resigned from the Civic Center Commission, thus leaving an unexpired term until June 30, 2009.

On February 19, 2008, City Council instructed the City Clerk to arrange interviewed for the following individuals: J. Michael Burke and John West.

After Council spoke highly of the candidates, J. Michael Burke received 2 votes and John West received 2 votes. Another vote was taken and J. Michael Burke received 3 votes and John West received 1 vote. Therefore, Councilwoman Jones moved to appoint J. Michael Burke to serve the unexpired term of Mr. Laughlin, term to expire June 30, 2009, or until his successor has been appointed. This motion was seconded by Councilwoman Cape and carried unanimously.

RESOLUTION BOOK NO. 31 - PAGE

G. RESOLUTION NO. 08-67 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville-Buncombe Community Relations Council.

Ms. Veronica Sotolongo resigned, thus leaving an unexpired term until December 31, 2008; and the term of Jose Ruiz expired on December 31, 2007.

On February 19, 2008, City Council instructed the City Clerk to arrange interviewed for the following individuals: Sid Heilbraun, Kelly Stamey, Kate Pett and Jill Fromewick.

After Council spoke highly of the candidates, Sid Heilbraun received no votes, Kelly Stamey received no votes, Kate Pett received 4 votes and Jill Fromewick received 4 votes. Therefore, Councilman Newman moved to (1) appoint Kate Pett to serve a three year term, term to expire December 31, 2010, or until her successor has been appointed; and (2) appoint Jill Fromewick to

serve the unexpired term of Ms. Sotolongo, term to expire December 31, 2008, or until her successor has been appointed. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 31 - PAGE

H. RESOLUTION NO. 08-68 - RESOLUTION APPOINTING MEMBERS TO THE FILM COMMISSION

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Film Commission.

Ms. Melinda Rains has resigned from the Film Commission, thus leaving an unexpired term until November 1, 2010.

On February 19, 2008, City Council instructed the City Clerk to arrange interviewed for the following individuals: David Flander, Trent McDevitt, Nancy Sokolove and Heidi Campbell-Robinson.

After Council spoke highly of the candidates, David Flander received 4 votes, Trent McDevitt received no votes, Nancy Sokolove received no votes and Heidi Campbell-Robinson received 1 vote. Therefore, Councilman Newman moved to appoint David Flander to serve the unexpired term of Ms. Rains, term to expire November 1, 2010, or until his successor has been appointed. This motion was seconded by Councilwoman Cape and carried unanimously.

RESOLUTION BOOK NO. 31 - PAGE

I. RESOLUTION NO. 08-69 - RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY AND THE ENVIRONMENT

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Sustainable Advisory Committee on Energy and the Environment.

The term of Jonathan Barnes expired on December 31, 2007.

On February 19, 2008, City Council instructed the City Clerk to arrange interviewed for the following individuals: Melanie Brethauer, Brandee Boggs, Marcus Renner, Ashley Featherstone, Kristin M. Peppel and Daniel Asher.

After Council spoke highly of the candidates, Melanie Brethauer received 2 votes, Brandee Boggs received no votes, Marcus Renner received no votes, Ashley Featherstone received 1 vote, Kristin M. Peppel received no votes and Daniel Asher received 1 vote. Therefore, Councilman Russell moved to appoint Melanie Brethauer to serve a three year term, term to expire December 31, 2010, or until her successor has been appointed. This motion was seconded by Councilman Newman and carried unanimously.

RESOLUTION BOOK NO. 31 - PAGE

J. RESOLUTION NO. 08-70 - RESOLUTION APPOINTING MEMBERS TO THE TRANSIT COMMISSION

Vice-Mayor Davis, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Transit Commission.

The term of Robert Mair expired on December 31, 2007.

On February 19, 2008, City Council instructed the City Clerk to arrange interviewed for the following individuals: Michael Orford, Josh O'Conner, Larry D. Chapman, David Lack and Bruce Emory.

After Council spoke highly of the candidates, Michael Orford received no votes, Josh O'Conner received 2 votes, Larry D. Chapman received 1 vote, David Lack received 1 vote and Bruce Emory received 1 vote. Therefore, Councilwoman Cape moved to appoint Josh O'Conner to serve a three year term, term to expire December 31, 2010, or until his successor has been appointed. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 31 - PAGE

VII. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of February 22-March 13, 2008: Kristopher Price (Transit), Estalee King (Police), AT&T (Water), Jane Pimenta (Water), Progress Energy (Water), Stan Clontz (Water), Neill S. Mason (Water), AT&T (Water), Robert T. Bayer (Streets), AT&T (Water) and Mary Mullinax (Fire).

These claims have been referred to Asheville Claims Corporation for investigation.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Brad Brock asked for Council assistance in requiring stormwater runoff protection from the Thoms Estate development. Vice-Mayor Davis said that City staff will investigate and report back to Council.

At the request of Councilman Newman, it was the consensus of Council to schedule a worksession on an update of the new City's stormwater ordinance.

Mr. Dwayne Barton hoped that Council will be creative in providing for more opportunities for the youth in our community.

IX. ADJOURNMENT:

Vice-Mayor Davis adjourned the meeting at 10:10 p.m.

CITY CLERK

MAYOR