

Regular Meeting

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

Absent: Councilman William A. Russell Jr.

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Cape gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 13-19, 2008, AS “NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK”

Mayor Bellamy read the proclamation proclaiming the week of April 13-19, 2008, as "National Public Safety Telecommunications Week" in the City of Asheville. She presented the proclamation to Mr. Joe Fioccola who briefed City Council on some activities taking place during the week.

B. PROCLAMATION PROCLAIMING APRIL, 2008, AS “NATIONAL WOODWORKING MONTH”

Vice-Mayor Davis read the proclamation proclaiming the month of April, 2008, as "National Woodworking Month" in the City of Asheville. He presented the proclamation to Mr. Jim Miller, from Asheville Hardware, who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING APRIL, 2008, AS “CHILD ABUSE PREVENTION MONTH”

Councilwoman Jones read the proclamation proclaiming the month of April, 2008, as "Child Abuse Awareness Month" in the City of Asheville. She presented the proclamation to Mr. Bill McGuire and Ms. Tammy Shook who briefed City Council on some activities taking place during the month.

D. PROCLAMATION PROCLAIMING APRIL, 2008, AS “JAZZ APPRECIATION MONTH”

Councilwoman Cape read the proclamation proclaiming the month of April, 2008, as "Jazz Appreciation Month" in the City of Asheville. She presented the proclamation to Mr. Bo Farson, on behalf of the WNC Jazz Society, who briefed City Council on some activities taking place during the month.

E. PROCLAMATION PROCLAIMING APRIL, 2008, AS “ALCOHOL AWARENESS MONTH”

Councilman Mumpower read the proclamation proclaiming April, 2008, as "Alcohol Awareness Month" in the City of Asheville. He presented the proclamation to Ms. Marie Nemerov who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

Mayor Bellamy announced that Consent Agenda Item “C” has been removed from Council's consideration.

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

At the request of Mayor Bellamy, Consent Agenda Items “J,” and “N” were removed from the Consent Agenda for discussion and/or an individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 25, 2008

B. ORDINANCE NO. 3600 – BUDGET AMENDMENT FROM THE CITY'S INSURANCE RESERVES TO PAY FOR LIABILITY CLAIM EXPENSES THAT HAVE BEEN PREVIOUSLY APPROVED BY CITY COUNCIL

Summary: The consideration of a budget amendment, in the amount of \$450,000, from the City's insurance reserves to pay for liability claims expenses that have been previously approved by City Council.

Although there are numerous matters in which the City can assert Governmental Immunity, there are instances when the City becomes liable for damages. Claims expenses in the current year are higher than normal due to pay out of several claims that have occurred in prior budget years. Payment of these claims has already been approved by City Council at previous meetings. This budget amendment will increase the claims budget by \$450,000 to fund these additional approved expenses. Revenue to support this amendment will come from the City's insurance reserves. This appropriation will have no impact on the City's available fund balance.

It is estimated that fund balance for the general liability program will end the year at approximately \$5.0 million, which is well above the minimum recommended threshold based on actuarial analysis.

City staff recommends City Council adopt the budget amendment to amend the General Insurance and Liability budget to increase the claims budget by \$450,000.

ORDINANCE BOOK NO. 24 – PAGE

C. RESOLUTION AUTHORIZING THE MAYOR TO CONVEY PROPERTY AT THE CORNER OF BAXTER STREET AND MARTIN LUTHER KING JR. DRIVE TO DAVID FRECK

This item was removed from consideration by City Council.

D. RESOLUTION NO. 08-72 – RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE INSTALLATION OF A CONCRETE SIDEWALK ALONG THE WEST SIDE OF NC 191 (BREVARD ROAD) FROM I-26 TO I-40, EXCLUDING BRIDGES

Summary: The consideration of a resolution authorizing the Mayor to sign a municipal agreement with the N. C. Dept. of Transportation (NCDOT) for the installation of a concrete sidewalk along the west side of NC 191 (Brevard Road) from I-26 to I-40, excluding bridges.

NCDOT plans to widen NC 191 (Brevard Road) from I-26 to I-40 to a multi-lane facility including a sidewalk along the west side of the road. It is anticipated that the subject project will be let to construction during June 2008. As a part of the subject project, the City has requested that the sidewalk be installed.

The agreement will require NCDOT to pay up 60% of the actual cost and the City of Asheville to pay 40% of the actual costs. The estimated cost of the sidewalk is \$142,000 and the City's portion of that cost should be \$56,800. This payment is not due to NCDOT until the project is complete which is estimated to be during Fiscal Year 2009-10; therefore, the funds for this project will be budgeted in Fiscal Year 2009-10.

As part of this agreement the City will be responsible for maintaining the sidewalk which is standard operating procedure for all sidewalks on State-maintained streets.

In addition to participating in the sidewalk construction, the City agrees to effect the necessary adjustment of any utilities under franchise without cost to the NCDOT and to provide for the adjustment of any municipally-owned utilities without cost to the NCDOT, except that the NCDOT will reimburse the City in accordance with the NCDOT's Municipally-Owned Utility Policy. These requirements are standard requirements in all of NCDOT's Municipal Agreements and may or may not be applicable for a specific project. Since the City of Asheville does not have any utilities under franchise, this specific requirement is not applicable. It is anticipated that municipally-owned water lines will be relocated as a part of the subject project and a separate utility agreement, detailing the specific requirements and associated costs, will be forthcoming. The Water Resources Department has not reviewed proposed project plans at this time.

The estimated cost to the City is \$56,800 which will be budgeted in Fiscal Year 2009-10. A separate utility agreement will include the specific requirements and associated costs with the relocation of municipally-owned water lines.

Pros

- The City is only required to pay 40% of the total cost of the sidewalk as opposed to 100%.
- A sidewalk will be provided along a section of street that does not currently have a sidewalk.
- The cost to construct the sidewalk should be cheaper since it is being constructed at the same time as the street is being widened.

Con:

- Cost

The City has to pay \$56,800 for the sidewalk installation and costs associated with maintaining the sidewalk after it is installed.

Staff recommends that City Council approve a resolution authorizing the Mayor to sign a municipal agreement with NCDOT formally approving Project U-3601 including the installation of a concrete sidewalk along the west side of NC 191 (Brevard Road) from I-26 to I-40, excluding bridges.

RESOLUTION BOOK NO. 31 – PAGE 133

E. RESOLUTION NO. 08-73 – RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION APPROVING THE REPLACEMENT OF BRIDGE #39 OVER THE SWANNANOA RIVER ON NC 81

Summary: The consideration of a resolution authorizing the Mayor to sign a municipal agreement with the N.C. Dept. of Transportation (NCDOT) approving the replacement of Bridge # 39 over the Swannanoa River on NC 81.

NCDOT plans to replace Bridge # 39 over the Swannanoa River on NC 81. As a part of the agreement, the City agrees to effect the necessary adjustment of any utilities under franchise without cost to the NCDOT and to provide for the adjustment of any municipally-owned utilities without cost to the NCDOT, except that the NCDOT will reimburse the City in accordance with the NCDOT's Municipally-Owned Utility Policy. These requirements are standard requirements in all of NCDOT's Municipal Agreements and may or may not be applicable for a specific project. Since the City of Asheville does not have any utilities under franchise, this specific requirement is not applicable. The Water Resources Department has reviewed the proposed project plans and it is anticipated that municipally-owned water lines will not be relocated as a part of the subject project; therefore, a separate utility agreement, detailing the specific requirements and associated costs, is not needed.

Pros:

- An existing sub-standard bridge along a primary highway will be replaced.
- There is no cost to the City of Asheville.

Con:

- There are no identifiable cons.

There is no estimated cost to the City.

Staff recommends that City Council approve a resolution authorizing the Mayor to sign a municipal agreement with NCDOT formally approving Project B-2515.

RESOLUTION BOOK NO. 31 – PAGE 134

F. RESOLUTION NO. 08-74 – RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION APPROVING THE REPLACEMENT OF BRIDGE #85 OVER HOMINY CREEK ON NC 112 (SAND HILL ROAD)

The consideration of a resolution authorizing the Mayor to sign a municipal agreement with the N. C. Dept. of Transportation (NCDOT) approving the replacement of Bridge # 85 over Hominy Creek on NC 112 (Sand Hill Road).

NCDOT plans to replace Bridge # 85 over Hominy Creek on NC 112 (Sand Hill Road). As a part of the agreement, the City agrees to effect the necessary adjustment of any utilities under franchise without cost to the NCDOT and to provide for the adjustment of any municipally-owned utilities without cost to the NCDOT, except that the NCDOT will reimburse the City in

accordance with the NCDOT's Municipally-Owned Utility Policy. These requirements are standard requirements in all of NCDOT's Municipal Agreements and may or may not be applicable for a specific project. Since the City of Asheville does not have any utilities under franchise, this specific requirement is not applicable. The Water Resources Department has reviewed the proposed project plans and it is anticipated that municipally-owned water lines will not be relocated as a part of the subject project; therefore, a separate utility agreement, detailing the specific requirements and associated costs, is not needed.

Pros:

- An existing sub-standard bridge along a primary highway will be replaced.
- There is no cost to the City of Asheville.

Con:

- There are no identifiable cons.
- There is no estimated cost to the City.

Staff recommends that City Council approve a resolution authorizing the Mayor to sign a municipal agreement with the NCDOT formally approving Project B-4033.

RESOLUTION BOOK NO. 31 – PAGE 135

G. RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE CITY OF ASHEVILLE DESIGNATION TO RECEIVE JOB ACCESS AND REVERSE COMMUTE AND NEW FREEDOM FUNDS

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

H. RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE REIMBURSEMENT OF FUNDS TO BE EXPENDED FOR TRANSIT SERVICE TO WEAVERVILLE, N.C.

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

I. RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE REIMBURSEMENT OF FUNDS TO BE EXPENDED FOR TRANSIT SERVICE TO BLACK MOUNTAIN, N.C.

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

J. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAROLINA MOUNTAIN ROOFING AND CONSTRUCTION INC. FOR ROOF REPLACEMENT AT MONTFORD RECREATION CENTER, EAST ASHEVILLE RECREATION CENTER AND OAKLEY RECREATION CENTER

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

K. RESOLUTION NO. 08-79 – RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE WIDENING OF NC 146 (LONG SHOALS ROAD) IN PHASED PROJECTS

Summary: The consideration of a resolution authorizing the Mayor to enter into a contract with the N.C. Dept. of Transportation (NCDOT) for the widening NC 146 Long Shoals Road in phased projects.

Project R-2813 B is from west of Clayton Road to east of I-26. The original municipal agreement with NCDOT for this project was approved by City Council on June 27, 2006 with a cost of \$876,850. This supplemental agreement adds polyethylene encasement to approximately 4,917 feet (3,740 lf of 24 inch and 1,177 lf of 12 inch) of water pipe. This is required due to the close proximity of high pressured gas mains along this road and that the gas mains have an electrical charge which can cause water lines to corrode and creates a safety issue for our employees when digging around these lines.

This supplemental agreement is required to provide added safety and extend the life of the new water lines along this phase of the Long Shoals Road NCDOT project. The cost of this upgrade is \$42,001.30 to the original utility agreement. The new cost for this project is \$918,851.30. Funding for this project is programmed in FY 2008/09 and FY 2009/10 with payment to NCDOT to be made in three annual payments after work is completed.

Pros:

- This project will eliminate two problematic water lines including a permesstran fiberglass line on this section of Long Shoals Road which will enhance customer service by eliminating breaks and outages.
- The polyethylene enclosure will enhance employee safety and extend the life of the new water line.

Con:

- Cost

Increased funding of \$42,001.30 is required in Fiscal Year 2009/10 to cover this additional cost.

Staff recommends approval for the Mayor to execute the Supplemental Utility Agreement with NCDOT for the Project: R-2813 B.

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L. RESOLUTION NO. 08-80 – RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR ROADWAY IMPROVEMENTS ON US 70-74 (TUNNEL ROAD) FROM THE TUNNEL TO KENILWORTH ROAD

Summary: The consideration of a resolution authorizing the Mayor to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) for roadway improvements on US 70-74 Tunnel Road from the tunnel to Kenilworth Road; and the associated budget amendment, in the amount of \$75,000.

The Water Resources Department is installing a new 24 inch water line in part of Tunnel Road as part of the Revenue Bond Projects which will enable the three lines on top of the tunnel to be replaced. The City of Asheville participation is 25% of the repaving project cost. This opportunity to participate in this NCDOT project enables the department to replace aging infrastructure with minimum repaving costs. Approximately 3,400 feet of road will be repaved from the tunnel to Kenilworth Road.

NCDOT is making street and highway constructions and improvements within Asheville city limits. Based on the total project cost of \$300,000.00, the Water Resources Department has negotiated a participation rate of 25%, or \$75,000.00, of the total project cost. 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. This project will improve roadway conditions for local motorists.

Pros:

- This project will improve local roadway conditions by the milling and resurfacing of US 70-74 Tunnel Road from the tunnel to Kenilworth Road.
- Water infrastructure that is over 90 years old will be upgraded.

Cons:

- There are no cons to this project. The Water Resources Department would have to resurface Tunnel Road as part of the infrastructure improvements. Funds are being allocated in the current fiscal year's capital funding.

Funds for this project will be allocated through FY 2007/2008 water capital funding.

Staff recommends approval for the Mayor to execute the Maintenance Agreement with NCDOT for Project: 13CR.10111.7, and the associated budget amendment.

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M. ORDINANCE NO. 3601 – BUDGET AMENDMENT TO REPROGRAM FUNDS IN THE CAPITAL PROJECTS TO CREATE A BUDGET FOR THE N.C. DEPT. OF TRANSPORTATION ROADWAY IMPROVEMENTS ON US 70-74 (TUNNEL ROAD) FROM THE TUNNEL TO KENILWORTH ROAD

Summary: See Consent Agenda "L" above.

ORDINANCE BOOK NO. 24 – PAGE

N. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE EARTH DAY CELEBRATION ON SATURDAY, APRIL 19, 2008, AT MARTIN LUTHER KING JR. PARK

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

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

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

G. RESOLUTION NO. 08-75 – RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE CITY OF ASHEVILLE DESIGNATION TO RECEIVE JOB ACCESS AND REVERSE COMMUTE AND NEW FREEDOM FUNDS

Summary: The consideration of a resolution authorizing the Mayor to accept the City of Asheville designation to receive Job Access and Reverse Commute (JARC), and New Freedom funds.

In 2006, the Federal Transit Administration initiated two new formula grant programs, the Job Access and Reverse Commute and the New Freedom programs, to improve and enhance accessibility to public transportation to low-income individuals and individuals with disabilities.

JACR, previously a discretionary program, is a formula grant program oriented to provide job access in the urbanized and suburbanized area. The formula is based on the number of eligible low-income and welfare recipients in these areas.

The job access refers to projects relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment.

The reverse commute refers to a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities.

New Freedom is also a FTA formula grant program for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990. These funds are intended to assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

The allocations for both programs are shown below:



(*)2006 funds will lapse on September 30, 2008.

To be eligible, both programs require an intensive planning process based on community participation to be achieved through three workshops (Buncombe, Haywood and Henderson County); the result is to be a Coordinated Public Transportation and Human Services Transportation Plan or LCTP. The LCTP, which assesses current transportation needs, identifies gaps and sets goals, will be developed based on the results of the workshops. The plan will be adopted by the French Broad River MPO's governing body, the Transportation Advisory Committee, which is made up of elected representatives from each of the eighteen local governments which make up the MPO. They include Buncombe, Haywood, and Henderson County, and each of the incorporated municipalities in the three counties.

The LCTP will set the base to apply for projects; all the projects that apply for funds must respond to these assessment. The main stakeholders were invited to the workshop, among them Asheville Transit, Mountain Mobility, human service agencies, public and private transportation providers, NCDOT and general public.

Pros:

- The JARC program may increase the ability of transportation providers and other agencies to fulfill gaps to job access in both the urbanized and suburban areas.
- The New Freedom program may give opportunities to agencies to provide new services to individuals with disabilities.

Con:

- The use of City staff to administer the program and oversee the contracts will add additional workload, but may be achieved with existing staff levels.

The City will be responsible for the Program Management and, as designated recipient, to oversee the utilization of these funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As a designated recipient the city may use 10% of these funds for administration purposes, which will cover the program management expenses.

The planning process will bring a clear understanding of needs in the region and will help with future transportation planning initiatives, while the funds allocated to fulfill some of these needs will benefit the population in general. Therefore, it is staff recommendation to accept the designation.

These funds totalize \$364,493 for JARC and \$228,799 for New Freedom, and represent the Federal allocations for Fiscal Years 2006, 2007 and 2008.

As the designated recipient, the City of Asheville will receive \$364,493 and \$228,799 for Job Access and Reverse Commute and New Freedom funds respectively. These funds will be distributed among the projects selected for such programs.

City staff recommends City Council adopt a resolution authorizing the Mayor to accept the City of Asheville designation as a recipient of the Job Access and Reverse Commute, and New Freedom funds.

Councilman Mumpower said that when we have a \$10 Trillion national debt, he could not support acceptance of these grant programs.

Councilman Newman moved for the adoption of Resolution No. 08-75. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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H. RESOLUTION NO. 08-76 – RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE REIMBURSEMENT OF FUNDS TO BE EXPENDED FOR TRANSIT SERVICE TO WEAVERVILLE, N.C.

Summary: The consideration of a resolution authorizing the Mayor to enter into an agreement with the N. C. Dept. of Transportation (NC DOT) for the reimbursement of funds to be expended for service to Weaverville.

The NC DOT has tendered a contract to the Asheville Transit System in which the NC DOT will contribute funds for bus service to Weaverville. The Asheville Transit System operates said service.

Asheville Transit System operates an intercity bus route between the City of Asheville and the Town of Weaverville along US 25 Business with stops at UNCA, along Merrimon Avenue, in downtown Weaverville, at the Rose's Shopping Center, SonoPress, and other locations along the route. The service will operate five times per day, six times per week. The State and the Town of Weaverville have funded the entire amount of the operating costs less fare box revenue. The total budgeted cost for this project is \$124,604 for the Fiscal Year July 1, 2007 through June 30, 2008. The State of NC is providing \$110,604 for this Intercity Project. The Town of Weaverville has budgeted \$10,000 to this route. The balance of \$4,000 is expected from farebox revenues. Ridership on this route in FY 2007 was 14,678 more than doubled last's year ridership (6,254). Ridership in the current fiscal year is expected to be approximately 17,000.

Conformance to City Development Plan 2025: Goal VI: Develop a transit system that is capable of meeting the needs of all residents of and visitors to the region: Strategy 4: Expand inter-city service to Hendersonville, Black Mountain, Weaverville, Mars Hill, and Sylva.

Conformance to Strategic Plan: Strategic Plan Section on Planning, Goal 2: (1) Objective A, Creating a Multi-modal Transportation System, leveraging outside funding sources; and (2) Objective B, by creating a partnership between the state, the Town of Weaverville and the Asheville Transit System to mitigate congestion.

This action complies with the Strategic Operating Plan in the Planning Focus Area- Goal #2-A Multi-modal Transportation

System, leveraging outside funding sources.

The City of Asheville will receive \$124,604 for intercity route operations between Asheville and the Town of Weaverville. These funds are currently programmed in the City budget, with no City funds being expended.

Pro:

- Increased mobility for the citizens of Asheville both within and outside the city at no additional cost to the City of Asheville.

Con:

- There are no disadvantages to the City of Asheville.

There are no City funds in this operation, and the City is specifically exempted from funding any of these operations in the contract from the NC DOT for these routes.

City staff recommends adoption of the resolution authorizing the Mayor to enter into an agreement with the N. C. Dept. of Transportation for the reimbursement of funds to be expended for service to Weaverville.

Councilman Mumpower said that his comments relate to this item as well as Consent Agenda Item "I".

After Director of Transportation and Engineering Cathy Ball responded to various questions/comments from Councilman Mumpower, Councilman Mumpower expressed concern over the subsidy involved with the Weaverville and Black Mountain routes and the City's difficulty in maintaining the capital investment in our buses. He had no trouble with the City's effort to connect us to outlying communities, but questioned if we are taking away from our ability to provide services to our own citizens.

Councilman Newman moved for the adoption of Resolution No. 08-76. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 137

I. RESOLUTION NO. 08-77 – RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE REIMBURSEMENT OF FUNDS TO BE EXPENDED FOR TRANSIT SERVICE TO BLACK MOUNTAIN, N.C.

Summary: The consideration of a resolution authorizing the Mayor to enter into an agreement with the N. C. Dept. of Transportation (NC DOT) for the reimbursement of funds to be expended for service to Black Mountain.

The NC DOT has tendered a contract to the Asheville Transit System in which the NC DOT will contribute funds for bus service to Black Mountain. The Asheville Transit System will operate said service.

Asheville Transit System operates an intercity bus route between the City of Asheville and the Town of Black Mountain along US 70 with stops at the Asheville Mall, Riverbend Marketplace, Veteran's Administration Hospital, and multiple residential areas. The service operates five times a day, six days a week. All financing will be provided by the State (maximum of \$196,500), the Town of Black Mountain (\$13,500), Mountain Mobility (\$4,000), and Fare Box Revenue (approx. \$19,000). The total budgeted cost is \$233,000. The contract has a period of performance of 12 months - from July 1, 2007, through June 30, 2008, as well as to pass through funding to Mountain Mobility for the operation of their route in Black Mountain through the same date. These funds are currently programmed in the City budget, with no City funds being expended. Ridership on this route in FY 2007 was 34,800 almost the double than last year (19,727), with ridership in FY 2008 (the period of this contract) expected to be approximately 39,000.

Conformance to City Development Plan 2025: Goal VI: Develop a transit system that is capable of meeting the needs of all residents of and visitors to the region - Strategy 4: Expand inter-city service to Hendersonville, Black Mountain, Weaverville, Mars Hill, and Sylva.

Conformance to Strategic Plan: Strategic Plan Section on Planning, Goal 2: (1) Objective A, Creating a Multi-modal Transportation System, leveraging outside funding sources; and (2) Objective B, by creating a partnership between the state, the Town of Weaverville and the Asheville Transit System to mitigate congestion.

This action complies with the Strategic Operating Plan in the Planning Focus Area- Goal #2-A Multi-modal Transportation System, leveraging outside funding sources.

The City of Asheville will receive \$233,000 for intercity route operations between Asheville and the Town of Black Mountain. These funds are currently programmed in the City budget, with no City funds being expended.

Pro: Increased mobility for the citizens of Asheville both within and outside the city at no additional cost to the City of Asheville.

Con: There are no disadvantages to the City of Asheville.

NC DOT reimburses the City for expenditures.

City staff recommends adoption of the resolution authorizing the Mayor to enter into an agreement with the N. C. Dept. of Transportation for the reimbursement of funds to be expended for service to Black Mountain.

Councilman Newman moved for the adoption of Resolution No. 08-77. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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J. RESOLUTION NO. 08-78 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAROLINA MOUNTAIN ROOFING AND CONSTRUCTION INC. FOR ROOF REPLACEMENT AT MONTFORD RECREATION CENTER, EAST ASHEVILLE RECREATION CENTER AND OAKLEY RECREATION CENTER

Summary: The consideration to authorize the City Manager to enter into a contract with Carolina Mountain Roofing and Construction, Inc. for roof replacement at Montford Recreation Center, East Asheville Recreation Center and Oakley Recreation Center for an amount of \$121,700.

- In 2007, City Council approved \$150,000 as part of the City's Fiscal Year 2007/08 capital improvement budget for roof replacement at Montford Recreation Center, East Asheville Recreation Center and Oakley Recreation Center. The existing roof systems at these three centers are in need of full replacement since they outlived their useful lives and functioning inadequately resulting in significant leaking and causing damage to the interior of the buildings. The City issued a request for proposals for the roof replacement and the lowest, qualified bid was received from Carolina Mountain Roofing and Construction, Inc. for a cost of \$121,700.

Pros:

- The new roofs will prevent further leaking and damage to the interiors of the centers.
- The new roofs will save the City considerable cost in the form of reduced maintenance.

Cons:

- None

- The contract amount will not exceed the approved project total of \$150,000.

The Parks, Recreation and Cultural Arts Department recommend City Council to authorize the City Manager to enter into a contract with Carolina Mountain Roofing and Construction, Inc. in the amount of \$121,700 for roof replacement at Montford Recreation Center, East Asheville Recreation Center and Oakley Recreation Center.

In response to Mayor Bellamy's questions, Parks & Recreation Director Roderick Simmons said that he would provide Council with a breakdown of the allocation of \$750,000 allocated by Council for various projects.

When Mayor Bellamy asked about some safety concerns at the W.C. Reid Center, Mr. Simmons explained that they now have a whole new stage.

Councilwoman Jones moved for the adoption of Resolution No. 08-78. This motion was seconded by Councilwoman Cape and carried unanimously.

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N. RESOLUTION NO. 08-81 – RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE EARTH DAY CELEBRATION ON SATURDAY, APRIL 19, 2008, AT MARTIN LUTHER KING JR. PARK

Summary: The consideration of authorizing provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville Earth Day Celebration, a fundraiser and education event organized by Arts2People.

- Arts2People is requesting approval by the City to serve beer and/or unfortified wine at its special event and to allow for the

consumption at this event. The Asheville Earth Day Celebration will be held on Saturday, April 19, 2008, from 10:00 a.m. – 10:00 p.m. at Martin Luther King Jr. Park.

Pros:

- Allows for a fundraising opportunity for Arts2People, a non-profit organization

Con:

- Potential for public safety issues

- No fiscal impact.

The Asheville Parks, Recreation and Cultural Arts Department recommend City Council to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville Earth Day Celebration on Saturday, April 19, 2008 from 10:00 a.m. – 10:00 p.m. at Martin Luther King Jr. Park.

Councilman Newman moved for the adoption of Resolution No. 08-81. This motion was seconded by Councilwoman Jones and carried on a 5-1 vote, with Mayor Bellamy voting “no.”

RESOLUTION BOOK NO. 31 – PAGE 142

III. PRESENTATIONS & REPORTS:

A. PRESENTATION FROM SISTER CITIES FROM TRIP TO VALLADOLID, MEXICO

Mr. Charles Worley, Asheville Sister Cities International (ASCI) President, gave an overview of the recent successes with the Sister Cities Program: (1) Saumur – student exchanges and visit; (2) San Cristobal’s water project with Rotary; (3) Vladikavkaz – Open World Program; (4) Nigeria – Rotary GSE team visit; and (5) Karpenisi, Greece – Evrytanian Convention to be in Asheville on June 14, 2008.

Ms. Gwen Hughes explained how the Asheville Sister Cities Program works and how Sister Cities are found.

She commented on the recent delegation visit to Valladolid, Mexico. She said that 32 delegates traveled to Valladolid with ASCI members, which included 4 students and 11 staff members from A-B Technical Community College with President Betty Young; 3 staff members from Mars Hill College with Dr. Nina Pollard; and 1 staff member from Warren Wilson College; Chief Financial Officer Larry Modlin, a representative from LEAF; and Sid Heilbraun. We were especially honored to have Mayor Terry Bellamy join the team for two days.

Ms. Hughes explained some of the Sister Cities successes, which included: (1) Mars Hill came home with a tentative agreement to begin work on an agreement to begin exchanges; (2) Warren Wilson made a presentation to the new school – UNO and hope to have future discussions; (3) Mayor Bellamy and Presidente Peniche discussed similar concerns in each city and agreed to share information on projects of mutual interest; (4) Five wheelchairs were delivered from ASCI and the Wheelchair Foundation to Presidente Peniche; (5) LEAF representative Sid Heilbraun met with the Maya children forming a band that will be sponsored by ASCI and LEAF; (6) school supplies were delivered to Dzitnup School; and (7) Tom Jones, Carroll and Gwen Hughes met with independent businessmen’s group, Coparmex, who have offered assistance to ASCI and will be visiting Asheville in the fall.

Ms. Betty Young, A-B Technical Community College President, explained the A-B Technical College’s success in that they came home with a 5-year plan and agreement to exchange students and staff.

Mr. Worley said that the following are impacts on our community and that our or sister cities: (1) opportunities for students and staff of our colleges for exchanges and long term learning events; (2) developing awareness of the world outside Asheville and the United States; (3) economic benefit to our community as visitors come; (4) awareness of the diversity of our own community; and (5) develop friendships that serve as instruments for world peace.

He said that that it is ASCI’s wish to be the International Relations Arm of the City of Asheville – to be involved when a visiting dignitary arrives, to assist the City in any way in this area. It is also our wish that each of you travel to one of our sister cities with a delegation, and also be a part of activities when we have an incoming delegation.

Councilwoman Cape spoke about how her Sister Cities trip has aided her conversations on a regional basis. She explained the tremendous amount of information she obtained that can be useful in Asheville

Mayor Bellamy thanked the Sister Cities delegation for representing the City of Asheville.

B. PRITCHARD PARK COMMITTEE RECOMMENDATIONS

Ms. Stephanie Monson, Economic Development Planner, introduced Mr. Adam Pittman, Chair of the Pritchard Park Task Force, who said that the Pritchard Park Committee members have completed their task and now ask Council to review the findings of their results; the committee further asks Council to consider support for the community-driven Pritchard Park Cultural Arts Program, which should be considered a product of this year-long process.

Mr. Pittman explained that the Pritchard Park Committee, created by Council at their April 10, 2007, regular meeting, was charged by the Mayor on July 26, 2007, with the following tasks: Conduct focus groups on park programming with key Pritchard Park stakeholders; present the focus group results and recommendations for community programming to Council.

He said the Pritchard Park Committee members met regularly over the last year, researching and sharing items including but not limited to: data on the park's usage; current permitting regulations; and parks and programming best practices. The best practices research was focused on what are known as "special use" parks (parks not considered solely neighborhood use), and parks located in an urban/downtown situation. Staff members from both the Parks and Recreation Department and the Economic Development Division assisted the Committee. Members and staff also executed two stakeholder focus groups, and performed outreach to the Downtown Association and the Downtown Area Residents Network.

Mr. Pittman explained that the action requested is a commitment to match community fundraising in an initial minimum amount of \$10,000.

Ms. Kitty Love, member of the Pritchard Park Committee, said that some members of the Committee are founders of the newly-formed group Friends of Pritchard Park. She then explained their program proposal called "The Pritchard Parks Cultural Arts Program" in detail. The program was developed in collaboration with staff, ensuring that any proposed changes to current practices, especially for permitting Outdoor Special Events, would be feasible. In general, the Committee proposes using a non profit "Friends of" group to fundraise for the program; to fully develop the program's parameters using information gleaned from the Pritchard Park Committee process; and to hire a professional arts administrator to activate and promote diverse and regular programming in the park. The first two items are well underway; the third item would come later in the process. She said that the Pritchard Park Cultural Arts Program is a community-driven programming initiative that will change the way people interact with the Park. Some operational highlights include (1) instead of asking Asheville's incredibly talent artists to pay to reserve the space, artists will now get paid to perform; (2) Asheville's Parks & Recreation Department will help market the performances inside the Park via the ranger kiosk, and in other public venues when possible; (3) cultural arts sessions will be featured in the Park twice a day on weekdays and for one long session during the weekend; and (4) a professional arts administrator will be contracted to run the program for the Friends of Pritchard Park.

She explained that the Friends of Pritchard Park believe there is an enormous opportunity to have a positive economic, cultural, and social impact on the lives of Asheville's citizens through the regular celebration and sharing of cultural arts in a public space - Pritchard Park.

Ms. Monson said that while the Pritchard Park Committee is asking Council to consider allocating \$10,000 in the Parks and Recreation Department budget for this program, it should be noted to Council that, even in the first year, one-half to two-thirds of the proposed program's funding is expected to come from community sources. At this time they have raised \$15,000. The Asheville Downtown Commission has adopted a resolution of support for the Committee's recommendations. The Committee and staff agree that for this program to be successful, it must be truly community driven. In future years, this program might be expected to be much more self-sustaining; in other words the City's financial participation in this program should be seen as seed money to support a pilot program.

Ms. Monson said that the dedication of these funds would support the following goals (There are eight goals in Council's plan; this proposal addresses five of them):

Community Building/Promoting Inclusive Decision-Making: Helps meet long term goal "*Continue to develop resources and tools for increasing citizen participation in city government*"; engaged community stakeholders in a Council-appointed committee to develop recommendations on a topic of community concern. This effort is expected to further developed collaborative efforts between citizens and their municipal government.

Critical Services & Infrastructure: Supporting and Enhancing Basic City Services: Helps meet short term goal of "*Enhance commitment to public safety and drug enforcement priorities through a*

coordinated, holistic approach"; Asheville Police Officer was an ex-officio member of the Committee and helped develop recommendations with public safety in mind. Committee hopes that this programming proposal can be one part of a coordinated approach to eliminate the open-air drug market in Pritchard Park.

Economic Development: Supporting a Dynamic and Robust Asheville Economy with Balanced Growth: Helps meet goal of *"Support and implement the HUB plan:* Specifically this initiative leverages support for the Creativity Cluster and HUB goal fourteen which asks supporters *" To strengthen cultural development through orchestrated public, private, and non profit sector collaboration"*..

- Growth, Development & Land Use: Maintaining a sustainable community through growth and development policies: Helps meet goal to *"Promote strategies that encourage sustainable, high-density infill growth;* Support of this program would align with current strategies, including Council support of the Downtown Master Plan, that promote the downtown as the social, cultural and economic heart of the area.

- Sense of Place, Heritage & the Arts: Embracing Asheville's vibrancy, character and cultural heritage Helps meet goal for Council to *"Review and Implement Downtown Social Issues Task Force Recommendations"*; In addition to addressing "Sense of Place, et al" by leveraging HUB goal fourteen, staff notes that the creation of this committee at least partially stemmed from Council's review of the Revised Recommendations from the Social Issues Task Force in April of last year, and that these recommendations today have tried to address parts of all the original Social Issues Task Force topics, except for graffiti.

The expectation to commit up to a \$10,000 match for community fundraising is unbudgeted. In order to budget the matching funds, an increase in funding could be allocated to the Fiscal Year 2008-09 budget for the Parks and Recreation Department. Alternatively, a budget amendment could be made to fund the match when and if the private funds are raised.

Staff recommends Council receive the report of the committee and provide policy direction on the programming and funding issues.

Throughout discussion, Ms. Monson, Ms. Love and Mr. Pittman responded to various questions/comments from Council, some being, but are not limited to: has this proposal been reviewed by the Recreation Advisory Board; and has a budget been created to see how the money will be distributed; will the Program have measurable benchmarks and if so, what will those benchmarks be.

Councilman Mumpower was supportive of the concept, but was not comfortable in supporting the Program with taxpayer dollars especially when those dollars are not being considered in the normal budget process.

Councilman Newman was pleased to see some positive changes in Pritchard Park and hoped the trends continue. However, the City has a tough budget year and he struggles with supporting a new program. He could support the Program but does not want it construed that the City will commit on a reoccurring basis. Even though this request is outside the normal budget process, the rationale is that they are interested in starting the program sooner than next fiscal year.

Vice-Mayor Davis agreed with Councilman Newman and spoke in support of the concept of the Program. Due to the City's efforts regarding behavior in the Park, the calls for public safety are less and he felt that funding of this Program will make the Park even more usable. He felt the City should track the Program as remaining questions surrounding the behavior in the Park, the feeding of people when there are no sanitation facilities, etc.

Councilman Newman moved to support the recommendations of the Pritchard Park Committee and directed the City Manager to bring back to Council a budget amendment in the amount of \$7,500. This motion was seconded by Vice-Mayor Davis.

Mayor Bellamy felt it would be prudent to have a detailed budget on exactly what the Program will cost and how the money will be spent. She supported the recommendations of the Committee, but could not support the budget amendment at this time without seeing a detailed budget. She felt that after a detailed budget is presented (including what the City's portion would be in that cost), then Council could determine the amount, if any, for the budget amendment.

Councilwoman Jones would like to see the total budget and what would be programmed from May 19 - October. In response, Ms. Monson asked if Council wanted to see a total budget if the Program were to be fully funded from May - October. Because, she clarified that if the Program does not get a certain amount of money, the Program may only run from May - September. The Committee is not promising Council that they will have the Program through October. They are promising that perhaps May - July is what they were using their community dollars on and they were expecting money from the City from July - October, possibly.

After a brief discussion regarding the need to see a detailed budget, Councilman Newman withdrew his motion and Vice-Mayor Davis withdrew his second.

With the intent of supporting this Program, Councilman Newman then moved to ask staff to come back with a budget for the Program describing how the programming will be implemented (including the City's direct and indirect costs), along with a budget amendment (funding to be determined after Council sees the programming budget). This motion was seconded by Vice-Mayor Davis.

When Councilwoman Cape was concerned that we may be sending a message that might affect their private fundraising, Ms. Love said she didn't feel a two-week delay will affect their efforts.

Mr. Pittman explained that the \$10,000 request from the City is very reasonable. He urged Council support the Program with the \$10,000 noting that people have donated funds with that City contribution in mind.

Mr. Larry Holt, 21 Haywood Street, urged Council to support this pilot program.

Ms. Susan Griffin, 61 Church Street, urged Council to show their support financially in that arts programming relay does revitalize parks.

Upon inquiry of Mayor Bellamy, City Manager Jackson said that he will have the information prepared for Council's April 22, 2008, meeting.

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

C. WATER SYSTEM UPDATE

Ms. Leslie Carreiro, Water Production Superintendent, said that the purpose of this staff report is to seek City Council direction regarding management policies related to the City's drought management and flood management plans.

The City of Asheville uses a computerized model to help predict future lake levels at the North Fork Reservoir. The model takes into account current lake level data, forecasted precipitation and other factors to implement necessary water management practices. The water system uses this data to establish responses to drought conditions, including conservation measures for all customers, based on the City's drought management plan. Asheville also uses the same computerized modeling for its flood management plan, which was established to maximize water shortage capacity at the North Fork Reservoir to minimize downstream flood damage during a major rain event including tropical storms and hurricanes.

In October 2007, the City of Asheville Water Resources Department requested voluntary water conservation measures from customers pursuant to the City's data modeling and drought management plan. As a result, the water system experienced an immediate decrease in consumption of 15-20 percent or approximately 2 million gallons of finished water a day. Since then, the impact of conservation along with increased precipitation in our watershed area has enabled the North Fork Reservoir to exceed its full pond capacity.

As of April 4, 2008, the current lake level was at 2601.6 feet, which is 0.23 feet above full pool. The modeling software shows the lake being full for the next ten weeks. The City's flood operations plan calls for the lake level to be maintained at 3.5 feet below the full bond stage beginning April 15 and during the spring and summer months. The plan requires the lake to be brought down to 5.5 feet as the tropical storm season occurs in late summer and early fall. This allows the department to react to rain events and lower the lake even more without having a negative impact downstream. If water usage continues at its current decreased levels, Asheville would be required to release water from the lake in the near future.

While the majority of North Carolina has been experiencing drought conditions, Governor Easley has asked for all water systems to call for conservation. Due to the conflict between Asheville's drought and flood management plans and the Governor's conservation initiative, staff contacted the N.C. Dept. of Environment and Natural Resources and the Governor's Drought Management Advisory Council to seek their direction. The State has advised Asheville to follow its local plans for operation.

Based on current conditions and future projections, the water system's management plans indicate that voluntary conservation measures should be lifted at this time.

If the request for conservation is lifted, City staff will continue to closely monitor consumption, precipitation, and lake levels daily to ensure proper management of the drought management plan while maintaining compliance with local policy.

Staff will also continue to monitor regional conditions concerning the drought and provide assistance to other communities whenever possible. The City provides water through interconnections to three local municipalities and one water district and provides emergency water through a connection with another municipality.

Pros:

- The City has active drought and flood management plans, which have been consistent through the drought.
- Projections through June 2008 show improvement of the drought conditions in our area.

Cons:

- Drought conditions continue in other areas of the State and Southeast, even with the recent volume of precipitation.
- Lifting the Voluntary Conservation request is in conflict with recent requests from the Governor's Office and localized conditions in other parts of the State.

The fiscal impact is decreased consumption is expected to reduce current fiscal year revenues by \$705,629.

City staff recommends the City continue to follow its current Flood Operation and Drought Management Plans and lift the request for voluntary conservation.

Ms. Carreiro and Water Resources Director David Hanks responded to various questions/comments from Council, some being, but are not limited to: do we know the drought conditions in Weaverville or Black Mountain; should we be concerned if the voluntary conservation measures are lifted and everyone starts using more water as we go into dry months; how long does it take to lower North Fork by one foot in a reasonably crisis mode; how many feet did the hurricane events put into North Fork; has City staff looked at all the different conservation mandates from Governor Easley's Office; and is there a realistic chance that the State of North Carolina will mandate Asheville to deliver water to other communities.

Councilwoman Cape was interested in looking at some other initiatives from Governor Easley. She suggested a worksession on the topic of conserving our water, the City's long-range planning model and whether or not we would like to participate in conservation pricings. She noted that our water asset is being looked at by others and wanted to be proactive in discussing how we manage the water system and/or participate in the larger conservation and what that looks like for us as a community.

Councilman Newman noted that the Finance Committee has asked City staff to look into conservation rate structures.

In response to Councilwoman Cape, Mr. Hanks said that we will soon be in the final stages of our new Master Plan and it will address issues raised. He will be bringing a report back to Council in the near future.

It was the consensus of the majority of Council for the City to continue to follow its current Flood Operation and Drought Management Plans and lift the request for voluntary conservation.

Closed Session

At 7:11 p.m., Councilman Mumpower moved to go into closed session for the following reason: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: Louise Pack Metcalf, Barbara Pack Holcombe, Michael Lawrence, Black Dog Realty, LLC, and Buncombe County. The statutory authorization is contained in G.S. 143-318.11(a) (3); and (2) 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 on Hunt Hill by purchase, option, exchange or lease. The statutory authority is contained in G.S. 143-318.11(a)(5). This motion was seconded by Councilwoman Jones and carried unanimously.

At 7:30 p.m., Mayor Bellamy recessed the closed motion to return to the formal meeting, noting that the closed session would continue at the end of the formal meeting.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE DESIGNATING THE PROPERTY KNOWN AS THE HAMMOND-KNOWLTON HOUSE, LOCATED AT 30 KIMBERLY KNOLL, AS A LOCAL HISTORIC LANDMARK

ORDINANCE NO. 3602 – ORDINANCE DESIGNATING PROPERTY KNOWN AS THE HAMMOND-KNOWLTON HOUSE, LOCATED AT 30 KIMBERLY KNOLL, AS A LOCAL HISTORIC LANDMARK

Mayor Bellamy opened the public hearing at 7:30 p.m.

Ms. Stacy Merten, Director of the Historic Resources Commission, said that this is the consideration of an ordinance designating property known as the Hammond-Knowlton House, located at 30 Kimberly Knoll, as a local historic landmark. This public hearing was advertised on March 28 and April 4, 2008.

She said the Hammond-Knowlton House, with a period of significance from 1925-1957 is significant for its association with prominent Asheville architect William Waldo Dodge. The house features many examples on both the interior and exterior, showcasing Dodge's design ability as an architect as well as his work as a wood and metal craftsman and exemplifies the close connection between design, art & craft in the work of Dodge who was noted for his skill not only in architectural design but in the artisan details of those designs.

The Hammond-Knowlton House is also significant architecturally as a highly intact example of a Tudor Revival building from the 1920's. The house was designed in true Tudor style, with load-bearing posts and beams, rather than the common practice of half-timbering that was not structural in nature. The Hammond-Knowlton House, built in 1925, is a highly intact 2 ½ story Tudor Revival, with the only change being an addition made soon after the structure was built, which was the extension of a room at the southwest corner of the house.

The ordinance designates the Hammond-Knowlton House as a local historic landmark. The designation includes the entire interior and exterior of the house, the garage, the historic landscape features, including the stone walls and step and the 1.47 acre lot on which these structures are located.

When a property is designated as a local historic landmark, restrictions are placed on the property, and any modification to the land or structure must receive a Certificate of Appropriateness from the Historic Resources Commission of Asheville and Buncombe County. All improvements must follow the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings. It is important that properties of local significance are preserved and protected for cultural, historic, and economic reasons and for the benefit of future generations.

Designation of this site as a local historic landmark makes the property owner eligible for a 50% reduction in local property taxes. Currently the tax appraisal for the property included in the proposed designation is \$489,400. If the property is designated as a local landmark the potential tax savings for the property owner, including city, county and school taxes would be \$2,679.46 per year.

Based upon the foregoing, the Historic Resources Commission recommends that the Asheville City Council adopt an ordinance designating Hammond-Knowlton House, as a local historic landmark. Staff concurs with the recommendation of the HRC for this designation.

Pros:

- A significant property will be recognized for its contribution both architecturally and culturally to the history of the area and will be protected from inappropriate alterations.

Cons:

- The tax deferral will result in a loss of revenue to the city and county.

City staff recommended City Council adopt the ordinance designating the Hammond-Knowlton House as a local historic landmark.

Mayor Bellamy closed the public hearing at 7:36 p.m.

Ms. Merten responded to various questions/comments from Council, some being, but are not limited to: what are the pros and cons of designating a single property as historic; does Asheville has a problem with people tearing down homes of an historic nature; and is there any other way to recognize historic properties other than through this process.

Councilman Newman felt that this is a public policy that the City is providing a significant public subsidy (tax deferral) with no firm commitment of public benefit from the property owner. In addition, he was concerned that we have a community of rich and architectural treasures and if we rally to support this program there would be a large number of buildings that would qualify, thus having a significant negative effect on our tax base. He struggled to determine if this program is something Asheville should be using to achieve its goals for preserving Asheville's historic fabric or if there are better ways to invest these public resources.

Vice-Mayor Davis felt that Councilman Newman had some valid concerns and felt these issues should be addressed.

Councilwoman Cape felt that the City should start calculating the tax incentives that we give for programs like this and have them available as part of the conversation regarding how the City contributes to the economic vitality of this community.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3602. This motion was seconded by Councilwoman Jones and carried on a 4-2 vote, with Councilman Mumpower and Councilman Newman voting "no."

City Attorney Oast said that because of the 4-2 vote, this ordinance will need to come back to City Council at their next formal meeting for a second and final reading.

ORDINANCE BOOK NO. 24 – PAGE

B. PUBLIC HEARING TO SOLICIT COMMENTS ON THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN WHICH ALLOCATES COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAM FUNDS TO SPECIFIC PROJECTS FOR FISCAL YEAR 2008

Mayor Bellamy opened the public hearing at 7:46 p.m.

Community Development Charlotte Caplan said that this is a public hearing to obtain citizen input on the Consolidated Action Plan for Fiscal Year 2008-09, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds. This public hearing was advertised on March 23, 2008.

She reviewed with Council the 2007 Action Plan highlights. The City expects to have available \$1,427,076 in CDBG funds (19 programs; wide variety of purposes; and all benefiting low income Asheville residents) and \$1,366,938 in HOME funds (18 programs for affordable housing only in Buncombe, Henderson, Madison and Transylvania counties) in the fiscal year beginning July 1, 2008. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties). A total of 37 programs are recommended for funding. Allocations are consistent with the Strategic Housing & Community Plan for 2005-2010.

If approved, the HOME funds and some CDBG funds will assist 206 housing units Consortium-wide. CDBG funds will also benefit more than 5800 low-income City residents through homeless services, housing counseling, small business assistance, and other needed services. Our partner agencies will contribute over \$9,000,000 of other funding to these programs, leveraging \$3.23 for every \$1 of HOME and CDBG funds.

A summary of the draft Action Plan and notice of this public hearing was published on March 23. A 30-day comment period is required. At the end of this period, staff will ask Council to take action to approve the plan on April 22. The plan is due to be submitted to HUD by May 12.

There is no fiscal impact at this time. This is an allocation of existing resources.

Mayor Bellamy closed the public hearing at 7:50 p.m.

Mayor Bellamy said that formal action to approve the plan will be held on April 22, 2008, meeting.

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR THE PROJECT KNOWN AS CAREFREE ASHEVILLE LOCATED ON HENDERSONVILLE ROAD, FROM HIGHWAY BUSINESS DISTRICT, OFFICE BUSINESS DISTRICT, AND RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR A MULTI- AND SINGLE-FAMILY RESIDENTIAL DEVELOPMENT OF 144 UNITS, WITH MODIFICATIONS FOR FRONT SETBACKS THROUGHOUT THE DEVELOPMENT, HEIGHT FOR THREE MULTI-FAMILY BUILDINGS, AND REAR SETBACKS FOR TWO MULTI-FAMILY BUILDINGS

ORDINANCE NO. 3603 - ORDINANCE TO CONDITIONALLY ZONE THE PROJECT KNOWN AS CAREFREE ASHEVILLE LOCATED ON HENDERSONVILLE ROAD, FROM HIGHWAY BUSINESS DISTRICT, OFFICE

BUSINESS DISTRICT, AND RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR A MULTI- AND SINGLE-FAMILY RESIDENTIAL DEVELOPMENT OF 144 UNITS

Mayor Bellamy opened the public hearing at 7:50 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to conditionally zone the project known as Carefree Asheville, located on Hendersonville Road, from Highway Business District, Office Business District and RM-6 Residential Multi-Family Low Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning for a multi- and single-family residential development. In addition, the developer is requesting modifications for front setbacks throughout the development, height for three multi-family buildings and rear setbacks for two multi-family buildings. This public hearing was advertised on March 28 and April 4, 2008.

Ms. Cogburn oriented the Commission to the site location and said that the subject property, 12.21 acres, is located within the city limits, off of Hendersonville Road, just south of Walden Ridge Road. The property currently contains a single-family home and the infrastructure for what was designed to be an office/residential subdivision. Properties to the north contain office buildings and those to the east (along Hendersonville Road) contain commercial operations. To the west and south are single family homes although the zoning to the south is largely Office Business. The property itself is zoned HB (Highway Business), OB (Office Business) and RM-6 (Residential, Multi-Family Low Density District).

The applicant has received a variance from the City of Asheville's Board of Adjustment to the extent of grading allowed in the upper portion of the property which is in Zone B of the steep slope regulations. They are proposing less grading than would have been done under the previously approved project for this site (under the previous steep slope ordinance) but more than would be allowed under the new code. Based on the amount of grading already done on the site, very little grading could be done, under the new regulations, under any development proposal. The Board of Adjustment recognized this and also the sensitivity of the proposed design to the topography, in granting the variance.

The applicant is also seeking a modification for the height of the three buildings closest to Hendersonville Road (multi-family buildings). The allowable height in RM16 is 40 feet. They are showing heights of 44, 44, and 50 feet. These buildings are adjoining Highway Business zoned property which has an allowable height of 60 feet. Staff is supportive of this request.

The applicant is also requesting a modification to all front setbacks throughout the project in an effort to reduce grading impacts. Additionally, rear setback modifications are requested for Buildings A and C (a sixteen foot modification). Staff is supportive of these recommendations as well, feeling they display efficient use of the site as it has been developed thus far.

The subject property, 12.21 acres, is located within the city limits, off of Hendersonville Road, just south of Walden Ridge Road. The property currently contains a single-family home and the infrastructure for what was designed to be an office/residential subdivision. Properties to the north contain office buildings and those to the east (along Hendersonville Road) contain commercial operations. To the west and south are single family homes although the zoning to the south is largely Office Business. The property itself is zoned HB (Highway Business), OB (Office Business) and RM6 (Residential, Multi-Family Low Density District).

The property in question was approved for a residential and office subdivision in 2005-06. Significant grading and development have already taken place on site since that time. Most utilities are in place and the curbing and road are completed. The project was abandoned last year following the death of the developer and the property was placed on the market. CGR Asheville, LLC is interested in developing this property, working with the existing infrastructure.

The applicant, CGR Asheville, LLC, is requesting conditional zoning of property located off of Hendersonville Road. The previous address for the property was 1903 Hendersonville Road. The request is for conditional rezoning to RM-16 (Residential Multi-Family High Density District) to allow for the development of a 144-unit residential community.

The proposal for the community is a mix of single-family, duplex, quadraplex, townhouse, and multi-family dwellings. The total proposed residential density is 11.8 units per acre. Access to the property is off of Hendersonville Road. There is a small secondary exit and entrance road for emergency purposes. The roads are proposed to be public roads. The applicant is planning to maintain the existing road system (put in place for the original development) with one exception. They are planning to cut and remove the existing cul-de-sac to the south to better work with the slopes found in that area in the siting of building and parking. The existing home on the property will be removed once the initial buildings are constructed on the site.

The property is in an area protected under the City's steep slope regulations. The easternmost 6.37 acres is in Zone A of the regulations; the western 5.85 acres are in Zone B. Under the regulations, the allowable number of units in the Zone A portion is 85. In the Zone B portion, the allowable number of units is 33. The developer is proposing only 24 units in Zone B (as

originally proposed for the previous development). The developer is proposing 120 units in Zone A and is requesting an exceptional development density bonus to allow the additional 35 units (a 41% bonus). They have provided a plan in their submittal which outlines the site features that qualify the project for this bonus. These include: walking trails, gardens, plazas and community gathering spaces, greenbuilding techniques, and an enhanced reforestation proposal for some of the most disturbed portions of the site as it currently exists. The applicant has committed to seeking certification for LEED for Homes, LEED for Neighborhood Development and NC Healthy Build Homes.

The project grading is also limited by the steep slope regulations. The applicant has received a variance from the City of Asheville's Board of Adjustment to the extent of grading allowed in the upper portion of the property which is in Zone B of the steep slope regulations. They are proposing less grading than would have been done under the previously approved project for this site (under the previous steep slope ordinance) but more than would be allowed under the new code. Based on the amount of grading already done on the site, very little grading could be done, under the new regulations, under any development proposal. The Board of Adjustment recognized this and also the sensitivity of the proposed design to the topography, in granting the variance. They are showing compliance with the new steep slope regulations concerning grading for Zone A.

The applicant is seeking modifications to the height of multi-family buildings A, B, and C (three buildings closes to Hendersonville Road - multi-family buildings). The allowable height in RM-16 is 40 feet. They are showing heights of 44, 44, and 50 feet. These buildings are adjoining Highways Business zoned property which has an allowable height of 60 feet. They are also requesting modifications to all front setbacks (to no setback in most cases) in an effort to reduce grading impacts. Additionally, rear setback modifications are requested for Buildings A and C (a sixteen foot modification). Staff is supportive of these modification requests as they feel they will display efficient use of the site as it has been developed thus far.

At a meeting on February 4, 2008, the City of Asheville Technical Review Committee (TRC) reviewed the conditional zoning request and made a positive recommendation (with conditions) that the project be forwarded to the Asheville Planning and Zoning Commission. The developer has resubmitted since that time, addressing the bulk of the conditions.

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

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

The project, if approved, must meet all the technical standards set forth in the City's UDO and Standards and specifications manual. The developer has been working closely with City staff to ensure compliance.

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

The developer has worked extensively in designing this project to work with the topography of the land as previously graded and developed. They are showing a design that is sensitive to the steeper sloped areas (little or no development and reforestation). Restricted by the amount of grading and development already done on the site, they are working to comply as much as possible with the City's steep slope regulations. They sought, and obtained, a variance for the grading of the Zone B portion of the site.

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

The property could be developed with office and residential uses and the proposal is to develop a residential community. The greenbuilding, building design, and site amenities shown on the development plan depict a project that should not injure the value of adjoining properties.

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

The design of the project shows single-family homes and duplexes abutting the single-family neighborhood to the west of the site. The higher density housing will be located adjacent to property that is zoned and predominately used for office and commercial purposes.

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 proposed use supports the 2025 goals and Council vision as follows:

- a. Supports the goal of pursuing compatible infill development.
- b. Supports the goal of permitting and encouraging transit supportive density along and adjacent to major corridors and logical transit nodes.
- c. Supports the goal of promoting the use of green building techniques.
- d. Supports the goal of permitting more intense development in areas with appropriate infrastructure.
- e. Supports the goal of promoting high quality new development that complements and adds to the character of Asheville.
- f. Supports the long-term vision of promoting, high-density, infill growth.

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

The proposed use is located off of a major (five lane) thoroughfare in the City. Transit is available along this corridor. Much infrastructure is already in place for this project.

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

The developer has submitted a traffic study for the development that was analyzed by the City's Engineering Department.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable. Staff therefore recommends approval of this conditional zoning request and the requested modifications and density bonus. The TRC met to discuss this project on February 4, 2008, and recommended it to you with conditions as outlined in their report dated February 4, 2008.

This conditional zoning request was recommended for approval by a (7-0 vote) by the Planning and Zoning Commission. At the meeting, on March 5, 2008, no one spoke on this issue except for staff and members of the development team.

Pros:

- This project supports the City of Asheville's goal of pursuing compatible infill development.
- The project takes a property with significant infrastructure in place and proposes a sensitive residential development.
- The project will be designed to qualify for LEED certification.
- The project provides for a mix of housing types within a single community.

Con:

- The project is fairly dense and could be perceived by some to contribute to the high traffic on Hendersonville Road.

Staff recommends approval of this conditional zoning request and the requested modifications and density bonus. The TRC met to discuss this project on February 4, 2008, and recommended it to you with conditions as outlined in the TRC Report. This conditional zoning request was recommended for approval by a (7-0 vote) by the Planning and Zoning Commission.

Mr. W. Louis Bissette Jr., attorney representing CGR Asheville LLC, spoke in support of the project. He said their main problem has been in attempting to pick up the development of this project while working within the context of the existing site and the prior infrastructure development. He felt this is a unique mix of dwellings that will be a tremendous asset to the area. He explained why they are requesting the modifications and the exceptional development density bonus. A Traffic Impact Study was performed and the City's Traffic Engineer indicated that there was no significant impact on the traffic situation on Hendersonville Road by this project. He felt this is a very innovative project which will provide a broad range of housing opportunities for those people who choose to live there. Given the prior development activity, it has not been an easy task, but the development team is pleased with the design outcome and believes it will be an excellent addition to the community.

Ms. Suzanne Godsey, representing Siteworks Studios, spoke about the project in relation to the steep slope ordinance and existing grading vs. the proposed grading. She explained in detail the site plan and reasons for modifications.

Ms. Vivian Snyder, adjoining property owner, spoke in support of the project in that they are respecting their neighbors in the back of the property.

At 8:09 p.m., Mayor Bellamy closed the public hearing.

Councilwoman Cape initiated a brief discussion regarding the City's monitoring/review process when a project proposes to be LEED certified. Mayor Bellamy noted that the following language is in the proposed conditional use zoning ordinance and if the request is approved by Council, that language is what City staff has a responsibility to carry out: "it is proposed to be designed to qualify for LEED certification."

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

Based on the above findings and the analysis provided in the staff report, Councilman Mumpower moved to adopt Ordinance No. 3603 to conditionally rezone the project identified as Carefree Asheville, located on Hendersonville Road from Highway Business District, Office Business District and RM-6 Residential Multi-Family Low Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning, with the modifications and density bonus requested, and subject to the following conditions: (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; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilwoman Jones and carried unanimously.

ORDINANCE BOOK NO. 24 - PAGE

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR THE PROJECT KNOWN AS FRANCINE DELANY SCHOOL FOR CHILDREN, LOCATED ON BREVARD ROAD, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR A K-8TH GRADE SCHOOL, WITH MODIFICATIONS TO THE REQUIRED BUFFER

ORDINANCE NO. 3604 - ORDINANCE TO CONDITIONALLY ZONE THE PROJECT KNOWN AS FRANCINE DELANY SCHOOL FOR CHILDREN, LOCATED ON BREVARD ROAD, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR A K-8TH GRADE SCHOOL

Mayor Bellamy opened the public hearing at 8:16 p.m.

Urban Planner Julia Cogburn said that this is consideration of an ordinance to conditionally zone the project identified as Francine Delany School for Children, located on Brevard Road, from RS-8 Residential Single-Family High Density District to Institutional District/Conditional Zoning for a K-8th grade school. This public hearing was advertised on March 28 and April 4, 2008.

Ms. Cogburn oriented the Commission to the site location and said that the applicant, the Francine Delany New School for Children, has requested the conditional zoning of three parcels located at 119 Brevard Road. The property, containing 3.87 acres, is currently zoned RS-8 (Single-Family High Density Residential). The school is currently located on the site, operating out of 6 modular classrooms and 2 administrative buildings (former homes on the site). About a third of the property, to the west, is heavily vegetated. The site is surrounded by properties that are zoned and used residentially.

The applicant is requesting rezoning to Institutional CZ (Conditional Zoning) in order to construct 5 new school buildings, new parking, and new play areas on the site. Four of the proposed buildings are one-story buildings with a height to the top of the building of 23'-3 1/8". There is 1 two-story building proposed which has a height to the top of the building of 34' 1/8". A new drive entrance is proposed which connects to three parking areas and provides for student drop-off. Two existing office buildings (former residential buildings) are proposed to remain and be used for administrative offices. New recreation areas for basketball, soccer, and play are also shown. Significant vegetation will remain at the rear (western) portion of the property.

The applicants are seeking a modification to allow for a 20 foot buffer on most sides of the property (Class A Buffer) and a 10 foot buffer on the southeastern corner of the property. When institutional zoning abuts residential zoning a 30 foot buffer is required. If the property was RS-8, which allows schools, there would be no requirement for a buffer.

The TRC met to discuss this project on February 18, 2008, and recommended it to you with conditions as outlined in their report dated February 18, 2008.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may

consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

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

The applicant is not changing the use of the property. The site has been used for a K-8 school for over a decade, operating primarily out of modular classrooms. The project, if approved, must meet the technical standards set forth in the City's UDO and Standards and Specifications Manual. The existing site plan shows compliance with most of the City's development standards except those for which a modification is needed.

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.

Significant vegetation on the site is proposed to remain.

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

The use of the land is not changing. Permanent structures and enhanced landscaping should improve the value of surrounding properties.

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

The buildings proposed range are 2,463 and 4,926 square feet and all but one of the buildings are single-story. The school has been located at this site for over ten years and is appropriate for the area.

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

The construction of permanent structures for the Francine Delany School supports the strategy of allowing appropriately scaled non-residential uses serving neighborhoods to be located on appropriate sites within those neighborhoods. Having schools in neighborhoods promotes walking and biking to school.

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

The proposed use is located along a collector street (Brevard Road – NC191) and along Transit Route 9 of the City's Transit System. The project has received approval from the City's Technical Review Committee (TRC) concerning issues of water, fire, police protection, etc.

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

The use proposed is not changing. The new site layout should improve traffic in the area as it provides for a looped student drop-off driveway.

Pros:

- Permanent school structures and enhanced landscaping will be an improvement to the site.
- The looped student drop-off drive should improve school and area traffic.
- The site plan still maintains significant natural vegetation on site.
- The use of the property is not changing; the siting of buildings on the property is changing.

Con:

- None noted.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and recommends the approval of the conditional zoning request with the buffer modifications as requested and with the conditions set forth in the TRC report and the standard conditions.

At a meeting on March 5, 2008, the Asheville Planning and Zoning Commission recommended approval of this conditional zoning to the Asheville City Council (7-0). No one spoke in opposition to this request and there have been no calls/contacts on

this matter.

Mr. Gerald Green, representing the developer, spoke in support of the project and noted that one of their goals was to limit the area of disturbance that was already disturbed by the existing school. They met with the neighboring property owners and received no negative comments. He explained the reason for the modification request is to preserve the trees in the back and minimize the site disturbance for the grading that would be required. He said that the new looped drive will provide a more fluid traffic movement for student drop-offs.

Mr. Brad Brock, President of the Board of Directors for the Francine Delany School for Children, spoke in total support of the project.

At 8:23 p.m., Mayor Bellamy closed the public hearing.

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

Based on the above findings and the analysis provided in the staff report, Councilwoman Jones moved to adopt Ordinance No. 3604, to conditionally zone the project identified as Francine Delany School for Children, located on Brevard Road, from RS-8 Residential Single-Family High Density District to Institutional District/Conditional Zoning, with the modifications recommended by staff, and subject to the following conditions: (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; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 24 - PAGE

V. UNFINISHED BUSINESS:

A. CONSIDERATION OF A MOTION TO APPROVE \$50,000 IN THE CURRENT BUDGET TO BE ENCUMBERED FOR THE 2008-09 CITY CONTRIBUTION TO THE ECONOMIC DEVELOPMENT COALITION

Economic Development Director Sam Powers said that this is the consideration of a motion by City Council to approve \$50,000 in the current budget to be encumbered for the 2008-09 City contribution to the Economic Development Coalition.

At the February 19, 2008, City Council meeting, Council reviewed a request from the HUB Project and the Economic Development Coalition of Asheville/Buncombe County (EDC) for funding. The request was referred to the City Council Planning and Economic Development (PED) Committee.

At the March 12, 2008, PED Committee meeting, the committee continued discussion of the HUB and EDC funding requests. After discussion, the PED Committee made a motion to recommend the \$50,000 in the current city budget for regional economic development be encumbered for the 2008-09 contribution to the EDC. The motion was approved unanimously.

Pros:

- Supports City Council's Strategic Goal in the Sustainability Focus Area: "Partner in regional economic development strategies including the HUB; consider full partnership in the Economic Development Coalition."

Con:

- This fully allocates Fiscal Year 2007-08 funds for regional economic development initiatives.

Funding for this item is included in the current city budget so a budget amendment would not be required.

Staff recommends City Council approval of the PED Committee recommendation to encumber \$50,000 in the current budget for the City's 2008-09 contribution to the EDC, to be made in two payments, one payment in July 2008 and one payment January 2009.

Vice-Mayor Davis moved to approve \$50,000 in the current budget to be encumbered for the 2008-09 City contribution to the Economic Development Coalition, to be made in two payments, one payment in July 2008 and one payment January 2009. This motion was seconded by Councilwoman Cape.

Councilwoman Cape said that an economic development overview study, which is funded by Buncombe County through the HUB organization, is underway which is looking at all the economic development organizations in the community in terms of what their role is, how they engage with one another, how does the City actually contribute to the economic development (not just in direct dollars, but in-kind), etc. She felt that the study will be very beneficial to the City in that it will be helpful for us to determine how we want to participate in economic development.

Councilman Mumpower felt that the City supports economic development with significant funds in staff support and other efforts to uphold the community. He felt that we are looking at a serious deficit in the coming year, which may get worse.

Councilman Newman felt that this is an item that should be decided as part of our normal budget process since the funding will not be used in this current fiscal year. He also noted that there will be other economic development projects coming to Council to compete for economic development dollars.

Vice-Mayor Davis noted that City Council referred this issue to the PED Committee for review and recommendation and the PED Committee made a positive recommendation. He also noted that we had a net growth of jobs in the region in the past year of 5,200 jobs and part of that is largely due to the EDC. He noted that Asheville has had a voting seat on the EDC for a number of years without paying their fair share. He felt that this issue could be considered during the budget review process; however, at this time we are dealing with what Council committed to this fiscal year.

Councilwoman Cape removed her second for the motion in that she too felt it should be discussed as part of the upcoming budget process.

Councilman Davis' motion died for a lack of a second.

Mayor Bellamy agreed with Vice-Mayor Davis in that this item was sent to the PED Committee for review and was back on the formal agenda for action by Council. She said that when City Council agreed to take a seat on the EDC, they said they would commit \$50,000. She suggested that if this item is again discussed that a final decision be forthcoming.

Councilwoman Jones did want to build a relationship with the Chamber; however, was uncomfortable with having to pay to have a seat at the table.

B. MOTION TO APPROVE THE FEDERAL LEGISLATIVE AGENDA

Councilman Newman moved to approve the following federal legislative items. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no":

- Senate Bill 1738 "Combating Child Exploitation Act of 2007" to improve the Internet Crimes Against Children Task Force to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute predators. (Mayor Bellamy)
- HR 1692 "The Fighting Gangs and Empowering Youth Act of 2007" which contains many things that focus on making sure that our youth have alternatives from gangs as well as increase penalties for gang activity. (Mayor Bellamy)
- Senate Bill 1745 "Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2008" for support of our Weed and Seed program that is funded under this Act. (Mayor Bellamy)
- "The Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003" (1) Sec. 9002 - extension of the highway-related taxes and trust fund; (2) Sec. 9003 - extension of tax benefits for alcohol fuels; (3) Sec. 9004 - private activity bonds for surface transportation infrastructure; and (4) Sec. 9005 - all alcohol fuel taxes transferred to highway trust fund. (Mayor Bellamy)
- PL 110-140 "The Clean Energy Act of 2007" (HR 6) to reduce our Nation's dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy. (Mayor Bellamy)
- S.1675 "Local Community Radio Act of 2007" to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, (Councilwoman Cape)
- S. 234 "Wireless Innovation Act" to make broadband available to unconnected neighborhoods and communities – especially

rural and mountainous areas – by exploiting unused frequencies in the broadcast spectrum known as “white spaces.” (Councilwoman Cape)

- Support to fund the expansion of the ERC broadband and fiber optic network in the region for education, medical and emergency service support. (Councilwoman Cape)
- Lend support to the Land of Sky Regional Council of Government request for funding for a Comprehensive Economic Development Strategy – Regional Growth Management Planning Initiative for Western North Carolina. (Councilwoman Cape)
- Support funding for energy efficiency and conservation block grants. (Councilwoman Cape)
- Continued prioritization of the completion of I-26 components through Asheville. (Councilman Mumpower)
- Accelerated use of Federal resources in local action on Asheville’s drug distribution network. (Councilman Mumpower)
- Enthusiastic Federal enforcement of existing laws affecting illegal immigration in Asheville. (Councilman Mumpower)

Councilman Mumpower said that he did not support the motion as he felt there were some good legislative requests and some that he could not support.

VI. NEW BUSINESS:

A. NORTH CAROLINA 21ST CENTURY TRANSPORTATION COMMITTEE REPORT

Mayor Bellamy updated Council on the 21st Century Transportation Committee report. She was appointed to the Committee by Governor Easley and the purpose of the Committee is multi-fold. They have been looking at how to resolve North Carolina’s transportation issues for this Century, looking at various components of the N.C. Dept. of Transportation (NCDOT). She explained the four committees developed to look at how to move forward. She is on the Inter-Modal Committee which is looking at all kinds of interconnect activity between transit systems and communities. She said that one of the key issues important to our community is the I-26 Connector. As a committee they heard a report on the different connector projects and Asheville’s is the last one to get off the ground. She noted that if Asheville does not get moving on this initiative this year, other communities are vying for the money. Two projects have already been put on the table that were not in the original group and they would love to have our funds. It is imperative for our community to move forward quickly on the I-26 Connector. Across the state, different cities are already looking at other transportation needs and we must look beyond the I-26 Connector for our transportation needs.

She noted that in September, Asheville will host the Committee which will give us the opportunity to highlight our key transportation priorities. At that time it would be good to talk about not only the I-26 Connector Project but other issues we would like to see, whether that is about transportation to Weaverville or Black Mountain, or how we can connect to Haywood County or Madison County. This meeting will be an opportunity to address congestion and growth in our community. She suggested working with the Land-of-Sky Regional Council to help arrange the meeting when the Committee comes to Asheville.

In response to Councilman Mumpower, it was the consensus of Council to instruct City Manager Jackson to provide Council with a once a month brief update on the status of the I-26 Connector re-design process.

B. RESOLUTION AUTHORIZING THE ASHEVILLE TOURISTS BASEBALL CLUB TO CHARGE \$3 PER VEHICLE FOR PARKING IN CITY OF ASHEVILLE OWNED PARKING AREAS AT AND ADJACENT TO MCCORMICK FIELD

Mayor Bellamy announced that the Asheville Tourists Baseball Club has withdrawn this item from Council consideration.

VII. OTHER BUSINESS:

Mayor Bellamy announced an event sponsored by the Asheville Firefighters Association for the Paxton Mitchell family on April 12, 2008, from 3-6:00 p.m.

Councilwoman Jones urged the community to educate themselves about internet safety of children.

Councilman Newman was concerned about the high gas prices and urged the community to buy a bus pass from the Asheville Transit System, which is a good way to save money and improve the air quality in Asheville.

Councilwoman Cape urged the community, especially a member of a diverse community, to contact the Land-of-Sky Regional Council and participate in the regional-wide initiative for supporting our green infrastructure in our community.

Councilwoman Cape also commended the Chamber of Commerce in hosting a workplace summit.

The following claims were received by the City of Asheville during the period of March 14-27, 2008: Charles Vansickle (Water), Alfonso Socarras (Water), Antonia G. Zamudio (Police), PSNC (Water), Glenn Weatherly (Parking Services), AT&T (Water) and Angel Oriana (Transit). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Joe McKinney, Director of the Land-of-Sky Regional Council, invited City Council to the Environmental Protection Agency press conference on April 10, 2008, in that the City of Asheville will receive \$400,000 to help with brownfields work along the riverfront.

Rev. Spencer Hardaway was concerned how to respond to a recent action of City Council regarding Mayor Bellamy being unseated as the Chair of the City Council Personnel Committee.

Closed Session

At 9:02 p.m., Councilman Mumpower moved to return to closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

At 9:05 p.m., Councilman Mumpower moved to come out of closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:05 p.m.

CITY CLERK

MAYOR