

Tuesday – August 26, 2008 - 5:00 p.m.

Regular Meeting

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

Absent: Councilwoman Robin L. Cape (Sister City visit to Osogbo, Nigeria)

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Mayor Bellamy gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items "B", "D", "F", "G", "J", "K" and "N" were removed from the Consent Agenda for discussion and/or individual votes.

At the request of Mayor Bellamy, Consent Agenda Item "O" was removed from the Consent Agenda for an individual vote.

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON JULY 22, 2008; THE SPECIAL MEETING HELD ON JULY 29, 2008; AND THE WORKSESSION HELD ON AUGUST 19, 2008, AS AMENDED

At Mayor Bellamy's request, she asked that the August 19, 2008, minutes be amended and brought back to the next formal meeting for consideration.

B. RESOLUTION SETTING A PUBLIC HEARING ON SEPTEMBER 23, 2008, TO CONSIDER AN ECONOMIC DEVELOPMENT GRANT TO UNISON ENGINE COMPONENTS (FORMERLY SMITHS AEROSPACE)

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

C. RESOLUTION NO. 08-163 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SERVICE AGREEMENT WITH CORESOURCE FOR THIRD PARTY ADMINISTRATOR SERVICES FOR THE CITY OF ASHEVILLE'S HEALTH INSURANCE PLAN

RESOLUTION NO. 08-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SERVICE AGREEMENT WITH CAREMARK FOR PHARMACY BENEFIT MANAGER SERVICES FOR THE CITY OF ASHEVILLE'S HEALTH INSURANCE PLAN

Summary: The consideration of resolutions authorizing the City Manager to enter in to service agreements with the City of Asheville and CoreSource for Third Party Administrator services and Caremark for Pharmacy Benefit Manager services for the City of Asheville's health insurance plan.

The City of Asheville is required to provide health insurance for our City employees. In an effort to promote Council's employer of choice strategic goal by providing the best and most cost effective benefit plan and providers for our employees, the City of Asheville utilized a formal bidding process for health insurance providers as Third Party Administrators (TPA) and Pharmacy Benefit Managers (PBM). The City utilized our brokerage firm, The Ferguson Employee Benefit Agency, to facilitate this process. We received 11 proposals and 4 declinations in response to our Request for Proposals. The Health Insurance Committee, which consists of members from Finance and Human Resources, rated each proposal on the following criteria: experience doing business in Western North Carolina, cost, ability to move the Asheville Project to the next level, ability to provide data and reporting, access to predictive modeling tools and customer service.

After a thorough review, the Health Insurance Committee heard 4 presentations from TPAs and 3 presentations from PBMs. The following vendors were unanimously selected after careful deliberation and consideration of the Committee: CoreSource and Caremark.

Pros: Enhanced services to include:

- D-2 Hawkeye, the leading software for health analysis to be used in conjunction with the Asheville Project. This software will also integrate pharmacy data.
- Frequent reporting on plan experience, cost and utilization indicators.
- Performance guarantees for claims processing.
- Web and phone support tools for employees to include online disease management and cost comparison tools.

Cons:

- Possible transition issues that normally may occur when switching providers of these services.

The projected administrative costs for the new TPA and PBM service contract is \$609,580 for 10 months, which represents a 15.6% increase over last year. This increase is due primarily to CoreSource's ability to provide expanded financial reporting and employee benefits management services. All bidders for these contracts proposed typical increases in administrative costs including our current provider.

City staff recommends City Council adopt resolutions authorizing the City Manager to enter in to service agreements with the City of Asheville and CoreSource for Third Party Administrator services and Caremark for Pharmacy Benefit Manager services for the City of Asheville's health insurance plan.

RESOLUTION NO. 08-163 - RESOLUTION BOOK NO. 31 – PAGE 265
RESOLUTION NO. 08-164 - RESOLUTION BOOK NO. 31 – PAGE 266

D. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CHANGE ORDER WITH PAYNE, MCGINN & CUMMINS INC. FOR THE INSTALLATIO OF A NEW 12-INCH WATERLINE ON CLINGMAN AVENUE

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

E. RESOLUTION NO. 08-166 - RESOLUTION AMENDING THE 2007 COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME ACTION PLAN

ORDINANCE NO. 3644 – BUDGET AMENDMENT TO AMEND THE 2007 COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME ACTION PLAN

Summary: The consideration of a resolution amending the Fiscal Year (FY) 2007-08 Consolidated Action Plan for Community Development Block Grant (CDBG) and HOME Program funding to reduce an anticipated amount of program income, and revise the program descriptions to which these funds were assigned; and associated budget amendment.

The approved 2007-08 Action Plan included an estimated program income amount of \$274,000 from an anticipated sale of City-owned land on Ralph Street to Mountain Housing Opportunities (MHO). This sale did not occur in FY 2007-08, and while a future sale date is anticipated, that date is unknown at this time. MHO has also redesigned the project intended for this site to include additional land; however, the project start date is also currently unknown.

As part of the 2007-08 Action Plan process, this anticipated program income was allocated in the plan to three programs, with the proviso that funds would not be available for use until the sale was actually completed. Anticipated program income was allocated in the 2007-08 Action Plan as follows:

Agency	Program	CDBG Grant	Land Sale Revenue	Total
1. MHO	Emergency Repair Tier II	\$110,000	\$40,000	\$150,000
2. MHO	Direct Homebuyer Assistance	\$392,238	\$50,000	\$442,238
3. Mtn. BizCapital	Small Business Loan Pool	\$68,000	\$40,000	\$108,000
4. --	CDBG Contingency	--	--	\$144,000

In the end, each agency's program met its performance goals without needing this anticipated program income.

When a date for the land sale has been established, the revenue can be re-allocated in a future Action Plan to meet the needs identified in the City's Strategic Operating Plan and the 5-year Consolidated Strategic Plan for Housing and Community Development.

Pros:

- Corrects the Action Plan so that it accurately reflects the fiscal and programmatic reality for FY 2007-08; and
- Describes how the future land sale revenue program income will be assigned when these funds are available.

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Con: None noted.

City staff recommends City Council adopt a resolution amending the FY 2007-08 Consolidated Action Plan to delete this anticipated program income and revise the plan's programs to which it was assigned; and associated budget amendment.

**RESOLUTION BOOK NO. 31 – PAGE 268
ORDINANCE BOOK NO. 25 – PAGE 19**

F. RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAM OF THE DEPT. OF JUSTICE FOR TECHNOLOGY IMPROVEMENTS IN THE AREA OF POLICE RADIOS FOR THE ASHEVILLE POLICE DEPARTMENT

BUDGET AMENDMENT TO ACCEPT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAM OF THE DEPT. OF JUSTICE FOR TECHNOLOGY IMPROVEMENTS IN THE AREA OF POLICE RADIOS FOR THE ASHEVILLE POLICE DEPARTMENT

These items were removed from the Consent Agenda for discussion and/or individual vote.

G. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDMENT TO A CONTRACT WITH MCGILL ASSOCIATES TO COVER APPLICATION FOR CLEAN WATER MANAGEMENT TRUST FUND GRANT AND ADDITIONAL SURVEY WORK FOR THE DINGLE CREEK WATERSHED ENGINEERING ANALYSIS

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

H. RESOLUTION NO. 08-169- RESOLUTION ACCEPTING LOVERS LANE IN THE SKYLAND AREA OF SOUTH ASHEVILLE AS A CITY MAINTAINED STREET

Summary: The consideration of a resolution to accept Lovers Lane as a city-maintained street in the Skyland Area of South Asheville.

Section 7-15-1 (e) (4) (a) of the Code of Ordinances requires that streets dedicated for public uses be accepted by resolution of the City Council.

Lovers Lane is a developer-constructed street beginning at Maple Lane and ending at Pond Street that has an average width of 18 feet, a length of 0.04 mile, and a recorded 45-foot right-of-way. Since Lovers Lane was constructed several years ago, the exact timeframe is unknown, there will be no warranty period associated with its acceptance as a city-maintained street. The purpose of accepting Lovers Lane as a city-maintained street is to provide access to another city-maintained street, Maple Lane, without traveling along a privately-maintained street.

Transportation and Engineering Department staff and Public Works Department staff inspected this street and determined that its current maintenance condition is acceptable and it will not require any upgrading or improving to meet current City standards.

This action complies with the City Council Strategic Operating Plan in the sustainable focus area by adding to the street infra-structure to better serve the citizens of Asheville.

Following City Council's approval of this resolution, Lovers Lane will be added to the official City Maintained Street Inventory (Powell Bill List).

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help fund the maintenance of the street.
- Residential development along the subject street enhances the tax base for the City.
- The street provides connectivity within an existing residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

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There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street. Currently, the Powell Bill Funds equate to \$1,886 per mile compared to the City's maintenance cost of \$8,200 per mile.

City staff recommends that City Council adopt a resolution accepting Lovers Lane as a city-maintained street.

RESOLUTION BOOK NO. 31 – PAGE 271

I. RESOLUTION NO. 08-170 - RESOLUTION SETTING A PUBLIC HEARING ON SEPTEMBER 9, 2008, TO CONSIDER THE VOLUNTARY ANNEXATION OF 131 OLD CHARLOTTE HIGHWAY, ASHEVILLE, N.C.

Summary: The consideration of a resolution fixing the date of a public hearing on September 9, 2008, for the voluntary annexation of properties located at 131 Old Charlotte Highway.

The City of Asheville Board of Alcoholic Beverage Control Board has petitioned the City of Asheville for the annexation of one parcel located at 131 Old Charlotte Highway containing a total of approximately .85 acres. The area is not contiguous to the primary corporate limits of the City and therefore is subject to the standards for annexation of noncontiguous areas contained in N. C. Gen. Stat. sec. 160A-58.1.

Pursuant to N.C. Gen. Stat. sec. 160A-58.2 such petitions must be investigated by the City Clerk for sufficiency in accordance with state law. This investigation has been completed and the Certificate of Sufficiency accompanies this petition request.

The next step in this process is for City Council to fix the date for the public hearing on this matter. Should City Council decide to proceed with this request, the effective date for the annexation would be December 31, 2008.

This action complies with the Council goal of working to enable voluntary annexation to support healthy growth of the City.

Pros:

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

Cons:

- Marginal increase in service costs.

While the property is not taxable since owned by a governmental entity, the City will receive a distribution from the profits of the store. Information from the Chief Financial Officer of the local ABC Board states that "early projections indicate that the Fairview area store would generate sales at between \$1,250,000 and \$1,800,000 annually. At these levels we would project the initial net income before distributions of approximately \$30,000, since the Board would incur debt for the construction of the building. We believe that the benefit to the City from a store in this location will only increase in future years." Service costs will be limited to fire and police service and are not significant.

City staff recommends City Council adopt a resolution setting the date for a public hearing on the annexation petition.

RESOLUTION BOOK NO. 31 – PAGE 273

J. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CHANGE ORDER WITH HICKORY CONSTRUCTION COMPANY FOR THE IMPROVEMENTS AT THE NORTH FORK AND WILLIAM DEBRUHL (BEE TREE) WATER TREATMENT PLANTS

BUDGET AMENDMENT FOR CHANGE ORDER REGARDING IMPROVEMENTS AT THE NORTH FORK AND WILLIAM DEBRUHL (BEE TREE) WATER TREATMENT PLANTS

These items were removed from the Consent Agenda for discussion and/or individual vote.

K. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN CHANGE ORDERS INCREASING THE PROJECT BUDGETS AND CONTRACT AMOUNTS FOR ELEVEN WATER SYSTEM IMPROVEMENT PROJECTS

BUDGET AMENDMENT TO INCREASE THE PROJECT BUDGETS AND CONTRACT AMOUNTS FOR ELEVEN WATER SYSTEM IMPROVEMENT PROJECTS

These items were removed from the Consent Agenda for discussion and/or individual vote.

L. RESOLUTION NO. 08-173- RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Summary: The term of Eric Scheffer, as a member on the Buncombe County Tourism Development Authority, expires on August 30, 2008.

At the August 19, 2008, worksession, it was the consensus of Council to reappoint Mr. Sheffer (as the individual who is involved in the tourist business and who has demonstrated an interest in tourism development but who does not own or operate a hotel, motel or other taxable tourist accommodation) to serve an additional three year term, term to expire August 30, 2011.

RESOLUTION BOOK NO. 31 – PAGE 278

M. RESOLUTION NO. 08-174 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH IKON OFFICE SOLUTIONS TO SUPPLY COPYING AND DUPLICATING EQUIPMENT FOR THE CITY OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Ikon Office Solutions to supply printing and duplicating equipment for the City of Asheville for an amount not to exceed \$66,142.

City Council approved funding in the Fiscal Year 2008/09 budget for the continued lease of printing and duplicating equipment used by various departments of the city.

This contract consolidates the monthly costs of multiple printer and copier leases into a single contract to provide more cost effective operational expenses and improved service and support.

This action complies with the City Council Strategic Operating Plan in that it keeps costs for services to the public as low as possible. It is also a green focus area making use of newer, more energy efficient equipment that supports power save functions.

Pros:

- Provides for the lease of printing and duplicating machines used by city departments.
- Improves cost effectiveness and support provisions for equipment provided under this contract.

Con:

- None noted

Funding for this lease has already been approved by City Council in the 2008/09 Fiscal Year budget. This action simply seeks City Council approval of the contract.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Ikon Office Solutions for an amount not to exceed \$66,142.

RESOLUTION BOOK NO. 31 – PAGE 279

N. RESOLUTION ADOPTING CITY COUNCIL TRAVEL AND TRAINING POLICY

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

O. RESOLUTION MAKING PROVISINGS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE FOR THE FUNDRAISER FOR THE APPALACHIAN SUSTAINABLE AGRICULTURE PROJECT

RESOLUTION MAKING PROVISINGS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE FOR THE ORGANICFEST FESTIVAL

RESOLUTION MAKING PROVISINGS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE FOR THE LEXINGTON AVENUE ARTS & FUN FESTIVAL

This item was removed from the Consent Agenda for 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 Vice-Mayor Davis and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

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B. RESOLUTION NO. 08-162 - RESOLUTION SETTING A PUBLIC HEARING ON SEPTEMBER 23, 2008, TO CONSIDER AN ECONOMIC DEVELOPMENT GRANT TO UNISON ENGINE COMPONENTS (FORMERLY SMITHS AEROSPACE)

Summary: The consideration of a resolution setting a public hearing on September 23, 2008, to consider an economic development incentive grant to Unison Engine Components.

Unison Engine Components is an internationally recognized leader in the manufacture of aerospace components with a facility in Asheville. The company is proposing new, taxable, capital investment of \$15,000,000 for additional production equipment and facility improvements. Unison Engine Components has requested consideration for an incentive grant under the City of Asheville Economic Development policy. The City of Asheville is considering offering Unison Engine Components a performance-based grant totaling \$236,250.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

The economic development incentive grant to Unison Engine Components ties into City Council's Strategic Operating Plan as it addresses the Affordability Strategic Plan focus area by meeting the objective to support diversified job growth and small business development. The grant also addresses the Sustainability Strategic Plan focus area by promoting sustainable, high density infill development that makes efficient use of existing resources.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in manufacturing in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

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Con:

- Grant is formulated based on use of 75% of value of new incremental tax revenue for a 5 year period.

The project has a positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive approximately 25% of the new incremental ad valorem revenues from the project, in addition to the current taxes paid by the company. After 5 years, the City will henceforth receive 100% capture of new taxes.

City staff recommends Council approve a resolution setting a public hearing on September 23, 2008, on an economic development incentive grant to Unison Engine Components.

Councilman Mumpower spoke against the action in that he felt the City is granting special deals to corporations.

Councilman Newman moved for the adoption of Resolution No. 08-162. This motion was seconded by Vice-Mayor Davis and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 264

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D. RESOLUTION NO. 08-165 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CHANGE ORDER WITH PAYNE, MCGINN & CUMMINS INC. FOR THE INSTALLATION OF A NEW 12-INCH WATERLINE ON CLINGMAN AVENUE

Summary: The consideration of a resolution authorizing the City Manager to sign a change order increasing the original contract amount of \$509,623 to \$590,000 with Payne, McGinn & Cummins, Inc. for the installation of a new 12-inch waterline on Clingman Avenue.

At the November 13, 2007, City Council meeting, Payne, McGinn & Cummins, Inc., was selected as the contractor to install a new 12-inch waterline on Clingman Avenue at an estimated project cost of \$509,623. The contractor had to navigate the new 12-inch waterline along a different route than originally anticipated due to encountering more utility lines and rock in the ground on Clingman Avenue. These conditions caused the need to purchase unexpected and additional materials, which have lead to a necessary increase in the original contract amount from \$509,623 to \$590,000.

This project is part of the City Council strategic plan to improve City infrastructure.

Pro:

- The new 12-inch waterline on Clingman Avenue will replace an old and undersized waterline, will coincide with planned street improvements, and will improve fire protection and the City's fire insurance rating.

Con:

- Failure to approve the increase in contract amount will result in a time delay to complete the project.

Cost of the Clingman Avenue project was initially estimated at \$509,623. The \$80,377 change order will increase the project budget to \$590,000. These funds are available within the project budget and will not have an additional impact on the budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign a change order increasing the original contract amount of \$509,623 with Payne, McGinn & Cummins, Inc. for the installation of a new 12-inch waterline on Clingman Avenue to \$590,000.

Councilman Mumpower was concerned that the City has no procedure to hold contractors accountable, in a meaningful way, to hiring legal workers.

Councilwoman Jones moved for the adoption of Resolution No. 08-165. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 267

F. RESOLUTION NO. 08-167 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAM OF THE DEPT. OF JUSTICE FOR TECHNOLOGY IMPROVEMENTS IN THE AREA OF POLICE RADIOS FOR THE ASHEVILLE POLICE DEPARTMENT

ORDINANCE NO. 3645 - BUDGET AMENDMENT TO ACCEPT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAM OF THE DEPT. OF JUSTICE FOR TECHNOLOGY IMPROVEMENTS IN THE AREA OF POLICE RADIOS FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a resolution authorizing the City Manager to accept grant funds under the North Carolina Office of Justice Programs of the Department of Justice (JAG); and the associated budget amendment, in the amount of \$19,068.

The City of Asheville has been awarded a grant from the JAG in the amount of \$19,068 to be shared with Buncombe County Sheriff's Department. The Asheville Police Department (APD) and the Buncombe County Sheriff's Department have signed a Memorandum of Understanding and APD will be the grant funds administering agency. There is no local match and the City of Asheville's portion of the grant is \$12,712. The purpose of the grant program is to make technological Improvements in the area of police radios for the Asheville Police Department.

Motorola, Inc. is the vendor and below is the description of the products:

XTS2500 Model III Handheld Radio:	\$3,382
Extra batteries (One per radio):	\$87
Noise canceling speaker microphones:	\$76
Total per Radio:	\$3,545
Total for three (3) complete radios:	\$10,635
Total of Federal grant funds:	\$12,712

This action complies with City Council's Strategic Operating Plan in the Focus Area - Safe - Asheville will be one of the safest and most secure communities when compared to similar cities.

Pros:

- Will contribute to the reduction of crime by improving the effectiveness of police officers while working special events.
- By reducing injuries to law enforcement as well as the public, this will aid in quality of life issues.
- By using these grant funds for this needed equipment, APD officers will have the items they need to properly respond to violent group incidents, that budget constraints would not allow otherwise.

Con:

- The City Of Asheville and the Asheville Police Department would be required to maintain the upkeep of the equipment,

replacing equipment when needed.

There is no fiscal impact with this grant as there is no match required.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to enter into an agreement with the North Carolina Office of Justice Programs of the Department of Justice for grant monies; and (2) the associated budget amendment, in the amount of \$19,068.

Councilman Mumpower felt the State should fix the dysfunctional court system. Acceptance of these funds is a misinvestment of dollars as the City can't fix the court system, but they can provide for their police officers.

Vice-Mayor Davis moved for the adoption of Resolution No. 08-167. This motion was seconded by Councilwoman Jones and carried on a 5-1 vote, with Councilman Mumpower voting "no."

Vice-Mayor Davis moved for the adoption of Ordinance No. 3645. This motion was seconded by Councilwoman Jones and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 269
ORDINANCE BOOK NO. 25 – PAGE 21

G. RESOLUTION NO. 08-168 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDMENT TO A CONTRACT WITH MCGILL ASSOCIATES TO COVER APPLICATION FOR CLEAN WATER MANAGEMENT TRUST FUND GRANT AND ADDITIONAL SURVEY WORK FOR THE DINGLE CREEK WATERSHED ENGINEERING ANALYSIS

Summary: The consideration of a resolution authorizing the City Manager to sign an amendment with McGill Associates for the Dingle Creek Stormwater Engineering Analysis in the amount of \$21,000 for additional survey work and application of a Clean Water Management Trust Fund grant. This amendment will increase the project cost by an additional \$21,000 from the original cost of \$321,000. The total amount of the contract including this amendment will be \$342,000.

In December 2004, City Council adopted a Stormwater Utility. As part of the budget, City Council endorsed a program for the expenditure of the funds. Of the approximate \$2 million of expected revenue, \$200,000 per year was programmed to prepare stormwater master plans for watersheds. The total amount of the contract, including this amendment will be \$342,000.

Staff prepared a Request for Qualifications in the summer of 2006. Ten proposals were received. Based on qualifications, staff along with citizen input selected McGill Associates to perform this work.

Staff has developed the following question and answer format to help Council and the public understand the components of a Stormwater Engineering Analysis:

- What is a Stormwater Engineering Analysis? A stormwater engineering analysis is a detailed engineering study that evaluates the stormwater drainage system in a watershed. In order to complete the study, the consultant must prepare an inventory of the drainage system. A hydraulic model is developed to analyze the capacity of the system. The model will indicate which pipes, ditches and/or streams need repair and in what priority. The study also evaluates water quality concerns such as stream bank erosion, hazardous materials, etc.
- What are the goals of a Stormwater Engineering Analysis? The goals of completing this study include the following:
 - Developing a capital improvement program that evaluates upstream and downstream impacts of improvements;
 - Prioritizing the storm drainage needs within the watershed;
 - Developing a hydraulic model that can be used to determine improvements that need to be made as part of new development; and,
 - Assisting in the justification for funding from available grants.
- What are the deliverables of a Stormwater Engineering Analysis? The deliverables of this study include:
 1. Detailed GIS Inventory of the Storm Drainage System in the watershed;
 2. Hydraulic Model of the Watershed;
 3. Capital Improvement Program of water quality and water quantity needs; and,
 4. Detailed cost estimates for the improvements.
- How do we prioritize what Watersheds get done in what order? Watershed are prioritized based on flooding, funding

opportunities, opportunity to impact development and water quality concerns.

While performing this analysis it was necessary to complete \$14,000 additional survey work. This additional survey work will allow us to complete our stormwater inventory for the Dingle Creek Watershed. The additional amount of \$7,000 is to apply for a Clean Water Management Trust Fund Grant to complete construction of wetlands in the Dingle Creek Watershed.

This action complies with the City Council Strategic Operating Plan in the focus area of sustainable and green. This project develops a plan for needed infrastructure replacements/upgrades in the Dingle Creek Watershed. This project develops a long term plan to address the city's aging infrastructure and provides improved water quality to the area, by constructing wetlands.

This action complies with the Dingle Creek Watershed Master Plan in that the engineering analysis conducted is necessary in order to apply and obtain the Clean Water Management Trust Fund Grant in which will be used to implement a portion of the watershed master plan.

Pros:

- Implement a portion of the watershed master plan through the Clean Water Management Trust Fund Grant
- Improve water quality to the area

Con:

- None

The original amount of the project of \$321,000 was funded in a prior year budget from the stormwater utility enterprise fund. The amendment increases the contract amount by \$21,000 for a total project cost of \$342,000. This additional \$21,000 will be funded in the 2008-2009 Fiscal Year from the stormwater utility enterprise fund.

Staff recommends City Council authorize the City Manager to sign an amendment with McGill Associates for the Dingle Creek Stormwater Engineering Analysis in the amount of \$21,000 for additional survey work and application of a Clean Water Management Trust Fund grant.

Councilman Mumpower said that he made a request for an itemized list of how much money the City has spent on planning documents, consultants, etc. and until he gets clear information on our investment of dollars, he would vote against this action.

Councilwoman Jones moved for the adoption of Resolution No. 08-168. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 270

J. RESOLUTION NO. 08-171 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CHANGE ORDER WITH HICKORY CONSTRUCTION COMPANY FOR THE IMPROVEMENTS AT THE NORTH FORK AND WILLIAM DEBRUHL (BEE TREE) WATER TREATMENT PLANTS

ORDINANCE NO. 3646 - BUDGET AMENDMENT FOR CHANGE ORDER REGARDING IMPROVEMENTS AT THE NORTH FORK AND WILLIAM DEBRUHL (BEE TREE) WATER TREATMENT PLANTS

Summary: The consideration of a resolution authorizing the City Manager to sign a change order increasing the original contract amount of \$6,362,500 to \$6,432,261.43 with Hickory Construction Company for the improvements at the North Fork and William DeBruhl (Bee Tree) Water Treatment Plants; and the associated budget amendment.

At the March 20, 2007, City Council meeting, Hickory Construction Company was selected as the contractor to make improvements to the North Fork and William DeBruhl water plants at an estimated project cost of \$6,362,500.00. During construction, defects in chemical feed lines and piping was discovered and added to the project scope. This caused a slight time delay and the purchase of additional materials, which have lead to a necessary increase in the original contract amount from \$6,362,500.00 to \$6,432,361.43. This is an increase of \$69,861.43.

This project is part of the City Council strategic plan to improve City infrastructure.

Pro:

- This project will enhance the water system, provide better safety for employees working around water treatment chemicals, and ensure all federal and state mandated clean water drinking act regulations are met.

Con:

- Funding for this change order increase requires \$69,861.43 to be reallocated from another capital project.

Cost of the Water Plant Upgrades project was initially estimated at \$6,362,500.00. The \$69,861.43 change order will increase the project budget to \$6,432,361.43. These funds are not available within the project budget and will be reallocated from another capital project.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign a change order increasing the original contract amount of \$6,362,500.00 with Hickory Construction Company for the improvements at the North Fork and William DeBruhl (Bee Tree) Water Treatment Plants to \$6,432,361.43; and the associated budget amendment.

Councilman Mumpower was concerned that the City has no procedure to hold contractors accountable, in a meaningful way, to hiring legal workers. It is his personal believe that the sub-contractors are hiring illegal immigrants to work on these projects.

Councilwoman Jones moved for the adoption of Resolution No. 08-171. This motion was seconded by Councilman Russell and carried on a 5-1 vote, with Councilman Mumpower voting "no."

Councilwoman Jones moved for the adoption of Ordinance No. 3646. This motion was seconded by Councilman Russell and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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ORDINANCE BOOK NO. 25 – PAGE 23

K. RESOLUTION NO. 08-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN CHANGE ORDERS INCREASING THE PROJECT BUDGETS AND CONTRACT AMOUNTS FOR ELEVEN WATER SYSTEM IMPROVEMENT PROJECTS

ORDINANCE NO. 3647 - BUDGET AMENDMENT TO INCREASE THE PROJECT BUDGETS AND CONTRACT AMOUNTS FOR ELEVEN WATER SYSTEM IMPROVEMENT PROJECTS

Summary: The consideration of a resolution authorizing the City Manager to sign change orders increasing the project budgets and contract amounts totaling \$35,518,671.67 for the eleven Water System Improvement Projects to \$38,331,310.67, or an increase of \$2,812,639.00; and the associated budget amendment.

On November 27, 2007, the City Council approved eleven water system improvement projects as part of a \$40 million revenue bond. The projects authorized for construction were estimated at \$35,518,671.67. The \$40 million total also included cost of issuance and engineering design charges of \$4,481,328.33 for a total of \$40 million.

Numerous issues have arisen since the beginning of construction on the revenue bond projects that were not accounted for in the original project bids. These issues include but are not limited to rerouting lines due to encountering unknown underground utilities; additional easement, right-of-way and property acquisitions; encountering subsurface rock which required removal; changes in N.C. Dept. of Transportation roadway repair requirements; and unsuitable subsurface conditions that required placement of crushed stone backfill. These issues have resulted in unplanned work requirements and time delays, which lead to a necessary increase in the original contract amount from \$35,518,671.67 to \$38,331,310.67. Details of the cost increase are outlined in the attached document: Exhibit A.

In Fiscal Year 2007-08, some projects listed on the Water Resources capital projects list were converted to revenue bond projects once the City of Asheville received the bond funding. This freed up \$3,320,000.00 in pay-as-you-go and unused funds, which were set aside in a contingency fund and is available for the revenue bond projects anticipating they would go over budget due to the nature and size of the projects. These contingency funds should cover any additional expenses associated with the revenue bond projects. The attached budget amendment appropriates those funds into the revenue bond projects. The water fund will have approximately \$500,000 in additional funds available for any other unforeseen project cost increases that may occur.

All projects are funded and on or ahead of schedule. No projects have been decreased or cut due to funding issues.

This project is part of the City Council Strategic Operating Plan to improve City infrastructure.

Pros:

- Approval of the increase in contract amount will allow completion of the eleven water system improvement projects in a timely manner.
- These projects meet the City's goal to systematically repair / replace the aging water system infrastructure, improve the reliability of water service to affected customers, and improve available fire protection.
- The escalation of maintenance and repair costs for the aging water infrastructure will be reduced creating a more efficient system, which will reduce energy costs and the City's overall carbon footprint.

Con:

- Failure to approve the increase in contract amount will result in major changes in the scope of these projects, which would require some of the projects to be only partially completed resulting in failure to achieve the intended goals of the projects.

Cost of the eleven Water System Improvement Projects was initially estimated at a total cost of \$35,518,671.67. The \$2,812,639.00 total in change orders will increase the total project budget to \$38,331,310.67. These funds are available within the revenue bond project budget and will not have an additional impact on the budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign change orders for \$2,812,639.00 additional increasing the original total contract amount of \$35,518,671.67 for the eleven Water System Improvement Projects to \$38,331,310.67 and further allow staff to move the additional funds as needed between the 11 projects as cost estimates come in higher or lower than expected; and the associated budget amendment.

Councilman Mumpower was concerned that the City has no procedure to hold contractors accountable, in a meaningful way, to hiring legal workers. It is his personal believe that the sub-contractors are hiring illegal immigrants to work on these projects.

Councilwoman Jones moved for the adoption of Resolution No. 08-172. This motion was seconded by Councilman Russell and carried on a 5-1 vote, with Councilman Mumpower voting "no."

Councilwoman Jones moved for the adoption of Ordinance No. 3647. This motion was seconded by Councilman Russell and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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ORDINANCE BOOK NO. 25 – PAGE 25

N. RESOLUTION NO. 08-175 - RESOLUTION ADOPTING CITY COUNCIL TRAVEL AND TRAINING POLICY

Summary: This is the consideration of a resolution adopting the City Council Travel Policy and Procedures.

In the past, Asheville City Council training and travel procedures followed the City of Asheville's travel policies for city employees. However, the employee policy did not provide clear guidelines for processing City Council travel forms, authorizations, and expense reimbursements.

In order to clarify specific guidelines for Council members, a new policy was drafted that provides clearly defined administrative steps for processing travel and training requests and related travel arrangements. It also outlines guidelines for incurring and processing payment for reimbursable expenses.

The policy was shared with members of the City Council Revenue and Finance Committee for input prior to its finalization. It has also been reviewed and approved by the City Attorney's Office and the Finance Department to ensure compliance with accounting, audit and legal considerations.

Pros:

- Provides clear guidelines for submitting travel requests, processing travel arrangements, and receiving timely reimbursement of travel expenses.
- Streamlines the travel authorization and reimbursement process.
- Provides more information to Council on a regular basis about the status of the training and travel budget.

Cons:

- Adjusting to changes in administrative procedures, which include the use of new forms and deadlines for processing travel arrangements.

Adoption of the policy does not cause a fiscal impact. During the Fiscal Year 2008-09 budget process, City Council approved a training and travel budget allocation for each Council member. While the attached policy references this allocation, the specific amount will be determined by Council on a year-to-year basis as part of the budget process. Staff will provide Council with a regular accounting of the training and travel budget throughout the year.

City staff recommends City Council adopt a resolution adopting the City Council Travel Policy and Procedures.

In response to Councilman Mumpower, City Manager Jackson said that the designated expense allocation this fiscal year (noting that it is approved annually by City Council) for the Mayor is \$9,000 and \$3,000 each for the Vice-Mayor and Council Members.

Councilman Mumpower believed this policy is an improvement over past practices; however, he was concerned that the amounts might be excessive.

Councilman Newman felt that the policy may need to be updated periodically and suggested that the policy contain the current designated expense allocations for this fiscal year.

Councilman Newman moved for the adoption of Resolution No. 08-175, amending said policy to include the \$9,000 designated expense allocation for the Mayor and \$3,000 each for the Vice-Mayor and Council Members for this fiscal year. This motion was seconded by Vice-Mayor Davis and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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O. RESOLUTION NO. 08-176 - RESOLUTION MAKING PROVISINGS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE FUNDRAISER FOR THE APPALACHIAN SUSTAINABLE AGRICULTURE PROJECT

RESOLUTION NO. 08-177 - RESOLUTION MAKING PROVISINGS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ORGANIC FEST

RESOLUTION NO. 08-178 - RESOLUTION MAKING PROVISINGS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEXINGTON AVENUE ART & FUN FESTIVAL

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville City Market Fundraiser on August 28, 2008; the Organicfest Festival on September 6, 2008; and the Lexington Avenue Arts & Fun Festival on September 7, 2008.

- (1) Appalachian Sustainable Agriculture Project (ASAP) has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Asheville City Market Fundraiser and allow for consumption at this event.

The Asheville City Market Fundraiser will be held on Thursday, August 28, 2008, from 6:00 PM – 9:00 PM within the boundaries of the Public Works Parking Lot, as per the event area limits referenced on the accompanying site map.

- (2) Imagine Center has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Organicfest Festival and allow for consumption at this event.

The Organicfest Festival will be held on Saturday, September 6, 2008 from 10:00 AM – 6:00 PM within the boundaries of Battery Park Avenue & Otis Streets, as per the event area limits referenced on the accompanying site map.

- (3) Arts2People has requested through the Asheville Parks, Recreation & Cultural Arts Department that City Council permit them to serve beer and/or unfortified wine at the Lexington Avenue Arts & Fun Festival and allow for consumption at this event.

The Lexington Avenue Arts & Fun Festival will be held on Sunday, September 7, 2008 from 11:00 AM – 10:00 PM within the boundaries of Lexington Avenue, as per the event area limits referenced on the accompanying site map.

These actions tie into the previously adopted plan for event co-sponsorships.

Pro:

- Allows fundraising opportunities for charity

Con:

- Potential for public safety issues

There is no fiscal impact for the Asheville City Market Fundraiser or the Lexington Avenue Arts & Fun Festival. For the Organicfest Festival, fiscal impact would be overtime pay for the Asheville Police Department officers.

City staff recommends City Council adopt resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville City Market Fundraiser on August 28, 2008; the Organicfest Festival on September 6, 2008; and the Lexington Avenue Arts & Fun Festival on September 7, 2008.

At the request of Councilman Mumpower, City Attorney Oast said that he would confirm that under state law the City is

required to authorize the consumption of malt beverages and/or unfortified wine on City streets on a case by case basis.

Councilwoman Jones moved for the adoption of Resolution Nos. 08-176, 08-177 and 08-178. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Mayor Bellamy voting "no."

RESOLUTION NO. 08-176 - RESOLUTION BOOK NO. 31 – PAGE 285
RESOLUTION NO. 08-177 - RESOLUTION BOOK NO. 31 – PAGE 288
RESOLUTION NO. 08-178 - RESOLUTION BOOK NO. 31 – PAGE 291

III. PRESENTATIONS & REPORTS:

A. ASHEVILLE AREA CENTER FOR THE PERFORMING ARTS

RESOLUTION NO. 08-179 - RESOLUTION RESERVING PROPERTY FOR A PERFORMANCE CENTER AT PARKSIDE

Project Manager and Executive Director of the Center for the Performing Arts James Baudoin said that the vision of the Asheville Area Center for the Performing Arts' vision for the performance center in Asheville is to build a state-of-the-art performance center to serve all of western North Carolina in order to enhance the unique culture and quality of life of our community.

He explained (1) the City of Asheville passed a resolution that it will continue to evaluate the feasibility of locating a new performance hall within a mixed-use development at Parkside (Resolution No. 06-217 dated December 12, 2006); (2) another resolution passed that the City of Asheville commits to support in principle the design of a facility either in an adaptive reuse or in a stand alone performing arts facility (Resolution No. 07-215 dated November 27, 2007); (3) the recommendation at this meeting is to reserve property south of Parkside and bordered by Spruce Street to the west, Eagle Street to the south and South Charlotte Street to the east, expecting that construction will commence within five years; and (4) all pertinent details will be included in a forthcoming joint development agreement between the City of Asheville and the Asheville Area Center for the Performing Arts, Inc.

Showing pictures, he described (1) the hall will be a new regional landmark for generations to come; (2) state of the art production facilities will support both local organizations and tours; (3) intimate performances by emerging cultural groups will be featured; (4) large banquet and meeting events will be held in the foyer and on stage; (5) banquet setups in lobby and main hall at Cerritos Center for Performing Arts; (6) exterior entry points will be both Parkside and facing South Charlotte Street – The project will support redevelopment along Eagle Street and be a good partner; (7) this will be a daytime destination: inviting lobby, outdoor café, informal stage and showcase local artists; (8) professional musicians and dancers will engage the area's youth in studio instruction; (9) the center will be a home for student activities; (10) the Asheville music scene will be supported in center programming; (11) the center will be the performance home for a wide variety of artists; (12) the Best of Broadway will be offered each session; and (13) great concerts artists from country, classical and jazz music will be presented.

The site selection criteria includes availability, cost, support (government), site lines, location, access, space, red tape, neighbors, and site preparation.

He said the Parkside site was conceptualized in June of 2006. A massing study program commenced in spring of 2007. Work in the coming year will begin facility designs tailored to the site. Community involvement is a high priority.

He introduced the leadership of the Asheville Area Center for the Performing Arts Board of Directors, Board of Advisors, and Resource Council.

He said that now is the time to approve the site so they will be able to refine cost and financial issues (and cost options); conceptualize the physical layout on site; expand our projections on economic impact; forge future partnerships with our neighbors; clarify the phasing components of our project; define the opportunities for municipal involvement; and identify commercial partners for project development.

The project momentum continues as the Phase 1 fundraising campaign has been successful; the best possible site has been identified; design team selection process is now underway; and construction timeline will be established in the coming year. Process considerations for city owned Parkside site as related to the Asheville Area Center for Performing Arts.

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

Vice-Mayor Davis moved to adopt Resolution No. 08-179 to commit to reserve space for a performance center within the area targeted for a multi-use redevelopment project on property bounded by Marjorie Street to the north, Spruce Street to the west, Eagle Street to the south and South Charlotte Street to the east, expecting that construction will commence within five years of the date of this resolution, with all pertinent details to be included in a forthcoming joint development agreement between the City of Asheville and the Asheville Area Center for the Performing Arts, Inc. This motion was seconded by Mayor Bellamy.

When Councilman Mumpower asked if, with this action, we are binding future Councils, City Attorney Oast said that the resolution is an expression of Council's intent to work with the Center for Performing Arts' staff to place a performance center within the area. He noted that any vote tonight would not bind future Council's of this Council's intent. Again, this is not a contract – only an expression of intent.

Mr. Alan Ditmore felt the performance center is unnecessary as it serves no human need.

Mr. Steve Rasmussen felt a performance center is an excellent use of the property. He hoped that (1) the silver maple be preserved; and (2) the Hayes and Hopson Building; the stone jail; and the historic rock wall all be restored and integrated into the project.

Mr. Bill Massey, President-Elect of the Asheville Area Center for the Performing Arts Inc., spoke in support of the performance center in that it will uplift the community.

Ms. Donna Clark, Communications Director for the Pack Square Conservancy, supported the initiative which will enrich our citizens lives and ensure the quality of life for generations to come.

Vice-Mayor Davis said that the silver maple does have challenges; however, the Tree Commission will do an aggressive campaign in order to save the tree. Regarding human needs, children will have the opportunity to see performances by quality touring and local groups that will enrich their lives and provide them an opportunity they may not otherwise have. He noted that there is a lot of entertainment in the Civic Center and we still need to take care of that building.

Economic Development Director Sam Powers briefly reviewed the following staff report: "In early 2006, City Council directed staff to begin a process to review existing city owned properties for possible redevelopment to meet Council strategic goals. Eighteen city owned sites in the greater downtown area were identified as potentially suitable for redevelopment. Staff then reviewed the remaining sites in greater detail and in November 2006 presented the results to Council. Council approved moving forward with seven sites. One of the seven sites was the City Hall employee parking lot which has been referred to as "Parkside."

"The City conducted a market overview of the Asheville area to determine the best recommended approach for the seven sites. This included meetings with over 20 stakeholder groups, in addition to city staff, and quantification of Council member's goals to help prioritize the sites so they reflect highest and best use, maximize residual land values for public purpose, and reflect City Council policy objectives.

"City Council agreed that the Parkside site offered substantial potential for future development, but based on the long term seven to ten year timeline of realizing maximum development potential and public benefit, City Council agreed to withhold the Parkside property from the initial RFQ/RFP process.

"City staff has been asked to review the Parkside city owned site as it relates to a possible Performing Arts Center as a component of redevelopment of the site. City Council has indicated that it has established the existing RFQ/RFP process as an effective mechanism to help achieve City Council strategic goals. Including the AACPA in a RFQ/RFP process offers a number of potential advantages to the City for redevelopment.

Pros:

- Allows the City to author a Joint Development Agreement stipulating roles and responsibilities of various parties.
- Generates multiple responses from qualified development teams to the RFQ.
- Encourages broad range of development experience by respondents.
- City can request specific experience and qualifications/areas of expertise, including development of workforce housing, mixed use development, public performance venues, hotel and conference center development, public parking, and transit oriented development.
- Sets base line values for proposed development of the site to maximize private investment potential from site.
- Allows City to influence phasing of project to meet Council goals and market conditions.
- Allows transparency and public involvement in the process.
- Allows City to conduct marketing and advertising of the RFQ to improve the response rate.
- Leverages real estate for community benefit.

Cons:

- Limited staff resources to manage the development process for this complex public offering.
- The five-year timetable for the performance center may be ahead of the market for the private sector development component
- Construction, disruptions and temporary displacement of employee parking
- Cost of project management services

"Management of a project of this magnitude and complexity would require a commitment of existing staff resources and a compliment of professional services, such as real estate, architectural and engineering. The project management cost estimates would be developed in the course of negotiating the joint development agreement.

"Staff recommends that City Council consider the Asheville Area Center for the Performing Arts as a component in a RFQ/RFP process for development of the Parkside city owned site."

Councilman Newman asked if mixed-use meant different art uses or a performing arts center along with other types of uses on this site. He envisioned a variety of different redevelopment opportunities on this site of which a performing arts center could be a component, but would not consume the entirety of this city property.

Mr. Powers believed that the performing arts group is most interested in multiple uses on that site. That is one of the things a joint development agreement would allow us to refine – what the roles and responsibilities of each of the groups would be and also what the kinds of appropriate and highest and best uses for the site would be. Two years ago when we looked at the site, we envisioned that there would be multiple uses that could include residential uses, commercial or office uses as well as a performance center. They have not concluded that any of those would be included or excluded, but the potential of an RFP process would allow us to determine what the market could support and what might be most appropriate in terms of multiple uses on the site. From a staff perspective we are looking for uses that would be potentially other commercial type uses.

Councilman Newman supported the idea for there to be a performing arts center if the resources come together from the community to do that. And, he would like for it to be Council's goal that if it's possible (and the market supports it) that we would be able to optimally utilize that property in ways that would serve other economic development and community development goals for the City as well. He hoped there is an opportunity to do more than just a performing arts center on this large piece of property.

In response to Councilman Newman, Mr. Baudoin said that they are looking for a partnership with the City with a commercial component that can help bring about a community center. They want it to be more than just a performing arts center. It needs to have components that will compliment the uses on that site, e.g., restaurants, shops, housing. To make this project work they will have to create some significant revenue streams as an arts center and as well for the government entities that will be supporting this project. It will have to be a partnership.

Councilman Newman wanted to be clear that if there are opportunities to do private sector development in that area that not 100% of all future values from the development of the site would automatically be earmarked for the performing arts center. Mr. Baudoin responded that is not their assumption that they will try to capture every dollar related to earning potential on this block. They want to see a partnership with the government sector where everyone benefits. They do not need to have every square inch of that property serving their financial needs.

Councilman Mumpower voiced the following concerns: (1) most references are to large cities with strong city cores and most of those projects have marginal success; (2) the City has had other large projects that we haven't been able to bring the project to life; (3) timing of in the economy; (4) binding future Councils; (5) the City has a tendency to back into projects that obligates City tax dollars; and (6) the project will need either an extraordinary generous benefactor or City taxpayers to succeed. Until he gets a sense of an extraordinary generous benefactor to take on the lion share of this project, he will not support this project that will ultimately burden the city taxpayers.

In response to Councilman Newman, City Manager Jackson said that there is no fiscal impact associated with this resolution, however, as noted in the staff report, there will be some due diligence on a joint development agreement and when that is brought back to Council (in approximately 90 days), there will be a fiscal impact.

Councilman Newman said that up to this point the study process has been raised by private dollars. He felt the resolution is basically setting aside this property. If the community can support this, this City-owned property is available for that purpose, if funds are raised by others to do it.

City Manager Jackson said that the City would be the managing partner and through negotiations with the group would determine what the cost of services would be and their financial participation covering those costs. There will be engineering, design and architectural services needed. He felt it was fair of Council to ask what their plan is for participation in those costs. At this time, our primary costs would be the in-house management and oversight of the project and in the past we have always complimented that with some outside consulting services.

In response to Councilman Newman, Mr. Powers said that as we move forward, the staff time will become more substantial. He felt that in the next 90 days there will be a fairly substantial amount of staff time in terms of project management, working with other Economic Development staff and Planning staff. As we look more at the joint development agreement and how the responsibilities of developing the site are put together, he thought we would have to look outside, because he didn't think the City has all of the expertise in-house that would be necessary to help structure those kinds of deals. He approximated 60-100 man hours

based on prior experience. He did say this would be very time intensive from a staff standpoint. He felt that from a staff level, he believed that the best position for the City is to lead the process because it's our property.

Councilman Newman understood that what Council is voting on is reaffirming our support that this land is available for a project like this. It's his understanding that the City has land and we are happy to make it available, but it's different to say the City is going to financially lead this process as we have a lot of other processes going on that are important. Whether or not we decide to make an extensive financial commitment to a planning process is an entirely different matter for him.

Councilman Mumpower felt the City might be backing into dollar accountability incrementally that that's a danger. The City is interested and we want to get behind the project, but not financially.

Mayor Bellamy supported what is before Council, not a potential for what might happen in the future. She read the following paragraphs from the resolution: "Whereas, the ability to move into the next funding phase is contingent upon a site now being designated; and Whereas, the establishment of the Parkside site will provide for the next phase in project planning which will lead to construction and grand opening; Now, therefore, ..., the City of Asheville hereby commits to reserve space for a performance center within the area targeted for a multi-use redevelopment project on property bounded by Marjorie Street to the north, Spruce Street to the west, Eagle Street to the south and South Charlotte Street to the east, expecting that construction will commence within five years of the date of this resolution, with all pertinent details to be included in a forthcoming joint development agreement between the City of Asheville and the Asheville Area Center for the Performing Arts, Inc." She said that our consultants advised us that when we look at redevelopment of that site, that it would take five years. She sees this as an opportunity to do further due diligence. They need a site in order to increase their fundraising potential. She's excited to offer her support behind this initiative. The community has been talking for years about the importance of having a better performing arts center regardless of Asheville's size. Today Council is telling the community that we have set aside the site and believe their goal can be achieved. She felt that we can then really focus on what we want to do as a community with the Civic Center.

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

RESOLUTION BOOK NO. 31 – PAGE 294

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING AN UNOPENED PORTION OF PEACE STREET

RESOLUTION NO. 08-180 - RESOLUTION PERMANENTLY CLOSING AN UNOPENED PORTION OF PEACE STREET

Mayor Bellamy opened the public hearing at 6:25 p.m.

Assistant Director of Public Works Richard Grant said that this is the consideration of a resolution to permanently close an unopened portion of Peace Street. This public hearing was advertised on August 1, 8, 15 and 22, 2008.

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

Pursuant to this statute, the adjoining property owners have requested the City of Asheville permanently close an unopened portion of Peace Street.

Public Works Department staff has researched and contacted all agencies and the Greenway Commission and determined easements are required for Progress Energy. The Greenway Commission at their meeting of 7/10/08 recommended the unopened portion of Peace Street be retained as future opportunities for greenways, bike, pedestrian or vehicular connections. The owners of the properties abutting the unopened right-of-way has committed to providing a 20 foot easement on the unopened portion of Peace Street. .

Regarding the Strategic Operating Plan, this closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use.

Pro:

- There will be no future compromise of ingress/egress to other property

Con:

- Staff can find no potential challenges regarding the closure of an unopened portion of Peace Street

There will be no fiscal impact related to this closure.

City staff recommends adoption of the resolution to permanently close a portion of Peace Street

Mayor Bellamy closed the public hearing at 6:27 p.m.

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

Councilman Mumpower moved for the adoption of Resolution No. 08-180. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 31 – PAGE 296

B. PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE DESIGNATING THE PROPERTY KNOWN AS THE LEGAL BUILDING, LOCATED AT 10-14 SOUTH PACK SQUARE, AS A LOCAL HISTORIC LANDMARK

Historic Resources Commission Director Stacy Merten said that the petitioner has requested this public hearing be continued to October 28, 2008. Therefore, Councilman Newman moved to continue this public hearing until October 28, 2008. This motion was seconded by Councilwoman Jones and carried unanimously.

C. PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE DESIGNATING THE PROPERTY KNOWN AS THE JACKSON-WESTALL BUILDING, LOCATED AT 20-22 SOUTH PACK SQUARE, AS A LOCAL HISTORIC LANDMARK

Historic Resources Commission Director Stacy Merten said that the petitioner has requested this public hearing be continued to October 28, 2008. Therefore, Councilman Newman moved to continue this public hearing until October 28, 2008. This motion was seconded by Councilwoman Jones and carried unanimously.

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING FOR PROPERTY LOCATED AT 7 PACODA STREET REGARDING INCREASED BUILDING HEIGHT AND OTHER SITE PLAN REVISIONS FOR THE ABBERLY RIDGE PROJECT

ORDINANCE NO. 3648 - ORDINANCE AMENDING THE CONDITIONAL ZONING FOR PROPERTY LOCATED AT 7 PACODA STREET REGARDING INCREASED BUILDING HEIGHT AND OTHER SITE PLAN REVISIONS FOR THE ABBERLY RIDGE PROJECT

Mayor Bellamy opened the public hearing at 6:27 p.m.

Urban Planner Nate Pennington said that this is the consideration of an ordinance amending the conditional zoning for property located at 7 Pacoda Street regarding increased building height and other site plan revisions for the Abberly Ridge Project. This public hearing was advertised on August 15 and 22, 2008.

He said that on April 22, 2008, City Council unanimously approved a conditional zoning request, for property located at 7 Pacoda Street, from RM-8 to RB as part of a master development plan for the construction of 422 apartment units. Since the time of the zoning change and conceptual site plan approval, a number of revisions and modifications have been made to the plans. The following list provides a summary of these changes:

- A reduction in the number of total apartment buildings from 14 to 11.
- A reduction in the overall number of units from 422 to 360 (254 units in phase I and 106 units in phase II).
- The addition of one story to the "Manor Building" (building type 4 located in the center of the subject property) increasing the height from 3 stories to 4 and the unit count from 90 to 92 but decreasing the overall footprint. Further, the orientation of this building has been redesigned so that it faces south, internal to the site, instead of facing east towards Brevard Road.
- A reduction in the number of total parking spaces from 887 to 720.
- The addition of 41 accessory garage/storage units located throughout the site.
- A re-alignment of the site entrance from Pacoda Street.
- Additional impervious/open space areas interspersed throughout the site.

The changes noted above and reflected on the revised plans do not have an impact on the seven conditional use standards that were presented with the original application. Staff therefore, recommends approval of the proposed modifications pursuant to the site plans and supporting documentation.

Mr. Clay Mooney, land planner, explained in detail the site plan amendments. He felt there are very positive improvements to

the project.

Mr. Alan Ditmore was disappointed with the loss of units. He hoped the owner would restore the units.

Mayor Bellamy closed the public hearing at 6:36 p.m.

After finding that the request is reasonable based on information provided in the staff report and stated in the staff recommendation, Councilman Mumpower moved to adopt Ordinance No. 3648 to approve the amendment to the conditional zoning for property located at 7 Pacoda Street regarding increased building height and other site plan revisions for the Abberly Ridge Project, as follows: (1) A reduction in the number of total apartment buildings from 14 to 11; (2) A reduction in the overall number of units from 422 to 360 (254 units in phase I and 106 units in phase II); (3) The addition of one story to the "Manor Building" (building type 4 located in the center of the subject property) increasing the height from 3 stories to 4 and the unit count from 90 to 92 but decreasing the overall footprint. Further, the orientation of this building has been redesigned so that it faces south, internal to the site, instead of facing east towards Brevard Road; (4) A reduction in the number of total parking spaces from 887 to 720; (5) The addition of 41 accessory garage/storage units located throughout the site; (6) A re-alignment of the site entrance from Pacoda Street; and (7) Additional impervious/open space areas interspersed throughout the site. This motion was seconded by Councilman Newman and carried unanimously.

ORDINANCE BOOK NO. 25 – PAGE 28

V. UNFINISHED BUSINESS:

A. DISCUSSION REGARDING THE OFFER BY W&K HOTELS LLC FOR THE PURCHASE OF CITY-OWNED PROPERTY LOCATED AT 550 AIRPORT ROAD (AIRPORT HOLIDAY INN)

At the request of City staff, Councilman Mumpower moved to continue this matter until September 9, 2008. This motion was seconded by Councilwoman and carried unanimously.

B. CONSIDERATION OF THE SECOND AND FINAL READING OF ORDINANCE NO. 3642 – ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PURPOSES OF FILLING IN MISSING INFORMATIN, CORRECTING MISTAKES, RESOLVING DISCREPANCIES AND CLARIFYING THE ORDINANCE AS IT RELATES TO SIGN REGULATIONS

At the request of City staff, after a brief discussion on Councilman Mumpower's opinion that the continuance is being orchestrated to pass the ordinance, Councilman Newman moved to continue the matter until September 9, 2008. This motion was seconded by Councilwoman Jones and carried on a 5-1 vote, with Councilman Mumpower voting "no."

C. DISCUSSION REGARDING CONTRUCTION EASEMENT TO ALLOW FOR A PERMANENT ROAD IMPROVEMENT ON PUBLIC LAND (PACK SQUARE PARK)

Mayor Bellamy requested this matter be continued to September 9, 2008, as reports indicate that the Judge in the Pack Square Park lawsuit plans to rule by this Friday, August 29, 2008, and this may be a moot point. In addition, she felt that on September 9, 2008, there will be a full seated Council.

Vice-Mayor Davis agreed that discussion on this conservation easement might be premature; however, time is money for the developer.

When Mayor Bellamy asked for public comment, no one spoke.

Councilman Mumpower moved to continue this matter until September 9, 2008. This motion was seconded by Councilman Russell and carried unanimously.

D. GROVE PARK INN AREA TRAFFIC CALMING PROJECT

In response to Mayor Bellamy, City Attorney Oast said that a motion to reconsider, under Council's rules and Roberts Rules of Order, has to be made at the same meeting where the action was taken and it must be made by someone who voted with the majority and it has to pass by a 2/3 vote.

Councilman Mumpower said that there was a unanimous vote about two years ago to support an undeveloped traffic calming plan in this area. A plan has now been developed and is in the process of implementation. Concerns have been raised about the extremes of this plan and that the long-term impact may be detrimental to this community as a whole as well as to the neighborhood. Based on those concerns, he asked that this item be addressed.

Mr. Ken Putnam, Assistant Director of Transportation and Engineering, said that the contract was signed on July 24, 2008, and the completion date was established as December 31, 2008. The primary purpose of traffic calming measures including speed humps is to slow traffic and/or divert traffic. As a result, all vehicles using a particular street are impacted including emergency vehicles (police, fire trucks and ambulances). There is well documented research that indicates the response times for fire trucks can be delayed three to five seconds per speed hump and ambulances carrying a patient can be delayed up to ten seconds per speed hump. City staff has met with citizens, emergency responders, and other large vehicle users, including the Public Works Sanitation Division, Asheville City Schools, and Young Transportation, to address their individual concerns and to make adjustments to the proposed traffic calming measures before they are installed. Young Transportation as well as other transportation carriers makes regular trips to and from the Grove Park Inn typically using 45-foot motor coaches. At this time, all speed humps on Grovewood Road are installed and one speed hump along Country Club Road is in place.

He said that as a result of our meetings with emergency responders and other large vehicle users, including the Public Works Sanitation Division, Asheville City Schools and Young Transportation, we agreed to make the following adjustments (after testing once the roads were painted): (1) no speed humps will be installed along Edwin Place or Kimberly Avenue (this decision was made as a part of the original design); (2) a minimum travel lane width of 12 feet will be provided on each side of all median islands; (3) the proposed median island along Kimberly Avenue at its intersection with Country Club Road will be shortened by five feet; (4) the proposed median island along Kimberly Avenue at its intersection with Evelyn Place will be shortened 10 feet (five feet on each end) to accommodate turning movements for school buses and vehicles at a private alley; (5) the proposed median island along Edwin Place at its intersection with Celia Street/Gertrude Street will be shifted five feet southward and an existing streetlight will be removed and relocated; (6) the proposed median island along Edwin Place at its intersection with Charlotte Street might be eliminated; and (7) the proposed curb extension along Macon Avenue at its intersection with Charlotte Street will be eliminated. He said the biggest area that is still not fully finalized is the median island at the intersection with Charlotte and Macon Avenue. As it's laid out the buses cannot make that turn so they are looking at some different options: (1) eliminate the median island all together; (2) possibility of an all-way stop; or (3) a speed hump. They are working with the neighborhood representatives and emergency responders and other large vehicle users to try to find the best treatment.

Buncombe County Emergency Medical Services Director Jerry Vehaun said that he has met with Fire Chief Grayson and Mr. Putnam on this issue. He felt the City was fortunate to have Mr. Putman on staff because of his wealth of experience in dealing with traffic. Regarding emergency services, his concern is any kind of traffic calming that sticks something on a roadway, i.e., a speed hump or a bulb out. One of their primary routes for ambulances is Edwin Place and Kimberly Avenue for north Asheville or Beavertown. When a vehicle is traveling in an emergency situation, people get confused with the bulb outs and don't know where to go, thus adding an additional time delay. Also, with bulb outs if it's raining and the driver is looking for a house number, the driver may run into them doing damage to the vehicle. The speed hump, on the average, will cost an ambulance 10 seconds since they must go over them extremely slow, especially if there is a patient in the back. He supported a traffic light at the intersection of Edwin Place and Charlotte Street instead of a median island. He also supported a speed hump on Macon Avenue going up to the Grove Park Inn. He could live with the speed humps, but he didn't like them. He suggested traffic calming be with signage, especially from an emergency vehicle standpoint.

In response to Vice-Mayor Davis, Mr. Putnam said that they have done all they can do in the tweaking process. If we continue to look at other things, we would begin to eliminate these devices which would place us back into doing the whole process all over again. We've kept the integrity of the plan that 60% of the people bought into, but if we try to eliminate some of the islands beyond the intersection with Edwin and Charlotte Street, he felt we would have to start over. In our existing contract, we have the ability to remove and add certain items, but if we were to try to take 60-90 days to revamp it, we would stand to lose the contractor because he has been waiting patiently as it is and prices continue to rise.

Councilman Mumpower moved to postpone additional action on traffic calming measures within the identified project area at the discretion of our Traffic Engineer and request that he do an additional study on a timely basis for managing some of the concerns raised tonight regarding impediments to our safety vehicles and perhaps other safety concerns. This motion was seconded by Vice-Mayor Davis.

Mr. Louis Neeves, resident on Charlotte Street, read the following statement from Mr. Jerry Sternberg: "The use of signs to promote traffic calming was dismissed out of hand by the previous traffic director eliminating one of the most valuable tools available. If we are really serious about traffic calming we must increase the number and variety of signs including warning signs and traffic boards promoting driver awareness cooperation and safety consciousness. Neither the Fire Chief; Mr. Vehaun, Emergency Management Services Director; or the various bus operators were consulted or signed off on this proposal before it was submitted. A proposed traffic isle at the intersection of Charlotte Street and Edwin Place will prohibit a left turn north on Charlotte Street in order to access the two churches and the Grove Park Inn. The locals who know about this problem will use Evelyn Place as a cut through thus dramatically increasing traffic on this narrow street creating a hazard. Many tourists and large vehicles that do not know about this will have to turn right (toward town) then have to find a side street or a parking lot to make a dangerous u turn. I understand that there is a proposal to install a traffic light at this intersection, which appears to be a very satisfactory solution. A traffic study could be done with an eye toward eliminating the light at Hillside to improve the traffic flow. The lights at Edwin and Chestnut Streets would break the traffic flow permitting Hillside traffic to safely enter Charlotte Street. The bulb outs on Kimberly Avenue will narrow the traffic lanes reducing separation between vehicles especially large buses and trucks. This could lead to head on collisions or vehicles being

forced off the road and making these corridors biker unfriendly. These planned obstructions will delay fire and other emergency vehicles increasing response time especially for large vulnerable senior population in this area. In the event that a terrible fire, gas explosion or even a terrorist situation occurs in such places as the Grove Park Inn, the Longchamps Apartments or Jones School an enormous number of emergency vehicles will need unfettered access to hospitals, fire and police vehicles. I am well aware that there are serious political, legal, financial and contractual issues in this matter that must weigh heavily on your decision, but public safety must trump all other concerns. Tweaking this plan will not be enough and once this is in place it will be costly to undue the mistakes. We need another meeting of all the stakeholders. Trading one set of unsafe conditions for another set of unsafe conditions is not a win for anyone."

Mr. Alan Ditmore felt the City should continue to let the City streets deteriorate and let the pot holes slow people down. He felt that traffic island would inhibit drivers from driving around bicyclists.

Ms. Glenda Burgin, Grove Park neighborhood resident, read the following statement: "This traffic calming project means so much to the safety and environment for our streets and families. For many, many years we have struggled with all the hazards associated with increased traffic in our area. The usual attempts to regulate – ticketing, signs, patrol – produced little improvement, which is why we appealed for help with traffic calming measures. Since November, 2004, when the City Council recognized this need, directed the Grove Park Inn to deposit \$375,000 in the city budget explicitly for that project, and directed the city staff to begin the process, we neighbors acted in good faith. Directed by the city as to which streets and citizens (407 households) needed to be involved, we diligently 'spread the word' with small groups, newsletters, door-to-door and phone-to-phone contact and discussion. We have cooperated and successfully completed every step required, including working with traffic engineers and consultants to draw up professional, legal plans, the required six public meetings for input, the 40% and again, the 60% consent-to-approve signatures. We are presently working on plans for individual and group donations and volunteerism in maintaining the traffic islands, which are the responsibility of the residents. The input of the city staff, the Grove Park Inn, the fire, school, emergency departments, the private property owners – all that input has been considered many times over and compromises have been made. As always, some folks do miss the conversations, the meetings, the newspaper and TV articles, the notices, the emails, etc., but there has been a concentrated effort to include everyone's needs and suggestions and to constantly take time to educate those who have not been aware of each step involved in the process. It has taken these many years, a long time, but that is the only fair way. Our neighborhood feels this has been a good example of city, citizens, and corporations communicating – working together and moving forward with change. We certainly feel it was a responsible decision of the Council to approve this project. It is a huge and costly enterprise, but involves a huge and historic neighborhood ... a neighborhood that provides not only housing for taxpayers, but a great deal of employment for taxpayers ... and enjoyment, as well (the proms, dances, restaurants, annual events, etc.). Our streets which are used by so many Ashevilleians and tourists are where we live (24/7). As taxpayers, we are sensitive to budget costs and restraints, which is why this collaboration of private funds from the GPI and residents, and public funds from the city is appropriate. As citizens, we want safety and service vehicles to ably navigate our streets, which is why some changes and tweaking of the original plans are necessary. Not every driver's complaint or every homeowner's complaint will be satisfied, but these proposed measures will achieve the goal for all this work, thought, and discussion – traffic calming. We appreciate the Council's help in accomplishing this for our neighborhood and city."

Ms. Gloria Dastoli, resident on Innsbrook Road, she read the following paragraph from a February 12, 2008, letter from the City Manager: "City staff has concluded since the subject project was required by the City Council and the Grove Park Inn to fulfill their responsibility by submitting the total requested fund and the affected citizens fulfill their responsibility by participating in the traffic calming design process as set forth in the current traffic calming policy. It is the City's responsibility to accomplish the agreed upon work."

Ms. Liz McKenna, resident on Evelyn Place, emphasized that for the neighborhood it is a safety issue. Young families leave their neighborhood and pets get killed because of people speeding continuously. This is for safety reasons.

Mr. Hank Garvey, Vice-President of Young Transportation, stated that Mr. Putnam did spend time to go with them over this process. He has been open with their suggestions. He is pleased with the traffic light proposal. Their one concern left to iron out is the right hand turn onto Macon Avenue.

In response to Councilman Russell, Mr. Putnam said along Kimberly Avenue between Country Club and Edwin, there is already on-street parking allowed in front of the houses and there are proposed to be five curb extensions that take up no more width than a car. Two of them will be in front of fire hydrants. As you go through the traffic signal up toward Charlotte Street there are two intersections where we have curb extensions, but they are really cross walks - noting again that they are only taking the place where an on-street car would be parked.

In response to Councilman Russell, Mr. Putnam said that both sides are still offering up suggestions. What we have in place now is a good solid plan that has done a good job to minimize the negative impacts without compromising the overall goal of what we are trying to accomplish with traffic calming. If we go any further, we won't have a traffic calming plan.

Councilwoman Jones noted that Mr. Putnam has been commended by Mr. Vebaun, Young Transportation, and the neighborhood for his expertise and responsiveness. As a result of all the meetings with emergency responders and other large

vehicle users, etc. he made the adjustments he outlined above. We have a professional everyone trusts, a process well underway and money being spent. She hoped this action is not a political decision but a professional decision. Public safety is job one and it is clearly demonstrated in the modified plan.

Councilman Mumpower was concerned that this plan reaches too far and instead of reducing safety, it's producing safety concerns. Until the Emergency Medical Services Director and the Fire Chief approve this plan, it should be delayed. Personally he felt enforcement of signs, etc. is a key to compliance.

Councilman Newman said that when this process began three years ago, everyone knew that traffic calming is to slow all traffic down. He felt we do have a good process and competent people to strike the appropriate balance between the public safety benefits of traffic calming and the effect it has on emergency response times. When City Council approved the Grove Park Inn project, traffic calming in this area was part of that agreement.

In response to Mayor Bellamy regarding the on-going work plan, Mr. Putnam said that as far as working with the contractor and continuing to tweak the plan the process is not over. On some of the adjustments, we still need to get the Fire trucks to drive the area once the markings are on the pavement.

Mayor Bellamy said that Mr. Putnam has provided Council with the construction work plan he is still finalizing resulting from concerns from emergency responders, other large vehicle users, including the Public Works Sanitation Division, Asheville City Schools and Young Transportation.

The motion made by Councilman Mumpower and seconded by Vice-Mayor Davis failed on a 2-5 vote, with Vice-Mayor Davis and Councilman Mumpower voting "yes" and Mayor Bellamy, Councilwoman Jones, Councilman Newman and Councilman Russell voting "no."

At the request of Mayor Bellamy, it was the consensus of the majority of Council to instruct Mr. Putnam to provide regular updates on additional contacts made with the emergency responders, other large vehicle users, Public Works Sanitation Division, Asheville City Schools, Young Transportation, and the neighborhood detailing the results of those meetings.

At 7:28 p.m., Mayor Bellamy announced a five minute recess.

VI. NEW BUSINESS:

A. RESOLUTION NO. 08-181- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAMP DRESSER AND MCKEE FOR DEVELOPMENT OF THE STRATEGIC ENERGY MANAGEMENT PLAN

ORDINANCE NO. 3649 - BUDGET AMENDMENT FOR THE MATCHING FUNDS TO DEVELOP THE STRATEGIC ENERGY MANAGEMENT

Ms. Maggie Ullman, the City's Energy Coordinator, said that this is the consideration of a resolution authorizing the City Manager to enter into a contract with Camp Dresser and McKee (CDM) for development of the City of Asheville Strategic Energy Management Plan; and the associated budget amendment, in the amount of \$50,000.

She explained that explained the green house gas (GHG) emission reduction 5 step strategy: (1) establish baseline – Fiscal Year 2000-01 - 32,000 tons (GHG); (2) Build stakeholder consensus – Sustainability Advisory Committee on Energy & the Environment (SACEE) focus groups, internal dialogue; (3) set reduction goal (Council's goal) – 80% reduction by 2050 – 2% per year; (4) create a strategic energy management plan – current stage; and (5) implement initiatives – selective projects underway.

We need a strategic plan because (1) of the commitment of the Mayor's Climate Protection Agreement – October of 2005; (2) of Council Resolution 07-90 calls for an energy management plan; (3) to identify realistic early wins and long term strategies; and (4) cost effective energy reduction strategies.

The strategic energy plan will provide (1) comprehensive interdepartmental energy plan; (2) long range plan to achieve reduction goal; (3) tool to achieve Council's strategic goals; and (4) a model for the community.

The strategic energy plan is in partnership with Camp Dresser and McKee (CDM). CDM provided a research and development grant of \$140,000 and the City of Asheville matched funds of \$50,000.

She then reviewed the time table for completion with the final report expected in mid-March of 2009.

In summary, in April 2007 City Council passed a resolution committing to develop a Strategic Energy Management Plan. On December 14, 2007, Mayor Bellamy wrote a letter of support regarding partnership for the development of the Strategic Energy

Management Plan to CDM. In March 2008 CDM committed \$138,900 to provide services to the City of Asheville for the development of a Strategic Energy Management Plan. CDM committed these funds and requested a match contribution of \$50,000 be provided by the City.

This action supports the City Council Strategic Operating Plan in that it dedicates funding to the following Council goal, "Complete an Internal Energy Management Plan for conservation, technology and retrofitting, and sustainability management."

Pros:

- Funding this request will expedite the completion of this plan.
- Funding this request will provide technical expertise and insight from a non bias third party.

Con:

- The funding requested is not allocated in the current budget and will therefore have to be appropriated from fund balance.

The fiscal impact would be \$50,000 reduction in fund balance.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Camp Dresser and McKee for development of the Strategic Energy Management Plan, and the associated budget amendment, in the amount of \$50,000 to pay for services to conduct a portion of the Strategic Energy Management Plan.

When Mayor Bellamy asked for public comment, no one spoke.

Ms. Ullman responded to Councilman Mumpower when he asked what the motivation is for CDM to give the City \$140,000 for the plan and have they done a study of this type in the past.

Councilman Mumpower felt that Council is preparing to spend further dollars on ways to conserve our resources when he believed we have the expertise in-house to identify. He spoke against additional studies, spending money on people when we have the expertise in-house, and contracting with a company who has not done a study of this type. He also felt we should have reached out for volunteers to help with this plan.

Mayor Bellamy said that members of Council have been previously furnished with copies of the resolution and budget amendment and they would not be read.

Councilwoman Jones moved for the adoption of Resolution No. 08-181. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 298

Councilwoman Jones moved for the adoption of Ordinance No. 3649. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 25 – PAGE

B. RESOLUTIN NO. 08-182 - RESOLUTION APPOINTING MEMBERS TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Davis said that the terms of Tim Flora (north representative), Ed Taylor (central representative), Davidson Jones (east representative) and Mary Ann LaMantia (south representative) expired on June 30, 2008.

At the July 15, 2008, worksession, it was the consensus of Council to (1) interview Ada Volkmer and Angelica Reza Wind for the north representative; and (2) appoint Charlie Hume (South representative) and Bob Smith (Central representative) to each serve a three-year term respectively, terms to expire June 30, 2011. Ms. Volkmer was unable to attend the interview.

In addition, at the August 19, 2008, worksession, it was the consensus of Council to readvertise for the east representative.

After Council spoke highly of the candidates, Ada Volkmer received 2 votes and Angelica Wind received 3 votes. Therefore, Angelica Wind was appointed as the north representative on the Citizens-Police Advisory Committee to serve a three-year term, term to expire June 30, 2011, or until her successors has been appointed.

It was the consensus of Council to appoint Charlie Hume (South representative) and Bob Smith (Central representative) to each serve a three-year term respectively, terms to expire June 30, 2011.

RESOLUTION BOOK NO. 31 – PAGE 299

C. RESOLUTION NO. 08-183 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Davis said that there currently exists three vacancies on the Recreation Board as follows: Carolyn Stanberry (term expired June 30, 2008), Carol Ann Pothier (term to expire June 30, 2009), and Sam Camp (term to expire June 30, 2009).

At the June 17, 2008, worksession, it was the consensus of Council to interview Davidson Jones and Wanda Hawthorne.

At the August 19, 2008, worksession, it was the consensus of Council to interview John Metcalf, Mildred Nance-Carson, Betty Young and Sara Manuel. Ms. Manuel was interested in appointment; however, would be out of town and unable to attend the interview. Ms. Young and Mr. Metcalf did not attend their scheduled interviews.

After Council spoke highly of the candidates, Davidson Jones received 1 vote; Wanda Hawthorne received 3 votes; John Metcalf received no votes; Mildred Nance-Carson received 4 votes; Betty Young received no votes; and Sara Manuel received 4 votes. Therefore, (1) Mildred Nance-Carson was appointed to serve a three-year term, term to expire June 30, 2011, or until her successor has been appointed; and Wanda Hawthorne and Sara Manuel were appointed to each serve an unexpired term, terms to expire June 30, 2009, or until their successors have been appointed.

RESOLUTION BOOK NO. 31 – PAGE 300

D. RESOLUTION NO. 08-184 - RESOLUTION APPOINTING A MEMBER TO THE RIVER DISTRICT DESIGN REVIEW COMMITTEE

Vice-Mayor Davis said that Wendy Kussrow (at large representative) has resigned from the River District Design Review Committee, thus leaving an unexpired term until September 1, 2010.

On July 15, 2008, City Council instructed the City Clerk to arrange interviews for Gregory Sills and Terry Meek. Prior to the interview time, Mr. Sills withdrew his name for consideration.

It was the consensus to appoint Terry Meek as the at-large member to the River District Design Review Committee, to serve the unexpired term of Ms. Kussrow, term to expire September 1, 2010, or until his has been appointed.

RESOLUTION BOOK NO. 31 – PAGE 301

E. RESOLUTION NO. 08-185 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Davis said that Lach Zemp has resigned from the Sustainable Advisory Committee on Energy & the Environment, thus leaving an unexpired term until December 31, 2008.

On August 19, 2008, City Council instructed the City Clerk to arrange interviews for Matthew Menne, Matthew Raker, Herbert Kupfer and Ryan Blau.

After Council spoke highly of the candidates, Matthew Menne received no votes, Matthew Raker received 2 votes, Herbert Kupfer received no votes and Ryan Blau received 2 votes. Another vote was taken and Matthew Raker received 2 votes and Ryan Blau received 3 votes. Therefore, Ryan Blau was appointed to the Sustainable Advisory Committee on Energy & the Environment to serve the unexpired term of Mr. Zemp, term to expire December 31, 2008, and then to serve a full three-year term, term to expire December 31, 2011, or until his successors has been appointed.

RESOLUTION BOOK NO. 31 – PAGE 302

VII. OTHER BUSINESS:

Western Carolina Rescue Ministries Inc.

Mayor Bellamy said that she has just received the following e-mail from Mr. Vic Howard, President and CEO of Western Carolina Rescue Ministries, Inc. and would like to see how the City can participate in this exciting opportunity: "We had a great thing happened here at Western Carolina Rescue Ministries on Friday, Aug 22nd. Sonopress came down and interviewed 35+ homeless men and women for employment. Only three failed the drug test. It looks like Sonopress may be able to hire 20-25 of them. This means that 20+ men and women will be off the streets of Asheville and employed. The ones who are hired are going to get special privileges here at The Ministry. They will be guaranteed a bed each night, a lunch will be packed each day and they will be able to

keep their belongings here at the Ministry. We will also be providing them any clothes they need. We do need your help. We need bus passes for the first two weeks or until they get their first pay check and they start on this Wednesday, August 27th. We are also trying to figure out their Sunday transportation. Please let me know quickly if the city can provide bus passes for the 1st couple of weeks.”

City Manager Jackson provided Council with a memorandum that is in response to the Western Carolina Rescue Ministries' (WCRM) request for a transportation assistance grant from the City to support their recent job placement program with Sonopress Inc. Recently, WCRM was able to refer and place over 20 homeless clients in jobs at Sonopress Inc. in Weaverville, N.C. The new employees will reside at WCRM facilities downtown and travel by transit to the employer's place of work. WCRM is requesting a grant in the amount of \$500 to provide one monthly transit pass to each client. If Council approves this grant, the source of funds would be the Planning Department's homeless division operating budget.

Vice-Mayor Davis was very supportive of this action. However, he expressed concern over the bad behavior of homeless men and women at the Western Carolina Rescue Ministries on Patton Avenue, which is the western gateway corridor into Asheville. He asked, and it was the consensus of Council, that this item be addressed at the City Council Public Safety Committee regarding accountability of service providers, especially in the western gateway corridor.

Mayor Bellamy said that she has been meeting with the WCRM about a greater level of responsibility that needs to happen with their recipients of services. They are willing to raise the bar on themselves and she felt they would be happy to be a part of that discussion.

Councilman Mumpower said the WCRM does a lot of good things for our community; however, he could not support the action as it steps outside of our outside agency funding process. In the alternative, he said that he would be happy to personally contribute to this venture.

Mayor Bellamy was happy to support this initiative. When we look at how we use our funding dollars for the homeless community, this will help them get to work so we can have 20 people part of the solution and not part of the problem. She said that an outside agency contract will be prepared with measurable goals so there is some accountability to this action.

Councilman Newman felt this is one of the best uses of \$500 we have ever allocated –full-time jobs for 20 homeless people. Plus, the grant is for City bus passes.

Councilman Russell agreed with Councilman Mumpower that this request didn't go through the right process. He supported efforts of WCRM but he wished they would have asked the private sector first for the money because he felt people would have been happy to contribute to this initiative.

Councilman Newman felt this is not sidestepping the established process. The outside agency process is when a program is going to be run over a series of months and it goes through the appropriate budget process. That is not what this is. This is a situation that arose after the budget was approved. It is a small amount of money being discussed in an open session of Council. He felt it was very appropriate for Council to be able to respond to needs as they arise and it comes out of the funds that are appropriated in a department for these kinds of purposes.

Vice-Mayor Davis moved to approve a \$500 grant to WCRM to provide one monthly transit pass to each client. This motion was seconded by Councilwoman Jones and carried on a 4-2 vote, with Councilman Mumpower and Councilman Russell voting “no.”

Claims

The following claims were received by the City of Asheville during the period of July 18-31, 2008: Ranier Allen (Police), David Sprangrude (Water), Carolyn Bouffard (Streets), Stephen Bowman (Police), Shannon Murry (Transit Services), Patricia Northrup (Streets), Lenard Carrier (Parks & Recreation), Michael Bolanos (Police), Sassi McClellan (Water) and Juanita Wilson (Streets).

The following claims were received during the period of August 1-14, 2008: Lawrence E. Peterson (Fire), Coleman Smith (Transit Services), David Sprouse (Sanitation), Celeste Fletcher (Water), Progress Energy (Water), and Cletus Hamilton (Sanitation).

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

Lawsuit

The following Summons and Complaint was received by the City of Asheville on August 8, 2008: Calvert & Melton Investments LLC vs. Nationwide Mutual Insurance Company and the City of Asheville. The nature of the proceeding is a complaint for property damage resulting from corroded and leaking water main line, water meter, and/or service line. This matter will be handled by an attorney outside of the City Attorney's Office.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Mary Steiner spoke to Council about tent worms killing all walnut trees, thus starving our squirrels. Vice-Mayor Davis, liaison to the Tree Commission, said that he would be happy to take Ms. Steiner's concern to the Tree Commission to see if there is something that can be done.

Closed Session

At 8:16 p.m., Councilman Mumpower moved that the Asheville City Council go into closed session for the following reasons: (1) To consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1); (2) 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: City of Asheville; Asheville Jet, Inc. d/b/a Million Air Asheville; and Asheville Regional Airport Authority. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilwoman Jones and carried unanimously.

At 9:25 p.m., Councilman Mumpower moved to come out of closed session. This motion was seconded by Councilman Newman and carried unanimously.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:25 p.m.

CITY CLERK

MAYOR