

Tuesday – December 9, 2008 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; 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: Vacant Council Seat

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Russell gave the invocation.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized the following City employees who were instrumental in the City receiving the International Economic Development Council New Media Award: Stephanie Monson, Jason Mann, Blake Esselstyn, and David Michelson. He then explained how Asheville was recognized for a new economic development initiative. The City of Asheville city cross-departmental team developed the award winning new application. The new tool that is designed to assist new and existing businesses make informed business location decisions. Asheville was a clear standout with mapAsheville-Priority Places, an interactive mapping analysis application designed to strengthen quality economic development investment in the City. MapAsheville-Priority Places provides users the ability to search and analyze key location factors based on priorities established by the user. It also provides tapestry reports of demographic information on the selected priority places. The application is part of the mapAsheville suite of GIS-based tools designed to provide information about the City. Other applications in mapAsheville include Crime Mapper, which provides access to crime related information and statistics by area; Development Mapper, which provides increased access to information concerning large-scale development activities in the City; and Asheville's GIS application, which provides a streamlined interface for basic users, as well as tools for direct access to the advanced GIS user's interface.

City Manager Jackson recognized the following City employees who completed in the Worldwide Firefighter Relay Competition. In the Women's Relay - Charley Cox, Ruth Olson, Joy Ponder, Karen Shuart and Kelley Webb. In the Men's Relay - Rick Miller, David Sauer, Garry Shackelford and Jason Worley. For a whole season, 9 local Asheville firefighters have been training and competing in nearby Scott FF Combat Challenge events in hopes to qualify to attend the World Competition in Las Vegas. Their hard work paid off and both a women's relay team and a men's relay team competed this past week in the world competition. Both teams ran qualifying times to move forward to the final competition held on Saturday, November 15th, 2008. The men's team advanced to the semi-final rounds, finishing with an honorable time of 1:27. The women's team advanced into the finals and respectfully finished second in the world just .63 seconds slower then the first place team. The whole competition will air on Versus channel in January 2009 including the final race of our Asheville women's relay team bringing home the silver. The teams were sponsored by a partnership between Asheville Fire and Rescue, the Asheville Firefighters Association, and private businesses coupled with multiple fundraisers. We are proud of the recognition for Asheville that these local firefighters presented at such an impressive event.

City Manager Jackson then noted that the Asheville Police Department was presented to the Commission on Accreditation for Law Enforcement Agencies, Inc. on Saturday, December 6 for review of their on-site visit by assessors last August. Based upon the August on-site they had the best accreditation report and on-site visit since we began this process and were first accredited in 1994. The Commission had nothing but praise for the Asheville Police Department and voted to reaccredit us for another three years.

Police Chief Bill Hogan said that seeking accreditation is a challenging, demanding, stressful, and time consuming process that he believed is worth the effort because it proves to this community and other law enforcement agencies that we meet all the required national standards to become one of the select few agencies to receive this certification and distinction. In the United States there are 16,000+ law enforcement agencies and Asheville is one of the less than 800 national and international law enforcement organizations that have met the demanding standards of excellence to receive the distinction of accreditation. This recognition is a direct reflection of each Police Department employee and their personal commitment to the Guiding Principles and

adherence to Police Department and City policies. A number of Police Department employees had direct contact with the assessors during their visit in August and they impressed them with their knowledge and dedication to our profession and this City.

On behalf of City Council, Mayor Bellamy thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items "C", "D", and "E" were removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 25, 2008, AND THE FORMAL MEETING HELD ON DECEMBER 2, 2008

Councilwoman Cape asked that the November 25, 2008, minutes be approved with the inclusion of the word "not" in the following sentence regarding discussion of transportation of nuclear waste: "...We are saying that through the middle of our downtown is not an appropriate route for taking this kind of waste."

B. RESOLUTION NO. 08-238 – RESOLUTION AMENDING THE 2008 CITY COUNCIL MEETING SCHEDULE TO DELETE THE DECEMBER 16, 2008, WORKSESSION

RESOLUTION BOOK NO. 31 – PAGE 386

C. RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A NON-MATCHING GRANT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR STORMWATER MANAGEMENT FEATURES AT THE NATURE CENTER, INCLUDING RAIN GARDENS AND WETLAND AREAS

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A NON-MATCHING GRANT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR STORMWATER MANAGEMENT FEATURES ALONG THE SECOND PHASE OF REED CREEK GREENWAY, INCLUDING A RAIN GARDEN AT THE CAUBLE STREET TRAILHEAD

These items were removed from the Consent Agenda for discussion and/or individuals votes.

D. RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR ADMINISTRATION COSTS OF THE TRANSPORTATION DEMAND MANAGEMENT PROGRAM

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

E. RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE TRANSIT PLANNING PROGRAM

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

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

Councilman Mumpower moved for the adoption of the Consent Agenda, with the amendment to the November 25, 2008, minutes. This motion was seconded by Councilman Newman and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

C. RESOLUTION NO. 08-239 – RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A NON-MATCHING GRANT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR STORMWATER MANAGEMENT FEATURES AT THE NATURE CENTER, INCLUDING RAIN GARDENS AND WETLAND AREAS

RESOLUTION BOOK NO. 08-240 – RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A NON-MATCHING GRANT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR STORMWATER MANAGEMENT FEATURES ALONG THE SECOND PHASE OF REED CREEK GREENWAY, INCLUDING A RAIN

GARDEN AT THE CAUBLE STREET TRAILHEAD

Summary: The consideration of a resolution authorizing the City Manager to accept grant funds for stormwater demonstration projects at the WNC Nature Center and at the Cauble St. trailhead to the Reed Creek Greenway.

Funds are available through the North Carolina Department of Environment and Natural Resources, Division of Water Resources to implement water quality projects. In conjunction with the City of Asheville, the North Carolina State University Water Quality Group has identified grants funds and is offering to coordinate the funds to the City to support stormwater demonstration projects at the WNC Nature Center, and at the Cauble St. trailhead to Reed Creek Greenway. Each grant requires a cash or in-kind match from the City.

The first grant at \$115,800 will be used to construct rain gardens and stormwater wetlands on the grounds of the Nature Center. The rain gardens will capture, treat, and cool much of the existing runoff from animal habitats while simultaneously creating an educational display and beautifying the grounds. The stormwater wetlands will intercept, treat, and cool runoff from existing impervious surfaces throughout the facility before releasing it into the Swannanoa River. The in-kind match for the project valued at \$57,900 consists of 1) staff time for project administration, 2) staff time and equipment for site preparation and construction, and 3) sign fabrication.

The second grant at \$53,000 will be used to construct a rain garden along the Reed Creek Greenway at the Cauble St. trailhead. The rain garden will collect, treat, and cool stormwater runoff from the parking area and road as well as a portion of impervious surfaces from the adjacent CITGO gas station before releasing it into Reed Creek. The cash match for the project valued at \$26,500 is budgeted in the City's FY 08/09 CIP budget for construction of Reed Creek Greenway and will not require any additional funding from the City.

The projects comply with the City Council Strategic Operating Plan Focus Area: Green - Asheville will be the southeastern leader in energy and environmental sustainability while preserving and the city's natural beauty by expanding city education programs to include climate awareness, water conservation, recycling, stormwater, and sustainability initiatives.

This action complies with the Unified Development Ordinance: Stormwater, Soil Erosion and Sedimentation Control, Illicit Discharge and Connection Ordinance, article 7, chapter 12, section 2.

Pros:

- Both projects will strengthen the City of Asheville's commitment to water quality
- Both projects will serve as public examples of the type of best management practices as adopted by the City as part of the new Stormwater, Soil Erosion and Sedimentation Control, Illicit Discharge and Connection Ordinance (section 7-12-2)
- Furthers the mission of the Nature Center by providing examples of native flora while serving as a model of resource stewardship
- Addresses need to manage stormwater from new animal habitats and in public places

Cons: None noted.

Increases the City's Fiscal Year 2008/09 capital improvement budget by \$168,800.

City staff recommends City Council adopt a resolution authorizing the City Manager to accept grant funds from North Carolina Department of Environmental and Natural Resources, Division of Water Resources to implement stormwater demonstration projects at the WNC Nature Center and at the Cauble St. trailhead to Reed Creek Greenway.

Councilman Mumpower felt that these items demonstrate the dysfunction of federal and state governments in providing grants with the realities we find ourselves in today. They should concentrate on their core responsibilities. With the current economic climate, he felt we have no business in participating in these kind of activities.

Councilman Newman felt that our taxpayers pay federal and state taxes and for them to receive nothing in return is unfair. The grants are competitive and awarded based on specific criteria.

Councilwoman Cape felt that the role of government is to help guide society towards a better end. She explained how we have a responsibility to practice good management.

Councilman Newman moved for the adoption of Resolution No. 08-239. This motion was seconded by Councilwoman Cape and carried on a 4-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting "no."

RESOLUTION NO. 08-239 – RESOLUTION BOOK NO. 31 – PAGE 387

Councilman Newman moved for the adoption of Resolution No. 08-240. This motion was seconded by Councilwoman Cape and carried on a 4-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting “no.”

RESOLUTION NO, 08-240 – RESOLUTION BOOK NO. 31 – PAGE 389

D. RESOLUTION NO. 08-241 – RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR ADMINISTRATION COSTS OF THE TRANSPORTATION DEMAND MANAGEMENT PROGRAM

Summary: The consideration authorizing the City Manager to apply for a grant and enter into an agreement with the North Carolina Department of Transportation (NCDOT) for administration costs of the Transportation Demand Management (TDM) program.

TDM programs are programs which promote an alternative transportation option to the single occupant vehicle. Included among these alternatives are carpooling, vanpooling, telecommuting, transit, bicycle, flexible work hours, compressed work weeks, and parking policies and price structures.

NCDOT's Public Transportation Division is funding TDM programs across the state to support the provisions of the Ambient Air Quality Improvement Act of 1999, Senate Bill 953, to address growing concerns over ground level ozone pollution from motor vehicles and the need to deal with increasing vehicle miles traveled (VMT) and NO_x emissions. This bill established the goals of reducing emissions of nitrous oxides (NO_x) from motor vehicles by 25% by 2009 and reducing the growth of VMT in the State by 25% by 2009.

This program only funds the administrative costs associated with the TDM program, up to 50% of the total administrative expenses. This includes salaries, fringe benefits, marketing, etc.

There are six TDM strategies that the City of Asheville's TDM program is required to employ in order to accomplish the TDM Program Goals set by NCDOT. They are:

1. Conduct marketing efforts/activities identified in a marketing plan.
2. Coordinate with local transportation and land use planning efforts.
3. Facilitate ridematching services through the ShareTheRideNC website.
4. Promote the Best Workplaces for CommutersSM Program.
5. Collect and calculate data on VMT and NO_x reductions through TDM activities.
6. Operate in a manner consistent with the NCDOT goals regarding making our transportation network safer, making our transportation network move people and goods more efficiently, and making our infrastructure last longer.

The City's TDM program began in August 2005 and was administered under the French Broad River Metropolitan Planning Organization (MPO) and the City of Asheville's Transportation and Engineering Department. Since the functions of the MPO have been relocated to the Land of Sky Regional Planning Council, the TDM program was given its own budget code of 1606 to help with accountability. The 2008/09 budget for this program was approved during the City of Asheville's budget process.

Programs currently being administered are, but not limited to:

- The *PASS*port (employer bus pass) Program
- The Emergency Ride Home Program
- Strive Not to Drive – annual promotional event
- Share the Ride NC – Statewide ridematching program

On March 10, 2008, the City of Asheville applied for the FY2009 TDM Grant. On June 5, 2008, the Board of Transportation approved the funds in the maximum amount of \$108,109 for the City of Asheville's TDM Grant.

This TDM program supports the City of Asheville's 2008/09 Strategic Plan by helping to promote emission-reducing options, as well as supporting the Asheville Transit System through programs such as the *PASS*port program.

Pros

- The current 50% match is reimbursed by NCDOT.

- To date, these statewide programs have reduced the growth of VMT by 24.6% - the goal for Senate Bill 953 was 25%.

Cons

- None.

The project cost will be \$108,109; 50% of this total will be paid by NCDOT and 50% by the City from already budgeted funds.

City staff recommends City Council authorize the City Manager to apply for a grant and enter into an agreement with the NCDOT for administration costs of the TDM program.

Councilman Mumpower felt that these items demonstrate the dysfunction of federal and state governments in providing grants with the realities we find ourselves in today. They should concentrate on their core responsibilities. With the current economic climate, he felt we have no business in participating in these kind of activities.

Councilman Newman felt that our taxpayers pay federal and state taxes and for them to receive nothing in return is unfair. The grants are competitive and awarded based on specific criteria.

Councilwoman Cape felt that the role of government is to help guide society towards a better end. She explained how we have a responsibility to practice good management.

Councilman Newman moved for the adoption of Resolution No. 08-241. This motion was seconded by Councilwoman Cape and carried on a 4-2 vote, with Vice-Mayor Davis Councilman Mumpower voting "no."

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E. RESOLUTION NO. 08-242 – RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE TRANSIT PLANNING PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to apply for a grant and enter into an agreement with the N.C. Department of Transportation to fund the Transit Planning program.

The Metropolitan Planning Organization (MPO) 5303 planning grant from the Federal Transit Administration (FTA) is a grant designated exclusively for transit planning which renews annually. The funds are currently administered by the City of Asheville as a Direct Recipient of federal transit funds. The funds are primarily used to pay staff salaries for time spent on transit planning. The FTA provides 80% of the funds. The state provides 10% and the City of Asheville provides 10%.

This fiscal year 2008-2009 funding is in the amount of \$65,020, \$6,502 (10%) of which are required to be a local match. This will continue funding that has been received in prior years.

The grant revenue and the match of \$6,502 are currently budgeted in the Transportation and Engineering Department's budget.

These program supports grant administration and reporting activities; long range and short range transit planning; transportation improvement program preparation, Title VI and DBE programs, planning and operational analysis.

Regarding the Strategic Operating Plan, this program will support the green and sustainable focus areas, specifically developing a sustainable funding structure for Asheville Transit.

Pros:

- The funds help funding an existing position.
- Approval allows \$58,518 of federal and state funds to be received for transit planning.

Cons:

- None.

The project cost will be \$65,020 with local participation of \$6,502.

City staff recommends City Council adopt a resolution authorizing the City Manager to apply for a grant and enter into an

agreement with the N.C. Department of Transportation to fund the Transit Planning program.

Councilman Mumpower felt that these items demonstrate the dysfunction of federal and state governments in providing grants with the realities we find ourselves in today. They should concentrate on their core responsibilities. With the current economic climate, he felt we have no business in participating in these kind of activities.

Councilman Newman felt that our taxpayers pay federal and state taxes and for them to receive nothing in return is unfair. The grants are competitive and awarded based on specific criteria.

Councilwoman Cape felt that the role of government is to help guide society towards a better end. She explained how we have a responsibility to practice good management.

Councilman Newman moved for the adoption of Resolution No. 08-242. This motion was seconded by Councilwoman Cape and carried on a 4-2 vote, with Vice-Mayor Davis and Councilman Mumpower voting "no."

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III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE PERMANENTLY CLOSING OF A PORTION OF FERNWOOD AVENUE

RESOLUTION NO. 08-243 – RESOLUTION TO PERMANENTLY CLOSE A PORTION OF FERNWOOD AVENUE

Mayor Bellamy opened the public hearing at 5:27 p.m.

Assistant Public Works Director Richard Grant said that this is the consideration of a resolution to permanently close a portion of Fernwood Avenue. This public hearing was advertised on November 14, 21, 28 and December 5, 2008.

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

Pursuant to this statute, property owners; Myra Hirschberg and Thomas Caldwell, Adam S. Pittman Guy K. Penland, Anita F. Hatcher, Lisa R. Mathis, Kay Susan Bennett, and Robert J and Phyllis Roberson have requested the City of Asheville to permanently close an unopened portion of Fernwood Avenue.

The Greenway Commission reviewed the requested closure at their meeting on November 13, 2008, and concluded there was no visible use for retaining this unopened parcel of Fernwood Avenue.

The closing is subject to the retention by the City of Asheville Water Resources Department its successors and assigns, of a 20-foot wide permanent easement for the operation and maintenance of a two inch water line lying 10 feet on each side of the center line of said two inch water line located within the proposed Fernwood Avenue closure.

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

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more effective use of the existing adjacent properties.

Con:

- In consideration of the location of the unopened right-of-way, staff can find no potential challenges regarding the closure of the alley.

There will be no fiscal impact related to this closure.

City staff recommends adoption of the resolution to permanently close an unopened portion of Fernwood Avenue.

Mayor Bellamy closed the public hearing at 5:29 p.m.

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

Councilwoman Cape moved for the adoption of Resolution No. 08-243. This motion was seconded by Vice-Mayor Davis and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF THE PROJECT IDENTIFIED AS CARRIER POINT, LOCATED AT STATE STREET AND SHORT MICHIGAN AVENUE, FROM COMMERCIAL DISTRICT, RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT, RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF 140 CONDOMINIUM UNITS WITH SITE DEVELOPMENT MODIFICATION REQUESTS TO SETBACKS AND LANDSCAPING STANDARDS

ORDINANCE NO. 3682 – ORDINANCE TO CONDITIONALLY ZONE THE PROJECT IDENTIFIED AS CARRIER POINT, LOCATED AT STATE STREET AND SHORT MICHIGAN AVENUE, FROM COMMERCIAL DISTRICT, RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT, RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF 140 CONDOMINIUM UNITS WITH SITE DEVELOPMENT MODIFICATION REQUESTS TO SETBACKS AND LANDSCAPING STANDARDS

Mayor Bellamy opened the public hearing at 5:30 p.m.

Urban Planner Nate Pennington said that this is the consideration of an ordinance to conditionally zone the project identified as Carrier Point, located at State Street and Short Michigan Avenue, from Commercial Industrial District, RS-8 Residential Single-Family High Density District, RM-8 Residential Multi-Family Medium Density District and RM-16 Residential Multi-Family High Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning for the development of 140 condominium units with site development modification requests to setbacks and landscaping standards. This public hearing was advertised on November 28 and December 5, 2008.

The applicant seeks the conditional zoning of approximately 11.04 acres currently zoned CI, RS-8, RM-8 and RM-16 to RM-16 CZ for a multi-family condominium project with 140 units. The property is located between State Street and Short Michigan Avenue within the City's corporate limits.

If the conditional zoning application is approved, the site would have an overall density of 12.68 dwelling units per acre. The maximum net density in the RM-16 zoning district is one dwelling unit per 2,500 square feet or approximately 17.4 dwelling units per acre; however it should be noted that other site features would likely not support this level of density. The project is proposed to be built in one phase.

The following list provides a breakdown of the proposed development:

- 3 condominium buildings with 3 – 4 story configurations
- Maximum building heights of approximately 31 feet (primary fire department access to ceiling of highest occupied floor)
- 27 – one bedroom units
- 105 – two bedroom units
- 8 – three bedroom units

The subject property is vacant and consists of seven primarily wooded lots. A named stream, Moore Branch, bisects the property along State Street and serves as a tributary to the French Broad River. Over 30% of the site has been designated as open space and tree save area and these areas have been concentrated along the boundaries of the stream to the property's north, south and eastern perimeters.

The primary access point to the subject property is being proposed along State Street. A secondary emergency vehicle access point is proposed through the extension of Grenada Street via Short Michigan Avenue. This access is proposed to be restricted through the use of bollards or other similar means and will not allow for non-emergency vehicle ingress and egress.

The applicant will be requesting the closure of two unimproved rights-of-way as part of the development and these will be

conducted through separate applications if the project is approved by City Council. The rights-of-way subject to closure petition involve Swannanoa Drive and Stewart Street. The applicant owns the property on the adjacent sides of the rights-of-way that will be petitioned for closure.

The applicant is requesting a modification to the site development standards of the Unified Development Ordinance (UDO) pursuant to Section 7-7-8(c)(6) of the UDO from City Council. The RM-16 zoning district requires additional setbacks for side and rear yards based on the number of residential units for a maximum required setback of 40 feet. The modification request would allow for parking spaces to occur and a portion of building #1 to encroach into the required 40 foot side and rear yard setbacks by up to 34 feet resulting in a minimum six (6) foot setback in some areas. A second modification was initially sought for a reduction in perimeter parking landscaping standards. However, staff has since worked with the applicant to resolve the need for this modification by subsequent site plan revisions that include tree islands along the perimeter continuous runs of parking spaces.

The applicant intends to pursue LEED certification for the project; and a list of green building techniques/features is attached for City Council consideration. The applicant has made a commitment that 10% or 14 of the total units will be offered at rates meeting the City's definition of affordability. Staff is also recommending measures to maintain some long-term affordability and/or income qualifications for the affordable units if the applicant is unable to provide the committed percentage of the aforementioned units. The Planning & Zoning Commission (P&Z) approved the project with the condition that 10% of the units are sold at the City's affordable rates and be reserved for income qualified households. The applicant has since stated that their goal is to provide significantly in excess of 10% and would prefer not to be restricted. Staff has revised a proposed alternative condition for the Council's consideration in the event that the applicant does not meet their stated goals.

The subject site is surrounded by a mix of single-family residences, vacant lots and commercial uses zoned RS-8, RM-8, RM-16, CI and River.

The RM-16 residential multi-family high density district was created to permit a full range of high density multi-family housing types along with limited institutional public and commercial uses appropriate within high density residential areas. It is intended that this district be located near employment centers, shopping facilities, roads and other urban infrastructure capable of handling the demand generated by high density residential development.

At their October 20, 2008, meeting the Technical Review Committee (TRC) approved this project subject to the conditions. One neighbor expressed concerns about the proposed driveway cut and retaining wall along State Street, removal of existing vegetation and proposed rights-of-way closures.

At their November 5, 2008, P&Z meeting, they unanimously approved this project subject to the conditions in both the P&Z and TRC staff reports. The Commission heard from neighboring citizens with concerns ranging from pedestrian and automobile traffic, rental vs. owner occupied units, stormwater, loss of vegetation and restricted vs. unrestricted access to the site from Grenada Street. Considerable discussion ensued about the proposed secondary access along Grenada Street and the Commission ultimately approved the project with the condition that the applicant be allowed to close access on Grenada Street via Short Michigan Avenue with a vehicular and pedestrian barrier that meets the City's emergency standards.

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

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

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

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

The proposed use is generally compatible with the surrounding natural features and topography. The applicant could utilize the existing road infrastructure and available rights-of-way for access from Short Michigan Avenue rather than impacting Moore Branch in order to provide access from State Street where the stream crossing will require the installation of a culvert to accommodate natural stream flow and the proposed driveway. However, legitimate safety concerns regarding access from Short Michigan Avenue renders this option undesirable. The design of the project seeks to condense/restrict development to the higher, flatter portions of the property while keeping the natural sloping property towards Moore Branch undeveloped and as designated open space and tree save area. The project must comply with all City standards in regards to grading and erosion control.

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

Staff does not expect that the proposed use would negatively impact adjacent property values.

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

The proposed density of 140 dwelling units is consistent with the requirements of the RM-16 zoning district. The majority of the site is currently zoned CI and the density permitted in that zoning district is 16 dwelling units per acre or 1.4 units less than the proposed zoning of RM-16 allows per acre. While the RM-16 zoning district will allow for a slightly higher density per acre, it does not permit the range of uses (specifically commercial) that CI allows. Therefore, the RM-16 CZ designation restricts the property to that of a residential nature specific to the attached site plan. Given the proximity of other multi-family housing, commercial uses and available infrastructure in the area staff feels that a condominium development of this size and density is appropriate for the area.

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

The application of compatible infill growth supports key goals and objectives as described in both The Asheville City Development Plan 2025 and the City Council Goals and Vision Plan. The comprehensive plan identifies affordable housing as one of the most pressing problems facing the City of Asheville. The developer has made a specific commitment to include designated affordable units into the project as a whole. Other goals include high density, infill development and green building construction techniques.

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

The proposed development is located near transportation facilities and other utilities appear adequate. The initial technical review by other technical agencies and utility providers has not revealed any problems for serving the use.

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

A traffic impact study is not required for the subject project because the anticipated traffic at full-build-out conditions will be less than 100 vehicles per hour (68 vehicles per hour during the morning commuting peak hour and 79 vehicles per hour during the afternoon commuting peak hour). Based on the anticipated traffic, the proposed use should not cause undue traffic congestion or create a traffic hazard. In addition, from a traffic-engineering standpoint, the proposed single, two-way access point should be able to serve the anticipated traffic.

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

Pros:

- The proposed development will provide 14 additional affordable dwelling units to the City's current inventory.
- The applicant intends to pursue LEED certification for the project and a list of proposed green building techniques/features has been provided.
- Provides another opportunity to further the City's goal of high density infill development in proximity to employment centers, services and transportation lines.

Cons:

- In its current configuration, the project will impact a natural stream and restrict access to one of its proposed entrances.
- Results in the additional loss of CI zoning.

Staff concurs with P&Z and recommends approval of the proposed project and conditional zoning request subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must meet City of Asheville lighting standards and utilize cut-off or full-cutoff fixtures in order to avoid any light trespass and offensive glare; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials, green features and orientation on site must comply with the conceptual site plan and building elevations presented with this application; (5) Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (6) This project shall undergo final review by the TRC prior to issuance of any required permits; (7) Applicant must make application for rights-of-way closures if project is approved by City Council and before final TRC submission; (8) A lot recombination application for all seven (7) subject lots must be submitted before zoning permit issuance; and (9) 10% of the total number of units must be sold at affordable rates to income qualified households per the City of Asheville's standards; in the event that the applicant meets their stated goal that more than 10% of the units will meet the affordability standards, this

condition will be waived. Staff also supports the applicant's efforts to achieve a higher goal of providing an entirely affordable product to the citizens of Asheville.

Mr. Will Buie, engineer with Lapsley and Associates, said they have been working with staff on this project for quite some time. He explained how this project brings a lot of things to the City that are very positive. He showed a colored rendering of the site with access off State Street. The project only requires one access; however, should that access off State Street become flooded in a 100-year storm event, they recommended that the owner consider a secondary access to the property for emergency vehicles only, off Grenada Street. They worked with staff on access, stormwater, parking, affordable housing, green building techniques, and LEED certification. He asked for Council's support of this conditional zoning request.

Mr. Ken Etterman, Project Manager, explained that their goal is to provide an affordable and LEED certified product on an infill site that has topography challenges. He pointed that they had two meetings with neighborhood groups to discuss this project. They have worked with their immediate neighbors to minimize any impact.

Mr. Christopher Gibbs, property owner across the street on State Street, spoke in opposition of the conditional zoning explaining for various reasons, some being, but are not limited to (1) the Carrier Point development is out of tune with the existing neighborhood; (2) the proposed entrance on State Street is dangerous, unnecessary and forced; (3) the roads around the proposed development are already at or beyond capacity; (4) the proposed Carrier Point development will lower property values in the adjoining neighborhoods; (5) State Street, Riverview Road and adjoining bridges are already over used as cut-through roads; (6) there are several bottleneck areas which cannot handle more traffic; (7) there is no parking adjacent to the proposed development; and (8) every feature of this site shows that the natural entrance should be from the existing right-of-way off of Short Michigan Avenue.

Mr. Fred English spoke against the conditional zoning request due to its proximity to Pisgah View Apartments and its drug activity.

Mayor Bellamy closed the public hearing at 5:41 p.m.

Mr. Pennington, Mr. Buie and Mr. Etterman responded to various questions/comments from Council, some being, but are not limited to: was the community informed about the setback requests; has the developer met with adjoining neighbors to address any concerns they may have; what is the impact to the stream; are the units condominiums; and are the elevation drawings accurate.

Councilwoman Cape stated that people in that area are trying hard to reclaim their neighborhood and bring a sense of neighborhood to that area. We do have challenges with Pisgah View Apartments around the corner and she wants to be careful about going in and struggling against the people who are trying to establish balance in that community.

Councilwoman Cape felt that this setback appears to be an intrusion into the required setbacks which supports separation between changes of use and is designed to support and maintain the quality of life of the differing uses. When Councilwoman Cape questioned if the 130 units vs. the 140 units had to do with meeting the required setbacks, Mr. Etterman explained that the higher density is required as they are working on a challenging site while trying to build an affordable project.

In response to Councilman Mumpower about how much confidence the developer has in completing the project; Mr. Etterman assured Council that they would not start the project or grade the site unless they have funding and pre-sales to move forward.

Upon inquiry of Councilman Mumpower, City Attorney Oast said that a condition could be included to not release the site for grading until all the appropriate approvals have been obtained. Mr. Etterman agreed with that condition.

In response to Mayor Bellamy, Assistant Director of Transportation and Engineering Ken Putnam said that they did look at the entrance of the project on State Street. When the Technical Review Committee has its final review, they will ensure that site distance triangles are maintained and the entrances made have the appropriate site distances.

In response to Vice-Mayor Davis, Mr. Etterman said that their price range will be approximately \$125,000 to \$160,000.

Councilwoman Cape said that the Housing & Community Development Committee is looking at Pisgah View Apartments and others to try to re-engineer those housing developments so they are not at one level price point because problems can arise. She felt there needs to be a mix of price points in the project so there will be a mixture of people into the community.

Mayor Bellamy said the City has invested in Carrier Park and we are looking at more improvements in the River District.

We also need developers to invest in the River District. With the Appledorn development in Shiloh, there was controversy by the neighbors at the start, but that development has now reinvigorated that community. Too often there is stigma on affordable housing, but what makes housing change is having community support of not accepting bad behavior. We need help from not only the police, but the neighborhood as well. She sees this project as an opportunity for working individuals in this community to live in Asheville.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3682 to conditionally zone the project identified as Carrier Point, located at State Street and Short Michigan Avenue, from Commercial Industrial District, RS-8 Residential Single-Family High Density District, RM-8 Residential Multi-Family Medium Density District and RM-16 Residential Multi-Family High Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning for the development of 140 condominium units with site development modifications to setbacks and landscaping standards, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must meet City of Asheville lighting standards and utilize cut-off or full-cutoff fixtures in order to avoid any light trespass and offensive glare; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials, green features and orientation on site must comply with the conceptual site plan and building elevations presented with this application; (5) Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (6) This project shall undergo final review by the TRC prior to issuance of any required permits; (7) Applicant must make application for rights-of-way closures if project is approved by City Council and before final TRC submission; (8) A lot recombination application for all seven (7) subject lots must be submitted before zoning permit issuance; (9) 10% of the total number of units must be sold at affordable rates to income qualified households per the City of Asheville's standards; in the event that the applicant meets their stated goal that more than 10% of the units will meet the affordability standards, this condition will be waived. Staff also supports the applicant's efforts to achieve a higher goal of providing an entirely affordable product to the citizens of Asheville; and (10) not release the site for grading until all the appropriate approvals have been obtained. This motion was seconded by Councilman Russell and carried on a 5-1 vote, with Councilwoman Cape voting "no".

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C. PUBLIC HEARING TO CONSIDER A REQUEST TO REVIEW A PROPOSED SIGN PACKAGE IN ACCORDANCE WITH SECTION 7-13-10 OF THE UNIFIED DEVELOPMENT ORDINANCE FOR THE RIVER ARTS DISTRICT

ORDINANCE NO. 3683 – ORDINANCE ADOPTING THE RIVER ARTS DISTRICT SIGN PLAN PACKAGE

Mayor Bellamy opened the public hearing at 6:04 p.m.

Urban Planner Alan Glines said that this is the consideration of an ordinance adopting the River Arts District Sign Plan Package. This public hearing was advertised on November 28 and December 5, 2008.

In 2007, City Council adopted a provision in the sign ordinance that allows mixed-use areas an opportunity to propose a signage plan that would address way-finding signage in a comprehensive fashion. This is the first such sign package reviewed for a distinct district in the City. The applicant is the River District Artists, an artist group with over 100 members. The group has been responsible for the successful studio strolls in the spring and fall each year as well as other special studio events.

In the past the River District Artists (RDA) had signs permitted as "special temporary event of public interest" as found in Article 14 of the Unified Development Ordinance (UDO), Accessory and Temporary Uses and Structures. This has not been a streamlined process for either City staff or members of the RDA. The sign package request is a way to comprehensively review the sign program and gain City approval without submitting a new sign application for each event.

The River Arts District is best defined by a map which is a self-identified arts district area which has now come to be recognized by the City. Over time the River Arts District may expand into additional areas by a vote of the RDA and it is intended that this sign package agreement would apply to the expansion areas as well. He showed the detail of the logo that has been developed for the River Arts District. This design will be modified (enlarged or reduced) to create the other signage requested in this application so that a unified brand for the River Arts District is established. The special signage associated with this package will be in addition to the individual business signs currently allowed in the sign ordinance.

While the district is predominately zoned River, it also includes other commercial districts such as Commercial Industrial and Urban Place and has been identified as a special area deserving preservation, rehabilitation and careful redevelopment for the past two decades through several plans and through the goals of the River District designation in the UDO. The River Arts District

also received special recognition in the Wilma Dykeman Riverway Master Plan adopted by City Council in 2004 and is summarized as a special and unique mixed-use district with a goal to maintain and preserve the older industrial uses, buildings and character. Opportunities for economic growth for artists, live/work units and other combinations of permanent and temporary uses are encouraged and supported in this district.

The signage package for the River Arts District is summarized below and includes the following types of permanent signage:

- Banner signs to be placed on buildings housing participating artist members and attached to each building in a variety of ways including projecting and flat mounted brackets to be at least 9 feet above the sidewalk/ ground level. The banner signs will be placed at each building entrance or every 100 feet along the building whichever is greater. Banners will vary in size to include: 24"X48", 36"X60" and 48"X72". The largest sized signs will be limited to buildings (or portions of buildings) that meet either of the following scenarios:
 1. Setback 25 or more feet from the pavement edge
 2. Buildings 10,000 square feet or larger
- Three monument signs to be placed at locations within the River Arts District and limited to 24 s. f. per sign face (double faced) and height up to 9 feet tall. Locations will be determined at a later date and shall comply with all other requirements for "community identification signage".
- Wall murals featuring the River Arts District logo with a size not to exceed 200 square feet at two locations. The sites are to be determined by RDA and of course, with the building owner's permission.

Along with the permanent signage, RDA is requesting approval of the following temporary signs that will be placed during events that include Studio Strolls, 'open house' demonstration events and other special events. Temporary signage will not be limited by number of events but by duration of signage.

The types of temporary signage include the following:

- A-frame signs to be placed on private property and public sidewalks where 6 feet of clearance is maintained. A-frame signs placed on sidewalks will also be subject to liability insurance and other requirements of the City. The size of the signs will be no larger than 24" X 48" and will be displayed only during special events.
- Off-premise ground signs limited to four square feet and placed on private property outside of the public right of way (ROW). Signs may appear 24 hours prior to the event and be removed within 24 hours upon its conclusion.
- Pennant Streamers to be mounted on the building face or courtyard areas and limited to 200 linear feet per building. These special event pennants will be limited to 24 hours before and after the event is completed. Pennants will be placed at least 14 feet above the sidewalk and will not cross the street.

Some of the requested signage would normally be considered on-premise temporary signage and could be permitted on a case by case basis under existing standards; however, more flexibility and frequency needed to be considered to meet the special needs of the district. Most of the off-premise signage would not be allowed in the form requested but could be considered in smaller numbers or in different forms. The fact that no single business will have additional advertising space as a part of this program but rather the signage will apply to the district as a whole mitigates this issue.

The following summary has been created to better understand the signage requested for the River Arts District, and to note what would be allowed under the existing sign code.

SIGNAGE PROPOSED	UDO ALLOWED	RIVER DISTRICT ARTISTS REQUEST	DEVIATIONS
Banner Signs (Permanent sign)	Banner signs are allowed in several commercial districts with specific size and maintenance requirements	Banner signs will match requirements for similar signs as noted in the ordinance. The largest of the signs 48" X 72" will be	Banner signs are allowed in commercial districts however "River Arts District" branding would not be allowed except if approved with the sign

		limited to buildings (or portions of buildings) 10 K sq. ft. or more or buildings setback 25 feet or more from street edge	package. The RDA request also includes non-standard sizes.
Community Identification Monument Signs (Permanent sign)	Community identification signs are limited to a single sign at the entrance to a community and limited to 24 square feet (double faced) and 9' tall.	3 separate signs up to 24 s. f. (double faced) and up to 9' tall, to be placed at locations to be determined by the RDA meeting COA standards.	The 3 monument signs proposed means that two additional signs are requested through the sign package.
River Arts District Murals (Permanent sign)	'Art' murals are not regulated by the code. However if a business name is included or the nature of the business is portrayed as a part of the mural then it is similar to a standard development sign subject to the size and quantity limitations identified in the code for the zoning classification.	Murals using the River Arts District logo are to be placed at two prominent locations to be determined by the RDA. The size of each mural will be limited to 200 square feet.	Multiple tenant development signs are limited to 200 s.f. total in these zoning districts. The 2 mural signs will be up to 200 square feet each. They are not associated with any specific development and best fit in a sign package.
A-frame signs (Temporary)	Allowed in CBD, NCD, UV and UR Districts, sidewalk locations are required to meet City co-insurance and other standards	Special allowance for this sign package meeting size standards and located on private property or City sidewalks following COA procedures.	A-frame signs are not normally allowed in River, UP and CI districts.
Off-premise ground signs (Temporary)	Certain off-premise signs are allowed in non-residential areas with specific requirements for spacing, size, for locations outside of the ROW and the sight visibility triangle Snipe signs in public rights of way are expressly prohibited	Approximately 35 small ground signs to be placed at strategic locations directing patrons to the district.	The proposed signs would exceed the number of signs allowed and the spacing requirements for off-premise signs. All signs would need to be placed out of right-of-way areas unless special approvals are obtained.
Pennant streamers (Temporary)	Not allowed unless part of a temporary sign application meeting those standards. Pennants displayed to draw attention and move/ flap in the wind would be prohibited	Pennants streamers limited to 200 linear feet attached to buildings and used in courtyard spaces.	Request includes pennants that may otherwise be prohibited as a "wind sign"

The stated purpose for allowing a separate signage plan outlined in Article 13 of the UDO is as follows:

"..... to permit creativity in sign design and placement to address site issues and constraints associated with topography, pedestrian-orientation, way-finding and other conditions unique to the subject development"

The sign package request meets the special purpose of encouraging creativity and way-finding for a district that is specifically identified and highlighted in City of Asheville adopted plans, particularly the *Wilma Dykeman Riverway Master Plan*. No businesses are seeking additional identification space; instead the request will help identify a unique district for both residents and tourists. This proposal will be coordinated with the wider City co-sponsored wayfinding program for this area and other community destinations to help raise awareness of the district and direct patrons, citizens and visitors to an area that is uniquely Asheville. Although the details of the way finding program are not entirely determined at this time the River Arts District name will be incorporated into directional signage along major roadways and will number about 15 signs. The river front area is difficult to find for residents and tourists because access is confusing, many of the streets change names, and no single road provides a clear direct route. In addition there are few structures that act as a distinct landmark for the district. The River Arts District sign package combined with the proposed wayfinding program will establish the district name and logo as the common identification tools for the area and strategically placed banner signs, monument signs and murals will reinforce the boundaries and assist in wayfinding

This request supports the *Asheville City Council's Goals and Vision Plan*- particularly in the area of sustainability by improving opportunities for economic development at the river areas; support and expansion of the local arts community is important to the local economy.

Review by other public bodies: The RDA sign package will be presented to the River District Design Review Committee (RDDRC) at their December 3, 2008, meeting. They were unanimous in their support and supported the pennant streamers request. Sign package requests do not require review by the Planning and Zoning Commission.

Pros:

- Provides clear and recognizable logo for a specific district
- Promotes the City goals of wayfinding for community destinations
- Encourages entrepreneurship and support for the arts and other small businesses
- Supports economic development goals adopted by City Council
- Offers an organized method for coordinating various types of signage
- Reinforces Asheville's brand as a place unique among other cities in the state and region
- Saves time for staff and members of the River District Artists as signs are installed

Cons:

- Ground signs may be confused with snipe signs which are generally considered to be a nuisance in an urban environment; however, the careful placement and limited duration of use should offset some of these perceptions.
- The success of the sign program relies on the continued success of the River District Artists organization.
- Banner signs will have to be maintained and replaced as needed.
- The pennant streamers may be inconsistently and haphazardly displayed that may create a distraction (through movement by wind).

There is no expected fiscal impact for the City of Asheville for the approval of this sign package. There could be an indirect benefit to Asheville's local economy by supporting the River Arts District community.

Staff recommends that the signage plan for the River Arts District be approved as proposed but with the following amendments: (1) Place and space River Arts District murals so that they are not facing the same direction in the district; (2) Eliminate pennant streamers from the sign program because they will be difficult to consistently display and will have limited usefulness; and (3) Ground signs be approved so as to be placed to avoid rights of way and sight visibility triangle conflicts.

Mr. Fred English spoke in support of the sign package.

Ms. Pattiy Torno, Chair of the River District Design Review Committee, spoke in support of the River Arts District sign package, including pennant streamers. She briefed Council of the history of the River Arts District and how it has continued to grow to up to over 100 artists. The only negative comment they have heard is from people who are frustrated in finding the River Arts District.

Mayor Bellamy closed the public hearing at 6:18 p.m.

In response to Councilman Mumpower, Ms. Torno said that the sign package will be funded by the River Arts District.

Mayor Bellamy thanked the Committee members for their work in the River Arts District.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3683, including pennant streamers. This motion was seconded by Councilwoman Cape and carried unanimously.

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. APPOINTMENT OF NEW COUNCIL MEMBER

Mayor Bellamy announced that she received an e-mail from Ms. Sylvia Farrington that she has withdrawn from the process due to family priorities. She was not interviewed earlier in the day with the following other candidates: Mr. Charles Archerd, Mr. Charlie Hume, Ms. Esther Manheimer and Mr. Kelly Miller.

At 6:21 p.m., Mayor Bellamy asked for public comment.

Ms. Ruth Summers, Executive Director of the Grove Arcade Public Market Foundation, spoke in support of Mr. Kelly Miller.

A west Asheville resident felt Council should chose the candidate's values that are similar to former Councilwoman Holly Jones.

Mr. Fred English felt the vacant seat should have been filed by the 4th highest vote-getter from the General Election – Mr. Bryan Freeborn.

Mr. George Briggs spoke in support of Mr. Kelly Miller.

Ms. Kathy McCartin, President of the Biltmore Park Homeowners Association, spoke in support of Mr. Charlie Hume.

Ms. Jean Warner, resident on North Liberty Street, spoke in support of Mr. Kelly Miller.

Ms. Pam Myers, Director of the Asheville Art Museum, spoke in support of Mr. Kelly Miller.

At 6:34 p.m., Mayor Bellamy closed the public comment period.

Mayor Bellamy read Section 7 of Asheville's Charter, which reads "Any vacancy in the office of mayor or council shall be filled by the council for the remainder of the unexpired term from the qualified electors of the City of Asheville." The Charter does not provide a process for filling that vacancy but allows Council to make that determination. We received 47 applications and narrowed the interviews down to five. One candidate withdrew and Council interviewed the remaining four candidates earlier in the day.

After each Council member expressed their appreciation to all candidates stating they all of them had outstanding qualities, Vice-Mayor Davis chose Esther Manheimer; Councilman Russell chose Kelly Miller; Councilman Newman chose Esther Manheimer; Councilman Mumpower chose Charlie Hume; Councilwoman Cape chose Esther Manheimer; and Mayor Bellamy chose Kelly Miller. Results: Esther Manheimer had 3 votes; Kelly Miller had 2 votes; and Charlie Hume had 1 vote. There was not a majority vote (4) for any candidate.

Councilman Newman moved to appoint Esther Manheimer to the vacant City Council seat. This motion was seconded by Vice-Mayor Davis and said motion died on a 3-3 vote, with Vice-Mayor Davis, Councilwoman Cape and Councilman Newman voting "yes" and Mayor Bellamy, Councilman Mumpower and Councilman Russell voting "no."

Councilwoman Cape noted that Esther Manheimer and Kelly Miller were both fine people and the Council would be fortunate to have either person fill the vacant seat.

Councilman Mumpower moved to appoint Kelly Miller to the vacant City Council seat. This motion was seconded by

Councilman Russell and carried on a 4-3 vote, with Mayor Bellamy, Councilwoman Cape, Councilman Mumpower and Councilman Russell voting "yes" and Vice-Mayor Davis and Councilman Newman voting "no."

On behalf of City Council, Mayor Bellamy congratulated and welcomed Kelly Miller as a member of the Asheville City Council.

Mayor Bellamy announced that Mr. Miller would take his Oath of Office on Friday, December 12, 2008, in the Council Chamber beginning at 5:00 p.m. The public was invited to attend.

VII. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of November 21 – December 4, 2008: Christopher San-Miguel (Streets), Brenda Hankinson (Streets), PSNC (Water), Janet Daye (Transit Services), Joe Austin (Police), AT&T (Water) and Evelyn C. Hill (Police).

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

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

IX. ADJOURNMENT:

Mayor Bellamy noted that this is the last meeting for 2008. She thanked her fellow Council members for everything they have accomplished during 2008. She thanked them for helping her mature as a person and looked forward to a positive 2009 as we have a lot to do as a Council and as a community. She wished everyone a wonder and safe holiday season.

Mayor Bellamy adjourned the meeting at 6:55 p.m.

CITY CLERK

MAYOR