

Tuesday – September 10, 2013- 4:00 p.m.
First Floor North Conference Room - City Hall

Worksession

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

North Asheville Dog Park

Assistant City Manager Cathy Ball said that this is a high level overview of the North Asheville dog park process to date. She said the City prepared a Parks Master Plan that direct and guide staff. The Plan notes that it is a low priority to add new parks unless they meet certain criteria. That is because of the limited resources staff has. The Plan also shows shortages and needs in each of the areas. In the north Asheville area, the Plan recommends that continue to maintain existing parks; look for opportunities to add additional park components and amenities to existing parks; and if possible, add a neighborhood park to the north end of the sub-area. She noted that the Plan designates north Asheville as north of W.T. Weaver Boulevard. City Council also adopted its Strategic Plan which an outcome of a dog park in north Asheville would be where people can enjoy a high quality of life. Finally, there is a budget process that identifies capital projects, prioritizing them, and making recommendations. She showed the 5-year capital budget, honing in on what was in the Parks & Recreation budget.

Regarding the issue of the dog park in north Asheville, she noted the City currently has two dog parks - one in west Asheville and one in east Asheville. A north Asheville community group has been active for over a year in pursuing an opportunity to be able to locate a dog park in north Asheville. The developer for the Thoms Estate has shown a willingness to donate land for the purpose of a passive park and dog park. On May 14, 2013, City Council approved \$5,000 to support and endorse efforts to establish a dog park. She showed a map of the area, noting that the Killian House is not a part of this project.

She said that developer will not agree to give the City the land until we sign a Memorandum of Understanding (MOU) with the developer that basically outlines the conditions of which the land will be turned over. Most of those are strongly related to the design of the facility; the maintenance and upkeep of it; and whose responsibility it will be. If the developer does not agree to the MOU based on the ability to provide maintenance, then we would have to be another process of a new site selection and then work with that property owner. If the developer does agree to the MOU, then it would be moved forward to develop the scope of work, request for proposals to do the design (the City would contribute \$5,000 and the citizens group would provide the match of \$5,000 for the design purpose), and then identifying funding. There has been discussion about whether the capital can be raised by the public (any government money) and it may not be a possibility. It may require private funding. For public funding, staff looks to see if it meets a public purpose, if it aligns with Master Plan, and if it aligns with the Strategic Plan. If it does, then it is prioritized during the budget process. Again, there is a process to prioritize funding and projects. Because there is an established 5-year capital plan, one of the existing projects in the 5-year capital plan would have to come off the list.

She was not prepared to discuss other considerations because without having a design and a lot of other information, staff can only speculate what some of the other issues would be,

some being, but are not limited to: environmental, noise, water quality, traffic, Killian House, parking, driveway location, multi-use path location, and other park amenities.

She then reviewed the following two options: Option 1 - If community group serves as a steering committee, staff would (1) complete/execute the MOU; (2) develop scope of work; (3) develop Request for Proposals; (4) select consultant; and (5) complete design and environmental. Or, Option 2 - If community group serves as the lead and staff provides backup technical assistance; staff would (1) complete/execute the MOU; (2) develop design criteria and provide to community group; and (3) provide technical review of design with \$5,000.

Mayor Bellamy supported Option 2 because the original request was that the City work with the community as a community-driven project. She noted that we have a Master Plan and a Capital Improvement Plan that many people have worked hard on to get their projects prioritized and funded. She felt that if the dog park rises up to more of a commitment from the City, then something has to come off Capital Improvement Plan. She also thought there was an Option 3 - that the dog park go through the normal process for prioritizing and funding. Here again, she didn't think we should supersede what is already planned and what other people in our community have waiting for.

In response to Councilman Hunt, Ms. Ball noted that Option 2 was the understanding of the community.

Councilman Bothwell wondered if there was any consideration that it be just a walkable park for people who want to walk their dogs from the surrounding neighborhoods. He felt the City should not spend anymore time and money on the dog park until the environmental impact of the dog park is determined.

Councilman Hunt felt that the potential for a gift of land and potential for fund-raising to fund the construction are reasons for him to consider doing this out of order of the Master Plan. If this happens, he suggested it be entirely with private donated money. Another cost factor is the annual maintenance cost. He said that ideally locating this at another site that is more publicly accessible and more walkable, but he didn't think that was feasible. He was open to seeing this move forward, but there are key feasibility questions that need to be addressed before spending money on engineering and site planning.

City Manager Jackson said that the MOU is drafted with a standard of maintenance that we think we can perform but are not sure it will match with their expectations. He said that staff will submit it to the property owner after this meeting and we will then know their reaction to it. The City can only commit to the standards of development for maintenance of the existing dog parks. We will seek to get a clear answer on the MOU before we commit any of the City's money or the private money. We will report that back to Council and then staff can then come back with what preliminary traffic counts can be done, what we think the environmental assessment will cost, how it links to the transportation system, etc. But before we commit any City or private resources, we need to know whether the property will be available.

Councilman Davis was concerned about spending money on the environmental study because we already have a dog park along the French Broad River. And, if we are not in violation of the law there, he didn't think we would be in violation at this proposed dog park.

City Manager Jackson said that we are here because there isn't any money in the Capital Improvement Program for land acquisition. Volunteers in the community have worked hard, along with Councilman Pelly, to try to identify a location. He reiterated that before we spend money we must confirm that this is a genuine opportunity. Then the next dollars will be the private dollars to do the feasibility work and the environmental studies necessary. City staff is still abiding by the policy direction and Master Plan, but are responding to volunteers in the community who are trying to obtain land for an opportunity we would not have had.

Councilman Pelly said he has been meeting with the Friends of North Asheville Dog Park since last fall and the initial discussion was the location. In the 28804 area, this was the only location with potential. The Friends met last night and there was an informal consensus that they are prepared to raise \$100,000 towards the capital and maintenance associated with the development of this dog park. One idea circulated regarding maintenance was raising the license fee for a dog owner from \$10/year to \$15-20/year which would generate more funds to be dedicated to maintenance of all three dog parks. He asked staff to look at that question as well.

With Council's concurrence, City Manager Jackson said that the fee structure would be reviewed at the Finance Committee level in concert with the budget process.

Vice-Mayor Manheimer noted that there is a lot of information that we need to know and that choosing Option 2 as a direction is not committing ourselves to creating the dog park. We are going to explore all the issues concerning environmental impacts, traffic, cost of construction, cost of maintaining it at a satisfactory level, etc. We are only at this point affirming a direction, but it will come back to Council after the information is obtained.

Councilman Smith also favored Option 2. Because we have a lot of deferred maintenance on our parks, he will be interested in seeing the private capital show up and will be interested in seeing the maintenance numbers. It's just not another project that might get bumped, but it's also the on-going maintenance that can suffer.

In response to Mayor Bellamy, Vice-Mayor Manheimer said that Resolution No. 13-107 says that City Council supports and endorses efforts to establish a dog park. The dog park may not be successful because the capital required may be too much. The resolution is silent regarding long-term maintenance. Councilman Pelly noted that the dog park will be contingent upon the successful negotiation of the MOU.

Ms. Ball said that first step is to negotiate the MOU and that will be the first test on whether we move forward or not. Staff is prepared to do that next week. Under Option 2, the community will have to speak to how long it will take for them to move through the process of the design.

In response to Mayor Bellamy's request for timeline, Assistant Parks & Recreation Director Debbie Ivester said that she has worked with the community's steering committee on identifying tasks with dates and will update the existing timeline, which is on the City's website. City Manager Jackson noted that Ms. Ivester is the staff contact for this project.

It was the consensus of Council to reaffirm Option 2.

At 4:55 p.m., Mayor Bellamy adjourned the worksession.

Tuesday – September 10, 2013- 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Bothwell gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 13-198 - RESOLUTION OF APPRECIATION TO JEFFREY B. RICHARDSON

Mayor Bellamy read the resolution of appreciation to Jeffrey B. Richardson, current Deputy City Manager who has taken the position as County Manager in Cleveland County effective October 1, 2013.

On behalf of City Council, Mayor Bellamy expressed Council's great appreciation to Jeff for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Deputy City Manager Richardson thanked City Council and his family for their support. He also thanked City employees for the responsiveness.

Councilman Pelly moved to adopt Resolution No. 13-198. This motion was seconded by Councilman Hunt and carried unanimously.

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B. PROCLAMATION PROCLAIMING SEPTEMBER 23-27, 2013, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Bellamy read the proclamation proclaiming September 23-27, 2013, as "Minority Enterprise Development Week" in the City of Asheville. She presented the proclamation to Mr. James Lee, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 27, 2013

B. RESOLUTION NO. 13-199 - RESOLUTION ACCEPTING ESTES COURT AS A CITY-MAINTAINED STREET

Summary: The consideration of a resolution to accept Estes Court as a city-maintained street.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail message on June 22, 2013 asking the City to accept the subject street as a city-maintained street.

Estes Court from Davenport Road to its dead-end is a developer-constructed street that has an average width of 20 feet with stand-up curb, a length of 0.09 mile, and a right-of-way width of 35 feet.

Transportation Department staff and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the developer's engineer has furnished a signed and sealed letter verifying that the subject street was constructed to current City of Asheville standards.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

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.

Staff recommends that City Council accept Estes Court as a city-maintained street.

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C. RESOLUTION NO. 13-200 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT WITH SITEWORK STUDIOS FOR FIVE POINTS ROUNDABOUT IN THE TOWN BRANCH AND CLINGMAN FOREST GREENWAY PROJECT

Summary: The consideration of a resolution amending the contract, in the amount of \$125,000, with Sitework Studios to increase the existing contract to add the design and preparation of engineering construction documents for the "Five Points Roundabout" in the Town Branch and Clingman Forest Greenway project for this new project element.

On January 8, 2013, City Council approved the contract with Sitework Studios to develop architectural and engineering construction documents for the Clingman Forest and Town Branch Greenways, and to conduct other necessary pre-development activities for a project budget not to exceed \$370,000.

The River Arts District Transportation Improvement Plan (RADTIP) included a schematic design for a new roundabout to replace the existing five-way stop traffic pattern at the "Five Points" intersection of Clingman Avenue Extension, Depot Street, Roberts Street, and Bartlett Street. This intersection is integral to many of the public improvements now in the design stage in the River Arts District and general "East of the Riverway" area, including the Clingman Forest and Town Branch Greenways and the Craven and Roberts Streets improvements related to the New Belgium Brewery development. The decision not to fund the RADTIP design and construction documents from the TIGER II planning grant, but rather from the EDCIP released funds from TIGER II for this roundabout element. Those funds are sufficient to fully fund the new roundabout design and construction documents preparation.

The Federal Transit Administration has indicated that adding this element is an acceptable change in the scope of work for the TIGER II grant.

The development of final design and construction documents for this roundabout will enable the City to meet commitments for public sector improvements to accommodate truck traffic from New Belgium Brewery; will provide for safe bicycle and pedestrian access from residential neighborhoods to the Wilma Dykeman Riverway; and will support improved traffic management in the Clingman Avenue Extension/Depot Street area.

In consideration of amending the Sitework Studios contract, staff consulted with the Federal Transit Administration, as well as internally, to determine that the amendment was consistent with federal procurement procedures and city procurement policies.

This contract amendment of \$125,000 is fully funded by Department of Transportation TIGER II Grant funds which have already been budgeted. Pledged cash resources and City in-kind staff hours are more than sufficient to meet the match required by the grant. The result of this planning activity will be a "construction ready" transportation infrastructure project, with a well-developed cost estimate for CIP or EDCIP budget purposes. EDA grant funds for Roberts/Craven Street may be able to be used to help fund the construction.

City staff recommends City Council to approve an amendment authorizing the City Manager to increase the contract with Sitework Studio by an amount not to exceed \$125,000 to develop the engineering construction documents for the Five Points Roundabout.

At Councilman Hunt's request, Transportation Director Ken Putnam explained the pedestrian and safety aspects of the roundabout.

Mayor Bellamy felt this was a good opportunity to partner with Healthy Buncombe regarding bicycle safety in their bicycle rodeos.

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D. RESOLUTION NO. 13-201 - RESOLUTION ADOPTING CITY COUNCIL'S 2013-14 STRATEGIC PLAN

Summary: The consideration of a resolution adopting City Council's Strategic Plan for Fiscal Year 2013-2014.

At the March 11, 2013, Council Retreat, Asheville City Council discussed and prioritized focus areas for the coming year. During the retreat, it was noted that presenting goals in a way that highlights the interconnected nature of Council's strategic goals would be ideal. The 2013-2014 strategic focus areas are broken into three broad categories that relate to economic systems, social systems and environmental systems.

The focus areas are:

Economic Growth & Financial Sustainability - Seek to ensure a sustainable financial future for Asheville by promoting an environment where citizens and businesses want to live, work and invest.

Affordable Housing & Community Development - Seek to ensure a sustainable future for Asheville through a standard of living that is affordable and attainable for people of all incomes, life stages and abilities.

High Quality of Life - Seek to ensure a sustainable future for Asheville by promoting a safe environment where basic needs are met and all people can enjoy a high quality of life.

During the 2012-2013 fiscal year, City staff continued to provide City Council with quarterly management reports on performance tied to the organization's adopted strategic goals and related initiatives.

Moving forward with the comprehensive quarterly management report, Council will continue to incorporate quarterly updates from each Council Committee Chair. Each Chair will present to the Council on policy initiatives designed to further achievement of the strategic goals.

Pros:

- Provides Council and City staff with an overall direction and goals of the organization.
- Provides Council and City staff with a measure of success.

Con:

- None noted.

The Strategic Operating Plan will provide direction for Council and the Executive Management Team throughout the budgeting process.

City staff recommends that City Council adopt the resolution reaffirming Council's Strategic Operating Plan.

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E. RESOLUTION NO. 13-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDS DONATED BY CITIZENS GROUPS FOR THE ASHEVILLE POLICE DEPARTMENT

ORDINANCE NO. 4230 - BUDGET AMENDMENT TO APPROPRIATE FUNDS INTO THE CITY'S SPECIAL REVENUE FUND BUDGET

Summary: The consideration of (1) a resolution authorizing the City Manager to accept funds donated by citizens groups; and (2) a budget amendment in the amount of \$7,000 to appropriate these funds into the City's Special Revenue Fund budget.

The Asheville Police Department (APD) has received \$7,000 in donated funds from the following sources: Brooks Howell Home for the Baker District - \$1,000; NADDI Prescription Drug Diversion project - \$5,000; and Target Stores for the Police Explorer Program - \$1,000. In order for APD to be able to spend these funds, Council must first approve a budget amendment authorizing use of those funds in the City's Special Revenue fund. These funds are to be used by the APD as needed for specific purposes. The APD has requested that these funds be applied to the APD Private Donations project account to assist with the above listed projects. The APD wishes to acknowledge the generosity, and express gratitude for their support of the Asheville Police Department.

Appropriating these donations in the Special Revenue Fund has no fiscal impact on the City's General Fund Budget.

City staff recommends City Council approve: (1) a resolution authorizing the City Manager to accept funds donated by citizens groups; and (2) a budget amendment in the amount of \$7,000 to appropriate these funds into the City's Special Revenue Fund budget.

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ORDINANCE BOOK NO. 28 - PAGE 328

Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

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 Smith moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. ECONOMIC DEVELOPMENT COALITION FOR ASHEVILLE-BUNCOMBE COUNTY UPDATE

Mr. Paul Szurek, Chairman of the Economic Development Coalition for Asheville-Buncombe County, along with the help of Mr. Ben Teague, Executive Director of the Economic Development Coalition, briefed Council on their activities.

On behalf of City Council, Mayor Bellamy thanked Mr. Szurek and Mr. Teague for their leadership and the entire Coalition for their dedication.

Councilman Smith noted that Council will be revisiting their economic development incentive policy and look forward to their involvement.

Councilman Hunt, liaison of the Economic Development Coalition, thanked the Coalition for their partnership.

Councilman Bothwell appreciated the sustainability piece of the Asheville 5 x 5 Plan for Job Creation.

B. ASHEVILLE SISTER CITIES UPDATE

Mr. Greg Clemons, Chair of the San Cristobal de las Casas Committee, and Ms. Karon Korp, Chair of the Valladolid Committee, updated City Council on recent programs and activities in their respective Sister Cities. Mr. Clemons presented a letter from the Mayor of San Cristobal to Mayor Bellamy.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING AGRICULTURAL USES

At City staff's request, Councilman Hunt moved to postpone this public hearing until September 24, 2013. This motion was seconded by Councilman Bothwell and carried unanimously.

V. UNFINISHED BUSINESS:

A. ZONING ANALYSIS ON PROPERTIES LOCATED ON CALEDONIA ROAD AND FINALEE STREET

Mayor Bellamy said that the impacted property owner contacted her and said that he would not be able to be present at this meeting. She asked if Council wanted to postpone this discussion until a date he could be present. It was the consensus of Council to move forward with the presentation because this is more to gauge Council's desire to move forward with the rezonings and then the formal process will start. There will be other opportunities to participate.

Planning & Development Director Judy Daniel said that on September 25, 2012, at the request of the Kenilworth Residents Association, the City Council requested that the Planning staff evaluate the zoning of the properties owned by Caledonia LLC and other associated properties in the area and return to the Council with an analysis and zoning recommendation for these properties. All these properties were zoned Institutional at that time. That report was prepared but presentation to the Council was deferred until February at the request of the Kenilworth Residents Association and then deferred again at their request until this meeting.

These properties include the site of the Kenilworth Inn Apartments and adjoining properties to the east and south. Since the time of the original request there have been several changes to the properties involved including:

- A subdivision creating PIN: 9648714686; that was deeded to RiverLink
- A subdivision of a portion of PIN: 9648710317 to create 9 lots fronting on Finalee
 - Two of those lots are now owned by Isaac Grossman
 - A rezoning of those lots from Institutional to RS-8 approved by Council on August 13
- A subdivision of a portion of PIN: 9648714886 to create 6 lots fronting on Caledonia
 - A rezoning of 4 of those lots from Institutional to RS-8 approved by Council on August 27

This analysis and staff recommendations have been updated to reflect the changes to the properties involved resulting from those changes.

In considering the zoning of these properties the staff has taken into consideration the characteristics of the properties, the existing zoning, the availability of infrastructure for development, the city's 2020 Comprehensive Plan, the Council's adopted policies and goals, and prior Council actions and discussion regarding these properties.

The key concerns at the heart of the ongoing dispute between the property owner and the Kenilworth residents are conflicts regarding density potential of the Institutional zoning and land uses allowed in relationship to city transportation standards related to the carrying capacity of the access roads (Caledonia and Finalee), and city standards related to building potential on steep slopes.

The staff continues to believe that Institutional is not appropriate zoning for any of these properties. Regardless of any other considerations, the Institutional Zone allows a wide range of non-residential uses, many of which could be inappropriate at this location due to access and compatibility issues. The Institutional Zone is a relic of a time when the Kenilworth Inn operated as a medical facility. When comprehensive rezoning was implemented in this area in 1980 a zone was chosen to reflect the existing use on the property (a common practice at the time) rather than appropriate zoning for future potential uses taking into consideration the steepness of residual parts of the property. Later, when the structure was renovated and turned from a medical facility into apartments no rezoning was required as multi-family housing is a use allowed in the Institutional zone. Further, there does not seem to have been any thought at that time that the remaining properties (primarily steep wooded slopes) owned by Caledonia LLC might later be proposed for additional development.

In 2004 a Conditional Use Zoning was approved for a small property adjoining the apartments, from RS-8 to Institutional to accommodate garage and storage structures for use by residents in conjunction with the approvals for the Kenilworth Inn Apartments.

Recommendation: Taking those background elements into account the staff recommends the following:

- ***Rezone the Kenilworth Inn and two small adjoining properties to the north and south from Institutional to RM-16***

The change would retain the existing residential density potential, so the Kenilworth Inn would remain a conforming use, but would eliminate the potential for a range of nonresidential uses allowed in the Institutional zone that the staff believes could be problematic at this location. Any reduced density zone for the Kenilworth Inn property would render the property non-compliant for density, so that is not recommended. The change is recommended for the apartment property (owned by Kenilworth Apartments LLC) and a small (.61 acre) property between the front of the apartment and Caledonia Road (owned by Caledonia Development LLC), and the property zoned Institutional CZ (owned by Kenilworth Apartments LLC). Because the property with the garages has conditional zoning, the property owner would need to work with

the city for that change. Should the Council wish to follow the above recommendation the recommended language would be:

Proposed Language for Motions:

I move that the City of Asheville initiate a rezoning of the following properties: PIN: 9648722062 and 9648714812 - from the Institutional Zone to the RM-16 Zone.

I move that the City of Asheville staff be directed to work with the owner of PIN: 9648722461 to initiate a rezoning from Institutional CZ to RM-16 CZ, with no changes to the limiting conditions.

• **Rezone Residual Developable Properties from Institutional to RM-8 and RS-8**

Earlier this year the property south of Caledonia was deeded by Caledonia Development LLC to Riverlink, nine lots were created from a portion of the property owned by Caledonia Apartments LLC along the frontage of Finalee, and six lots were created from property owned by Caledonia Development LLC along the frontage of Caledonia. As stated earlier, since those subdivisions, all of the lots fronting Finalee and four of the lots fronting along the lower portion of Caledonia have been rezoned to RS-8. As two of the lots on Finalee had been sold to Isaac Grossman, he was also a party to the request along with Caledonia Apartments LLC, the majority property owner.

All other affected properties remain in the Institutional Zone, and all have substantially steep topography. The 3.24 acres property to the east of the Kenilworth Inn property (bifurcated by Caledonia Road) and the 3.36 acre Riverlink property take access from a steep and winding segment of Caledonia Road. The two properties further to the south (1.74 acres owned by Caledonia Apartments LLC and 3.05 acres owned by Caledonia Development LLC) are steep but have the potential for access directly from a lower segment of Caledonia Road and from Swannanoa River Road through another property owned by Caledonia Development LLC (zoned River) that fronts on that road.

For these reasons, staff recommends differing zoning for these properties.

- For the properties to the east and south (PIN: 9648726180, 9648718624, and 9648718648 owned by Caledonia Development LLC; and PIN: 9658714686 owned by Riverlink Inc) the RS-8 zone is recommended. This lower density single-family zone reflects the limited development potential and constrained access for the properties, the recently requested zoning for adjoining lots, and existing zoning in this area.
- For the properties further to the south (PIN: 9648710317 and 9648713307 owned by Caledonia Development LLC) the RM-8 zone is recommended. This would allow multi-family development at a reduced density reflecting the steep slopes of these properties, and would also eliminate the potential for problematic non-residential uses allowed in the Institutional zone. It would allow the potential for clustered lower density multi-family development for these properties that have access from Swannanoa River Road and the lower portion of Caledonia Road.

These changes would substantially impact the property owners, reducing the potential density on the three larger developable properties by approximately 50%. Although it would have a less substantial impact on the developer than a change of all properties to the RS-8 zone, and it would address some of the primary concerns of the neighborhood.

This recommendation includes the remaining 1.74 acre portion of the parcel on Finalee property (owned by Caledonia Apartments LLC) where a 50 unit building was approved, but later voided by the creation of the subdivided lots along the Finalee frontage. (No permits were ever

issued for the construction. The original approval was appealed to the courts by the Kenilworth Residents Association, but no hearing date was ever set, and although the development was voided by the subdivision, the appeal has not yet been dropped.)

No change is recommended the small parcel (PIN: 9648619049/.37 acre) owned by Caledonia Development LLC, that fronts on Swannanoa River Road and is zoned River.

The recommended language for these recommendations would be:

Proposed Language for Motion:

I move that the City of Asheville initiate a rezoning of the following properties: PIN: 9648714686, 9648726180, 9648718648, and 9648718624 from the Institutional Zone to the RS-8 Zone.

I move that the City of Asheville initiate a rezoning of the following properties: PIN: 9648710317 and 9648713307 from the Institutional Zone to the RM-8 Zone.

Rezone Split Zoned Property to RS-8

One small lot located in the lower curve of Caledonia Road (PIN 9648727364) is split between Institutional and RS-8 zoning. Although it is not owned by Caledonia LLC, in the context of a general zoning evaluation, staff believes this situation should be resolved. A single family home was built on the property (owned by Arthur Trupp and Nancy Headley) within the past few years, so a rezoning to single family zoning is appropriate.

Proposed Language for Motion:

I move that the City of Asheville initiate a rezoning of a portion of the property: PIN: 9648727364 from the Institutional Zone to the RS-8 Zone, placing the entire property into the RS-8 Zone.

• **Alternative: Take No City Action**

Should the Council determine that they do not wish to initiate any zoning actions, it will allow the property owner and the Kenilworth Residents Association to continue dialogue regarding a resolution for their conflicting concerns.

Although rezoning to a lower density residential zoning would limit development potential on these properties; realistically the steep slopes a substantial portion of these properties limit their development potential anyway. Staff believes there is room for discussion between these parties if they wish to continue dialogue. Items for discussion between them would need to include agreement on a certain ultimate level of development potential, limiting uses to those compatible in a residential area, agreements on preserving the steepest slopes in a protective easement, and improvements to traffic conditions sufficiently to address concerns of the developer and the neighborhood residents (in both instances, concerns beyond actual city standards).

Interim City Attorney McGlohon said that there are several pending appeals to the Board of Adjustment and the Court system. She believed they are in the process of working out a resolution to at least two of the cases. However, even if there was not an attempt to resolve the matters, would have an impact on Council making a recommendation for staff to initiate rezonings.

Mayor Bellamy said that public comment would be taken on all staff requested motions at one time:

The following individuals spoke in support of all staff requested motions:

Mr. Terry Meek, resident on Pickwick Road and member of the Kenilworth Residents Association

Ms. Valerie Hoh, resident on Finalee Avenue and board member of the Kenilworth Residents Association

Ms. Tracy Stubbing, resident on Finalee Avenue

In response to Councilman Davis, Interim City Attorney McGlohon said that should Council decide to rezone the properties, there is always the potential for a disgruntled property owner to seek an appeal.

Councilman Hunt moved that the City of Asheville initiate a rezoning of the following properties: PIN: 9648722062 and 9648714812 from the Institutional District to RM-16 District. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Hunt moved that the City of Asheville staff be directed to work with the owner of PIN: 9648722461 to initiate a rezoning from Institutional District/CZ to RM-16/CZ, with no changes to the limiting conditions. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Bothwell moved that the City of Asheville initiate a rezoning of the following properties: PIN: 9648714686, 9648726180, 9648718648, and 9648718624 from Institutional District to the RS-8 District. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

Councilman Bothwell moved that the City of Asheville initiate a rezoning of PIN 9648710317 from the Institutional District to RM-8 District, and a portion of PIN 9648713307 from Institutional District to the RM-8 District.

Vice-Mayor Manheimer move that the City of Asheville initiate a rezoning of a portion of the property: PIN: 9648727364 from the Institutional District to the RS-8 District, placing the entire property into the RS-8 Zone. This motion was seconded by Councilman Pelly and carried unanimously.

Ms. Daniel corrected a minor error on the map she used in the presentation. She explained that PIN 9648713307 actually touches Swannanoa River Road and wants to retain the split zoning.

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AGREEMENT WITH MOUNTAIN HOUSING OPPORTUNITIES AND EAGLE MARKET STREETS DEVELOPMENT CORPORATION

At City staff's request, Councilman Hunt moved to postpone this item until September 24, 2013. This motion was seconded by Councilman Bothwell and carried unanimously.

VI. NEW BUSINESS:

Regarding the Recreation Board, it was the consensus of Council to re-advertise for the vacancy since no candidates applied.

Regarding the River District Design Review Committee, it was the consensus of Council to not re-advertise for the two vacant seats due to a recent merger of the Committee with the Asheville Area Riverfront Redevelopment Commission.

Regarding the Tourism Development Authority, it was the recommendation of the Tourism Development Authority's Nominating Committee, and the consensus of City Council to re-advertise for the vacancy.

RESOLUTION NO. 13-203 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Public Art & Cultural Commission.

Ms. Honor Moor resigned from the Commission, thus leaving an unexpired term until June 30, 2015.

The following individuals have applied for the vacancy: Kara Warren, Denise Drury, Anthony Johnson and Constance Richards. Because City Council had just advertised for an earlier vacancy two months ago, the Public Art & Cultural Commission requested Council not re-advertise and recommended the appointment of either Constance Richards or Denise Drury. The Boards & Commissions Committee recommended appointment of Ms. Richards.

Councilman Smith moved to appoint Constance Richards as a member of the Public Art & Cultural Commission, to serve the unexpired term of Ms. Moor, term to expire June 30, 2015, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Stewart David encouraged City Council ban horse drawn carriages in the Central Business District.

Mr. Ken Michalove asked City Council questions regarding the \$2 Million Art Museum appropriation, the Buncombe County Tourism Development Authority Art Museum grant, and the City Council Planning & Economic Development Committee and the City Council Finance Committee. Mayor Bellamy said that City Manager Jackson would address his questions.

Mayor Bellamy (1) suggested City Manager Jackson develop a way to recognize firefighters who are no longer with the City of Asheville during the past year, for whatever reason; (2) noted that on September 17, 2013, will mark the 226th anniversary of the signing of the Constitution of the United States of America; and (3) she had the honor of providing Keys to the City to Ms. Minnie Jones and Dr. Ralph Sexton for their work in the community.

Lawsuit Report

The City was served with a complaint on August 27, 2013, which is generally described as follows: James E. Moody, Edtha H. Moody, Nancy C. Joyner, and the City of Asheville. The nature of the proceeding is a tax foreclosure for 1840 Old Haywood Road in the City of Asheville. This matter will be handled in-house.

Closed Session

At 6:31 p.m., Councilman Pelly moved that the Asheville City Council go into closed session for the following reasons: (1) 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); (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: (a) W&K Hotels, LLC d/b/a Four Points By Sheraton; Hospitality Lodging Investors, II, LP d/b/a Hotel Indigo; Nesbitt Asheville Venture, LLC d/b/a The Renaissance Hotel; City of Asheville; City Council of the City of Asheville; and McKibbon Hotel Group, Inc. (b) D & J Real Estate Investments, LLC.; and City of Asheville; (c) D & J Real Estate Investments, LLC; Wells Fargo Bank, National Association in its capacity as Trustees for the registered holders of Salomon Brothers Mortgage Securities VII, Inc.; Commercial Mortgage Pass-Through Certificates, Series 2001-C2; Midland Loan Services, Inc., in its capacity as Master Servicer for Salomon Brothers Mortgage Securities VII, Inc.; Commercial Mortgage Pass-Through Certificates, Series 2001-C2; CWC Capital Asset Management LLC, in its capacity as Special Servicer for Salomon Brothers Mortgage Securities VII, Inc.; Commercial Mortgage Pass-Through Certificates, Series 2001-C2; (d) State of North Carolina; Metropolitan Sewerage District of Buncombe County; and City of Asheville; and (e) D & J Real Estate Investments, LLC; and Francis X. Coman, Trustee for Greenwich Capital Financial Products, Inc. The statutory authorization is N. C. Gen. Stat. 143-318.11(a)(3); (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property at the Clarion Inn located at 550 Airport Road, Fletcher, NC by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5); and (4) 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). This motion was seconded by Councilman Smith and carried unanimously.

At 7:45 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 7:45 p.m.

CITY CLERK

MAYOR