

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor Terry M. Bellamy; Councilman Joseph C. Dunn; Councilman James E. Ellis; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; and Councilman Brian L. Peterson; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

- Veteran Brenda Graham led City Council in the Pledge of Allegiance.

AGENDA CHANGES

- It was the consensus of City to consider the Unfinished Business item regarding the second reading of purchasing a public art piece after the Consent Agenda.

Due to the items on the agenda, it was the consensus of Council to meet until 10:30 p.m. and at that time determine whether or not to continue the remaining items on the agenda to another date.

INVOCATION

Councilman Dunn gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 22, 2003; THE COMMUNITY MEETING HELD ON JULY 29, 2003; AND THE WORKSESSION HELD ON AUGUST 5, 2003**
- B. RESOLUTION NO. 03-130 - RESOLUTION NAMING CREEK IN WEST ASHEVILLE "RHODODENDRON CREEK" AND REQUESTING THIS RECOMMENDATION BE FORWARDED TO THE U.S. BOARD OF GEOGRAPHIC NAMES FOR OFFICIAL RECOGNITION AND ADOPTION**

Summary: The consideration of a resolution to name a creek in West Asheville as Rhododendron Creek.

- The Asheville Greenway Commission has identified a potential site for a neighborhood greenway in West Asheville that would connect Vance School, the West Asheville Library, and other locations west of Sand Hill Road with the West Asheville Park. This greenway would provide a safe pedestrian and bike route from the West Asheville community to the French Broad River. The proposed greenway would be along parts of an unnamed creek that runs along Sand Hill Road south of Wachovia Bank on Haywood Road, through the West Asheville Park, crossing Shelburne Road and running into Hominy Creek. In an effort to obtain community support for this greenway, the Greenway Commission sponsored a "Name the Creek Contest." The winner of the contest was announced at West Fest in May and was 12- year old Henry McGuire. Henry has been instrumental in spearheading a clean-up of this creek. Henry's research included a number of interviews with long-time West Asheville residents who remember Rhododendron Park that

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was located near the confluence of this creek and Hominy Creek at the present day Aston Park Health Center. Henry's recommendation along with the Asheville Greenway Commission is to name this creek Rhododendron Creek in recognition of this former park. The process requires that this recommendation be submitted to City Council and that City Council forward this request to the United States Board of Geographic Names for official recognition and adoption.

- The Asheville Parks and Recreation Department and the Asheville Greenway Commission recommends City Council's approval to name an unnamed creek in West Asheville as Rhododendron Creek and requesting that this recommendation be forwarded to the United States Board of Geographic Names for official recognition and adoption.

RESOLUTION BOOK NO. 27 – PAGE 462

C. RESOLUTION NO. 03-131 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO PATROL COUNTY PARKING LOTS AND ISSUE CITY TICKETS FOR ILLEGALLY PARKED CARS

Summary: The consideration of a resolution authorizing the City Manager to sign an Interlocal Agreement with Buncombe County to patrol County parking lots and issue city tickets for illegally parked cars.

Buncombe County has asked the City Of Asheville to patrol their parking lots and issue citations to all vehicles illegally parked. They have passed an ordinance prohibiting parking by all but permitted vehicles.

Enforcement will be carried out by the City of Asheville, using current Parking Enforcement Officers. No additional personnel will be required to carry out this task, and all proceeds from citations will be retained by the City of Asheville. All appeals will go to the Parking Services Division and will be decided on the basis of existing City policies concerning parking citation appeals.

City staff requests that City Council approve the resolution authorizing the City Manager to sign an Interlocal Agreement with Buncombe County to patrol County parking lots and issue city tickets for illegally parked cars.

RESOLUTION BOOK NO. 27 – PAGE 463

D. RESOLUTION NO. 03-132 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH APAC ATLANTIC INC. FOR THE KIMBERLY AVENUE PAVING PROJECT, PHASE I

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with APAC Atlantic, Inc. to mill, crack seal and pave Kimberly Avenue between Gracelyn Avenue and Beaverdam Road.

The City is in need of a contractor to repair and pave Kimberly Avenue, Phase 1, from Gracelyn Avenue to Beaverdam Road. This project will include: The milling of 14,000 square yards of existing asphalt, cleaning and crack sealing all longitudinal and transverse joints, adjustment of all utilities to be equal to final pavement level, and repaving of 1,538 tons of heavy duty asphalt mix. In accordance with N.C. Gen. Stat. sec. 143-131, informal bids for these construction services were solicited and three responses were received. The bidders are listed below:

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Company	MB Part	Drug Free	Bond	Bid
APAC Atlantic, Inc.		Yes		\$107,452.00
Precision Contracting, Inc. [none1]	100%	Yes		\$121,706.00
Asphalt Unlimited of Asheville, Inc.	100%	Yes		\$143,800.00

The Public Works Department staff recommends City Council adopt the resolution to repair the pavement on Kimberly Ave from Beaverdam Road to Gracelyn Avenue.

RESOLUTION BOOK NO. 27 – PAGE 464

E. ORDINANCE NO. 3044 - BUDGET AMENDMENT FROM N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY FOR GIS SOFTWARE AND TRAINING

Summary: The consideration of a budget amendment, in the amount of \$50,000, to accept a grant from the N.C. Dept. of Crime Control and Public Safety for GIS training and software and to enhance the GIS Capabilities Emergency Operations Center.

In January the Asheville Police Department applied for a \$50,000 grant from the Governor's Crime Commission (GCC) for GIS training and software, a large plasma PC monitor and a GIS Specified Workstation for the Emergency Operations Center.

There was a 25% match requirement of \$12,500 for the grant and the remainder, \$37,500, came from GCC. The matching funds are available from the Asheville Police Department's Drug Tax Revenue, which are dispersed to the department by the State of North Carolina.

The purpose of the grant was to use the variety of applications of Geographic Information Systems (GIS) to help improve the services provided by public safety officials. The City of Asheville Police Department will use the training and additional software to enhance the capabilities of the Asheville Police Department Crime Analysis Unit. This will improve public safety for the citizens of Asheville by assisting the Police Department in clearing more cases through better identification of suspects and an enhanced capacity to identify crime patterns and trends.

City staff recommends City Council adopt a budget amendment, in the amount of \$50,000, to accept a grant from the N.C. Dept. of Crime Control and Public Safety for GIS training and software and to enhance the GIS Capabilities Emergency Operations Center.

ORDINANCE BOOK NO. 20 – PAGE 393

F. RESOLUTION NO. 03-133 - RESOLUTION APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION

Summary: Mr. James Grant has resigned from the Civic Center Commission, thus leaving an unexpired term until June 30, 2004.

On June 24, 2003, it was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint John Broadbooks to serve the unexpired term of Mr. Grant, term to expire June 30, 2004, or until his successor has been appointed.

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RESOLUTION BOOK NO. 20 – PAGE 465

G. RESOLUTION NO. 03-134 - RESOLUTION MODIFYING THE SCHEDULED 2003 CITY COUNCIL MEETINGS IN ORDER TO CANCEL THE SEPTEMBER 9, 2003, FORMAL MEETING

RESOLUTION BOOK NO. 20 – PAGE 466

H. RESOLUTION NO. 03-135 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY PROPERTY BETWEEN COURTLAND AVENUE AND HOUSTON STREET TO FLYNN CHRISTIAN FELLOWSHIP HOME

Summary: The consideration of a resolution authorizing the Mayor to convey property located between Courtland Avenue and Houston Street to Flynn Christian Fellowship Home for the amount of \$65,600.

The subject property is an RS-8 Residential Single-Family High Density District parcel located on Courtland Avenue and extending south to Houston Street comprising of approximately 3.8 acres (PIN No. 9639.20-91-4343). The Fair Reuse Value for the parcel is \$65,600. The proposed land use for the property in the Head of Montford Redevelopment Plan is for residential development. The property was appraised by Richard L. Smith, SRA, on May 22, 2003, at a value of \$65,600.

Flynn Christian Fellowship Home has submitted a bid to purchase the property in the amount of \$65,600. The proposal includes a plan to build three two-story buildings on Courtland Avenue for office and residential space along with an additional two story residential structure on Houston Street at an anticipated development cost of \$700,000.

On July 22, 2003, the City Council directed the City Clerk to advertise for upset bids on the subject property. The advertisement ran in the Asheville Citizen-Times on July 25, 2003, as provided in N. C. Gen. Stat. sec. 160A-269. No response was received. Therefore, the offer to purchase from Flynn Christian Fellowship Home in the amount of \$65,600 was not upset and the sale to Flynn Christian Fellowship Home should be approved.

Community Development staff recommends adoption of the resolution authorizing the Mayor to convey property to Flynn Christian Fellowship Home in the amount of \$65,600.

RESOLUTION BOOK NO. 27 – PAGE 467

I. RESOLUTION NO. 03-136 - RESOLUTION SETTING A PUBLIC HEARING ON AUGUST 26, 2003, FOR THE VOLUNTARY ANNEXATION OF PROPERTY LOCATED EAST OF PISGAH VIEW ROAD AND IDENTIFIED AS CEDAR HILL ROAD AREA

Summary: The consideration of a resolution fixing the date of a public hearing on August 26, 2003, on the question of the voluntary annexation of property located east of Pisgah View Road and identified as the Cedar Hill Road Area.

The applicant, Lynda Rerych, has submitted an annexation petition for the Cedar Hill Road Area, which is located on the eastern side of Pisgah View Road near the intersection of

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Pisgah View Road and Cedar Hill Road. This area is contiguous to the existing corporate limits, being bordered to the south by the city.

The area proposed for annexation consists of 5.326 acres and is currently undeveloped. This area is within the extraterritorial jurisdiction and currently zoned RM-8 Residential Multi-Family Medium Density District.

City services for the area will begin on the effective date of annexation, which the applicant has requested be six months from approval date of the petition, or February 26, 2004.

City staff recommends City Council adopt a resolution fixing the date of a public hearing on August 26, 2003 on the question of the voluntary annexation of property located east of Pisgah View Road and identified as the Cedar Hill Road Area.

RESOLUTION BOOK NO. 27 – PAGE 468

Mayor Worley 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 Ellis moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Mumpower and carried unanimously.

III. UNFINISHED BUSINESS:

A. SECOND READING OF RESOLUTION NO. 03-127 – RESOLUTION AUTHORIZING THE PUBLIC ART BOARD TO PROCEED WITH THE PURCHASE OF THE IDA KOHLMAYER PIECE

Mayor Worley announced that the first reading of Resolution No. 03-127 was held on July 22, 2003. Since the resolution passed by a 4-2 vote and it involves the expenditure of public funds, it must have a second reading before final adoption.

Vice-Mayor Bellamy moved for the final adoption of Resolution No. 03-127. This motion was seconded by Councilman Peterson and carried on a 4-3 vote with Councilman Dunn, Councilman Ellis and Councilman Mumpower voting "no".

RESOLUTION BOOK NO. 27 – PAGE 458

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AMENDING THE MINIMUM HOUSING CODE

Mayor Worley opened the public hearing at 5:17 p.m.

Director of Building Safety Terry Summey said that he is recommending that all residential rental buildings_(except new structures built since 7/1/94) receive a Housing Certificate under the standards of the Minimum Housing Code and thereafter, be enforced pursuant to a complaint based program. In addition, that owner occupied residential properties be inspected pursuant to a complaint-based program. This public hearing was advertised on August 1 and 8, 2003.

Since adoption of the 1994 mandatory inspection program, housing conditions in the City have substantially improved. The program is almost 10 years old and to a large degree has

accomplished the intended goal of providing decent and safe rental properties, as well as mandating improvements to owner occupied properties at the time of sale. While there continues to be those who escape the mandatory inspection program for various reasons, thousands of landlords and owners have complied with the Code. It is the opinion of the Director of Building Safety, that the Code should be modified to reduce the burden and expense upon those who have complied with the code. Any future efforts to improve housing conditions in the City should be focused on those rental properties not in compliance with the Code and/or dwellings that physically impact neighborhoods.

Owner Occupied Dwellings: In 1994, the General Assembly enacted N. C. Gen. Stat. sec. 143-151.46, which established a Home Inspector Licensure Board. This law provides a program to license and regulate the activities of those engaging in the profession of conducting home inspections. In 1996, the N.C. General Assembly enacted Chapter 47E, Residential Property Disclosure Act, which in part, requires, with some exceptions, Owners of residential properties to provide to the Buyer a disclosure statement regarding the conditions of the property. With the disclosure statement, and the right of the Buyer to obtain a home inspection, the need for stringent regulation by the City is reduced.

Rental Dwellings: Staff believes that the current inspection program is one of the most successful programs in the United States. The program has resulted in approximately 90% of the rental units being brought into compliance with the Code. For landlords who have complied with the Code, there is tremendous incentive for them to maintain them due to the increased marketability of their properties and the right of the tenant to lodge a complaint for their failure to do so. Therefore, staff time could be better utilized if the focus is upon rental properties not in compliance with the Code, and ensuring through a complaint based system that properties continue to maintain compliance.

The above recommendations include but are not limited to:

- Editorial and technical changes with an emphasis on reducing costs and having a Code focused upon complaints lodged by those in a position to know, the tenant; technical changes to include updates to references to the North Carolina State Building Codes and State laws
- Changes to the Fees and Charges Manual; propose dealing with noncompliance by increasing the penalties
- Update and finalization to the inspection forms

It is recommended that the Housing Code be amended to mandate that all residential rental buildings have at least one inspection to ensure compliance with the City's Housing Code. For those residential rental buildings that obtained the required housing certificates in accordance with the Code, no further inspections shall be required. For those that did not obtain the required inspections and receive a housing certificate, that such buildings remain subject to a one-time mandatory inspection program. For those residential rental buildings constructed as of July 1, 1994 or thereafter, that such properties be inspected pursuant to a complaint based enforcement program. Owner occupied properties are recommended to be inspected pursuant to a complaint based program. Council should consider changes to how the Code will be enforced and upon adoption of those changes, that Council then continue the public hearing to September 23 to consider editorial and technical amendments to the Housing Code, and amendments to the Fees and Charges Manual.

Mr. Summey reviewed with Council the Housing Code enforcement options, noting the current code and the Citizen Task Force recommendations. He summarized by saying that the current Code has been successful with updating the housing stock in the City. Since the 1994 implementation of the Code, state laws have been passed for Licensing Home Inspectors, and

providing for a Disclosure Statement by sellers. He therefore recommended Option #3 – (1) each rental building completing one cycle of inspections since 1994, and receiving a Housing Certificate, moves the building into a complaint based program; (2) annexed properties would follow a program of inspecting 20% of the units/building within 5 years; (3) owner occupied properties on a complaint based program; and (4) new residential properties built since 7/1/94 will be a complaint based program.

Mr. Summey and Assistant City Attorney Martha McGlohon answered various questions and comments from Council, some being, but are not limited to: what are the questions in Options A and B that renders those options not to be considered by City Council at this time; is the Building Inspections Department fully staffed to handle the current Code system enforcement; can the City guarantee that a home is completely safe after an inspection; what is the current process of a structure being inspected but it's not in compliance; how does the City characterize "lost and found" units; of a city Asheville's size, what is the percentage of rentals yet to be discovered; what are the tools the City has with enforcement of the Code; what is the penalty range; what are some of the changes to the life safety issues City staff would suggest; how was this recommended Code change developed; was

Asheville's housing stock compared with other cities; will a complaint based system, strongly enforced, maintain our current housing; why does the data show that other cities in North Carolina which don't have a code have seen a reduction in fires; how many landlords are there in Asheville; what is the state law regarding complaints; how does the Building Inspections Department follow-up on complaints received; does a person need to supply their name for a complaint to be investigated; is the name of the complainant confidential; is disclosure of a complainant optional; is there a written policy on how complaints are investigated; does the Code Enforcement Officer have the discretion to follow up on a complaint or not; is there anything in State law to prohibit City Council from requiring all complaints to be investigated; how much does it cost to demolish a structure; what is the volume of complaint calls; has the number of complaint calls decreased since adoption of the existing mandatory code; how many cities in North Carolina have this type of existing mandatory enforcement; what does staff feel are items on inspection checklist that are cosmetic in nature; how is lead-based paint and radon handled; does the City do all re-inspections; and how does the third-party inspector program work.

Councilman Ellis suggested a compromise on owner-occupied residential properties. He suggested staff identify 17 life safety issues (with citizen input) and then when the property changes ownership, there be one mandatory inspection, which would be limited to the 17 life safety standards.

Councilwoman Jones' biggest concern is with the rental properties being complaint based. With rental properties being complaint based, we expect the landlords in Asheville to keep their properties in good condition. But, what has made a difference in our successful existing Code enforcement has been the water turn-on policy and the penalties. That is how we have gotten people to come into compliance.

There was a lot of Council discussion about the pros and cons of having a complaint-based program for rental properties.

At 7:33 p.m., Mayor Worley announced a short recess.

At 8:05 p.m., Vice-Mayor Bellamy moved to continue the remaining three items on Council's agenda to Tuesday, August 19, 2003, at 3:30 p.m., in the Council Chamber of the City Hall Building due to the length of the public hearing on the Minimum Housing Code. Those items being: (1) Public hearing to consider entering into an option to convey certain City-owned property in the Central Business District to the Grove Park Inn for a mixed use development project; (2) Public hearing relative to amending the Unified Development Ordinance to provide

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development standard bonuses in residential districts; and (3) Resolution approving the Pack Square design guidelines. This motion was seconded by Councilwoman Jones and carried unanimously.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities, but speaking on behalf of the Affordable Housing Coalition of Asheville and Buncombe County, supported Compromise B from the Citizen Task Force, which is mandatory inspections. He felt Compromise B would reduce the frequency and number of required inspections, but would not seriously impact safety. He explained the pros of Compromise B for homeowners and rentals. A complaint-based system depends on the competence, diligence, honest and goodwill of the landlord. In cases where that is missing or when a competent landlord falls down on the job, then the enforcement falls back to the tenant, which depends on the tenant having both the knowledge and courage to ask for safety and if necessary to stand up and insist safety. If that enforcement depends on the tenant having both the technical knowledge and courage to make a complaint, he feels that a dangerously small percentage of the hazards in rental homes and apartments will be corrected.

The following individuals spoke in support of keeping the existing mandatory Code for several reasons, some being, but are not limited to: the preservation of the local housing code is in the best interest of the City's residents; keep mandatory inspections of rental homes for the safety of the families who will live there as well as for the sake of housing stock preservation in the City; tenants who are young, old or inexperienced in housing maintenance and safety maybe unlikely or unable to recognize potential safety hazards; tenants cannot report in a complaint-driven system something they do not recognize as a hazard but Code inspections can catch such situations; tenants fear retaliation by landlords; people complain when they move because that is when they feel safe to complain; people with fixed or low income will pay financially for problems because furnaces are not running properly or broken windows are allowing cold air into their homes; health risks increase; people will not willingly have their homes inspected; the system works now and to change it would be moving backwards; mandatory inspections is the best way to preserve the housing stock in Asheville; if the Code is not mandatory, all leases for rental properties should have an attachment about the Housing code and the way to make complaints; our existing Code has been envied across the state; people will be living in substandard housing because the City did not require an inspection; keep mandatory inspections on rentals, but delete them from owner-occupied residences; and the current Code requires people to maintain their homes:

Ms. Nelda Holder, President of the League of Women Voters of Asheville-Buncombe County
Mr. Joe Scarborough, member of the N. C. Electrical Contractors Association
Ms. Pat Farmer, resident at Vanderbilt Apartments
Mr. Bill Whalen, staff attorney with Pisgah Legal Services
Ms. Barber Melton, President of the Coalition of Asheville Neighborhoods
Ms. Pauline Council, resident in Willow Ridge Apartments
Ms. Leni Sitnick, Asheville resident
Mr. Fred English, Haw Creek resident
Ms. Robin Merrill, attorney with Pisgah Legal Services
Mr. Grant Millin, Oteen resident
Ms. Joyce Peek, tenant
Ms. Beth Trigg, Asheville resident
Ms. Minnie Jones, Asheville resident
Ms. Lottie Myers, West Asheville resident
Recent Asheville resident
Ms. Geraldine Melendez, Homeownership Educator at the Affordable Housing Coalition
Ms. Rebecca Campbell, Weaverville resident

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Ms. Robin Jacobs, Co-President of the Young Lawyers Division of the 28th Judicial District Bar
Ms. Beth Maczka, Asheville resident
Ms. Elizabeth Bocklet, West Asheville resident
Mr. James Davis, third-party inspector
Mr. Tony Sayer
Mr. Dudley Wilson, Kenilworth resident
Mr. Goldwag, West Asheville resident
An employee with the Affordable Housing Coalition
Mr. Jim Barrett, Asheville resident
Mr. Christopher Slusher, North Asheville resident

The following individuals spoke in support of (1) all residential rental buildings_(except new structures built since 7/1/94) receive a Housing Certificate under the standards of the Minimum Housing Code and thereafter, be enforced pursuant to a complaint based program; and (2) that owner occupied residential properties be inspected pursuant to a complaint based program, for several reasons, some being, but are not limited to: fires have declined everywhere - not just in Asheville because of the mandatory Housing Code; there are severe penalties for retaliation by landlords; there is duplication because there is state law that affects buyers and sellers and laws that affect the rights of tenants; there are multiple City inspections already; suggestion of grace period of approximately 12 months from date of implementation so everyone can make corrections and get their Certificate of Compliance without penalty; one of the reasons people are getting out of the rental business is because of the Certificate of Occupancy process; landlords will not let their property run down because they will want to keep their tenants and get more rent from the apartment; the City needs to put their attention to the problem areas and not require re-inspection of properties that are okay; inspections add to the cost of housing; there is a problem with the current Code enforcement; and we are adding burdens on the people that can help with affordable housing by requiring duplication of inspections:

Mr. Steven Duncan, member of the Housing Task Force
Ms. Judy Carver, member of the Housing Task Force
Mr. John Carroll, Vice-President of the Council of Independent Business Owners
Mr. Tom Wilson, North Asheville resident
Mr. Ed Siler, resident on Cisco Road
Mr. Curt Booth, President of the Asheville Board of Realtors
Mr. Bill Goacher, member of the Housing Task Force
Mr. George Morosoni, property manager
Mr. Mike Summey, property manager
Mr. Colin Robertson, member of the Housing Task Force
Mr. Bill Stamey, member of the Housing Task Force
Ms. Julie Brant, property manager
Ms. Helen Morrison, West Asheville resident
Mr. Ben Holloway

Mr. Alan Ditmore, Leicester resident
Mr. Walter Plaue

Mayor Worley closed the public hearing on the enforcement issues at 10:40 p.m. The issues regarding technical and editorial changes to the Minimum Housing Code will remain open and be continued to September 23, 2003.

At 10:40 p.m., Mayor Worley announced a short recess.

Councilman Ellis moved to adopt staff's recommendation to inspect residential rental buildings one time and then go to a complaint based program; that owner occupied properties be

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subjected to a one-time mandatory inspection upon property transfer for life safety issues only (said issues to be developed by City staff with citizen input) and thereafter be enforced pursuant to a complaint based program. This motion was seconded by Councilman Dunn.

Councilman Peterson moved to amend Councilman Ellis' motion so that rental properties continued to be subjected to a mandatory inspection program; that multi-family that complies with verifiable maintenance program have only 10% of units/buildings inspected, and that the tenant sampling be reduced to 20% of units/buildings. He said that he would not amend Councilman Ellis' original motion regarding owner occupied properties.

Upon inquiry of Vice-Mayor Bellamy, Councilman Peterson said that the mandatory inspection for rental properties would be on the current inspection schedule. She then asked if Councilman Peterson would include in his amendment that all rental properties built since July 1, 1994, be exempt from the mandatory schedule for 15 years. Councilman Peterson agreed to include that amendment to his motion.

Vice-Mayor Bellamy then seconded Councilman Peterson's amended motion.

Councilman Peterson said that the 1990 Census showed 1/3 of the City's housing stock was substandard and the existing Code worked to address that. If Council abolishes mandatory inspections, he feels that after the next census in 2010, we will start seeing those same sorts of numbers again.

Councilwoman Jones spoke on how she supported the amended motion in that she felt it is a true compromise.

The amendment to the original motion was voted on and failed on a 4-3 vote with Vice-Mayor Bellamy, Councilwoman Jones and Councilman Peterson voting "yes" and Mayor Worley, Councilman Dunn, Councilman Ellis and Councilman Mumpower voting "no."

Vice-Mayor Bellamy said that she could not support the original motion. She would be interested in hearing what the staff will be doing to educate the citizens of their rights, landlord responsibilities, etc. She understands that the existing Code wasn't the only thing that changed our community, but the Code did help change the mind-set of the individuals in our community to make them responsible for their property. She feels the staff recommended motion gives away too much.

Councilman Peterson felt Council is gutting the Housing Code to serve the financial self-interest of a small group of people.

Councilman Ellis feels what the City has done in the past ten years has made great strides in bring our housing stock up. He feels we are wasting our resources in inspecting million dollar houses and he wants the City to concentrate on the areas were there are problems. He pledges to try to come up with additional resources to do even more for the areas where we have problems. Let's spend our money to help people that need help.

Councilman Dunn feels that inspections are subjective, they cost a lot of money, and there is no way inspections can guarantee that a home is safe. He feels that the existing Code is a heavy hand on people and it does hurt the affordable housing stock.

Councilwoman Jones explained how there are some real fundamental inconsistencies with this Council and all of Council needs to be held accountable. She was curious to see in next year if more affordable housing will come to Asheville since we already have the 10 years of proof of what the Code has done for the quality of housing now.

Councilman Mumpower said that he doesn't pander to special interests on either side of the fence. He does try to listen to people and weigh out the facts and try to make an informed decision. The laws and the safety net has changed since this ordinance was adopted. If it turns out that is not true and some of the fears are realized then he feels this Council has the courage to fix it. We are trying to balance safe, affordable and available housing. He doesn't think that balance can be reached with extremes either way. He feels we are not walking away from people who are shy, have trouble in raising complaints, have disabilities, or are less capable than others. What we are trying to do is share the load between property owners, tenants, government and a free society. In the next phase of the public hearing he will be serious about enforcement – fair, consistent, and enthusiastic enforcement.

Mayor Worley was on the Council in 1993 when the existing Minimum Housing Code was adopted. He recalled adopting this because the old Code was not effective because it wasn't enforced and there was no awareness of the problems of the rights that tenants had under the old complaint driven system. The current Code has certainly raised that awareness and it has succeeded in bringing our housing stock up to good shape. He believed that it is worth trying the recommendation from staff after the process they have gone through. Even if a tenant is reluctant to complaint until they leave the property, the average turnover is 1-1.5 years so a complaint will trigger an inspection in that process perhaps even quicker than it might otherwise. He wants to be certain that we put steps in to educate our tenants and to encourage complaints and perhaps even requiring some sort of notice be given to each tenant of their rights under the Minimum Housing Code.

The original motion made by Councilman Ellis and seconded by Councilman Dunn carried on a 4-3 vote, with Mayor Worley, Councilman Dunn, Councilman Ellis and Councilman Mumpower voting "yes" and Vice-Mayor Bellamy, Councilwoman Jones and Councilman Peterson voting "no."

Councilman Ellis moved to continue the public hearing on the Minimum Housing Code's technical and editorial changes until September 23, 2003. This motion was seconded by Councilman Dunn and carried unanimously.

At 11:23 p.m., Mayor Worley recessed this meeting unit 3:30 p.m. on Tuesday, August 19, 2003, in the Council Chamber of the City Hall Building, Asheville, N.C.

CITY CLERK

MAYOR

[\[none1\]](#)