

Tuesday – August 26, 2003 - 5:00 p.m.

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

- Mayor Worley led City Council in the Pledge of Allegiance.

INVOCATION

- Councilwoman Jones gave the invocation.

CHANGES TO AGENDA

I. PROCLAMATIONS:

A. SISTER CITY GIFT

Mr. G. Carroll Hughes, President of Asheville Sister Cities Inc., and Dr. Tom Jones, Chairman of the San Cristobal Committee, presented Mayor Worley with a hand-carved wooden statue of a Chamula Indian as a gift from the Municipal President Enoc Hernandez Cruz, San Cristobal de las Casas in the State of Chiapas, Mexico.

II. CONSENT AGENDA:

At the request of City Manager Westbrook, and consensus of Council, a resolution amending the September 2, 2003, worksession time and place was added to the Consent Agenda.

Vice-Mayor Bellamy asked that Consent Agenda Items "R" and "S" be removed from the Consent Agenda for individual discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 12, 2003, AND THE WORKSESSION HELD ON AUGUST 19, 2003

B. RESOLUTION NO. 03-138 - RESOLUTION ACCEPTING THE NEW STREET NAME OF "TRELIS CIRCLE" OFF OF VIRGINIA AVENUE AND BROTHERTON AVENUE

Summary: The consideration of a resolution accepting the new proposed street name "Trellis Circle."

The City of Asheville's Community Development Division, owner of lots in Brotherton Commons off of Virginia Avenue, has petitioned the City of Asheville to accept the street name "Trellis Circle." The new street will begin at Virginia Avenue and end at Brotherton Avenue.

City staff recommends adoption of the resolution accepting the new street name of "Trellis Circle."

RESOLUTION BOOK NO. 27 – PAGE 471

C. RESOLUTION NO. 03-139 - RESOLUTION ACCEPTING THE NEW STREET NAME OF "STRAWBRIDGE COURT" AND "LOVELY LANE" IN THE GIVENS ESTATE METHODIST RETIREMENT COMMUNITY

Summary: The consideration of a resolution accepting the new proposed street names of "Strawbridge Court" and "Lovely Lane."

The Givens Estates United Methodist Retirement Community, owner of lots in Givens Estates off of Sweeten Creek Road and Wesley Branch Drive, have petitioned the City of Asheville to accept the street names of "Strawbridge Court" and "Lovely Lane."

The new street Strawbridge Court will begin at Wesley Branch Drive and end at Lovely Lane.

The new street Lovely Lane will begin a Wesley Branch Drive and end at the cul-de-sac on Lovely Lane.

City staff recommends adoption of the resolution accepting the new proposed street names of "Strawbridge Court" and "Lovely Lane."

RESOLUTION BOOK NO. 27 – PAGE 472

D. RESOLUTION NO. 03-140 - RESOLUTION ACCEPTING THE NEW STREET NAME OF “PRARIE PATH” OFF DILLINGHAM ROAD

Summary: The consideration of a resolution accepting the new proposed street name of “Prarie Path.”

Mayfair Partners LLC, owners of lots off of Dillingham Road, have petitioned the City of Asheville to accept the street name “ Prarie Path.” The new street will begin at Dillingham Road and end on Prarie Path.

City staff recommends adoption of the resolution accepting the new proposed street name of “Prarie Path.”

RESOLUTION BOOK NO. 27 – PAGE 473

E. RESOLUTION NO. 03-141 - RESOLUTION ACCEPTING THE NEW STREET NAME OF “RESTAURANT COURT” OFF TUNNEL ROAD

Summary: The consideration of a resolution accepting the new proposed street name “Restaurant Court.”

Pinnacle Properties, LLC, owners of lots off of Tunnel Road, have petitioned the City of Asheville to accept the street name “ Restaurant Court.” The new street will begin at Tunnel Road and end on Restaurant Court.

City staff recommends adoption of the resolution accepting the new proposed street name of “Restaurant Court.”

RESOLUTION BOOK NO. 27 – PAGE 474

F. RESOLUTION NO. 03-142 - RESOLUTION ACCEPTING THE NEW STREET NAME OF “CATALINA COURT” OFF SAND HILL ROAD

Summary: The consideration of a resolution accepting the new proposed street name “Catalina Court.”

Mr. Charles Burnett, owner of lots in Bradford Park off of Sand Hill Road, has petitioned the City of Asheville to accept the street name “ Catalina Court.” The new street will begin at Sand Hill Road and end at Catalina Court.

City staff recommends adoption of the resolution accepting the new proposed street name “Catalina Court.”

RESOLUTION BOOK NO. 27 – PAGE 475

G. RESOLUTION NO. 03-143 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE ASHEVILLE HUMANE SOCIETY FOR ANIMAL SHELTER SERVICES

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with the Asheville Humane Society for animal shelter services within the corporate limits of the City.

On July 1, 2002, Buncombe County required the City to pay for animal shelter services with the Asheville Humane Society who has contracted to run the shelter. On July 1, 2003, the City approved the budget for Fiscal Year 2003-2004, and in that budget approved \$121,000 to pay for shelter services. The City and Humane Society need to enter into an agreement for shelter services for the term of July 1, 2003, through June 30, 2004.

City staff recommends adoption of the resolution for animal shelter services for the term of July 1, 2003, through June 30, 2004.

RESOLUTION BOOK NO. 27 – PAGE 476

H. RESOLUTION NO. 03-144 - RESOLUTION APPOINTING THOMAS KLING AS THE REPRESENTATIVE OF THE EAGLE-MARKET STREETS DEVELOPMENT CORPORATION ON THE MINORITY BUSINESS COMMISSION

Summary: The consideration of a resolution confirming the appointment of a member of the Minority Business Commission.

On May 26, 1998, City Council adopted Resolution No. 98-63 adopting a City-County Minority Business Plan.

The Minority Business Commission consists of 11 members, 9 of whom are nominated by various groups and two (2) of whom are minority business owners nominated by the Minority Business Commission. All nominees are considered and appointed by both the City Council and County Board of Commissioners.

Mr. Thomas Kling has been named by Eagle Market Streets Development Corporation (EMSDC) to represent them on the Minority

Business Commission. Mr. Kling has been nominated to fill the position left vacant by Mr. Iba Tye who resigned effective January 21, 2003. Mr. Kling's term will run through August 2004 to complete the current term of Mr. Tye.

City staff recommends City Council adopt the resolution confirming the appointment of a member of the Minority Business Commission.

RESOLUTION BOOK NO. 27 – PAGE 477

I. RESOLUTION NO. 03-145 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY FOR A GRANT TO THE POLICE DEPARTMENT

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the North Carolina Governor's Highway Safety Program for crash investigation equipment and software and travel/training money for the Asheville Police Department's Regional County Coordinator, and accompanying budget amendment in the amount of \$8,000.

The Governor's Highway Safety Program has \$10,000 available through their Small Highway Safety Project Contract for highway safety equipment and travel/training for regional county coordinators. The Police Department has identified \$5,000 in crash investigation equipment and software needs and \$3,000 in travel/training needs for the regional coordinator. There is no match requirement for these funds.

The crash investigation equipment and software will enhance the capabilities of the Police Department to investigate vehicular accidents and provide greater safety to the officers at the scene of an accident. The travel/training funds will allow the Regional Coordinator to participate in highway safety meetings throughout the southeast offered by the Federal government as well as those in North Carolina offered by the State government to fulfill their duties as the Regional Coordinator.

City staff recommends the adoption of a resolution and budget amendment, in the amount of \$8,000, to accept a grant from the N.C. Governor's Highway Safety Program for crash investigation equipment and software and travel/training funds for the Regional Coordinator.

RESOLUTION BOOK NO. 27 – PAGE 478

J. ORDINANCE NO. 3045 - BUDGET AMENDMENT FOR GRANT FOR CRASH INVESTIGATION EQUIPMENT AND SOFTWARE AND TRAVEL/TRAINING MONEY FOR REGIONAL COUNTY COORDINATOR FOR THE POLICE DEPARTMENT FROM THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY

Summary: See Consent Agenda Item "I" above.

ORDINANCE BOOK NO. 20 – PAGE 395

K. RESOLUTION NO. 03-146 - RESOLUTION CALLING FOR A PUBLIC HEARING ON SEPTEMBER 23, 2003, TO CONSIDER THE CLOSING OF A PORTION OF THE RIGHT-OF-WAY KNOWN AS GREENBRIAR ROAD WEST FROM BENT STREET TO PARKWOOD ROAD

Summary: The consideration of a resolution of intent to close a portion of the right-of-way known as Greenbriar Road West from Bent Street to Parkwood Road and setting a public hearing on September 23, 2003.

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

Public Works Department staff have researched and determined that Greenbriar Road West from Bent Street to Parkwood Road is a City maintained right-of-way. The only lot abutting the affected portion of Greenbriar Road West is identified by the PIN No. 9628.12-86-6464.

PT Business Park, LLC intends to upgrade Bent Street from Greenbriar Road West to Patton Avenue to a paved width of twenty feet. Additionally, PT Business Park will grant the City a vehicle access easement and a pedestrian access easement across their property connecting Parkwood Road and the portion of Greenbriar Road that will remain open.

City staff recommends that City Council adopt the resolution setting a public hearing for September 23, 2003, to close Greenbriar Road West from Bent Street to Parkwood Road.

RESOLUTION BOOK NO. 27 – PAGE 479

L. RESOLUTION NO. 03-147 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR DISPOSAL PARCELS 162 AND 163 ON BAXTER STREET

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for Disposal Parcels 162 and 163 located on Baxter Street.

The subject parcels, zoned RS-8 Residential Single-Family High Density District and comprising 0.03 acres each are located on the south side of Baxter Street (PIN Nos. 9649.19-60-6613 and 6681). The current tax value for the parcels are \$900 each for a total value of \$1,800. The proposed land use for the subject property in the East End/Valley Street Community Improvement Program is for assemblage with adjoining residential property.

David Freck, who owns the improved property adjoining and in between the subject parcels, has submitted a bid to purchase both parcels for the sum of \$1,800. Mr. Freck desires to assemble the parcels with the property he owns to provide yard space and off-street parking for his tenants.

Approval of the resolution will establish minimum prices of \$900 each and initiates the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Community Development staff recommends adoption of the resolution authorizing advertisement for upset bids for Disposal Parcels 162 and 163 on Baxter Street.

RESOLUTION BOOK NO. 27 – PAGE 480

M. RESOLUTION NO. 03-148 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH FORSYTH INITIATIVE FOR RESIDENTIAL SELF-HELP TREATMENT INC.

Summary: The consideration of a resolution to approve a Temporary Services Agreement with Forsyth Initiative For Residential Self-Help Treatment, Inc. (F.I.R.S.T.) for temporary workers.

The City of Asheville requires temporary workers throughout the budget year for seasonal workloads in the Public Works Department (Sanitation Division), and the Civic Center. This agreement is a collective contract for all City Departments.

F.I.R.S.T. is a non-profit organization that provides counseling to individuals and provides these individuals with opportunities to learn new skills through job placements with various organizations. The City of Asheville has utilized F.I.R.S.T staff for the past two years with excellent results.

City staff recommends City Council approve the Temporary Services Agreement with Forsyth Initiative For Residential Self-Help Treatment, Inc. for temporary workers.

RESOLUTION BOOK NO. 27 – PAGE 481

N. RESOLUTION NO. 03-149 - RESOLUTION CALLING FOR A PUBLIC HEARING ON SEPTEMBER 23, 2003, TO CONSIDER THE CLOSING OF BELLVIEW ROAD FROM BELVEDERE ROAD TO LONDON ROAD

Summary: The consideration of a resolution of intent to close the right-of-way known as Bellview Road from Belvedere Road to London Road and setting a public hearing on September 23, 2003.

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

Pursuant to this statute, Scott Buchanan, on behalf of Thoms Community Care Foundation, has requested the City of Asheville close the right-of-way known as Bellview Road from Belvedere Road to London Road.

Public Works Department staff have researched and determined that Bellview Road from Belvedere Road to London Road is a City maintained right-of-way. The only lot abutting the affected portion of Bellview Road is identified by PIN No. 9647.08-98-5093.

Thoms Community Care Foundation intends to construct and dedicate a new public right-of-way to the City to be known as "New Bellview Road," prior to closing Bellview Road.

City staff recommends that City Council adopt the resolution setting a public hearing for September 23, 2003 to close Bellview Road from Belvedere Road to London Road.

RESOLUTION BOOK NO. 27 – PAGE 482

O. ORDINANCE NO. 3046 - ORDINANCE REQUIRING PARTICIPANTS AT THE FOOD LION SKATEPARK TO WEAR HELMETS, ELBOW PADS AND KNEE PADS, AND TO ENSURE APPROPRIATE SIGNAGE IS POSTED

Summary: This is the consideration of an ordinance requiring participants at the Food Lion SkatePark to wear helmets, elbow pads and kneepads, and to ensure appropriate signage is posted.

In the last General Session of the N.C. General Assembly, Senate Bill 774 was approved for the establishment of certain

guidelines for operating skate parks within local governments. This Bill requires operators of skateboard parks to post appropriate signage and require participants who use the park to wear helmets, elbow pads and kneepads. The results of this Bill have been posted at the Food Lion SkatePark for the last few months in order to inform participants of this change from the N.C. General Assembly.

The Parks and Recreation Department and the Risk Management Department have not received any claims for the operation of the Food Lion SkatePark since it was opened two years ago. However, both departments feel that this requirement will further ensure the safety of the participants and reduce any potential claims with the City of Asheville.

The Parks and Recreation Department requests City Council approval of the ordinance requiring participants to wear helmets, elbow pads and knee pads and to post appropriate signage.

ORDINANCE BOOK NO. 20 – PAGE 398

P. RESOLUTION NO. 03-150 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Summary: The term of Herman Turk, as a member on the Buncombe County Tourism Development Authority, in the position of an owner or operator of a hotel/motel over 100 rooms, expires on August 30, 2003.

On August 19, 2003, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Herman Turk to serve a three year term, term to expire August 30, 2006, or until his successor has been appointed.

RESOLUTION BOOK NO. 27 – PAGE 483

Q. RESOLUTION NO. 03-151 - RESOLUTION APPOINTING MEMBERS TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Summary: The terms of Carole Williams and Glenda McDowell, as members on the ADA Compliance Committee, expired on August 22, 2003.

On August 19, 2003, City Council instructed the City Clerk to prepare the proper paperwork to appoint Bonnie Love (representing the business or non-profit sector) and Carol Ann Pothier (representing the education/health/medical profession) as members to the ADA Compliance Committee to each serve a three year term respectively, terms to expire August 22, 2003, or until their successors have been appointed.

RESOLUTION BOOK NO. 27 – PAGE 484

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

This item was pulled from the Consent Agenda by the request of Vice-Mayor Bellamy.

S. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LA FIESTA GRANDE DE LA MUSICA

This item was pulled from the Consent Agenda by the request of Vice-Mayor Bellamy.

T. RESOLUTION NO. 03-152 - RESOLUTION AMENDING THE 2003 CITY COUNCIL MEETING AGENDA TO CHANGE THE SEPTEMBER 2, 2003, WORKSESSION AGENDA TO BEGIN AT 4:00 P.M. IN THE COUNCIL CHAMBER, SECOND FLOOR, CITY HALL BUILDING

RESOLUTION BOOK NO. 27 – PAGE 485

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

ITEMS PULLED FROM THE CONSENT AGENDA FOR DISCUSSION

RESOLUTION NO. 03-153 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEXINGTON AVENUE ARTS & FUN FESTIVAL ON AUGUST 31, 2003

RESOLUTION NO. 03-154 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LA FIESTA GRANDE DE LA MUSICA ON SEPTEMBER 20, 2003

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the following events: Lexington Avenue Arts & Fun Festival, and La Fiesta Grande de La Musica.

The below listed groups have requested through the Asheville Parks and Recreation Department that City Council permit them to serve beer and/or unfortified wine at their events and allow for consumption at these events.

- Lexington Avenue Arts & Fun Festival, scheduled for August 31, 2003, is a festival committed to helping raise money for Arts 2 People and the Asheville Mural Project as well as promoting Lexington Avenue businesses.
- La Fiesta Grande de La Musica, scheduled for September 20, 2003, at Memorial Stadium and is a concert proposed as an entertainment event for the local Hispanic population in WNC.

The Asheville Parks and Recreation Department recommends approval of the resolutions to authorize the possession of malt beverages and/or unfortified wine for the above-mentioned events at specific locations and times noted in the resolutions.

Councilman Dunn moved for the adoption of Resolution No. 03-153. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Vice-Mayor Bellamy voting "no."

RESOLUTION BOOK NO. 27 – PAGE 486

Councilman Dunn moved for the adoption of Resolution No. 03-154. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Vice-Mayor Bellamy voting "no."

RESOLUTION BOOK NO. 27 – PAGE 488

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER DESIGNATING THE JANE HALL LIDDELL BATTLE HOUSE LOCATED AT 288 MACON AVENUE AS A LOCAL HISTORIC LANDMARK

Mayor Worley said that the Planning and Development Department staff recommends tabling the consideration of the ordinance designating the Jane Hall Liddell Battle House (208 Macon Avenue) as a local historic landmark in order to allow us time to resubmit the amended report to the State Historic Preservation Office for additional comment and to confer with the Grove Park Inn regarding their continued support for the nomination. Staff has discussed this approach with both the Historic Resources Commission Executive Committee and the Grove Park Inn and all parties are in agreement with tabling the ordinance.

Vice-Mayor Bellamy moved to table the designation of the Jane Hall Liddell Battle House located at 288 Macon Avenue. This motion was seconded by Councilman Dunn and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE REZONING OF A PORTION OF TWO LOTS LOCATED ON POLE CREASMAN ROAD AND BREVARD ROAD FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT AND RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT

Planning & Development Director Scott Shuford said that on August 25, 2003, the applicant's representative informed the Planning Department that the compromise zoning proposal agreed to during the Planning and Zoning Commission is no longer being pursued by his client. The compromise proposal contemplated the rezoning of only a portion of the property owned by the applicant and this property was what was advertised.

The whole site is now proposed for rezoning, which will require re-advertisement. Since a public hearing has been scheduled for this date, Council will need to take action to continue the request until September 23 or October 14 to allow us time to advertise it properly. Alternately, you could refer the request back to the Planning and Zoning Commission since their vote reflected the compromise proposal. He believes the six members present when this item came before the Commission would not have supported the rezoning of the entire property. If Council chooses this latter approach, he recommended Council refer it back to the Commission with the understanding that it will be considered at the October 1 Commission meeting.

Vice-Mayor Bellamy moved to remand this rezoning request back to the Planning & Zoning Commission. This motion was seconded by Councilman Ellis and carried unanimously.

C. PUBLIC HEARING TO CONSIDER THE REZONING OF TWO LOTS LOCATED ON STARNES AVENUE AND FLINT STREET FROM NEIGHBORHOOD BUSINESS DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

ORDINANCE NO. 3047 - ORDINANCE TO REZONE TWO LOTS LOCATED ON STARNES AVENUE AND FLINT STREET FROM NEIGHBORHOOD BUSINESS DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY

DISTRICT

Mayor Worley then opened the public hearing at 5:20 p.m.

Mr. Carter Pettibone, Planner II, said that this is the consideration of an ordinance to rezone two lots located on Starnes Avenue and Flint Street from Neighborhood Business District to RM-8 Residential Multi-Family Medium Density District. This public hearing was advertised on August 15 and 22, 2003.

The property owners, Thomas Wolfe and David Crossley, wish to rezone the properties in order to develop one lot, which is vacant, as a single-family residence and to bring the existing single-family residence on the other lot into compliance with the Unified Development Ordinance (PIN Nos. 9649.17-22-4097 and 9649.18-21-5938). The intent of the RM-8 District is to permit a full range of medium density multi-family housing types along with single-family detached and attached residences. The Neighborhood Business District does not allow detached single-family residential as a use permitted by right.

The properties, which total 0.17 acres, are located in the City limits on the northwest and southwest corners of the intersection of Starnes Avenue and Flint Street. The subject properties are also located in the Montford Historic District. The predominant land use in the area is single family residential, even though there are number of vacant and multi-family uses in the vicinity. All properties directly surrounding the subject parcels are zoned RM-8.

Due to the vacant parcel's location within the Montford Historic District, the owner of the lot, Mr. Wolfe, will also need to obtain approval of the Asheville-Buncombe Historic Resources Commission for the design of the building and for flexible development standards if the proposed rezoning is approved in order to build a single-family residence on the property.

Rezoning the lots to RM-8 would allow one property owner the opportunity to build a single-family home and bring the existing single family home on the other property into compliance with the Unified Development Ordinance. The RM-8 zoning would fit into the existing zoning pattern seamlessly because the properties are entirely surrounded by RM-8 zoning. There are also two other Neighborhood Business districts within the Montford Neighborhood, as well as two Community Business I Districts in close proximity that would provide alternative locations for small scale, neighborhood-oriented business uses that could serve the general neighborhood.

In consideration of the above, the proposed zoning change appears to be consistent with the intent and purpose of the Unified Development Ordinance.

The Planning and Zoning Commission voted 6-0 to recommend approval of the rezoning of the properties at Starnes Avenue and Flint Street from Neighborhood Business District to RM-8 Residential Multi-Family Medium Density District. Staff recommends approval of the rezoning request as well.

Mr. Thomas Wolfe, property owner, spoke in support of the rezoning.

Mayor Worley closed the public hearing at 5:25 p.m.

Mayor Worley 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. 3047. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

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D. PUBLIC HEARING TO CONSIDER CONDITIONAL USE ZONING FOR THE BUNCOMBE COUNTY DETENTION CENTER EXPANSION ON PROPERTY BORDERED BY DAVIDSON, VALLEY AND MARJORIE STREETS

ORDINANCE NO. 3048 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE BUNCOMBE COUNTY DETENTION CENTER EXPANSION ON PROPERTY BORDERED BY DAVIDSON, VALLEY AND MARJORIE STREETS

Oaths were administered to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process.

After hearing no questions about the procedure, Mayor Worley opened the public hearing at 5:28 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

Mr. Alan Glines, Urban Designer, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Mr. Glines said that this is the consideration of a conditional use permit request to construct an 53,700 square foot addition to the existing Buncombe County Detention Center on property owned by the City of Asheville but under contract by Buncombe County.

On, June 26, 2003, Bruce Youngberg, AIA, from Cort Architectural Group, submitted plans for proposed additions to the Buncombe County Detention Facility. Under the Unified Development Ordinance (UDO) requirements, a jail facility is a conditional use in the Central Business District.

The conditional use request is for a 53,700 square foot addition to the existing detention facility. The parcel is approximately .65 acre (PIN No. 9649.19-50-4467) and is located adjacent to the existing detention facility and behind the City Building (City Exhibit 3 – Location Map). The addition will provide facilities for men and women. The lower levels of the structure will provide space for a coordinated 911 Call Center and Emergency Medical Service (EMS) facility.

The new structure will share its primary entrance with the existing Buncombe County Detention Center on Davidson Street. The building will front on Davidson Street and Valley Street (City Exhibit 4). The remainder of the lot (with frontage on Marjorie Street) will be used for parking. This parking area may be used at a future date for expansion of the facilities. Access to the parking area will be from Davidson Street and Valley Street. Landscaping will be included in the project in the form of street trees and parking lot landscaping (City Exhibit 5).

The height of the proposed structure will be below the height of the balustrade on the second floor of the City Building. This height restriction was a requirement of City Council for the transfer of the property for this use.

The Technical Review Committee (TRC) met on July 21, 2003, and recommended approval of the detention facility addition with conditions noted below.

As a part of the conditional use review process City Council must state if the project meets or does not meet each of the standards for Detention centers, jails and related correctional facilities found in section 7-16-2(c) of this chapter.

- Design Standards - The project must comply with the design guidelines for projects located in this area:

The project was reviewed by the Downtown Commission for compliance with the design guidelines. They requested some variations with some materials used. The architect for the project was able to work those changes into the plan. The Downtown Commission allowed a variance for fewer openings for the street facing facades because of the special nature of the use. The project appears to meet the design guidelines for downtown.

- Fencing - No chain link, barbed wire, razor wire or similar fence material shall be used in areas that are visible from adjacent properties or from the public way unless specifically permitted by the City Council approving the conditional use permit.

No chain link is proposed adjacent to the public way or visible from the public way.

- Fenced Areas - Fenced areas shall not abut any principal street unless specifically permitted by the City Council.

No fenced areas are proposed on the plan.

- Lighting - Lights in pedestrian areas and parking lots shall not exceed 16 feet in height. All lights other than those in public pedestrian areas, including security lights, shall be full cut-off type fixtures, and shall not produce direct glare or light trespass on adjacent properties.

Lighting provided as a part of the project will comply with these requirements.

- Signage - All signage must be reviewed and approved as part of the conditional use permit application. City Council may attach conditions addressing the location, size, number, and illumination of signs based upon circumstances related to the location and impact of the sign.

The detention facilities will share an entrance with the Buncombe County Detention Center located on Davidson Street. Buncombe County is seeking an additional sign on Marjorie Street. City staff recommends approval of a sign up to 12 square feet to be worked by City and County staff. No additional signage will be required. In addition the other uses in the basement of the structure are not proposing additional signage.

- Operational Standards - No outdoor speaker systems shall be permitted. Vehicle entering and or leaving the facility shall not use sirens or emergency lights unless responding to an emergency.

No outdoor speaker systems are proposed for the project and vehicles will not use sirens unless responding to an emergency.

- Loading and Unloading - All loading and unloading areas shall be located internally on the site and screened from view from adjacent properties and public ways. All loading and unloading activities shall take place between the hours of 6:00 a.m. and 9:00 p.m. unless specifically waived by the City Council

Loading and unloading of inmates will take place as part of in the existing detention facility inside to the building.

- Exercise Yard – Exercise yards and other outdoor activity areas shall be located internally on the site and screened from view from adjacent properties and public ways.

Exercise yards are inside the building and are not visible from adjacent properties or public ways.

- Vehicle Storage - All vehicles associated with the use shall be stored in an enclosed or screened area. The vehicle storage area may be screened with vegetation, fences, a combination or fences and landscaping material or other means designed to effectively screen the stored vehicles from adjacent properties and the public way.

No vehicles will be stored on the property. Parking will be used by Buncombe County employees. Ambulances used as a part of the EMS unit will be stored inside the building in vehicle bays.

In addition to the specific conditions pertaining to detention facilities, City Council must take formal action as set forth in section 7-9-9(c)(4) of the UDO, and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case (UDO 7-16-2 (c)). Staff's preliminary review, absent the benefit of public input, indicates that all seven standards are met provided certain impacts are mitigated through site design modifications and off site road improvements.

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

The use or development as proposed will create no public health or safety problems as determined by TRC review.

- 2) That the proposed use or development of the land is reasonably compatible with significant natural and 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 development is essentially an in-fill project and is compatible with the topographic features of the site.

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

The location of this special use adjacent to the existing detention facility is appropriate and will not injure the value of nearby property.

- 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 detention center addition went through the design review process and was approved by the Downtown Commission. As proposed, the building and development will be in scale and harmony with buildings in the vicinity.

- 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.

Locating the detention facility addition on an in-fill lot adjacent to the existing facility makes good sense. It will ease coordination of security and operations issues for the long term. These factors fit in well with smart growth goals.

- 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 Detention Center Addition will be suitably located for all of these services. These issues were studied during the TRC review process.

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

The plans will not cause undue traffic congestion or create a traffic hazard.

Staff recommends approval with the following conditions: (1) Water line extension plans must be submitted through the City of Asheville Engineering Department for review and approval; and (2) A construction-related traffic control plan will need to be developed and submitted to the City Traffic Engineer for review and approval.

When Councilman Mumpower asked about the loss of City employee parking, Mr. Glines said that the Parking Services staff has reviewed this and advises that City employee parking will be handled through existing parking.

Upon inquiry of Councilman Dunn, Mr. Jon Creighton, Assistant County Manager, explained that the existing facility is not a country club. He said the existing facility is experiencing severe problems with overcrowding, especially with the female population. The existing facility today has 393 inmates but they can only house sufficiently 353 inmates.

Councilman Dunn asked if the addition would house prisoners from other counties. Mr. Creighton responded that they would not be bringing in any other prisoners from other parts of western North Carolina, but if there is space available and the need arises, they will house prisoners from other facilities, which will be at a cost borne by that county.

When Councilman Dunn asked about when the facility might need to expand again, Mr. Creighton said it would be in approximately 8-9 years. He said the construction costs for this addition is \$10 Million and construction is anticipated to take two years.

Upon inquiry of Councilman Mumpower about the design of the facility, Mr. Creighton responded that they did go through downtown design review and have made changes to lessen the impact as what people would say what they like or dislike about the appearance.

It was Vice-Mayor Bellamy's understanding that when the County approached the City with this idea approximately two years ago, the County was to have met with the surrounding neighborhood prior to bringing this before Council. She was disappointed that did not happen. Mr. Creighton responded that he didn't realize that, but would be happy to set up a neighborhood meeting.

Councilwoman Jones' comments on the need for a future expansion included her hope (1) that the City will do its part to be tough on crime so in the long run it will become apparent that we are a community that will not tolerate crime; and (2) that in the County's long-term plans, they think about prevention of crime.

Mayor Worley spoke about the good working relationship between the City and County on this project.

Mr. Fred English spoke in support of building this addition to the Detention Facility.

There being no request from the applicant for rebuttal, Mayor Worley closed the public hearing at 5:52 p.m.

Councilman Mumpower moved to adopt Ordinance No. 3048, to issue a conditional use permit for the Buncombe County Detention Center expansion on property bordered by Davidson, Valley and Marjorie Streets, subject to the following conditions: (1) Water line extension plans must be submitted through the City of Asheville Engineering Department for review and approval; (2) A construction-related traffic control plan will need to be developed and submitted to the City Traffic Engineer for review and approval; and (3) Buncombe County staff have an informational opportunity for the local residents about the planned addition. This motion was seconded by Councilman Dunn and carried unanimously.

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E. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF PROPERTY LOCATED EAST OF PISGAH VIEW ROAD AND IDENTIFIED AS THE CEDAR HILL ROAD AREA

ORDINANCE NO. 3049 - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY LOCATED EAST OF PISGAH VIEW ROAD AND IDENTIFIED AS THE CEDAR HILL ROAD AREA

Mayor Worley then opened the public hearing at 5:53 p.m.

Mr. Carter Pettibone, Planner II, said that this is the consideration of an ordinance extending the corporate limits of the City of Asheville to include property located east of Pisgah View Road and identified as the Cedar Hill Road Area. This public hearing was advertised on August 15, 2003.

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 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 an ordinance extending the corporate limits of the City of Asheville to include property

located east of Pisgah View Road and identified as the Cedar Hill Road Area.

Upon inquiry of Councilman Ellis about any costs anticipated with this annexation, Mr. Pettibone said that the City would assume any debt to the fire department that is currently serving that area.

Upon inquiry of Councilwoman Jones, Mr. Pettibone said that Ms. Rerych is working with our Community Development Division on an affordable housing development of approximately 120 affordable units on this property and another piece of property to the south. On this particular property, approximately 42 units are proposed.

Mayor Worley closed the public hearing at 5:55 p.m.

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

Vice-Mayor Bellamy moved for the adoption of Ordinance No. 3049. This motion was seconded by Councilman Ellis and carried unanimously.

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F. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF RECENTLY ANNEXED PROPERTY KNOWN AS THE KENSINGTON-WINDSOR AREA TO BE ZONED RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT AND RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 3050 - ORDINANCE TO INITIALLY ZONE RECENTLY ANNEXED PROPERTY KNOWN AS THE KENSINGTON-WINDSOR AREA RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT AND RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

Mayor Worley then opened the public hearing at 5:56 p.m.

Mr. Carter Pettibone, Planner II, said that this is the consideration of an ordinance to initially zone recently annexed property known as the Kensington-Windsor area RS-4 Residential Single-Family Medium Density District and RM-16 Residential Multi-Family High Density District. This public hearing was advertised on August 15 and 22, 2003.

The RS-4 District is intended to establish a medium-density residential area for single-family dwellings. The RM-16 District is intended 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.

The Kensington-Windsor Annexation Area, which consists of 66.7 acres and 30 properties, was annexed by the City on June 30, 2003. The area is located south and east of the existing zoned districts on the east side of Sweeten Creek Road south of Mills Gap Road. Land uses in the annexation area include single-family and multi-family residential and vacant properties to the north, a large multi-family development along Sweeten Creek Road (Kensington Place Apartments), and a single-family subdivision to the south (Windsor Park).

In terms of surrounding zoning, there is RM-16 to the north along Mills Gap Road and to the west across Sweeten Creek toward the southern portion of the area. Commercial Industrial exists to the west across Sweeten Creek Road along the majority of the area's frontage and to the northwest towards the intersection of Sweeten Creek Road and Mills Gap Road. Properties to the east are outside the City Limits and zoned as part of Buncombe County's Limestone Township zoning.

The Planning and Development Staff recommends approval of the proposed initial zoning for the area for a number of reasons. In the northern section of the annexation area an RM-16 District would provide for the existing multi-family developments as well as for possible redevelopment of the adjacent and rather sizable parcels that are currently used for low density residential uses or are vacant. All the existing land uses in the proposed district are use permitted by right in the RM-16 District except for a mobile home which is located on the easternmost parcel along Mills Gap Road. This mobile home would most likely become a legally non-conforming use. RM-16 zoning would also continue the existing pattern of the RM-16 from the existing zoning to the north of the annexation area.

RS-4 zoning to the south would provide appropriate zoning for the existing single-family detached homes in the Windsor Park subdivision, which consists of 22 lots. No non-conforming use situations would result from rezoning this portion of the annexation area RS-4.

The Planning and Zoning Commission voted 6-0 to recommend approval of the proposed initial zoning for the Kensington-Windsor Annexation Area to RS-4 Residential Single-Family Medium Density District and RM-16 Residential Multi-Family High Density District. Staff recommends approval of the initial zoning as well.

Upon inquiry of Councilman Dunn, City Attorney Oast said that if the non-conforming use is damaged by fire or other casualty, it could be replaced, but not expanded, subject to specific provisions in the Code.

Mayor Worley closed the public hearing at 6:03 p.m.

Mayor Worley 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. 3050. This motion was seconded by Councilman Peterson and carried unanimously.

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G. PUBLIC HEARING TO CONSIDER THE INITIAL ZONING OF RECENTLY ANNEXED PROPERTY KNOWN AS THE LEICESTER HIGHWAY AREA TO BE ZONED COMMERCIAL BUSINESS II DISTRICT AND HIGHWAY BUSINESS DISTRICT

ORDINANCE NO. 3051 - ORDINANCE TO INITIALLY ZONE RECENTLY ANNEXED PROPERTY KNOWN AS THE LEICESTER HIGHWAY AREA TO BE ZONED COMMERCIAL BUSINESS II DISTRICT AND HIGHWAY BUSINESS DISTRICT

Mayor Worley then opened the public hearing at 6:05 p.m.

Mr. Carter Pettibone, Planner II, said that this is the consideration of an ordinance to initially zone recently annexed property known as the Leicester Highway area to be zoned Commercial Business II District and Highway Business District. This public hearing was advertised on August 15 and 22, 2003.

The Highway Business District is established to address the needs of commercial development along major thoroughfares. The Community Business II District is established to provide areas for medium-to-high density business and service uses serving several residential neighborhoods.

The City annexed the Leicester Highway Annexation Area on June 30, 2003. The unzoned portion of the annexation area consists of 12 properties and 18.9 acres and makes up the area bounded by New Leicester Highway to the east, Eliada Home Road to the south, and Old County Home Road to the west. The remainder of the annexation area was part of the City's extraterritorial jurisdiction and was zoned at the time of annexation. Land uses in the proposed zoning area include a mix of commercial, vacant, and residential uses.

Currently, there is RS-8 Residential Single-Family High Density and Highway Business zoning to the east across New Leicester Highway and RM-6 Residential Multi-Family Medium Density and Community Business II/Conditional Use to the south across Eliada Home Road. Properties to the west are outside the City limits and unzoned.

In the southern portion of the annexation area, Highway Business zoning would mirror the existing Highway Business zoning to the east across New Leicester Highway. It would also accommodate the existing commercial uses in the proposed zoning district, which include a flea market, veterinarian clinic, retail sales, and automobile sales, as well as the remaining single-family residences, since all are permitted uses in the district. The only uses in the area that would not be permitted under Highway Business zoning would be two mobile homes, but they could remain as legally non-conforming uses. This zoning could also provide for the possible future redevelopment of the vacant and/or residential parcels on New Leicester Highway, which is a heavily traveled thoroughfare. Highway Business is proposed for eight of the twelve parcels that make up the unzoned area.

Staff feels Community Business II is an appropriate zoning district for the four remaining parcels to the north due to the proximity of the existing RS-8 zoning and residential development across Leicester Highway to the east. The existing land uses in this area (office, residential, and vacant) are permitted uses in the Community Business II District. In addition, since these parcels are generally shallower as measured from New Leicester Highway than those to the south, they would benefit from the smaller setbacks allowed in the Community Business II District if they were to be redeveloped.

The Planning and Zoning Commission voted 6-0 to recommend approval of the proposed initial zoning for unzoned portion of the Leicester Highway Annexation Area to Highway Business District and Community Business II District. City staff recommends approval as well.

Mayor Worley closed the public hearing at 6:07 p.m.

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

Councilman Ellis moved for the adoption of Ordinance No. 3051. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

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H. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE FOR GROUP HOMES IN CERTAIN RESIDENTIAL ZONING DISTRICTS

ORDINANCE NO. 3052 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO PROVIDE FOR GROUP HOMES IN CERTAIN RESIDENTIAL ZONING DISTRICTS

Mayor Worley opened the public hearing at 6:10 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance to provide for group homes in certain residential zoning districts. This public hearing was advertising on August 15 and 22, 2003.

This code amendment provides for group homes in the RS-8 Residential Single-Family High Density District, RM-6 Residential Multi-Family Low Density District and RM-8 Residential Multi-Family Medium Density District residential zoning districts as a conditional use. Additionally, the amendment adds group homes to the Urban Residential District as a use by right subject to special requirements (i.e., treating it the same as RM-16 Residential Multi-Family High Density District). This amendment was prepared pursuant to City Council direction to expand the zoning districts that group homes may be allowed in. The amendment includes design and operational standards for group homes in these zoning districts.

The amendment has been routed to Coalition of Asheville Neighborhoods, the Affordable Housing Task Force of Asheville and Buncombe County, CREIA, and Council of Independent Business Owners for review and comment.

On August 6, 2003, the Planning and Zoning Commission recommended approval of the proposed code amendment by a vote of 6-0, including two amendments. City staff recommends approval of the proposed code amendment as amended.

Upon inquiry of Councilman Dunn, Mr. Shuford explained the language "a use by right subject to special requirements."

At the request of Councilman Peterson, Mr. Shuford explained other restrictions that would apply if a group home were located in a single-family district.

Councilman Peterson was concerned that by not including the RS-2 and RS-4 districts in this amendment, it appears that this amendment is based more on the class and income of the zoning districts. Mr. Shuford explained that in terms of the RS-8, RM-6 and RM-8 districts, staff felt that those were more intense-type residential districts and should be subject to these more intense requirements. He said the RS-8 is a fairly intense zoning district that allows 8 residential units to the acre and that way it is very similar to the RM-8, which is a multi-family zone - in fact, it allows more density than the RM-6. We did select these districts based on their potential of allowable density and the fact that you would expect a greater concentration of human beings in those types of districts. Mr. Shuford noted that under State law you can have a family care home which would allow up to six individuals to be cared for and that is regarded as a single-family use under our law. That could occur in our RS-2, RS-4 or any of our zoning districts. He said that he would be happy to study and evaluate the possibility of other residential zoning districts for this amendment.

Upon inquiry of Councilman Mumpower, Mr. Shuford explained the protest petition process and why it would not be applicable with this amendment.

Upon inquiry of Councilman Dunn, Mr. Shuford explained how group homes are regulated.

City Attorney Oast said an attorney for the Blue Ridge Mental Health has requested an amendment to clarify in the definition of group homes that family care homes are not included within that definition. He agreed with that amendment.

Ms. Laurie Tollman, Executive Director of Flynn Christian Fellowship Homes and Chair of the Asheville-Buncombe Homeless Coalition, spoke in support of this proposed amendment.

Mayor Worley closed the public hearing at 6:31 p.m.

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

Councilman Peterson moved for the adoption of Ordinance No. 3052 including the addition of all residential districts and the amendment clarifying the definition as recommended by City Attorney Oast.

City Attorney Oast felt that to expand this ordinance to include more residential districts than what is presented before Council now would require re-advertisement.

Councilman Peterson withdrew his motion and then moved to adopt Ordinance No. 3052 including the addition of a sentence to the definition for group homes that reads, "this definition does not include family care homes as defined herein." This motion was seconded by Councilwoman Jones.

Councilman Mumpower was not concerned about group homes, but was concerned about intentionally setting up a process that

supercedes the neighborhood's ability to use the protest petition process. That process is state statutory authority granted for a reason to help protect neighborhoods from our intrusions.

Ms. Barber Melton, President of the Coalition of Asheville Neighborhoods, said that their main concern was the 600-foot separation. Regarding the protest petition, she sees a trend of cutting the public out of attending Council meetings and everything going to staff approval. They have worked hard over the past 20 years to get citizens involved. They recognize the need for group homes, but were concerned about the protest petition process being not available.

The motion made by Councilman Peterson and seconded by Councilwoman Jones carried on a 6-1 vote, with Councilman Mumpower voting "no."

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IV. UNFINISHED BUSINESS:

A. RESOLUTION ADOPTING THE ASHEVILLE CITY PLAN 2025 AS THE OFFICIAL COMPREHENSIVE PLAN FOR THE CITY OF ASHEVILLE

Councilman Dunn moved to postpone action on this matter until the first of 2004 to give City Council more time within which to study the large document. This motion was seconded by Councilman Ellis and carried unanimously.

V. NEW BUSINESS:

A. ORDINANCE NO. 3053 - ORDINANCE AMENDING SPEED LIMITS AND ESTABLISHING THROUGH TRUCK PROHIBITIONS

Summary: The consideration of an ordinance to enact or change speed limits and enact through truck prohibitions on specific city streets.

The streets listed below have been identified for speed concerns or truck concerns by residents, City boards and commissions, City Council, the Asheville Police Department, Transportation Services Division staff, or other City staff. Transportation Services Division staff has conducted field reviews of street geometry and conditions and/or speed studies. Streets with requests for truck prohibitions have been reviewed for appropriateness. The Police Department supports these recommendations.

Through Truck Prohibitions

The following streets are residential streets on which it is recommended that through trucks be prohibited.

1. Catawba Street, in its entirety
2. Olney Road, in its entirety
3. Swannanoa Avenue, in its entirety
4. Vance Crescent, in its entirety
5. Vance Crescent Extension, in its entirety

15 Miles Per Hour

The following streets are narrow residential streets with extreme street geometry problems, including severe and frequent crests and curves, and heavily used on-street parking. These streets warrant a significantly lower speed limit than the typical 25 mph. The recommended safe operating speed on these streets is 15 mph:

1. Circle Street, in its entirety
2. Huntington Street, in its entirety
3. Knob Street, in its entirety
4. Pine Street, in its entirety
5. Tuskegee Street, in its entirety

20 Miles Per Hour

Most of the following streets are narrow residential streets with street geometry problems, including frequent crests and curves, and heavily used on-street parking. These streets warrant a lower speed limit than the typical 25 mph. Brook Street and Oak Street are business district streets with a combination of operating characteristics and street geometry features that warrants a speed limit slower than the current 35 mph speed limits. Pedestrian crossings and on-street parking maneuvers are frequent, and the roadway width is constrained. As stated in Section 19-111 of the Asheville Code of Ordinances, business district streets are to be 20 mph. The recommended safe operating speed on these streets is 20 mph:

1. Brook Street (US 25A), between Biltmore Plaza and Fairview Road (NCDOT)
2. Clemmons Street, in its entirety

3. Dundee Street, in its entirety
4. Grail Street, in its entirety
5. Hilderbrand Street, in its entirety
6. Jordan Street, in its entirety
7. Lincoln Avenue, in its entirety
8. McTindle Circle, in its entirety
9. Mountain Street, between Martin Luther King, Jr. Boulevard and Hilderbrand Street
10. Peeler Drive, in its entirety
11. Ridge Street, in its entirety
12. South Beaumont Street, between Martin Luther King, Jr. Boulevard and Hazzard Street
13. South Jordan Street, in its entirety

25 Miles Per Hour

Most of the following streets are typical local residential streets without street geometry problems. The appropriate speed limit for typical local residential speeds is 25 mph. Eliada Home Road and Chestnut Street are residential collector streets which have a combination of street geometry features which warrant speed limits slower than the typical speed limit for residential collector streets of 30 mph. The recommended safe operating speed on these streets is 25 mph:

1. Eliada Home Road (SR 1318), between New Leicester Hwy and east corporate Limits (NCDOT)
2. Bevlyn Drive, in its entirety
3. Birch Court, in its entirety
4. Birch Lane, in its entirety
5. Broadview Drive, between Fairview Road and Oteora Boulevard
6. Carroll Avenue, in its entirety
7. Charlotte Street, between Edwin Place and Evelyn Place
8. Cherry Street (S. Asheville), between Royal Pines Drive and Birch Court
9. Chestnut Street, between Charlotte Street and Montford Avenue
10. Cumberland Avenue, in its entirety
11. Dover Street, in its entirety
12. Elkmont Drive, in its entirety
13. Farrwood Avenue, in its entirety
14. Hazzard Street, between Charlotte Street and Knob Street
15. Hazzard Street, between Pine Street and College Street
16. Highland Street, in its entirety
17. Linden Street, in its entirety
18. Max Street, in its entirety
19. Mimosa Drive, in its entirety
20. Mountain Street, between Martin Luther King, Jr. Boulevard and College Street
21. Mulberry Street, in its entirety
22. North Oak Forest Drive, in its entirety
23. Oak Forest Boulevard, in its entirety
24. Pheasant Drive, in its entirety
25. South Oak Forest Drive, in its entirety
26. Swannanoa Avenue, in its entirety

30 Miles Per Hour

The following streets are streets with features that warrant operating speeds less than the typical collector street speed limit of 35 mph. Charlotte Street is a transitional overlay district intended to promote street-oriented businesses and pedestrian use, and has significant pedestrian and bicyclist usage adjacent to the travel lanes. Fairview Road is a narrow winding collector street with limited sight distance in a number of locations and residential frontage in many areas. Both streets have frequent roadside hazards (i.e. utility poles) within the desired "clear zone", the space between the curb and hazards necessary for 35 mph. Moody Avenue is a primarily residential street that exhibits characteristics of a collector street and has adequate sight distance. Woodfin Street is located in the Central Business District but does not exhibit the characteristics that warrant the typical 20 mph business district speed limit. The recommended safe operating speed on these streets is 30 mph:

1. Charlotte Street, between Orchard Street and Edwin Place
2. Fairview Road, between Sweeten Creek Road and Fairview Street
3. Moody Avenue, between Monte Vista Road and Brookside Circle
4. Oak Street (Central Business District), in its entirety
5. Woodfin Street, between North Market Street and Oak Street

Mr. Butzek said that after reviewing Oak Street (Central Business District), he would recommend the speed limit be increased from 20 mph to 30 mph.

The Engineering Department requests that City Council approve the ordinance amending these speed limit and through truck

prohibition changes.

At the request of Vice-Mayor Bellamy, Mr. Butzek said that he would do a field review of Dundee Street to see if should be reduced from 20 mph to 15 mph and include that in the next round of changes.

Councilman Mumpower understands the decisions made to change speed limits are not arbitrary, and not made on the basis of neighborhood pressure, political pressure or personal preferences, but are technical recommendations. However, he was concerned about the enforcement of these 58 changes to our speed limits as well as the enforcement of our existing laws. Again, he didn't feel we have adequate coverage for safety management in the City.

Discussion then surrounded whether we have other streets in Asheville that are out of compliance from a technical standpoint, e.g., Kimberly Avenue and Edgewood Road and Creighton Road.

After discussion, Councilman Mumpower and Councilman Dunn felt it would be good to ask staff to research streets in the City that may not be in compliance of the technical standards and report back to Council with suggested changes. Councilman Peterson disagreed in that he didn't think it was productive to have staff review changes made by a prior Council who spent the time to address the concern.

Mayor Worley was satisfied that since we have a traffic engineer, we should leave it up to him to report to Council with streets that are out of technical compliance.

Mr. Fred English requested City Council to prohibit the use of engine brakes in the City of Asheville.

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

Councilwoman Jones moved for the adoption of Ordinance No. 3053. This motion was seconded by Councilwoman Bellamy and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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B. PLANNING & ZONING COMMISSION

It was the consensus of City Council to interview the following for vacancies on the Planning & Zoning Commission: Jane Mathews, Andy Brown, Robert Sweetser, Thomas Byers, Mike Vance, Derek Weekley, Harry Weiss and Steven Sizemore. Said interviews will be held prior to the September 2, 2003, worksession with appointments being made at the worksession.

VI. OTHER BUSINESS:

Day of Caring

Vice-Mayor Bellamy announced that the Day of Caring will be held on September 11, 2003, and encouraged anyone interested in participating to call the United Way.

Claims

The following claims were received by the City of Asheville during the period of August 8-21, 2003: Hugh Wiggins (Parking Services), Steve Ward (Transit Services), Julie Davis (Water), Kim Hunt (Water), Carolyn Hembree (Streets) and David McConville (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fred English spoke about the problem of people posting signs on poles.

Mr. Dennis Justice, Fletcher resident, suggested City Council meet with the local delegation at the Civic Center prior to the NBA Pre-Season game on October 8, 2003. He felt the Civic Center will be packed which is a good opportunity to show the pros and cons of a packed house. He also suggested a Town Hall Day to discuss the destiny of the Civic Center.

Mr. Mike Fryar passed out two letters from attorney Martin Reidinger regarding the City's recent annexation of his property. Mr. Fryar explained how City Council made a mistake in annexing his property. City Attorney Oast said that he has a meeting scheduled with Mr. Fryar and would report back to Council.

Closed Session

At 7:40 p.m., Councilwoman Jones moved to go into closed session 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 lawsuits

involving the following parties: Ridgefield Properties, L.C.C., et. Al.; Frances C. Briggs, et al.; Carolina Power & Light Company; and City of Asheville – statutory authority contained in N. C. Gen. Stat. sec. 318.11 (a) (3). This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

At 8:10 p.m., Vice-Mayor Bellamy moved to come out of closed session. This motion was seconded by Councilman Dunn and carried unanimously.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 8:10 p.m.

CITY CLERK

MAYOR