

Worksession

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

Absent: Mayor Charles R. Worley and Councilman Brian L. Peterson

Vice-Mayor Bellamy asked for a moment of silence for Councilman Ellis' niece who recently died.

CONSENT AGENDA:

Agreement with the N. C. Dept. of Transportation for TEA 21 Enhancement Grants for New Haw Creek Road/Avon Road Sidewalks, Pack Square Pedestrian Improvements and West End/Clingman Pedestrian Improvements

Summary: The consideration of a resolution authorizing the City Manager to sign three municipal agreements with the N. C. Dept. of Transportation (NCDOT) for TEA 21 Enhancement Grants for (1) New Haw Creek Road/Avon Road Sidewalks; (2) Pack Square Pedestrian Improvements; and (3) West End/Clingman Pedestrian Improvements.

In June 2002, the City of Asheville made application to NCDOT for TEA-21 Enhancement Grant for (1) New Haw Creek Road/Avon Road Sidewalks; (2) Pack Square Pedestrian Improvements; and (3) West End/Clingman Pedestrian Improvements. Each of these projects was awarded a grant from NCDOT in varying amounts. The City of Asheville partnered with various organizations to receive these grants. The grants can only be awarded to a local government. The following is a description of each of the projects:

- (1) New Haw Creek Road/Avon Road Sidewalk – City staff worked with the Haw Creek Community Association to develop a plan to add sidewalk to New Haw Creek Road from Arco Road to Beverly Road and on Avon Road from Beverly Road to Tunnel Road. The project number is E-4814. The total amount of the grant is \$172,132. The match for the project is being made but a Small Urban Fund Grant from the State in the amount of \$150,000, Fee-In –Lieu of sidewalk money from the City in the amount of \$40,000 and \$5,000 from the Haw Creek Community Associates.
- (2) Pack Square Pedestrian Improvements – These improvements include Pack Square Renaissance streetscape on College Street, Patton Avenue and US 25 (Biltmore Avenue) providing a better balance between pedestrians and vehicles. The amount of the grant is \$140,000. Pack Square Conservancy will provide the match for the project.
- (3) West End/Clingman Pedestrian Improvements – These improvements include enhancements on Clingman Avenue and the development of a parallel greenway through Clingman Forest. The amount of the grant is \$172,131. The match for the project will be made by Mountain Housing Opportunities.

Staff recommends that City Council authorize the City Manager to execute three municipal agreements with NCDOT for TEA 21 Enhancement Grants for (1) New Haw Creek Road/Avon Road Sidewalks; (2) Pack Square Pedestrian Improvements; and (3) West End/Clingman Pedestrian Improvements.

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Upon inquiry of Councilman Dunn, City Engineer Cathy Ball explained the criteria for sidewalks.

Agreement with the N. C. Dept. of Transportation for Bridge Reinspection Program

Summary: The consideration of a resolution authorizing the Mayor to enter into a municipal agreement with the N.C. Dept. of Transportation (NC DOT) on a bi-annual basis for the reinspection of bridges on the Municipal Street System.

In 1983 the Federal Highway Administration developed the Federal Off-System Bridge Replacement Program. Since the establishment of the program, the City has replaced 17 bridges through the program. The program is funded 80% through federal funds and 20% through City funds and administered by the NC DOT. To remain eligible for replacement funds and avoid penalties, it is required that all public bridges be inspected every two years. The NC DOT offers three options for meeting the bi-annual inspection requirements. One is to do the inspection with City forces; two is for the City to hire a consultant to do the inspections; or three is for the City to allow the NC DOT to do the inspections through a qualified private engineering firm.

Since 1983, the City has elected to execute agreements with NC DOT to accomplish the required inspections. This process allows a large number of bridges to be inspected under one contract or operation, resulting in a minimum inspection cost per bridge. NC DOT representatives anticipate the inspection costs to be approximately \$2,600 per bridge for the upcoming inspection. The City has 25 bridges in need of inspection this year, which will yield an estimated total cost of \$65,000. The City's share in this cost will be \$13,000 (20% of the total cost). Funds for the City's share are budgeted in the Public Work's Bridge Maintenance line item.

The Public Works Department staff recommends adoption of the resolution authorizing the Mayor to execute a Municipal Agreement with the NC DOT for inspection of bridges on the Municipal Street System.

Setting Public Hearing to Close Unnamed Alley off Collier Avenue

Summary: The consideration of a resolution of intent to close an unnamed alley off Collier Avenue and setting a public hearing on November 11, 2003.

N. C. Gen. Stat. sec. 160-299 grants cities the authority to permanently close streets and alleys without regard to whether they have actually been opened.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville close an unnamed alley off Collier Avenue, the entry of which is located approximately 200 feet north of the intersection of Collier and Banks Streets.

Public Works Department staff has researched and determined that this alleyway is not a City maintained street and is not in use as a means of ingress or egress for any of the properties abutting the alley. There are eight lots that abut this alley identified by PIN Nos. 9648.06-38-4514; 9648.06-38-3540; 9648.06-38-3620; 9648.06-38-4526; 9648.06-38-4684; 9648.06-38-5757; 9648.06-38-3750; 9648.06-38-3895; 9648.06-38-4514.

City staff recommends that City Council adopt the resolution setting a public hearing for November 11, 2003, to close an unnamed alley off Collier Avenue.

Quitclaim Deed to Buncombe County for Property on Griffing Circle

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Summary: The consideration of a resolution authorizing the Mayor to execute a non-warranty deed to Buncombe County for property located on Griffing Circle.

The land on Griffing Circle identified as PIN Nos. 9640.20-81-0970 and 1983 was tendered to the City of Asheville and Buncombe County as the taxing entities by non-warranty deed recorded in Deed Book 1717 at Page 2223. The County offered the property for upset bid and a final offer of \$36,800 was received. The City desires to convey its interest, if any, in the property to the County so that the property may be conveyed to the highest bidder. In return, the City will receive a pro rata share (approximately \$12,267) of the sales price as the City's taxable interest appears.

The entire parcel is zoned residential and has an area of 0.63 acres.

Approval of the resolution will authorize the Mayor to execute the quitclaim deed to Buncombe County.

Planning Department staff recommends adoption of the resolution authorizing the Mayor to execute a non-warranty deed to Buncombe County for property located on Griffing Circle.

Acceptance of N.C. Community Development Initiative Energy Efficiency Grant

Summary: The consideration of a resolution authorizing the City of Asheville to accept an energy efficiency grant from N.C. Community Development Initiative (NCCDI), and approval of the associated budget amendment, in the amount of \$30,000.

NCCDI has developed the Star Home Program to provide grants to not-for-profit agencies, including local municipalities, to assist with the cost of incorporating energy-efficient construction methods in new housing development. The City has recently been accepted for participation in the Star Home Program in respect of projects in which the City has a financial stake. The City's Community Development Division has submitted a specific application for funding for 18 homes at "Moser's Place" subdivision

currently under construction on Maple Avenue, with assistance from the Housing Trust Fund and the Fee Rebate program.

The City will pass on grant funds estimated at \$1,375 per unit to developer Ron Moser, Inc. A budget amendment in the amount of \$30,000 is recommended to cover the estimated amount plus contingencies.

NCCDI contracts with Advanced Energy, Inc., to monitor projects and ensure adherence to "Energy Star" standards.

If this Star Home Program grant is successful, there will be opportunity to apply for additional grant funds for other projects.

Staff recommends City Council accept an energy efficiency grant from N.C. Community Development Initiative (NCCDI) and approve of the associated budget amendment, in the amount of \$30,000.

Possession and Consumption of Beer and/or Wine at the 2003 Harvest Festival

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Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2003 Harvest Festival produced by the Grove Arcade Foundation on October 18, 2003.

The 2003 Harvest Festival produced by the Grove Arcade Foundation has requested through the Asheville Parks and Recreation Department that City Council permit them to serve and consume beer and/or unfortified wine at their event on Saturday, October 18, 2003. The 2003 Harvest Festival is a celebration of fall in the mountains produced to attract people to the Grove Arcade and downtown.

City staff recommends City Council approve the resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2003 Harvest Festival produced by the Grove Arcade Foundation on October 18, 2003.

Bid for Voice over IP Telephone System

Summary: The consideration of a resolution authorizing the City Manager to award Bid No. 574-04 to 4 Front Systems, Inc. and execute any related contractual documents for the installation of a new telephone system at several remote offices of the City of Asheville.

The telephone systems at several remote offices of the City of Asheville are in need of replacement. Through a combination of technology called Voice over IP and the use of fiber optic cable from those locations to the City Hall building, a new telephone system can be installed that will provide additional capabilities. These locations include the Transit Administration Office, seven Fire stations, three Police substations and five Parks & Recreation offices. The new system has a three-year recovery of funding.

The City of Asheville sent out a request for proposal to acquire the new telephone system and received seven bid responses. These bid responses were reviewed and rated as to the best solution for the City based on the twelve evaluation criteria included in the bid request documentation. The results of the bid evaluation indicate that 4 Front is the lowest responsive bidder.

The total cost of the bid award is \$116,000. The source of this funding comes from technology grant funding of the Transit Department and from the General Fund.

City staff recommends City Council adopt the resolution authorizing the City Manager to award Bid No. 574-04 to 4 Front Systems, Inc. and execute any related contractual documents for the installation of a new telephone system at several remote offices of the City of Asheville.

Vice-Mayor Bellamy asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

UDO AMENDMENT REVIEWS

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City Attorney Oast said that these Unified Development Ordinance amendments are being brought before City Council in order that staff may respond to questions Council may have prior to the public hearings, which have been scheduled on October 14, 2003. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.
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Neighborhood/Developer Meeting Concept

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Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to provide for neighborhood/developer meetings as an optional, alternative step in the review process for rezonings, certain conditional use permits, conditional use rezonings, and Level III developments.

This code amendment would allow a specific type of neighborhood/ developer meeting to substitute for the Planning and Zoning Commission review for certain types of development proposals. Specifically, the amendment provides for the substitution of neighborhood/developer meetings for the required public hearing before the Planning and Zoning Commission (at the option of the applicant) for rezonings, certain conditional use permits, conditional use rezonings, and Level III developments. Planned Unit Developments and those conditional use permits that do not require Planning and Zoning Commission review would not be included in this new procedure.

Mr. Shuford said that based on City Council's considerable interest in improving developer and neighborhood communication early in the development review and approval process, City staff undertook a focus group process to identify issues and potential solutions in enhancing the existing "neighborhood meeting" approach. Three separate focus groups were convened. One group represented developer interests; one group represented neighborhood interests; and the third group consisted of the Planning and Zoning Commission. After each group had met and a list of critical issues was determined, selected members from each group then met together on two occasions to identify areas of agreement and to prepare recommendations for action. An independent facilitator was used to direct meeting discussion and provide minutes.

He reported that the focus group process has resulted in a recommended procedure for improved Neighborhood/Developer Meetings. The procedure includes an incentive for developers to choose the Neighborhood/Developer Meeting process over the standard review process. It includes an opportunity for expanded notification of property owners in the vicinity of the proposed development. Finally, it includes an organized approach for the conduct of Neighborhood/Developer Meetings that should result in the meetings to be conducted in an effective fashion. The goal of this procedure change is an early, friendly, helpful official partnership between the neighbors, developers and the City.

In summary, the proposal would apply to all rezoning, conditional use rezoning, and conditional use permit requests that involve Planning and Zoning Commission review. The proposed procedure offers developers the option of selecting an enhanced Neighborhood/Developer Meeting process in exchange for skipping the Planning and Zoning Commission step in our current requirements. This results in no additional time being taken in the development review process but creates significantly improved communication between developers and neighborhoods. City Council would continue to hold a public hearing and take final action on all development proposals, just as is done under the current requirements. Even when developers opt to follow the existing procedures, staff will continue to recommend developer contact with affected neighborhoods.

This recommendation would not have been possible without the dedication of time, creative ideas, and enthusiasm on the part of a large number of volunteers. I would like to thank the following persons for their assistance in creating this recommendation:

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FOCUS GROUP PARTICIPANTS

Neighborhood Participants

*Barber Melton
*Headlee Howard
*Greg Gregory
*Mike Lewis
John Quigley
Norma Baynes
Stephen Hudzik

Developer Participants

*George Morosani
*Tom Gallaher/David Hill
*John Spake
Chris Eller
Harry Weiss
Jerry Grant
Ron Butler
Ron Moser

Planning & Zoning Commission

*Billie Buie
*Tom Cathey
*Selina Sullivan
Jan Davis
Hedy Fischer
Nate Cannady
Rod Hudgins

* Indicates that the participant served on the final joint focus group.

Additionally, Paul Godfrey provided invaluable assistance by serving as the facilitator for these focus group meetings.

The following headings provide a summary of the work of these focus groups, including the clarification of key issues, identification of expected results (i.e., what the process should look like), and the specific meeting procedures themselves. These headings illustrate the organized way the groups conducted their business and the level of detail that went into their discussions.

Clarifying Issues and Interests

The following items were listed as major issues relating to Neighborhood/Developer Meetings:

- Misinformation
- Full plan details made available to all parties early in the process
- Lack of trust
- Early and accurate complete information sharing
- Clearly definition of neighborhood stakeholders
- Marketing of development process – common understanding of issues and procedures
- Lack of an on-going dialogue as the development process continues (even after development approval has been given and construction is underway)
- Neighbors don't understand technical aspects of the development process
- Need for a better Neighborhood/Developer Meeting process – ground rules; expectations; facilitation
- Need for citizens to be better educated about the development process
- Lack of understanding about the big picture – how does the project help the City meet its broader goals?
- Need for staff participation in Neighborhood/Developer Meetings
- No existing way to alert and document all impacted stakeholders
- Lack of willingness to compromise on each “side”

The following were identified as the key interests of the stakeholder groups:

- Neighbor concerns: Safety; property values; traffic; change in neighborhood character

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- Developer concerns: Profit; property rights; desire to impact community in a positive way; need for clearly defined neighborhood meeting process that is reasonable in terms of time and money; staff involvement in neighborhood meetings for informational purposes and to indicate that the process is officially “condoned” by the City.
- Staff concerns: Time involved in meetings; need to be perceived as neutral in the process.

Criteria for Guiding Process Decisions

Participants were asked to develop a set of criteria for use in evaluating any potential process ideas. The following criteria were developed:

- The process must have teeth.
- The process should be viewed as legitimate in eyes of all participants.
- The process should not be burdensome on any one party or on all parties.
- The process should clarify upfront what is and what is not negotiable.
- The process should be reasonable in terms of time and costs.

Improved Neighborhood/Developer Meeting Procedures

Participants identified the following procedures for improved Neighborhood/Developer Meetings:

- Developer registers project application a minimum of 45 days before the City Council meeting at which the public hearing is scheduled to occur.
 - Plans are placed on record and made available to the public at a central location (City Planning and Development Department).
 - Plans will provide as much information as available at time of posting.
 - Plans will be made available on City website if possible.
 - Staff contact person is clearly identified.

- o Notification procedures:
 - Property owners within 400 feet of the property proposed for development would receive notice of the Neighborhood/Developer Meeting from the City of Asheville. This is a minimum notification area and developers are advised to determine if additional property owners should be notified (e.g., if the project is located on a dead-end road 600 feet long, perhaps it would be good practice for the developer to notify all property owners fronting the road); developers would be responsible for any additional mailing costs associated with a larger notice area.
 - Any affected neighborhood association registered with the City and located within 400 feet of the property proposed for development would also receive notice of the Neighborhood/Developer Meeting. It is expected that the designated person(s) receiving this notice will identify key participants outside the general notice area and arrange for them to attend the Neighborhood/Developer Meeting. However, this should not be construed as an open invitation for all neighborhood association members outside the notice area to attend. The intent is to have representation from affected neighborhood associations while ensuring that most neighborhood participants are from the notice area.
 - Timing: The City shall mail Neighborhood/Developer Meeting notices 45 days before the City Council meeting at which the public hearing is scheduled to occur. The initial Neighborhood/Developer Meeting shall occur no less than 10 days prior to the City Council meeting at which the public hearing is scheduled to occur.

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- The City of Asheville will provide notice of the public hearing to adjacent and nearby property owners as provided for under state law or City Code requirements, whichever is more restrictive.
- Meeting location: Neutral site of sufficient size for meeting.
- o Meeting Facilitation - The meeting must be managed by someone who knows the rules (mediator/facilitator) and is able to effectively run a meeting. The developer will pay for the cost of the mediator/facilitator. City staff will attend the meeting as technical advisor(s) only and will not facilitate the meeting.
- o Meeting Ground Rules - The following set of ground rules were adopted to promote effective communication during Neighborhood/Developer Meetings. These ground rules would be reviewed by the meeting facilitator at the outset of each meeting and “enforced” during the meeting by the facilitator.
 - Listen to one another (really listen before responding)
 - Ask for feedback from one another
 - Accept the need for compromise by each of us
 - No stereotyping (let's keep a level of objectivity in our discussions)
 - Be open minded
 - Let's clearly define our statements to insure that all parties clearly understand their meaning
- o Conduct of Meeting – Meetings will have a structured agenda to include: Ground rules for the meeting; Areas of allowable discussion clarified; Clarification of any zoning rule(s) that applies to the situation; Plan presentation (including how plan addresses the big picture); Identification of areas of agreement and disagreement; Negotiation of issues of concern; and Identification of next steps, if any.
 - City staff must attend the meeting to provide technical advice and information and to indicate official “condoning” of the process.
 - Meeting is intended to result in a signed document of supported and non-supported issues that will be generated by the facilitator (who will also identify the necessary signees).

The Planning and Zoning Commission unanimously (6-0) recommended approval of this code amendment on September 3, 2003. Staff also recommends approval.

Mr. Shuford responded to various questions from Council, some being, but are not limited to, who will be the facilitators and how will they be paid; what is the timeline that the developer must meet with the neighborhood; what happens if concerns are not addressed at the neighborhood/developer meeting; how are the property owners notified; does Council have the option of referring the matter to the Planning & Zoning Commission for their recommendation; will outstanding issues be covered in the staff's report; after the facilitator minutes are written, will they be approved by the neighborhood and the developer for inconsistencies; and can advertise the meetings in CityWorks and on the City's Webpage.

At the suggestion of Councilwoman Jones, Mr. Shuford said that he would develop some basic training for City Council on how the neighborhood/developer meetings will work.

Councilman Mumpower spoke in support of this process and hoped it will have a positive effect for both the neighborhood and the developer.

At the request of Vice-Mayor Bellamy, it was the consensus of Council to have City staff report back to Council in a year to see if the process is effectively working.

More Flexible Setbacks for Handicapped Accessibility and Life Safety Features on Residential Lots

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Mr. Joe Heard, Director of Development Services, said that this is the consideration of an amendment to the Unified Development Ordinance to provide greater flexibility in applying setback requirements in situations where handicapped accessibility and life safety features are required on residential lots.

Presently, the City of Asheville Unified Development Ordinance allows handicapped accessible ramps and fire escapes to encroach as close as three feet (3') to side and rear property lines. This proposed ordinance amendment is intended to offer even greater flexibility in situations where these safety and accessibility features are required on residential lots by the North Carolina State Building Code. Presently, these structures in such situations have to be constructed in an awkward configuration or obtain a variance from the Board of Adjustment. The City of Asheville Building Safety and Fire Departments have been consulted and support this proposed amendment. If approved, this amendment will allow the Planning Director to deal with these issues in a fair and timely manner.

On September 3, 2003, the Planning & Zoning Commission recommended approval of the proposed code amendment by a vote of 6-0, including an amendment to limit the application of this change to residential properties. City staff recommends approval of the proposed code amendment as amended.

After discussion by Council, it was the consensus to place these public hearings on the October 14, 2003, formal City Council agenda.

OTHER BUSINESS

_____ Councilman Dunn said that he has met with the Planning & Development Director and Councilman Mumpower on his concerns regarding the Asheville City Plan 2025. He is now requesting that City Council consider the Asheville City Plan 2025 with the seated Council. City Attorney Oast briefly explained the necessary steps to bring this matter back to Council earlier than January 2004 and would have that information for Council at their October 14, 2003, meeting.

CLOSED SESSION

_____ At 3:47 p.m., Councilman Mumpower 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: Carroll Moore; City of Asheville. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Dunn and carried unanimously.

At 4:00 p.m., Councilman Ellis moved to come out of closed session. This motion was seconded by Councilman Dunn and carried unanimously.

ADJOURNMENT:

Vice-Mayor Bellamy adjourned the meeting at 4:00 p.m.

CITY CLERK

MAYOR