

Worksession

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

Absent: None

**CONSENT:**

**Agreement with the N. C. Dept. of Transportation for Landscaping Adjacent to the W.T. Weaver Greenway**

Summary: The consideration of a resolution authorizing the City Manager to sign a supplemental agreement with the N. C. Dept. of Transportation (NC DOT) for landscaping adjacent to the W.T. Weaver Greenway.

The City of Asheville received a grant from the NC DOT to install a greenway along W.T. Weaver Boulevard from Barnard Avenue to Broadway Street in Fiscal Year 2000. The amount of the grant was \$300,000. There was no local match for the grant. The actual cost of the construction was approximately \$200,000.

The City of Asheville and UNC-Asheville requested some of the remaining funds be used to provide landscaping to the W.T. Weaver Greenway. The City requested \$34,070, which has been approved by the NC DOT. The grant does not require any local match.

Prior to requesting the money for the landscaping, City staff requested the remaining \$100,000 for another greenway project but was denied because the project did not qualify under this original municipal agreement.

Staff recommends that City Council authorize the City Manager to sign a supplemental agreement with the NC DOT for landscaping adjacent to the W.T. Weaver Greenway in the amount of \$34,070.

**Easement across Brotherton Avenue for a Private Residential Sewer Line**

Summary: The consideration of a resolution authorizing the Mayor to convey an easement over a portion of City-owned property on Brotherton Avenue for a private residential sewer line.

The City owns property (PIN No. 9638.18-21-9316) located on Brotherton Avenue and Virginia Avenue and the unopened right-of-way on Hubbard Street. The property is in the process of going back on the market after a sale contract failed to close. Infrastructure has been installed on the buildable portion of the property. The portion of the property near Hubbard Street is wooded and steep and is crossed by a sewer main. The intended use for that portion of the property is for green space.

David M. Bennert owns property on Hudson Street, which backs up to the unopened right-of-way of Hubbard Street where he is building two houses. Due to the topography and the location of the sewer main, the most direct and efficient route to provide sewer to the new houses is across unopened Hubbard Street and a portion of the City's property. The requested easement would be solely for the purpose of installing and maintaining the sewer line and would

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not restrict the use of the easement area for green space, which is the proposed use of that portion of the property.

Staff recommends adoption of the resolution authorizing the Mayor to convey an easement over a portion of City-owned property on Brotherton Avenue for a private residential sewer line to David M. Bennert.

**Contract and Budget Amendment for Synthetic Turf at Azalea Park and Memorial Stadium**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract for the construction and installation of synthetic turf at Azalea Park and Memorial Stadium and the associated budget amendment.

The Parks and Recreation Department, along with its partner, WNC Soccer Foundation, has raised almost \$2,250,000 toward the development of the first two phases of Azalea Park. These phases include the development of four synthetic turf soccer fields, construction of restroom/ concession facility, a Leathers playground, parking, and greenway trails. After extensive research, both the Parks and Recreation Department and the WNC Soccer Foundation have concluded that synthetic turf soccer fields will greatly enhance the playability for the John B. Lewis Soccer Complex. This will be accomplished by allowing additional practice times and games for soccer and other events without affecting the playing surface. This will also allow for the complex to be used in inclement weather for regular play as well as tournament competition. In addition, no harmful chemicals will need to be used on the fields.

The Parks and Recreation Department solicited bids from a number of vendors. The specifications in the bid package required

the surface to be FIFA (Federation International Football Association) approved. FIFA is the international governing body of soccer. This insured that the quality of the product would be of the highest standards possible for the safety of the participants and durability of the surface. In addition, the bid package included replacing the grass field at Memorial Stadium with synthetic turf. The cost for this project is anticipated to be totally paid for by one of the user groups at Memorial Stadium. In calculating the final breakdown for the bids, staff deducted the amount of in-house labor that will be used in the construction, based upon the vendor's recommendation. In addition, staff had to take into consideration the specifications by the vendors in order to determine the amount of in-house support needed to meet the warranty for the products.

A total of four bids were received for the project as follows with the amount of cost savings deducted from each amount and adding back in-house material costs:

Vendor	Bid Price	Minus Cost savings	Plus Add. Items in sub-base Construction	Total
Taylor Murphy	\$2,362,950	\$1,717,950	\$0	\$1,717,950
Phillips & Jordan	\$2,352,375	\$1,762,970	\$0	\$1,762,970
Ballard Const. (e-turf)	\$2,432,639	\$1,522,861	\$241,270	\$1,764,131
Ballard Const. (f-turf)	\$3,045,771	\$2,135,993	\$241,270	\$2,377,263

After careful consideration, the Parks and Recreation Department and WNC Soccer Foundation recommend awarding the contract to Taylor Murphy Construction Company at a total price of \$1,717,950. This project will be financed along with other Fiscal Year 2004 purchases

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through an installment purchase contract over a period of five years. The Finance Department anticipates soliciting proposals for financing in January of 2004. Funding for this first year's installment payment is included in the current funds for Azalea Park. The Parks and Recreation Department anticipates a majority of the funds for payment of the installment purchase contract to occur from sponsorships, foundation, and grant funding. Again, the funding for Memorial Stadium is anticipated to be totally paid for by one of the user groups.

The budget amendment includes funds secured from a number of sources including the Janirve Foundation for \$500,000, Wachovia for \$25,000, Arby's for \$10,000, the N. C. Dept. of Transportation for \$400,000 and several other individual donations for a total of \$988,400.

The Parks and Recreation Department anticipates starting construction for this project in the next few months with completion of the John B. Lewis Soccer Complex in the fall of 2004.

The Parks and Recreation Department requests City Council authorize the City Manager to enter into a contract with Taylor Murphy Construction Company for \$1,717,950 for the construction and installation of synthetic turf at Azalea Park and Memorial Stadium and to approve a budget amendment totaling \$988,400.

Mr. Brinson responded to various questions from Council regarding the bids.

### **Chestnut Street Sidewalk Replacement**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Dee Williams and Company to install sidewalks located along Chestnut Street in Asheville, North Carolina.

The City is in need of a contractor to provide sidewalk installation services for sidewalks along the north side of Chestnut Street between Liberty Street and Furman Avenue. In accordance with N.C. Gen. Stat. sec. 143-131, informal bids for sidewalk installation services were solicited and three responses were received. The bidders are listed below:

<u>Company</u>	<u>MB Participation</u>	<u>Drug Free</u>	<u>Bond</u>	<u>Bid</u>
Candler Concrete Works, Inc.	0	Yes	Yes	\$158,287.90
Burleson Construction				\$136,431.00
Dee Williams And Company Inc.	100%	Yes	Yes	\$110,388.00

Funding for this project has already been allocated in the Public Works Department's Capital Improvement budget.

The Public Works Department staff recommends City Council adopt a resolution authorizing the City Manager to enter into contract with Dee Williams and Company Inc. to install sidewalks along the north side of Chestnut Street between Liberty Street and Furman Avenue.

Mr. David Foster, Street Superintendent, responded to questions from Councilwoman Bellamy regarding sidewalk replacements vs. new sidewalks. City Engineer Cathy Ball also responded in that the City is continually looking for new funding for sidewalks.

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Councilwoman Bellamy suggested we advertise information regarding Americans with Disabilities Act access on sidewalks on our Government Channel. City Manager Westbrook said that we are just about at our max with equipment and personnel for additions to our Government Channel, but will be able to include that information electronically.

#### **Budget Amendment for Ballfield Lights at Valley Springs Middle School**

Summary: The consideration of a budget amendment, in the amount of \$33,420, for the installation of ballfield lights at Valley Springs Middle School.

The City of Asheville Parks and Recreation Department is continuing to upgrade parks throughout the City of Asheville. One of the parks in need of additional work is the Valley Springs Middle School ballfield complex. This project will be for lighting an additional ballfield at the complex. The site is the home for the South Buncombe Sports and Recreation Association. On June 25, 1992, the City of Asheville entered into a 30-year agreement with the Buncombe County School Board. This agreement stated that the Buncombe County School Board would provide land at Valley Springs Middle School for the purpose of providing athletic fields (baseball/softball) that the City of Asheville would fund, install, and maintain. This agreement provides for the much-needed athletic field space in South Buncombe and for the students at Valley Springs Middle School. In order to complete this portion of the project, staff prepared bid specifications for the installation of a turn-key field lighting system. Musco Lighting Company agreed to do the project for \$33,420. Through the bid process, Musco Lighting Company has complied with the Minority Business Plan.

This project will be completely funded from a donation by the South Buncombe Sports and Recreation Association.

The Parks and Recreation Department recommend the approval of a budget amendment, in the amount of \$33,420, for the installation of ballfield lighting at Valley Springs Middle School.

#### **Contract for Architectural Services for Fire Station 6 Construction**

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Stewart-Cooper-Newell Architects for architectural services for the construction of Fire Station #6 to be relocated to Old Haywood Road at East View Circle.

The relocation of Fire Station #6 has been in the planning stages for many years with the appropriation for purchase of the land in 2000 and appropriation for construction of the facility in 2003. The current location of fire station #6 does not maximize the City's equipment and staff resources. Current overall City response standard coverage will increase by approximately 4% with the relocation of this fire station. A fire station in the Exit 44 area is necessary to provide municipal level fire protection and emergency services to the western sections of the City. In addition to the building housing an engine company and a ladder company, the building will also house a police services area for the Asheville Police Department. Additional office and muster space is needed for the Police to provide services to citizens in the West district. This facility will make the best use of the space by combining common areas between fire and police.

A formal request for qualifications (RFQ) was properly advertised and a preliminary meeting was held with interested architects. Written proposals were received by City staff and were evaluated against identified rating criteria distributed in the RFQ. A team of staff from Fire and Rescue, Police, Parks and Recreation as well as the Budget Office reviewed all of the submittals. Three finalists were identified and one firm was clearly selected as the recommended architect to complete the job. References for the recommended firm, especially past performance with other North Carolina cities, were completed with a focus on combination fire and police

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stations. The committee selected Stewart-Cooper-Newell Architects as the recommended architects for this project.

Stewart-Cooper-Newell Architects, based in Gastonia, North Carolina, has provided architectural services for scores of North Carolina cities for fire stations and police stations. Stewart-Cooper-Newell has designed several combination fire and police stations. The firm continuously has between 25-35 fire stations in progress at any given time. Approximately 15-20 stations are completed each calendar year under their direction. Stewart-Cooper-Newell is the largest architectural firm in the fire station construction arena in the United States at the current time. With over 100 cities as customers, to date, Stewart-Cooper-Newell Architects reports that they have never completed a fire station project in which the owner did not use the firm again on subsequent fire station projects.

Fire Station 6 is planned to be approximately 15,000 square feet with approximately 10,000 square feet for fire and rescue use

and approximately 5,000 square feet for police use. Construction cost of the project is anticipated at an average of \$100.00 per square foot, or \$1,500,000.00. Stewart-Cooper-Newell proposes their fee for full architectural, civil, structural, plumbing, mechanical and electrical design to be at eight (8) percent of the cost of construction, or approximately \$120,000.00. Funding for the entire project including construction, architectural and utility/site/furnishings and other "soft" costs is budgeted at \$2,000,000 in the Fiscal Year 2003-04 budget.

Completion of this station would be in approximately 24 months. Timeliness of this project is important to the City of Asheville due to the upcoming evaluation of the City's fire insurance rating by the Insurance Services Office and North Carolina Office of State Fire Marshal.

The resolution authorizes the City Manager to execute a contract with Stewart-Cooper-Newell Architects for Fire Station #6. The contract is an AIA Document with appropriate modifications for the City of Asheville.

The Fire Chief and Police Chief recommends City Council authorize the City Manager to sign the contract with Stewart-Cooper-Newell Architects for architectural services in the construction of Fire Station #6.

Upon inquiry of Councilman Dunn, City Manager Westbrook explained the type of station that will be built.

Mayor Worley 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.

### **I-26 UPDATE**

Planning & Development Director Scott Shuford said the I-26 Connector project first made it to the Transportation Improvement Plan in 1989. The Asheville Connector Advisory Committee was formed in 1991 to study alternative locations. Neighborhood, business groups, public workshops, and public hearings occurred in 1993 and 1994. In 1995, the selection of the "preferred corridor" occurred – the project would use the existing 19/23 and I-240 corridors instead of a new route because it (1) was the most direct route; (2) would not promote urban sprawl; (3) reduced congestion on Smoky Park bridges; and (4) created less damage to developed areas and the environment. In 1997, three alternatives were developed for the Connector section that would link 19/23 and I-240. Since 1997, there has been considerable public involvement. Most recently the Community Coordinating Committee was formed. That Committee is a 25 member committee. It's purpose is to facilitate balanced public input about the Connector and make recommendations. In 2000 the Community Coordinating Committee held

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project education and design forums attended by over 250 people. They made the following 9 key recommendations: (1) seriously consider alternative alignments that separate local and interstate traffic; (2) make aesthetics a big part of the design; (3) use the new traffic model in the design process; (4) add I-40 interchange to the project; (5) restore neighborhood connectivity; (6) interchanges need to be community sensitive in scale and design; (7) make safety a big part of the design; (8) release any unneeded right-of-way to City; and (9) expedite the project.

Achievements to date include (1) alternate alignments (a) the N. C. Dept. of Transportation (NC DOT) agreed to add two alternative alignments to the project design process; and (b) these alignments allow the separation of local and interstate traffic by separating Patton Avenue traffic from I-240 traffic; (2) I-40 interchange (a) NC DOT agreed to add the I-40 interchange with I-26 to the project; and (b) this will allow us to have full east-west and north-south movements at this critical location; (3) safety (a) NC DOT agreed to install overhead message board signs that will advise motorists of delays or accidents; (b) NC DOT agreed to examine other ways to improve safety prior to and during construction; and (4) aesthetics (a) NC DOT has agreed to a community-appointed aesthetics advisory board.

Mr. Shuford then reviewed with Council the connector alternatives, the current connector schedule (with a completion construction date of 2012) and highway design aesthetics.

Councilwoman Bellamy felt the biggest question is what we can do to speed up the 2012 completion date. Mayor Worley said that we have been repeatedly asking what we can do to complete the project quicker.

Councilman Dunn wanted to make sure that the funding is still dedicated for this project.

Mr. Shuford then answered various questions/comments from Council, some being, but are not limited to: can we ask the NC DOT to start acquiring some rights-of-way in advance; will the City have to pay for aesthetic improvements above and beyond basic aesthetic improvements; how can the City proactively seek funding; and is it realistic for the City to ask the NC DOT to turn over to the City any excess NC DOT right-of-way.

Mr. Shuford said that Mr. Drew Joyner of the NC DOT will be at a meeting on Monday, December 15, 2003, at 2:00 p.m. in the Sixth Floor of the City Hall Building to update the Community Coordinating Committee on the I-26 Connector status and invited City Council to attend.

### **PUBLIC ACCESS CHANNEL COMMISSION**

Public Access Channel Commission Chair Beth Lazer said that this is the consideration of an ordinance to dissolve the Public Access Channel Commission (PACC) and provide direction as to the City's support of URTV, Inc., as the non-profit corporation responsible for policy and operational oversight of a public access cable channel pursuant to the terms of a Management Agreement with URTV, Inc. and the City of Asheville.

On October 28, 2003, City Council voted unanimously to allow the Mayor to enter into an Interlocal Agreement with Buncombe County government for the purpose of funding a Countywide public access television operation and facility. At that time, the PACC Chair Beth Lazer outlined future steps necessary toward the formation of URTV, Inc. as the oversight corporation of public access television for Asheville and all non-incorporated areas of Buncombe County. Those steps include: 1) adoption of an ordinance dissolving PACC, 2) direction as to Board of Director selection process of URTV, Inc.; and 3) once the URTV, Inc. Board of Directors is formed, the City of Asheville negotiate and enter into a Management Agreement with URTV, Inc.

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The PACC has recommended that both Asheville City Council and Buncombe County Commissioners each receive one initial URTV Board of Director appointment. In addition, all five current PACC members have agreed to serve an initial term during this upcoming transition. Then, those seven inaugural board members would appoint the remaining four board members, for a total of eleven board members.

The PACC has put together a description of criteria they will look for in Board members and have also indicated the skills they think they will need to bring more expertise to the table. They would like to start the application as soon as possible and would be happy to provide their list of candidates to City Council.

Several City Council members requested data from other North Carolina cities that would outline the non-profit Board appointment process. The following cities were contacted and subsequent information collected:

Town of Chapel Hill/ The People's Channel: Private-non-profit public access channel since 1996. The Board of Directors consists of ten members, all of which are appointed by the Board itself. Current budget: \$133,392. Of that amount, \$110,341 is provided by the City through cable fees.

City of Greensboro/Greensboro Community Television: Private non-profit public access channel since 1995. The Board of Directors consists of eighteen members. Three members are appointed by the City of Greensboro and the remaining fifteen are appointed by the Board. Current budget: \$225,000. Of that amount, \$120,000 is provided by the City through cable fees.

City of Winston-Salem/Community Access Television (CATTV): Private non-profit public access channel since 1994. The Board of Directors consists of fourteen members, seven of which are currently vacant. Several board seats are held by member representatives; several seats are held by community organizations, such as the N.C. School of the Arts. No seats are appointed by the City of Winston-Salem.

City of Raleigh/Community Television: The City of Raleigh does not have a private non-profit organization to oversee its public access channel. The Public Affairs Department oversees the division responsible for government access, public access, and religion access television. These divisions are staffed with City employees. The Raleigh City Council appoints the Raleigh Telecommunications Commission, who has responsibility for policy oversight of Community Television.

City of Wilmington: The City of Wilmington does not have a public access television station. Time-Warner Cable Company does provide a channel for community access, accepting locally produced tapes for consideration. There is no City involvement, to include money and Board oversight at this time. The City does have the ability through its Cable Franchise Agreement to set up a public access channel in the future if it determines it necessary.

As you can see, there is a wide continuum of how other cities in our region have addressed public access channel programming oversight responsibility.

Staff recommends Council adopt the ordinance dissolving the Public Access Channel Commission and determine a method to appoint URTV, Inc. Board of Directors. Once the board is named, the City Manager shall negotiate, on behalf of the City, a management agreement subject to the City Council final approval.

Ms. Lazer responded to various questions/comments from Council, some being, but are not limited to: what percentage of the proposed budget is user fees; what is the approximately

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annual operating budget; what type of facility is being looked at; and what happens if Buncombe County refuses to sign the management agreement.

Councilwoman Bellamy voiced concern of only one City representative on the Board. She also felt it would be appropriate for the

City to have a liaison to the Board as well.

Discussion surrounded the City's representation on the Board. City Attorney Oast said that in general, the more appointments made to the Board increases the possibility of a liability situation.

Mayor Worley asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

### **SOUTH PACK SQUARE REDEVELOPMENT UPDATE**

Planning & Development Director Scott Shuford said that this is the consideration of a budget amendment, in the amount of \$1,140,000, to recognize receipt of a Section 108 Guaranteed Loan and an Economic Development Initiative (EDI) grant from the U.S. Dept. of Housing and Urban Development and expenditure of the proceeds on the redevelopment of South Pack Square. This report replaces prior reports given to City Council on November 11 and November 25.

In June 2001, Council approved applications by the City for \$800,000 in Community Development Block Grant (CDBG) Section 108 Loan funds and \$340,000 in associated EDI grant funding in order to assist Eagle/Market Streets Development Corporation (EMSDC) to complete the acquisition and redevelopment of three key properties in the South Pack Square redevelopment area. The project is now ready to move forward and Council's authority is needed to create the necessary budgets to obligate and expend these funds.

The public and City Council have raised several questions and issues concerning the proposed development. In the following sections of this staff report, we have attempted to respond to these questions and issues.

#### **1. Scope of Project**

While the particular funds in this budget allocation will technically be used only for the property owned by EMSDC west of Market Street, the entire development project also encompasses three buildings owned by Mount Zion Church, on the other side of South Market Street. Each part of the project is mutually dependent for success on the other, because:

1. A project of sufficient size was needed to attract development expertise and financing
2. The joint development avoids competition in marketing
3. By eliminating blight from both sides of South Market Street, the area is sufficiently transformed to convince residents and businesses that it is safe to move there.

Essentially the budget allocation will facilitate the renovation of five historic buildings to the Department of the Interior standards and redevelop a parking lot with a mixed use infill building that has received design approval from the South Pack Square Design Review Committee and the Downtown Commission. It will result in a total investment of \$6,600,000, producing 47 apartments and 12,000 square feet of leasable commercial space, creating 72 jobs, and adding approximately \$76,000 a year to property tax revenues.

The principal developers for this consolidated project are Historic Acquisitions, LLC, an experienced developer of historic properties in North Carolina, and The Enterprise Foundation, an

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internationally recognized organization, founded by the late James Rouse, which specializes in community development projects.

#### **2. Compliance with South Pack Square Redevelopment Plan**

One issue that has arisen during public debate concerning the proposed EMSDC project is whether the infill building complies with the redevelopment plan. The plan makes reference to the Eagle/Market Façade Design Guidebook, which illustrates the infill building site as a parking lot. However, it also contains references to promoting infill development.

Legal review of case law concerning redevelopment plans reveals that such plans should be broadly interpreted, allowing flexibility for redevelopment activities to take place. This indicates that the proposed infill building is consistent with the purposes and intent of the plan and that no plan modification is necessary to accommodate the building.

#### **3. Public Involvement**

City Council received a chronology of recent public involvement activities and also a list prepared by a neighboring property owner (Mr. Ellison) that outlines suggested concessions that might win his support for the project. Included on this list are such concessions as: EMSDC transfer of ownership of two condominiums in the infill building to Mr. Ellison, construction of a joint-use elevator by EMSDC to serve both the Ritz and the infill buildings, and purchase of an approximately 100 square foot site owned by Mr. Ellison by EMSDC for \$200,000. While these concessions proved unacceptable to EMSDC, the agency did modify the infill building design to pull it back 3 feet from adjacent property lines and has indicated its willingness to explore other concessions. The intent in providing this information is to illustrate there have been efforts to negotiate compromises with adjoining property owners that are not necessarily listed on the public involvement timeline.

The most recent meeting that is relevant to this matter took place on December 2 with EMSDC, Mt. Zion Church, the YMI, and property owners. Some progress was made although adjacent property opposition continues with regard to the infill building.

On December 4, 2003, a luncheon meeting was held at the request of Virgil Smith with regard to the proposed development. Also attending the meeting were James Geter of EMSDC and Gene Ellison, area property owner. Mr. Smith called the meeting in an effort to determine if there was any room for compromise between these two parties regarding the proposed infill building that is part of the development proposal. As discussion unfolded, it became apparent that there was no opportunity to reach a compromise that would simultaneously move the project forward consistent with Mr. Geter's needs and still meet Mr. Ellison's concerns.

Another meeting was scheduled for the morning of December 9. In summary, there was a recommendation to "delay or slow down the process" to ensure that there is appropriate time for stakeholders of the Block and the public to voice their support or concerns regarding the physical design of the Phase I project, specifically the infill between the Ritz, Wilson, Campbell, and Collette buildings.

#### **4. Current Status**

The redevelopment work is now almost ready to start. The Development Partnership has been informed that the lender's loan committee has approved the issuance of a loan commitment letter, subject to the City's funding approval. The partnership has also decided that EMSDC should retain ownership of its property and lease it to the partnership, on similar terms to those already agreed for the Mount Zion property. The partners are now finalizing the organizational and loan closing documents. Staff is finalizing the federally-required environmental review process and is preparing closing documents for the Section 108 Loan and EDI Grant. The developer expects site work to start as soon as these steps are complete.

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#### **5. Consequences of not authorizing budgets**

If Council decides not to authorize the budgets for the Section 108 loan and EDI grant, the following consequences can be expected:

- The proposed development will be abandoned and the outside partners will withdraw, having lost significant expenditure of time, overhead, and legal/organizational costs.
- Approximately \$400,000 in CDBG funds already invested in the project (mainly for property acquisition, architectural and other professional fees) will be lost, except that the real estate will remain as an asset to EMSDC. This amount does not include a much larger sum spent by the City and other funders since 1990 on planning studies, surveys, appraisals, community-building activities, and the operating costs of EMSDC.
- The \$340,000 EDI grant will have to be surrendered.
- Another use for the Section 108 loan (already drawn down and in the City's possession) will have to be negotiated with HUD; meanwhile the City will have to pay interest of \$38,000 a year.
- EMSDC will have to create another redevelopment project for its buildings; if this is unsuccessful the buildings will eventually become the property of the City.
- Mount Zion Church will have to create a new project to redevelop its buildings, which will remain in their current state in the meantime.
- Substantial public support for moving forward with the project was apparent at the November 17 public meeting. Therefore, significant community disappointment may be apparent in the event that this project does not go through.
- Eventually, if demand for downtown land remains high, private development of some sort will probably occur in the area. In the absence of an effective non-profit redeveloper to promote development according to the Redevelopment Plan, the result could be demolition and replacement of existing dilapidated buildings and permanent loss of the historic fabric and identity of the area. A private property owner not using public funds is not obliged to follow the redevelopment plan, the recommendations of the Downtown Commission, or the National Historic District guidelines.

Finally, the withdrawal at a late stage of pre-development of public funds committed to the project two years ago will damage to the City's reputation for supporting historic rehabilitation and community development projects. The opportunities for partnering with experienced private sector redevelopers or with national non-profits such as the Enterprise Foundation, National Development Council, or Local Initiatives Support Corporation, will be diminished.

#### **6. Consequences of delaying budget authorization.**

The partnership may lose its loan commitment and be forced to withdraw, in which case the consequences will be the same as those outlined above.

Mr. Shuford said that public involvement could have been better and more thorough, but City Council needs to determine if that is a fatal flaw for a project that has this much benefit.

Since it appears that further delay to allow discussion between the parties involved will not be fruitful, he recommended that Council scheduled the budget amendment on December 16, 2003.

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Mr. Shuford reviewed the funding sources and costs and an analysis of major soft costs. Three soft costs he detailed was

environmental; survey/appraisal fee; and leasing fee/marketing initiatives. He described the project in a visual sense and then showed the site plan for the area.

The project provides 14 apartments (market rents); 8700 square feet retail or office space; and 17 garage parking spaces. There will be 33 apartments and 2800 square feet of retail space in Mt. Zion buildings. Some of these apartments may be made affordable to low income households. He reviewed the preliminary plan for the Mt. Zion site.

He reviewed the history of the project since 1993 by showing a timeline. There has been a concern raised regarding adequate public comment. In response to that concern (1) the Redevelopment Plan gives EMSDC responsibility for this; (2) design charette was held prior to funding application; (3) public meeting on November 17, 2003; (4) three meetings of stakeholders group convened by Virgil Smith on December 2, December 4 and December 9; and (5) public comments may be taken by City Council at their formal meeting. Another concern raised was does the project modify the Redevelopment Plan. The City Attorney and Planning Director have carefully reviewed the Plan and determined that infill development is not a Plan modification.

The EMSDC feels that further delay jeopardizes the project and it is unacceptable to them. If they modify the infill building anymore, it would not make the project work. The Infill building is one of the key pieces to make the project happen. The EMSDC will keep people involved in the process and will continue to address concerns. Mr. Shuford then talked about the developers and explained the enterprise foundation.

Mr. Shuford said that this morning Mr. Jesse Ray, representing the YMI Cultural Center, said that the YMI is concerned about the process but not the project. They felt the process was not inclusive. Because the process was not inclusive, it called into question the validity of the project.

Mr. Shuford and Community Development Director Charlotte Caplan then responded to various questions/comments from Council, some being, but are not limited to: what is the financing of the Mt. Zion project; explanation of what the Section 108 loan can be used for; explanation of private investor tax credits; is it normal for developers not to have any hard dollars invested in a project; what would be the risk factors for the developer and for the City if the project fails; what is the negative impact on the surrounding property owners; who pays if the loan is not paid and what fund will that come out of; in 2001 when the City made application for the Section 108 and EDI funds, was a building included in that application; is there a residential requirement in Section 108 loans; was the infill building a conceptual concept out of the charette; what is the vacancy rate for rental units in the City; what are market rates; what type of things would constitute a Plan modification; explanation of the default process; is the developer from Asheville; where are the banks located that will be lending the money; how much will the units be rented for; home many residential households are in this area now; what is the anticipated tax base if the project is implemented; and how much money is 1% more on the interest rate.

Councilwoman Bellamy voiced concern about the process and felt that the infill building was a modification of the Redevelopment Project. She expressed concern about moving forward.

After discussion, City Attorney Oast said that the Redevelopment Plan is not parcel specific as is typical of any plan of this type. The Plan covers a lot of things and it does call for infill development.

Mr. Shuford passed out the South Pack Square Development Plan Task Force's Statement dated December 9, 2003, which in summary said that "the Task Force is in favor of redevelopment of the Block and is not totally opposed to the infill component of Phase I of the

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project. We recognize the funding timelines, according to EMSDC and the City of Asheville Planning Department, have essentially driven the project to date; however we need more time to discuss this issue and to reach consensus among task force members."

Upon inquiry of Vice-Mayor Mumpower, Mr. David Rogers, developer, explained that in the past 30 days interest rates have risen by 1%.

Upon inquiry of Mayor Worley, City Attorney Oast said that the public input process was not legally inadequate.

Discussion occurred on whether City Council should schedule the budget amendment on the December 16, 2003, formal meeting. It was noted that the Task Force needed more time to discuss the issue and it was hoped that their meeting could occur prior to the December 16 meeting. Mayor Worley then said that the matter would be scheduled on the December 16 agenda and City Council could determine at that meeting whether to vote on the project or delay consideration to another date.

At 6:10 p.m., Mayor Worley announced a short recess.

#### **AZALEA ROAD SITE**

- This item was pulled from the agenda.

#### **HOSPITALITY HOUSE REQUEST**

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Councilwoman Jones said that this is the consideration of a request by Hospitality House for a grant of \$7,500 from the Contingency Fund.

In November, 2002, City Council appropriated \$20,000 from the Contingency Fund to provide Hospitality House the means to operate the A HOPE Homeless Day Center on Saturdays. This was decided after discussion about the number of homeless individuals in our community and the efforts of the Downtown Association and the Downtown Commission to solve some of the problems they create. These funds, along with Community Development Block Grant (CDBG) funding for Sundays, have enabled Hospitality House to keep the Center open seven days a week through December, 2003.

The current CDBG grant is sufficient to maintain Sunday opening through June 2004, but the General Fund grant will run out at the end of December 2003.

Representatives from Hospitality House attended the Housing and Community Development Committee meeting in October to request an additional \$10,000 in City support to allow them to keep the Center open on Saturdays from January through June, 2004. A representative from the Downtown Merchants' Association stated that weekend opening of A HOPE has eased the problems for downtown merchants and residents. The Housing and Community Development Committee suggested that the City might fund \$7,500 if Hospitality House would commit to raising the remaining \$2,500 from downtown businesses. Mr. Buckner, representative of Hospitality House, agreed to present this recommendation to the Downtown Merchants' Association.

Staff has advised the Hospitality House that any future grant requests should be made at the appropriate time for consideration in the normal budget cycle.

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The Housing and Community Development Committee and City staff recommend approval of a budget amendment, appropriating \$7,500 to Hospitality House for the continued operation of A HOPE Day Center on Saturdays.

Councilwoman Bellamy hoped that the Hospitality House will do additional outreach to make sure that people know that this service is available. She suggested brochures or flyers be placed in the jail for inmates to see when they are released.

Ms. Christy Carter, Executive Director of Hospitality House, gave numbers of how many people are using the Day Center on Saturdays. She did note that the numbers fluctuated with the weather.

When Councilman Newman asked if he had a conflict of interest if he is a member on the Board for A HOPE, City Attorney Oast suggested Councilman Newman contact him tomorrow to discuss the matter in detail.

Mayor Worley asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

#### **ABC BOARD APPOINTMENT**

Mayor Worley said that City Attorney Oast has advised Council that a current member of the ABC Board can continue to serve following the expiration of his/her term.

Mayor Worley noted that he has written to the Chair of the ABC Board requesting a meeting with him and Councilman Dunn meet to discuss various concerns.

Councilwoman Bellamy said that the Boards and Commissions Committee recommended that the current Chair be reappointed noting that after she was appointed she immediately started asking probing questions.

Upon inquiry of Councilman Dunn, Mayor Worley said that it was the consensus of Council to increase the membership of the ABC Board from 3 to 5 members, however, that takes legislative action and will be placed on our upcoming legislative agenda.

#### **APPLICATION FOR CHRONIC HOMELESSNESS GRANT**

Community Development Director Charlotte Caplan said that this is the consideration of a resolution authorizing the City to apply for \$500,000 in HOME funds made available for housing for chronically homeless people.

The U. S. Department of Housing & Urban Development (HUD) has announced a national grant competition for recaptured HOME funds to be used by HOME entitlement communities to develop supportive housing for the homeless. Thirteen grants of \$500,000 will be made to communities who can demonstrate:

- A. High productivity in the use of HOME funds for producing rental housing.
- B. A plan for ending chronic homelessness by 2012.
- C. Commitment to specific policies that support affordable housing.

An unusual feature of the competition is that 75% of the points are pre-awarded on the basis of past performance (item A above). Asheville scored sufficiently high in this pre-scoring to have a chance of winning a grant.

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Another unusual feature is that the grant application requires no information on the proposed use of the funds. This can be determined after the funds are awarded.

Since the funds are subject to the HOME program rules, matching funds are required, in principle. However, excess match expended on local HOME projects in previous years can be counted for this purpose, meaning that no additional local funds will need to be identified as match for this grant.

The grant deadline is December 18, 2003. The Housing and Community Development Committee has indicated its support for this grant application.

- Staff recommends City Council approve the submittal of a grant application  
to apply for \$500,000 in HOME funds made available for housing for chronically homeless people.

Mayor Worley asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

#### **CITY COUNCIL LIAISON ASSIGNMENTS**

After a quick review and brief discussion of liaison and member positions on various boards and commissions, it was the consensus of City Council to have all Council relay their preferences to Mayor Worley. Mayor Worley will then have a list prepared for the January 6, 2004, worksession so appointments can be made.

#### **ADJOURNMENT:**

Mayor Worley adjourned the meeting at 7:12 p.m.

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CITY CLERK

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MAYOR