

Regular Meeting

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

PLEDGE OF ALLEGIANCE

Mayor Worley led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Jones gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING – SOMETHING ABOUT OCTOBER, 2004, AS “DISABILITY EMPLOYMENT AWARENESS MONTH”

Mayor Worley read the proclamation proclaiming October 2004, as "Disability Employment Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Bart Floyd, Mr. Richard Arends and Ms. Carol Hubbard who briefed City Council on some activities taking place during the month.

B. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD

Mayor Worley presented City Accountant Pat Leckey with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. The City of Asheville is proud to have received this award for the 24th year.

He also was proud to acknowledge that the City of Asheville's Accounting Division received the Award of Financial Reporting Achievement.

Ms. Lynn Ducker, Ms. Sue Bagwell, Ms. Tia Keith, Ms. Leah Singleton, Ms. Charlene Frankin and Mr. Tim Taylor were also recognized for their work in achieving the awards.

Mayor Worley announced the upcoming retirement of William Schaefer, Finance Director. Mr. Schaefer will be retiring at the end of December 2004, after 37 years of public service including 11 years with the City of Asheville.

II. CONSENT AGENDA:

Councilwoman Bellamy asked that Consent Agenda “L” be removed from the Consent Agenda for an individual vote.

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A. APPROVAL OF THE MINUTES OF THE WORKSESSION HELD ON SEPTEMBER 21, 2004, AND CONTINUED UNTIL SEPTEMBER 28, 2004; AND MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 28 2004

B. RESOLUTION NO. 04-212 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY PROPERTY ON MAX STREET TO BRANDON KNOLLS LLC

Summary: The consideration of a resolution authorizing the Mayor to convey property on Max Street to Brandon Knolls, LLC, in the amount of \$1,500.

On September 28, 2004, the City Council directed the City Clerk to advertise for upset bids on a parcel of land on Max Street (PIN No. 9648.07-59-8495) in the East End/Valley Street Community.

The subject property is an RS-8 Residential Single-Family High Density District parcel comprising approximately 0.04 acre located on Max Street across from Stephens-Lee Center. The lot is too small to build on. The tax value for the parcel is \$1,500.

Brandon Knolls LLC has submitted a bid to purchase the property in the amount of \$1,500 and intends to combine it with adjacent property that is improved with a single family house

The positive aspects of the transaction are:

- The sale will be at fair market value as established by the upset bid process.
- It will return property not needed for public use to the tax rolls.
- It will transfer responsibility for maintenance to the private sector.
- A non-buildable lot will be assembled with an adjoining parcel to provide a more coherent land use pattern
- The sale of this lot to Brandon Knolls will assure the continued use of the lot for driveway access to the adjoining lot

The advertisement for upset bids ran in the Asheville Citizen-Times on Friday, October 1, 2004, as provided in N. C. Gen. Stat. sec. 160A-269. No response was received. Therefore, the offer to purchase from Brandon Knolls, LLC, in the amount of \$1,500 was not upset and the sale to Brandon Knolls, LLC should be approved.

Planning Department staff recommends adoption of the resolution authorizing the Mayor to convey property on Max Street to Brandon Knolls, LLC, in the amount of \$1,500.

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C. RESOLUTION NO. 04-213 - RESOLUTION AUTHORIZING CONVEYANCE OF REAL PROPERTY AT 14 MICHIGAN AVENUE IN EXCHANGE FOR REAL PROPERTY ON LYMAN STREET

Summary: The consideration of a resolution authorizing the City to exchange real property at 14 Michigan Avenue for Brandon Knolls LLC property on Lyman Street.

The property at 14 Michigan Avenue (PIN No. 9638.15-54-8270) is a 0.19 acre parcel zoned RM-8 Residential Multi-Family Medium Density District. The lot is on the east side of Michigan Avenue about 150 feet from its intersection with Haywood Road. The property is elevated about 5 feet above street grade and mostly level except for a driveway. It has several

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large trees and some grass that has been worn bare due to frequent use by customers of the convenience store on the adjacent lot. All utilities are available to the lot. There is a sidewalk across the front of the property at the street. The property has a tax value of \$16,800.

The property owned by Brandon Knolls LLC (Knolls) (PIN No. 9648.17-01-5372) is a 0.88 acre parcel located on the French Broad River at the intersection of Lyman Street and Amboy Road. The property is directly across the river from the French Broad River Park and highly visible from the park. It slopes steeply down from the road at Amboy and levels off at the river. It is long and narrow, wider at Amboy and tapers off as it runs North with the western boundary of Lyman Street. Traveling North the grade of Lyman Street descends closer to the river thus improving the access to the property. The parcel has a tax value of \$83,600. Knolls purchased the lot at a tax foreclosure sale for the upset bid amount of \$7,250. After purchasing the lot, Knolls offered to exchange the lot for City owned property. An exchange of property was negotiated which includes an additional cash payment to the City in the amount of \$5,000.

The positive aspects of the transaction are:

- The exchange will be a fair exchange of value for value.
- It will return property not needed for public use to the tax rolls.
- It is consistent with the greenway master plan.
- It will protect the view from the park across the river.
- Acquisition of the entire parcel will allow greater flexibility than an easement.

Pursuant to N. C. Gen. Stat. sec. 160A-271 a notice was duly published in the Asheville Citizen-Times on October 1, 2004.

Approval of the resolution will authorize the exchange of the properties as provided in N. C. Gen. Stat. sec. 160A-271.

Planning & Development staff and Parks & Recreation staff recommend adoption of the resolution authorizing the City to exchange real property at 14 Michigan Avenue for Brandon Knolls LLC property on Lyman Street.

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D. RESOLUTION NO. 04-214 - RESOLUTION AMENDING THE 2004 SCHEDULED CITY COUNCIL MEETINGS TO DELETE THE NOVEMBER 2, 2004, WORKSESSION

RESOLUTION BOOK NO. 28 – PAGE 390

E. RESOLUTION NO. 04-215 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE U.S. DEPT. OF JUSTICE FOR A GRANT TO ASSIST WITH THE PURCHASE OF EQUIPMENT FOR THE

ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a resolution authorizing the City Manager to accept grant funds under the U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Local Law Enforcement Block Grant Program; and an associated budget amendment, in the amount of \$44,173, to provide for the local matching contribution.

The City of Asheville has been awarded a grant, in the amount of \$39,765, under the Fiscal Year 2004 Local Law Enforcement Block Grants Program. A local match of \$4,418 in required for a total of \$44,173. The purpose of the grant program is to fund projects, allowed

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under the grant program, designed to reduce crime and improve public safety. We have chosen the area of improving police equipment in the area of crowd control and homeland security. The following is planned equipment purchases:

30	Taser X26E units (w/holsters)	Each: \$799.95	Total: \$23,998.50
90	Taser replacement cartridges	Each: \$18.97	Total: \$1,707.30
1	Package Appliqués for helmets	Each: \$155.00	Total: \$155.00
20	Eyeglass prescription inserts	Each: \$70.00	Total: \$1,400.00
35	V-Top shin guards	Each: \$85.00	Total: \$2,975.00
35	Torso Protectors	Each: \$350.00	Total: \$12,250.00
2	Pepper Ball Projectors	Each: \$400.00	Total: \$800.00
2	40 MM Gas Projectile Units	Each: \$250.00	Total: \$500.00
4	Training chemical certification	Each: \$250.00	Total: \$1000.00
	Estimated Freight		Total: \$1000.00
			Grand Total: \$44785.80

Pros:

- The desired equipment is would allow officers to respond to all types of crowd control and homeland security issues with safety in mind.
- This will contribute to the reduction of officer and citizen injury while improving the effectiveness of crowd control detachments.

Con:

- Though there are many benefits to this program, the one drawback would be our financial expectation of up-keep to the equipment and replacement when needed.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to accept the grant award; and (2) to adopt the budget amendment, in the amount of \$44,173, to provide for the local matching contribution.

RESOLUTION BOOK NO. 28 – PAGE 391

F. ORDINANCE NO. 3169 - BUDGET AMENDMENT TO PROVIDE MATCHING FUNDS FOR U.S. DEPT. OF JUSTICE GRANT TO PURCHASE POLICE EQUIPMENT FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: See Consent Agenda Item "E" above.

ORDINANCE BOOK NO. 21 – PAGE

G. RESOLUTION NO. 04-216 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE VIVIAN AVENUE

Summary: The consideration of a resolution of intent to close Vivian Avenue and set a public hearing for November 9, 2004.

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

Pursuant to this statute, the University of North Carolina at Asheville has requested the City of Asheville permanently close to public use as a public street Vivian Avenue as shown on a plat entitled, "Property of the Christian School of Asheville," at Plat Book 32, Page 28 in the Buncombe County Register of Deeds.

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Public Works Department staff has researched and determined that this right-of-way is not a City maintained street. Closure of this right-of-way will not deny any of the abutting properties a reasonable means of ingress or egress. There are three parcels that abut this section of right-of-way. They are identified by PIN Nos. 9649.09-17-3141, 9649.09-16-0734, and 9649.09-16-2885. The petitioner has authority over all the abutting parcels.

City staff recommends that City Council adopt the resolution setting a public hearing for November 9, 2004, to close Vivian

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H. RESOLUTION NO. 04-217 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR A GRANT FROM THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR WATER SYSTEM IMPROVEMENTS

Summary: The consideration of a resolution authorizing the City Manager to apply for a State of North Carolina loan under the North Carolina Clean Water Revolving Loan and Federally Funded State Revolving Fund Program for water system improvements.

The State of North Carolina is making low interest loan funds available to water systems with a 2.20 percent interest rate. The Water Resources Department needs to replace the asbestos water line in the west district of the water system due to health hazard and maintenance concerns. Replacing the asbestos water line and extent the water system will increase pressure and improve fire protection to this part of the system. The asbestos water lines are health hazards that require a third party vendor to handle and dispose of when repairs are made from routine and emergency breaks. Repairs to the asbestos lines take up to three times longer due to safety and health requirements. These lines are concrete inside and water does not come in to contact with the outside asbestos. If approved by the State the City is under no obligation to accept the grant should the stated interest rate change or other funding such as grants become available. The loan approval process from the State should be completed early summer of 2005 with payments starting in Fiscal Year 2005/06. The requested amount to fund the project is \$1,771,965.00. The repayment terms will be negotiated with the State to ensure the City receives the best value for this loan.

The water system improvements consist of the following: Approximately 2,200 lineal feet of 16-inch and 13,500 linear feet of 12-inch ductile iron water line and related appurtenances along US 19-23 and Sand Hill Road (NC112) in western Buncombe County will be installed. The intent of the project is to replace existing 6-inch asbestos cement piping and to serve as the initial phase of a regional interconnection project to link the City of Asheville's water system to the Town of Canton's system in Haywood County per the Water System Master Plan.

City staff recommends City Council authorize the City Manager to apply for a loan through the State of North Carolina State Revolving Fund Program.

RESOLUTION BOOK NO. 28 – PAGE 393

I. ORDINANCE NO. 3170 - BUDGET AMENDMENT TO APPROPRIATE FUNDS FROM A TRANSPORTATION IMPROVEMENT PROGRAM GRANT

Summary: The consideration of accepting \$18,993 from the State of North Carolina to purchase up to 40 bicycle racks for installation at public facilities.

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The Transportation Improvement Program Project E-3415 was partially executed and this expenditure will close the project. The State will reimburse the City 100% up to \$18,993. The total grant was \$60,000, of which \$41,007 has been previously received. Eighty-three bicycle racks have been purchased and installation continues throughout the City via this grant.

Pros:

- No matching funds required.
- These funds will add bicycle racks throughout the City.

Cons: None noted.

This budget amendment addresses three goals within three focus areas established in the Strategic Operating Plan: (1) Goal #1 in the Natural & Built Environment focus area, (2) Goal #2 in the Planning focus area, and (3) Goal #3 in the Sense of Place focus area.

City staff recommends City Council accept \$18,993 from the State of North Carolina to purchase up to 40 bicycle racks for installation at public facilities.

Upon inquiry of Vice-Mayor Mumpower, City Engineer Cathy Ball said that although they have no statistical data on how much the existing racks are being utilized, she believe there is about a 20% utilization, depending on their location, e.g., in front of the library, the racks are heavily used. She said that one advantage is that they don't have a designated location for these new bike racks so they can be placed at a higher utilization location.

Vice-Mayor Mumpower felt the utility and the placement should be measurable at \$475 a bike rack.

Ms. Ball said that they were getting a lot of complaints about people locking their bikes to parking meters or putting them in the way, so she does feel they have provided an opportunity for people to use bikes as an alternative mode of transportation. She feels that the more racks are installed, the more use you will see. The Bicycle Pedestrian Task Force provides valuable input and there have been

12 requests for bike rack locations.

Upon inquiry of Vice-Mayor Mumpower about other uses for the grant money, Ms. Ball said that this money is geared for the purpose of bicycle enhancements, whether it is bicycle lanes, bicycle racks, etc. In this community we have identified the need for bike racks. If we find out any additional information or identify a different need, she believes the State would be open to working with us.

J. ORDINANCE NO. 3171- BUDGET AMENDMENT TO COVER OVERTIME EXPENSES THAT WILL BE INCURRED AS A RESULT OF THE NEW FAIR LABOR STANDARDS ACT OVERTIME EXEMPTIONS

Summary: The consideration of a budget amendment, in the amount of \$77,500, to cover overtime expenses that will be incurred as a result of the new Fair Labor Standards Act (FLSA) overtime exemptions.

On August 23, 2004, the new FLSA regulations governing overtime pay exemptions for executive, administrative, professional, and computer employees became effective.

The Human Resources Department has reviewed all positions and has determined that 15 job titles will have changes in exemption status to comply with the new regulations.

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These exemption status changes will require the City to pay overtime to employees filling these job titles. These positions have previously been considered exempt from overtime. It is estimated that the total cost of additional overtime expenses will be \$77,500.

The negative aspect of this change will be the additional costs incurred by the City for overtime; however, these costs are unavoidable as the FLSA regulations must be complied with by law.

The positive aspect of this change is all adjustments made according to the law resulted in a beneficial increase to the employee.

City staff recommends City Council approve the budget amendment, which provides funds for overtime expenses incurred as a result of the new FLSA changes.

ORDINANCE BOOK NO. 21 – PAGE

K. RESOLUTION NO. 04-218 - RESOLUTION AUTHORIZING THE EXECUTION OF RIGHT-OF-WAY PERMIT FROM NATIONAL PARK SERVICE FOR BRIDGE ACROSS SWANNANOVA RIVER TO AZALEA ROAD FACILITY

Summary: The consideration of a resolution authorizing execution by City Manager of Park Service Right-of-Way Permit for use of bridge over Swannanoa River to Azalea Road property.

Last month, the City received a permit from the National Park Service permitting the City to use a bridge and appurtenant access roads to access its property along Azalea Road. The property in question is the site for the City's proposed beneficial fill site on Azalea Road. The bridge and access roads may also be used for maintaining the City's adjacent parks facilities, but will not be used for general public access. Since the acquisition of the Azalea Road property by the City, the City and the Park Service have had discussions on whether the roads and bridge can be used by the City, and the permit process was a way of accommodating their competing interests.

The permit authorizes the City to make needed repairs to the bridge and adjacent roadways, and authorizes the use of the bridge and appurtenant roads for access to the beneficial fill site, and for maintenance purposes. The City plans to provide some screening of the beneficial fill site from the Parkway and to take other steps to mask and mitigate the impacts of its use. The permit is good for five years, and may be renewed for additional five-year terms up to a total of 20 years.

This permit has been the focus of negotiations between the City and the Park Service, and has been through a lengthy environmental review process. There are still some minor clarifications and adjustments needed, but these should be handled easily and quickly, and it appears that the permit as drafted will meet the City's needs.

Considerations. (1) Other than the cost of the bridge repair and periodic maintenance, the cost to the City of using this permit will be negligible. (2) The cost savings in transportation and tipping fees will be significant. (3) Care will be taken to mitigate any impacts of the fill site or adjacent residential areas, and to visually screen it from the Parkway. (4) The ability to use this existing bridge means that the City does not have to construct another bridge further downriver.

Staff recommends that Council authorize the City Manager to execute this permit for the City, and to apply for and execute renewals as appropriate.

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Councilman Dunn asked how much the City has spent in tipping fees over the past two years because we didn't have a permit to use the bridge to the Azalea Road site. Public Works Director Mark Combs said that it has cost the City approximately \$250,000.

L. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE “BENEFIT OF BILTMORE” EVENT ON OCTOBER 23, 2004

This item was removed from the Consent Agenda for an individual vote.

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.

Councilwoman Bellamy moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Newman and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA

RESOLUTION NO. 04-219 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE “BENEFIT OF BILTMORE” EVENT ON OCTOBER 23, 2004

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the “Benefit of Biltmore” event on October 23, 2004.

The “Benefit of Biltmore” special event has requested through the Asheville Parks and Recreation Department that City Council permit them to serve beer and unfortified wine at their October 23rd event.

This event is co-sponsored by the City of Asheville Parks and Recreation Department for the purpose of providing a benefit for business owners and employees of Biltmore Village due to the recent flooding events.

The location of this event is within the Biltmore Village area located on Kitchen Place between the intersection of Angle Street and the intersection of Boston Way.

The event will consist of several micro-breweries offering samples of their beer.

Pro: To generate funds for businesses and employees in the Biltmore Village area that were affected by the recent flooding.

Con: None noted.

The Asheville Parks and Recreation Department recommends City Council’s approval of the resolution authorizing the possession and consumption of malt beverages and/or unfortified wine at the “Benefit of Biltmore” event.

Councilman Dunn moved for the adoption of Resolution No. 04-219. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilwoman Bellamy voting “no.”

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE BUNCOMBE COUNTY EMERGENCY MANAGEMENT FACILITY LOCATED ON 129 S. LEXINGTON AVENUE FOR A PROPOSED 911 CALL AND COMMUNICATION CENTER, AND EMERGENCY DISPATCH FACILITY

On October 7, 2004, a letter was received from Buncombe County Manager Wanda Greene requesting “that the hearing on the Conditional Use Permit application for the Union Transfer Building (tax lots PIN 9648.06-48-0774 and 0445), located on Hilliard Avenue, be delayed until the fourth Tuesday in February, 2005.” Therefore, Vice-Mayor Mumpower moved to continue this public hearing until February 22, 2005. This motion was seconded by Councilwoman Bellamy and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE MOUNTAIN HOUSING OFFICE ADDITION LOCATED AT 64 CLINGMAN AVENUE FOR A PROPOSED EXPANSION OF THEIR OFFICE SPACE

Councilman Newman moved to excuse Councilwoman Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

On October 12, 2004, a letter was received from Mr. Mike Vance, Homeownership Manager from Mountain Housing Opportunities, requesting that their proposal to amend the conditional use permit for the Merritt Park Condominiums, scheduled for October 12, 2004, be

continued until the next available City Council meeting. Therefore, Vice-Mayor Mumpower moved to continue this public hearing until November 9, 2004. This motion was seconded by Councilwoman Jones and carried unanimously.

C. PUBLIC HEARING TO AMEND THE 2004 CONSOLIDATED COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME ACTION PLAN

RESOLUTION NO. 04-220 - RESOLUTION AMENDING THE 2004 CONSOLIDATED COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME ACTION PLAN

ORDINANCE NO. 3172 - BUDGET AMENDMENT TO PROVIDE A HOME PRE-DEVELOPMENT LOAN TO MOUNTAIN HOUSING OPPORTUNITIES

Councilman Newman moved to excuse Councilwoman Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Dunn and carried unanimously.

Mayor Worley opened the public hearing at 5:26 p.m.

Community Development Director Charlotte Caplan said that this is the consideration of a resolution amending the 2004 Consolidated Action Plan to provide a HOME pre-development loan to Mountain Housing Opportunities. This public hearing was advertised on October 1 and 8, 2004.

The Annual Consolidated Action Plan sets out the City's planned use of federal Community Development Block Grant (CDBG) and HOME funds for the next fiscal year. The 2004 Action Plan was approved by Council on April 13, 2004, and amended on August 24, 2004.

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Mountain Housing Opportunities (MHO) has requested an additional allocation of \$25,000 in the form of a HOME pre-development loan. The funds will be used to determine the feasibility of developing a 2-acre parcel on Depot Street, including the former Glenrock Hotel. MHO envisions a development of about 20 affordable housing units in the rehabilitated hotel building, plus at least 35 new mixed-income housing units and 20 new commercial/retail spaces. Loan proceeds will be used for: option fee, appraisal, environmental studies, and preliminary architectural plans. Funds are available from HOME program income from loan pay-offs.

The HOME program regulations provide specifically for funds to be loaned for pre-development site control and feasibility studies by Community Housing Development Organizations such as MHO. If the project goes ahead, the loan is repaid from project financing; if it proves infeasible the loan is forgiven.

A public hearing is required as this is a substantial amendment to the Action Plan. Two public notices have been published

Potential Advantages:

- Addition of at least 55 new housing units and 20 commercial units
- Rehabilitation of an historic building
- Contributes to revitalization of the "River Arts District", identified in the Riverway Master Plan
- Potential for artist live/work studios
- Adjacent to Reid Community Center and Park
- Attracts Low Income Housing Tax Credits and other resources
- Increase of about \$10,000,000 in property tax base.

Disadvantages:

- Loss (forgiveness) of the HOME loan if project proves infeasible because of cost, environmental factors, or market conditions.

Staff recommends City Council approve the resolution for a \$25,000 HOME predevelopment loan to Mountain Housing Opportunities and the associated budget amendment.

Mayor Worley closed the public hearing at 5:38 p.m.

Councilman Dunn, Chairman of the Housing & Community Development Committee, spoke in support of the amendment.

Mayor Worley said that members of Council have previously received a copy of the resolution and budget amendment and they would not be read.

Councilman Dunn moved for the adoption of Resolution No. 04-218. This motion was seconded by Councilwoman Jones and carried unanimously.

Councilman Dunn moved for the adoption of Ordinance No. 3172. This motion was seconded by Councilwoman Jones and carried unanimously.

ORDINANCE BOOK NO. 21 - PAGE

IV. UNFINISHED BUSINESS:

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V. NEW BUSINESS:

A. REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE FOLLOWING FOUR AREAS PROPOSED FOR ANNEXATION WHICH ARE GENERALLY KNOWN AS (1) THE RIDGEFIELD BUSINESS PARK AREA; (2) THE ASCOT POINT VILLAGE AREA; (3) THE LONG SHOALS ROAD AREA; AND (4) THE AIRPORT ROAD AREA

Planning & Development Director Scott Shuford said that the Annexation Services Plan is being submitted for Council's approval for the following areas: the Ridgefield Business Park area, the Ascot Point Village area, the Long Shoals Road area, and the Airport Road area.

City Council approval of this document is the second step in the annexation process that began on September 28, 2004, when Council adopted the resolutions of intent to annex these four areas.

Upon review and approval by City Council, the Plan will be made available for public review. The follow steps will complete the annexation process.

Approval of Annexation Services Plan	October 12, 2004
Public information meeting	November 15, 2004
Public hearings	December 14, 2004
Adoption of annexation ordinances	January 11, 2005

Effective Date of Annexations:

- March 31, 2005 – Ridgefield Business Park area
- December 21, 2005 – Ascot Point Village, Long Shoals Road & Airport Road

The N.C. General Statutes require that municipalities exercising annexation authority make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing and public information meeting, prepare a report setting forth such plans.

The Statutes require that the reports include:

- 1) Maps showing: (a) The present and proposed boundaries of the municipality; (b) The present major water and sewer lines, and any proposed extensions; and (c) The general land use pattern in the area to be annexed.
- 2) A statement that the area to be annexed meets the standards of N. C. Gen. Stat. sec. 160A-48 (basically contiguity and urbanization).
- 3) A statement setting forth the plans of the municipality for extending to the annexation area each major municipal service performed within the municipality. Specifically, (a) police protection, fire protection, solid waste collection and street maintenance on the date of annexation; and (b) extension of major trunk water mains and sewer outfall lines so that property owners in the area will be able to secure public water and sewer service according to the municipal policies in effect for extending such service to individuals lots or subdivisions.
- 4) The method under which the municipality plans to finance extension of services into the area to be annexed.
- 5) A statement of the impact of the annexation on any rural fire department providing service in the area to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area to be annexed.

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- 6) A statement showing how the proposed annexation will affect the City's finances and services, including City revenue change estimates.

He then reviewed with Council the specifics of how each area qualifies for annexation and used photos to show some of the uses in the proposed annexation areas.

Mr. Shuford then explained the Plan for extension of services, including police protection, fire protection, solid waste collection,

street maintenance, water distribution and sewer collection.

Police protection: The additional land area, street mileage, dwelling units, businesses and improvements will require expansion of the Police Department. Extending service into the proposed annexation areas will require operational adjustment in two primary areas (1) configuration of patrol districts covering the proposed annexation areas so as to provide for effective manpower deployment and a balanced response time to calls for service; and (2) filling vacancies in sworn personnel positions to accommodate the anticipated increase in demand for police services. He explained how each area would be served by an expansion of a particular district. Based on the projected population increase at the time of annexation, it will be necessary to add seven (7) officers to maintain the current benchmark ratio of one officer to 407 residents. The plan of services calls for the addition of these officers, at the annual cost of \$245,000, on or before August 1, 2005.

Fire protection: Three additional firefighter positions will be required to adequately serve the additional land area, dwelling units, businesses and improvements. The current first unit to be placed out of service is Ladder 4 when personnel are not available for minimum staffing. These positions will reduce the number of "out of service" times for this response company. The annual cost for the positions will be \$105,000 for salary and benefits plus associated equipment and safety items of \$15,500. The extension of fire protection services is not simply an extension of existing department resources. The City is required by G.S. 160A-49.1 to offer existing fire service entities contract opportunities, which allow for the continued service of annexed areas by existing rural fire departments. The City maintains the responsibility of assuring a level of service comparable to the service level within the existing incorporated areas. The involvement of the suburban fire department may require the City to supplement service where contract service is not comparable to the municipal service. The City recognizes these circumstances and may affect its plan for extending fire protection; therefore, the City has developed a plan that incorporates alternative solutions to extending fire protection to annexed areas.

Solid waste collection: With the addition of 1,605 residences, the Sanitation Division cannot absorb the annexed areas into the six existing routes. An additional automated truck and a new position, Motor Vehicle Operator III, are required. The City is required by G.S. 160A-49.3 to offer existing private service entities contract opportunities which allow for the continued service of annexed areas by existing companies. The City maintains the responsibility of assuring a level of service comparable to the service level within the existing incorporated areas. The involvement of the existing private companies may require the City to supplement service where contract service is not comparable to the municipal service. The City recognizes these circumstances and may affect its plan for extending solid waste collection services; therefore, the City has developed a plan that incorporates alternative solutions to extending solid waste collection services to annexed areas.

Street maintenance services: The additional land area, street mileage, dwelling units, businesses and improvements will not require expansion of Public Works Department, Street Maintenance Division. The City has evaluated the streets in the annexation areas for inclusion in the maintenance program as follows: (1) Ridgefield Business Park area: Alliance Court, Heart Drive, Ridgefield Boulevard and Ridgefield Court (39 street lights at a total annual cost of \$8,327); (2) Ascot Point Village area: Ascot Point Circle (2 street lights at a total annual cost of \$418); (3)

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Long Shoals Road area – Skyland Inn Drive (3 street lights at a total annual cost of \$650); and (4) Airport Road – Machen Road (8 street lights at a total annual cost of \$1,677).

Water distribution: On the effective date of annexation, all residents, businesses and property owners within the proposed four annexation areas that are adjacent to existing water facilities will receive service on a basis substantially equal to all current portions of the City. The following two areas require no water line improvements: Ridgefield Business Park area and Ascot Point Village area. In the Long Shoals Road area, there is a lack of fire protection coverage. Therefore, there is a need to upgrade the existing small diameter water line on Plott Place and to upgrade an existing small diameter water line on Overlook Road Extension. Approximately 500 linear feet of six-inch ductile iron water line, 1 fire hydrant and all related appurtenances shall be installed along Plott Place and approximately 550 linear feet of 6-inch ductile iron water line, 1 fire hydrant and all related appurtenances shall be installed along Overlook Road Extension. All existing water service connections shall be reconnected to the proposed 6-inch water line and the existing small diameter water lines shall be abandoned. In the Airport Road area, there is a lack of fire protection. Therefore, there is a need to upgrade an existing small diameter water line on Machen Road and install additional fire hydrants to existing water lines in the area to bring fire protection coverage to the same level as other parts of the City. Approximately 1,000 linear feet of 6-inch ductile iron water line, 1 fire hydrant and all related appurtenances shall be installed along Machen Road. All existing water service connections shall be reconnected to the proposed 6-inch water line and the existing small diameter water line shall be abandoned. Two new fire hydrants will be installed on the existing 24-inch water line along Airport Road, 1 new fire hydrant will be installed on the existing 24-inch water line along Hendersonville Road and 1 new fire hydrant will be installed on the existing 6-inch water line along Glen Bridge Road. Water system improvements for the Ridgefield Business Park area are planned for completion by March 31, 2007, and water system improvements for the Ascot Point Village area, Long Shoals Road area and Airport Road area are planned for completion by December 31, 2007.

Sewer collection: The following two areas require no sanitary sewer system improvements: Ridgefield Business Park area and Ascot Point Village area. In the Long Shoals Road area, major sanitary sewer trunk lines and interceptors are currently in place for the majority of this area; however, upgrades will be required to the existing sanitary sewer infrastructure in order to bring this area to substantially the same level as other parts of the City. Approximately 800 linear feet of 8-inch sanitary sewer line and all related appurtenances shall be installed cross-country, beginning on Long Shoals Road, approximately 350 feet east of the intersection of Long Shoals Road and CP&L Drive and extending south to tie into the existing sanitary sewer system on CP&L Drive. In the Airport Road area,

major sanitary sewer trunk lines and interceptors are currently in place for the majority of this area; however, upgrades will be required to the existing sanitary sewer infrastructure in order to bring this area to substantially the same level as other parts of the City. Approximately 350 linear feet of 8-inch sanitary sewer line and all related appurtenances shall be installed along Airport Road, beginning 380 feet west of the intersection of Airport Road and Hendersonville Road. Approximately 850 linear feet of 8-inch sanitary sewer line and all related appurtenances shall be installed along Benwood Drive, beginning approximately 700 feet west of the intersection of Benwood Drive and Bradley Branch Road. Sanitary sewer system improvements for the Ridgefield Business Park area are planned for completion by March 31, 2007, and sanitary sewer system improvements for the Ascot Point Village area, Long Shoals Road area and Airport Road area are planned for completion by December 31, 2007.

Administrative and other municipal services: The City of Asheville is governed by a City Council consisting of a Mayor, Vice-Mayor, and five Councilpersons with general administration responsibilities delegated to a City Manager. Supporting the City Manager are key professionals and department heads specializing in public works, police protection, fire protection, urban land

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use planning and zoning, building code enforcement, legal matters, parks and recreation and various other municipal activities and functions. The City of Asheville is active minimum housing code and State building code administration, zoning and subdivision ordinance administration, recreational programs and parks administration, community revitalization and affordable housing grants administration, economic development efforts and many other planning and related activities in an effort to make Asheville a better community for present and future residents, businesses and property owners. Employees and employee relations are managed by the City Manager. The City of Asheville is an Equal Opportunity Employer. Three well-qualified practicing attorneys provide legal counsel to the City.

Financial Impact:

Revenue: Total ad valorem property tax revenue - \$887,148; Total state utility taxes - \$107,936; Total sales tax - \$320,556; Total Powell Bill allocation - \$64,055; and Total fees, charges and permits - \$111,076. Total revenue - \$1,490,771.

Annual recurring expenditures: Police (seven additional officers to be hired effective August 1, 2005) - \$245,000; Fire (costs for additional personnel and financial impact payments to the rural fire departments (5-year duration) - \$193,643; Solid waste - \$96,558 (annual costs for solid waste collection and disposal and recycling are not anticipated to be absorbed into current budgets; the solid waste annual expenses include an additional MEO III position plus annual disposal costs of \$15,721. Annual costs for street maintenance are anticipated to be absorbed into the current budget with no increase in expenditures at this time); Recycling - \$12,209; and Street lighting - \$11,072. Total recurring expenditures - \$510,645.

Annual capital expenditures: Water lines - \$153,650; Sewer lines - \$285,000; Solid waste (cost equals potential economic loss compensation for private solid waste haulers of \$57,644 plus \$182,000 for an additional automated loader truck) - \$239,644; Rollout containers - \$16,960; Police (police capital costs include equipment, training and vehicles for hired officers) - \$186,385; and Fire (fire costs include equipment for hired personnel) - \$15,500. Total annual capital expenditure - \$897,139.

Mr. Shuford asked City Council to adopt the resolutions approving the report of plans for the four annexation areas.

Mr. Shuford responded to Councilwoman Jones in what the formula is for potential economic loss.

Upon inquiry of Councilman Newman, Mr. Shuford explained the process for sidewalk improvements and street maintenance.

Upon Councilman Dunn, Mr. Shuford explained what the concerns were from the earlier appeal of Ridgefield Business Park area and Long Shoals Road area and how we have now addressed those concerns.

In response to Councilman Dunn, Mr. Shuford said that he would report to Council the number of residents annexed in the last round of annexations.

Councilman Newman felt it would be beneficial to have information on manufacturing facilities in the proposed annexation areas since Council has a concern of the loss of manufacturing in our area. Mr. Shuford responded that one of the goals they tried to follow under Council's direction to minimize that. He said there are two industrial classified properties in the Ridgefield Business Park area - one is a flooring shop and one is a plant in the process of closing. He said in the Airport Road area, there are six businesses.

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Mayor Worley said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

RESOLUTION NO. 04-221 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION, WHICH IS GENERALLY KNOWN AS THE RIDGEFIELD BUSINESS PARK AREA

Councilman Davis moved for the adoption of Resolution No. 04-221. This motion was seconded by Councilwoman Jones and carried on a 4-3 vote with Vice-Mayor Mumpower, Councilwoman Bellamy and Councilman Dunn voting "no."

RESOLUTION BOOK NO. 28 – PAGE 398

RESOLUTION NO. 04-222 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION, WHICH IS GENERALLY KNOWN AS THE ASCOT POINT VILLAGE AREA

Councilwoman Jones moved for the adoption of Resolution No. 04-222. This motion was seconded by Councilman Davis and carried on a 4-3 vote with Vice-Mayor Mumpower, Councilwoman Bellamy and Councilman Dunn voting “no.”

RESOLUTION BOOK NO. 28 – PAGE 399

RESOLUTION NO. 04-223 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION, WHICH IS GENERALLY KNOWN AS THE LONG SHOALS ROAD AREA

Councilman Davis moved for the adoption of Resolution No. 04-223. This motion was seconded by Councilwoman Jones and carried on a 4-3 vote with Vice-Mayor Mumpower, Councilwoman Bellamy and Councilman Dunn voting “no.”

RESOLUTION BOOK NO. 28 – PAGE 400

RESOLUTION NO. 04-224 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION, WHICH IS GENERALLY KNOWN AS THE AIRPORT ROAD AREA

Councilwoman Jones moved for the adoption of Resolution No. 04-224. This motion was seconded by Councilman Davis and carried on a 4-3 vote with Vice-Mayor Mumpower, Councilwoman Bellamy and Councilman Dunn voting “no.”

RESOLUTION BOOK NO. 28 – PAGE 401

VI. OTHER BUSINESS:

Vice-Mayor Mumpower thanked District Attorney Ron Moore, Matthew Bacoate, and others who participated in the successful Gun Buy-Out Program, which 500 guns collected and taken off the streets.

Vice-Mayor Mumpower announced the October board and commission vacancies.

The following claims were received by the City of Asheville during the period of September 24-30, 2004: BellSouth (Streets), Cameron Seleska (Fire), Michael Aanonsen

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(Streets), J.D. Wallace (Sanitation) and JLS Company (Sanitation). These claims have been referred to Asheville Claims Corporation for investigation.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fred English felt City Council should not annex any more until they provide services for those who are already City residents.

CLOSED SESSION

At 6:12 p.m., Councilman Newman moved to go into closed session for the following reasons: (1) 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. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5). This motion was seconded by Councilwoman Jones and carried unanimously. The following actions occurred in closed session:

Resolution No. 04-225 – Resolution establishing just compensation and authorizing the use of eminent domain to acquire an easement over certain property on New Haw Creek Road for greenway purposes. The appraisal by Mark Morris is hereby accepted, and just compensation for the easement over the property identified by PIN Nos. 9658.08-78-6513 and 9658.08-78-5543 and owned by Ricky K. Wallin and wife, Diana L. Wallin on New Haw Creek Road is hereby established at \$1800.00 (Parcel A) and \$1500.00 (Parcel B). Acquisition of said easement by the use of eminent domain is hereby authorized in accordance with the provision of Chapter 40A of the N. C. General Statutes. Resolution Book No. 28 – Page 402.

Resolution No. 04-226 – Resolution establishing just compensation and authorizing the use of eminent domain to acquire an easement over certain property on New Haw Creek Road for greenway purposes. The appraisal by Mark Morris is hereby accepted, and just compensation for the easement over the property identified by PIN No. 9658.08-78-8554 and owned by Jolly SIS & B, LLC, Jean Jolly Jaynes, and George Frederick Jaynes on New Haw Creek Road is hereby established at \$2400.00. Acquisition of said easement by

the use of eminent domain is hereby authorized in accordance with the provision of Chapter 40A of the N. C. General Statutes.
Resolution Book No. 28 – Page 403.

At 9:35 p.m., Councilwoman Jones moved to come out of closed session. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 9:35 p.m.

CITY CLERK

MAYOR