

Worksession

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Diana Hollis Jones; Councilwoman Robin L. Cape; Councilman Jan B. Davis; Councilman Bryan E. Freeborn; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

BELE CHERE REPORT

Mr. Irby Brinson, Director of Parks & Recreation provided information regarding the community and economic impact of Bele Chere, and shared the results of a survey administered by Western Carolina University. In addition, he sought direction concerning the following three policy matters:

- (1) Should Bele Chere continue to be located downtown? Or should it be moved to an alternate location (e.g., the riverfront area)?

Staff has investigated the possibility of relocating Bele Chere to the river district. In the future, staff will look to do an event similar to Bele Chere in the River District to help revitalize that area.

Pros:

- Relocation of Bele Chere could complement plans to revitalize the river district.
- The river itself as a backdrop for the festival.
- There is some support in the community for the move.

Cons:

- Traffic control would be difficult. There are concerns about I-240 flow, impact on nearby neighborhoods, and ambulance and railroad access.
- There are very few places in the area that could be used for parking. Visitors who might attempt to park along I-240 would create a safety hazard.
- Access to the event would be difficult for those involved, including city staff, volunteers, vendors, suppliers and entertainers.
- There are security/safety concerns in the area. Visitors not familiar with the area could find themselves in an unsafe location. The river running directly behind the location requires a constant water rescue component.
- Additional infrastructure concerns include lighting, electricity, few sidewalks, narrow streets, and many overhead utilities and poles.
- Return visitors from outside WNC have a history with the downtown location.

Staff's recommendation, after conferring with other City departments, including Fire, Police and Traffic Engineering, is to keep Bele Chere downtown.

After Council discussion, it was the consensus of City Council to not relocate the Festival to the River District.

- (2) Should Bele Chere keep and/or expand gated event(s)?

-2-

Pros:

- The gated concert in 2005 generated more than \$80,000 in new revenue and was deemed a success by the media.
- Festival staff estimates that producing a gated event on both Friday and Saturday in 2006 could produce more than \$200,000 in event revenue.
- A survey has indicated a desire for big-name entertainment; a gated event is the most affordable way to meet this need.

Cons:

- Increased administration to sell tickets and handle cash; this was handled largely by volunteers in 2005.
- There were some community concerns last year about change; these may have been dispelled now.

Staff's recommendation, along with the 2006 Bele Chere board of directors, is to add a second evening gated event for

2006.

After Council discussion, it was the consensus of City Council to add a second evening gated event for 2006.

(3) Should Bele Chere keep the family-friendly (no beer sales) focus for Sunday?

The last year that beer was sold on Sunday during Bele Chere was 1998; Sunday sales made up 15% of beer sales that year, and produced \$13,000. The WCU survey shows a significant increase in Sunday attendance since 2000, however; this higher attendance likely makes up for any lost revenue from beer sales. Sunday attendance increased from 45% of respondents in 2000 to 61% in 2005.

Staff's recommendation is to keep the family-friendly focus, and not sell beer on Sunday.

After Council discussion, it was the consensus of City Council to keep the family-friendly focus, and not sell beer on Sunday.

Throughout the presentation, Mr. Brinson responded to various questions/comments from Council, some being, but are not limited to: explanation of the \$60,000 contributed to area non-profits; what is the economic impact on downtown businesses; what is the economic balance of local vs. out-of-town vendors; what were some of the problems or issues that occurred at Bele Chere this year and how did the City deal with those; do the expenditures include staff time; did the gated event add to the cost of the expense; was the gated event a success; concerns of competition with the local club scene; need to make sure local bands and artists are included; do we advertise in outside markets; what is the overall increase in attendance from the 2000 festival to this year's festival; was staff turnover an impact on the festival; where are the options to change the festival if not at City-County Plaza; and explain the sponsorships with the beer distributors.

Upon inquiry of Vice-Mayor Jones about a relationship with the Tourism Development Authority (TDA), Mr. Brinson explained that the TDA has made it clear that until their guidelines are changed, their funds can only be used for construction projects. Vice-Mayor Jones wondered if this new Council could begin conversation with the TDA to see if their guidelines can be modified. Councilman Newman agreed in that maybe the TDA could contribute some of its advertising money.

Councilman Mumpower felt there are better places the City can put the \$250,000 other than a community party that does good things. He said the City has been talking about paring

-3-

that down for years. He doesn't think the City should be in the business of being a provider of alcohol, directly or indirectly.

MIGRATION FESTIVAL RECOMMENDATION

Mr. Irby Brinson, Director of Parks & Recreation, said that City Council has been asked to endorse the Migration Event Festival, which includes permission for the installation of approximately 100 butterfly-shaped banners in the Central Business District (CBD), for a period of 16 days beginning February 25 through March 12, 2006.

At the direction of the Mayor, Council members Mumpower and Freeborn recently met with Brian Bock, President of Foundation Endowment, Inc., along with David Starkey, General & Artistic Director, Asheville Lyric Opera, to consider this proposal. At the conclusion of this meeting, City Council approved the request for this item to receive consideration at the January 17 worksession. In the interim, City staff met with Mr. Bock and Mr. Starkey to understand the scope of the project in relation to the City's current Banner policy. It is our understanding that they intend to meet all of the requirements of the Banner Policy and pay for the installation and removal of the Butterfly Banners, which will be approximately \$3,000.

After a short discussion, Councilman Davis moved to waive the rules and take formal action on this matter at this meeting. This motion was seconded by Councilman Mumpower and carried unanimously.

Councilman Mumpower moved to endorse the Migration Event Festival as a co-sponsored event with the City of Asheville. This motion was seconded by Vice-Mayor Jones and carried unanimously.

QUARTERLY FINANCIAL REPORT

Finance Director Ben Durant summarized the City's quarterly financial report. He gave an overview by stating that (1) Asheville continues to live within its means; (2) Fund balance will see a slight decline; (3) continued fuel and energy conservation

efforts are necessary; and (4) staff recommends no major mid-year budget additions.

He reviewed the Council the following (noting that the revised budget does not include \$1.1 Million adjustment for Sullivan Acts):

Fiscal Year 2005-06 Adopted Budget	\$74,357,126
Additions:	
Amendment for County Park Facilities	503,936
Prior Year Encumbrances	820,071
2005 Annexations	318,044
Insurance Claims	250,000
Outside Legal Expenses	50,000
Burton Street Demolition	9,565
Fiscal Year 2005-06 Amended Budget	\$76,308,742

Mr. Durant reviewed the General Fund revenue highlights as follows: (1) City has received \$1.2 Million in one-time revenue from sale of property; (2) approximately 90% of property tax revenue will be received in January; (3) sales tax revenue running 3.2% above last year; will exceed budget by \$369,173; and (4) overall, General Fund revenues will exceed budget by a net of \$273,623.

-4-

General Fund expenditure highlights include: (1) overall, departments will save approximately \$1.1 Million through targeted savings plans, normal attrition and other operating savings; (2) these savings combined with \$273,623 in total revenues over budget will nearly offset \$1.43 Million in budgeted use of Fund Balance; and (2) projected actual use of Fund Balance = \$89,945. He then reviewed with Council the Fund Balance, which year-end estimate is 22.8%.

Mr. Durant then summarized the year-to-date and year end projections for the City's seven enterprise funds (Water, Civic Center, Transit, Parking, Festivals, Golf and Stormwater)..

Mr. Durant responded to various questions/comments from Council regarding the financial report, including, but not limited to: what kind of services do we contract with Biltmore Forest; what is the user-fee process; how high has our Fund Balance been in recent years; is data available for the seven enterprise funds similar to the General Fund; and why has there been a decrease in the Powell Bill funds.

Mayor Bellamy said that this topic will be discussed further at the Council's annual retreat.

CITY-OWNED PROPERTY REDEVELOPMENT FEASIBILITY

Planning & Development Director Scott Shuford summarized with Council selected City-owned properties and the redevelopment potential for each. He explained the following methods of sale or transfer: (1) private negotiation and sale; (2) advertisement for sealed bids; (3) negotiated offer, advertisement and upset bids; (4) public auction; (5) exchange; and (6) Request for Qualifications (RFQ)/Request for Proposals (RFP). He said that (1) it is important that the transfer of public property be transparent to the public; (2) it is important that the public get fair value for transferred property; and (3) it may be important that property transfers accomplish broader public goals than simply getting the highest price.

The selection criteria for reuse or redevelopment include: possible workforce housing site; potential for significant tax base enhancement; consistent with City plans or policies; opportunity to guide low impact development; and potential to promote a smart growth development pattern.

He then described the redevelopment options; sample projects; development challenges and opportunities; and possible method(s) of transfer on the following City-owned properties:

- Asheland Avenue (1.1 acre)
- Old Asheland Avenue (1.8 acres)
- East Riverside Park Area (9.8 acres)
- Memorial Field Area (16.2 acres)
- Martin Luther King Jr. Boulevard Area (3.3 acres)

- Circle Street Area (1.2 acres)
- Public Works Area (12.5 acres)
- City Hall Parking Lot (2.5 acres)
- Beaucatcher Reservoir Area (10.3 acres)
- Parks Maintenance Facility (3.6 acres)
- Bus Transit Center on Coxe Avenue (0.6 acres)
- 29 Haywood Street (0.18 acres)
- Transit Facility - West Haywood Street (3.5 acres)
- Civic Center
- Haywood Street Parking Garage Properties
- East side of S. Charlotte Street

-5-

- Morrow Street Area

He offered the following recommendations: (1) to direct staff to refine report for specific council action; (2) direct staff to expand scope to all City-owned property for inclusion in report; and (3) direct staff to prepare long-range facilities management plan, including an evaluation of how properties might be transferred without affecting City operations.

Suggested next steps would include (1) a City-owned property report: (a) suggestions for priority properties; (b) suggestions regarding bundling properties for RFQ/RFP; and (c) timeframe: within 60 days; and (2) a facilities plan: (a) may require a consultant; and (b) timeframe – return with a suggested approach.

Councilman Newman supported proceeding with looking for pieces of property that obviously there is a better use for that property. He also suggested meeting with Buncombe County to see if they have some property in the downtown area that can possibly be a joint partnership.

Councilwoman Cape didn't support piecemeal development but liked the idea of bringing together downtown property owners and Buncombe County to start talking about a cohesive planning effort.

In response to how much staff time was involved in preparing this report, Councilman Mumpower felt that going forward, it might be helpful that if Council has requests for information from staff to get some idea what the impact it would be on the staff, and that the staff time be translated into action.

Councilman Freeborn felt that in term of long-range planning, the City should talk with Buncombe County in order to possibly combine some efforts. In the short-term, he agreed with Councilman Newman to look at obvious pieces of property that do not involve significant infrastructure changes.

Councilman Davis felt that the City needs to be cognizant of the areas around the properties that the City already owns. In order to plan for the future, we need to be pro-active.

Mayor Bellamy wanted to make sure that as we move forward that the process that we put in place, for whatever we do, is inclusive of public input from those impacted neighborhoods at the forefront. In addition, she wanted an affordable housing component to be included in any project brought forward.

Councilwoman Cape felt the City could generate substantial revenue if we give our developments some heights in certain areas. In addition, that would reduce the impact on the neighborhoods and the other areas around the Central Business District. The Downtown Commission and other public interest groups involvement might result in a development vision of what we want to hold and save and where we want to focus this development energy in a way that will be constructive and unified.

Mr. Shuford said that he will focus his next report so that we do identify the opportunity costs if we take different actions, move forward on the catalytic project opportunities, and develop some neighborhood level of communication about the potential development of the sites. He said that perhaps a facilities management plan will help us with some of the issues raised by Councilman Davis regarding being strategic about property acquisition.

At 4:54, Mayor Bellamy announced a short recess.

-6-

TRANSIT COMMISSION REPORT

Transit Services Director Bruce Black said that the Transit Commission had its retreat in August of last year. The Commission discussed several options for increasing ridership. It recommended that all options be emphasized but that one in particular be pursued at this time. It also reviewed the financial issues coming up in the next fiscal year, and recommended expanding the conceptual horizons of public transportation to include other forms of transport.

The option felt to hold the most promise to increase ridership is based on a model from Olympia, Washington. This program charges employers and institutions who agree to the program a reduced rate based on the average per trip revenue from the preceding year. This can be combined with an incentive to promote use of the bus by charging a declining per trip fare as the number of trips increases through the year.

The financial future for transit involves a significant deficit created both by increasing costs (particularly fuel), historically flat revenues, and the loss of federal operating revenues due to population growth and a quirk in the census methods of determining Urbanized Areas of over 200,000 Population. The combination of these items will produce a deficit of \$150,000 to \$190,000 this fiscal year and over \$700,000 next fiscal year.

There are various things that can be done to offset some of these expenses. Among the options are (1) the implementation of an Olympia based corporate fare model in the 2007 Fees and Charges Manual; (2) increasing the transit fares from 75-cents to \$1.00; (3) wrapping the bus; (4) cut service; (5) partner with other local governments to explore consolidated services and funding; and (6) aggressively implement transportation demand management program, specifically ride share and emergency ride home programs.

City staff seeks direction for policy direction on the following items: (1) the implementation of an Olympia based corporate fare model in the 2007 Fees and Charges Manual; (2) increasing the transit fares from 75-cents to \$1.00; (3) proposal to wrap the bus service; (4) service cuts; (5) partner with other local governments to explore consolidated services and funding; and (6) aggressively implement transportation demand management program, specifically ride share and emergency ride home programs.

Councilman Newman said that he, Vice-Mayor Jones, Councilman Freeborn prepared the following proposal to create a more effective Asheville Transit Network. He explained three overarching goals for 2006: (1) to broaden the funding formula for transportation in Asheville, forming our current "parking (garage) fund" into a Transportation Demand Management Fund; (2) implementing a Transit Innovative pilot project; and (3) create a new Transportation Demand Management Commission.

Regarding the creating a multi-modal transportation fund, he said that currently all the proceeds generated by street parking (about \$800,000), parking tickets (about \$500,000), and from parking lots and garages (about \$1.2 Million) is earmarked exclusively to build new parking decks. All of these dollars are put into what we call our "Parking Fund" but which should really be called our "Parking Garage Construction Fund." They propose converting this into a fund that can be used for multi-modal transportation purposes rather than just to build more parking decks. They suggest earmarking funds generated by parking tickets to transit. This would generate about \$500,000 for transit innovations and serve level improvements. Arguments for creating a Transportation Demand Management Fund include: (1) creating a more viable transit network will free up some parking by allowing some people to travel downtown without their car; (2) additional revenue can be created to build more parking capacity by increasing the fees we charge to park in them. Monthly rental rates can be bumped up and the "first hour free" policy can be reduced to half an hour or 20 minutes; and (3) the debt service on the Rankin, Wall Street

-7-

and Civic Center decks will soon be paid off, freeing up additional funds to invest in new parking facilities.

Regarding the implementing a Transit Innovative pilot project, he said they believe it makes sense for the City to implement a 12-month "transit innovation pilot project" starting in July of 2006. The criteria for selecting a pilot project is (1) to better serve the needs of citizens in Asheville who rely on the transit system for mobility; (2) to significantly increase the number of riders on the Asheville transit system, which will (a) reduce congestion on streets and highways; (b) reduce pressure to build costly and ugly new parking facilities; (c) improve air quality; and (d) build public confidence that transit can be a viable part of the overall transportation system; (3) to build partnerships in the community, including partnerships with the business community, schools, neighborhood organizations, and local governments, to create a more efficient transit network; and (4) to serve as a part of an overall progressive community strategy to reduce poverty in Asheville (in this case, by lowering transportation costs on low income families). Elements of a proposed pilot project include (1) a 12-month pilot project beginning July 2006; (2) 90-day fare-free promotion period at outset of the project, cost = \$150,000; (3) unlimited access for employers/universities – revenue neutral or gain; (4) enhanced monthly/annual passes for individuals – assume a loss of \$50,000, could be more or less; (5) extend hours of service

in the evening – cost = \$150,000 - \$200,000; (6) assuming an increase of 25% in overall ridership – increases the fare box by \$100,000; (7) total cost = approximately \$250-300,000 (assuming there is a 25% increase in ridership, Asheville's future funding from the State of NC would increase by over \$100,000 per year. So, this program could continue in subsequent years at a cost of \$150-250,000 compared to Asheville's current system); and (8) provide increased security at the downtown transit center.

Regarding the creation of a new Transportation Demand Management Commission, they propose the creating of a new citizens commission that will advise the City Manager and City Council on public policy matters related to parking community transit, bike and pedestrian matters. Currently, the City has an official Transit Commission. There is also an ad hoc Bicycle and Pedestrian Task Force, although this group is not a commission of the City of Asheville. In order to create an effective multi-modal transportation strategy for the future of Asheville, we need to look at these issues in a holistic fashion.

During discussion, Mr. Black responded to various questions/comments from Council, some being, but are not limited to: explanation of the projected impact of reduced federal funding and increased operating costs; explanation of the projected annual deficit at current levels of service; and any proposals to make up the funding losses.

Upon inquiry of Councilman Mumpower, Mr. Black explained that some of the forces we are working against include topography, utility patterns, demographics, and the reclassification by the Census Bureau.

Councilman Mumpower felt that the facts presented say that this is a time for caution and we are about to see our level of subsidy to provide service be dramatically impaired by forces beyond our control. He was concerned that some of the goals presented come with the need for expensive dollars. He would be interested in seeing solid data from models of that have been successful. He also felt it would be a mistake to "raid" the Parking Fund which has had a lot of demonstrated success in this community. The way others have set the Parking Fund up was an enterprise fund where the people who park downtown pay for the parking facilities.

Councilman Davis agreed with Councilman Mumpower to some degree. He said this is the first time it's come before Council and he felt we need to move ahead with caution. He said we have made tremendous commitments to merchants who have invested lifetimes into making the downtown successful and he felt it would be a tragic mistake to make a transit system work

-8-

on the backs of taking parking away. He asked for the number of people who are currently riding the bus, how many we realistically expect to be riding if we increase the routes, and the amount we can realistically expect to grow these fares by proceeding with this proposal. Again, he would be interested in discussing the proposal presented, but with caution.

Councilwoman Cape was open to these ideas and how we move people around in the community. She thinks this is a good first step.

Vice-Mayor Jones spoke in support of the proposal and felt that the time is right to start thinking innovatively.

Councilman Freeborn spoke in support of the proposal and felt that there are ways that Council can look at this in a smart and economical way.

Mayor Bellamy said that this topic will be discussed further at the Council's annual retreat.

At 5:49 p.m., Mayor Bellamy announced a recess.

DOWNTOWN PARKING PLANNING

_____ City Engineer Cathy Ball updated City Council on the status of the proposed garage, including the due diligence, the concerns about the proposed location, and costs.

She gave a brief overview of the costs as follows: Land – purchase price was \$2.6 Million; Design, Project Management, Property Acquisition - \$1.6 Million; and Opportunity Costs of resale of land, redevelopment of land, and public/private partnerships.

Transit Services Director Bruce Black then updated City Council on the downtown parking needs. By 2018, the study shows a deficit of 3700 spaces north of Hilliard. He explained that (1) growth of demand projected 138 spaces/year – daily growth; (2) growth of demand projected over 1998 to 2005 – 966 spaces (using a 20-year average); (3) growth of use from 1998 – 2005 – 2,664; and (4) growth of use from 2002 to 2005 – 1,105. Using charts, he then reviewed with Council the current conditions in the decks, current need added, affect of alternative modes, the year 2010, he year 2010 with alternate modes, controlling for permits,

and addition of alternate modes.

Staff requested Council direction on (1) the Haywood Parking Garage; (2) to pursue and update feasibility of other alternatives; and (3) an exit strategy.

There was considerable discussion by City Council as Ms. Ball and Mr. Black responded to various questions/comments from Council, some being, but are not limited to: how many parking spaces would be lost to take off one layer of the proposed deck; what need has been shown for the parking south of Pack Square; do we have the ability to add onto the height of the Rankin Avenue Parking Garage; are there any private sector efforts regarding parking taking place; why are some of the alternative sites not feasible; has the City considered paring down the proposed parking garage in front of the Civic Center and creating satellite parking; is the City subsidizing the Parking Fund; is the City able to develop the property in that area that they have already bought; if we exit this project, how much will the City lose; and how many businesses have started up in the downtown area last year.

Councilwoman Cape suggested looking at alternative sites rather than the proposed Haywood Street Parking Garage. She would be interested in looking at utilizing the space in a way that would not be in competition with the Grove Arcade but will bring families downtown.

-9-

Councilman Davis, liaison to the Asheville Downtown Commission, said that the Commission is concerned about the lack of parking in the downtown area.

In response to Councilman Davis, City Attorney Oast briefed Council on the letter received from the Basilica regarding the purchase of the property across from the Civic Center.

Councilman Davis spoke in favor of looking at some of the parcels nearby the Civic Center.

Vice-Mayor Jones understands there is a parking need, but the community has many needs. She would like to pursue an update for other alternative parcels, with her first preference being the BellSouth lot.

Councilman Freeborn said that our downtown is striving and people are opening up businesses despite the parking need. He is supportive of moving forward with additional parking facilities downtown only if the City expands their other transportation modes as well.

Councilman Newman favors sitting down with the private sector and looking for partnership alternatives to build parking downtown. He didn't think we should stop our planning, but look at alternative sites. He felt awkward in giving direction on this issue without any public input. He did support moving forward and reiterated the need for a citizens commission to work on transportation demand issues.

Councilman Mumpower supported looking at alternative sites. He felt Council gave their word to the Grove Arcade merchants to provide additional parking and the City should continue to look in that direction.

At the request of Vice-Mayor Jones, City Attorney Oast said that he would provide Council with the contract the City entered into with the Grove Arcade regarding parking.

Mayor Bellamy this is the first opportunity this seated Council has had an opportunity to hear a report on the status of the parking garage, and after direction is given to staff, then the public will be involved. She said there was (1) not consensus for the Haywood Street Parking Deck to continue in its current form; (2) consensus to look at alternative sites; and (3) not consensus for an exit strategy.

SIGN ORDINANCE AMENDMENT

City Attorney Oast said that this is the consideration of an ordinance establishing a process for the removal of temporary illegal signs.

The proliferation of small, temporary advertising signs adjacent to or within the right-of-way of streets and roads – “snipe” signs – in addition to being an eyesore, affect the safety of persons using the roads, either by blocking line of sight or by distracting motorists.

The City's sign regulations are contained in the zoning ordinances. The enforcement provisions of the zoning ordinance are not effective to deal with transitory violations of the nature presented by snipe signs: by the time the notice of violation process is complete, the signs and the reasons for them are frequently gone. While Sec. 7-18-5 provides for the summary removal of nuisance signs, this requires a determination that the particular sign is a nuisance.

What the proposed ordinance does is make a legislative finding that a certain type of sign tends to distract or obstruct the vision of motorists and create visual clutter, affecting the public health and safety in a negative way, and is therefore a nuisance. The ordinance authorizes the

-10-

City's code enforcement officers to remove those signs, and provides a "post-removal" process for the responsible parties to challenge the notice of violation or citation, and retrieve their signs. The ordinance also allows the code enforcement officer to dispose of signs that are not retrieved.

This ordinance is somewhat consistent with Buncombe County's recently adopted ordinance providing for the removal of signs in the right-of-way. Since the width of a street or road right-of-way can vary unpredictably, the proposed ordinance for the City applies within 30 feet of the traveled portion of a road.

Considerations:

- Defines what a snipe sign is
- Declares such signs to be nuisances
- Establishes expedient process for removal
- Provides a process for challenging violation

If Council approves of the ordinance, adoption of it is recommended.

As discussion occurred, City Attorney Oast responded to various questions/comments from Council, some being, but are not limited to: would this apply to political signs; will a community education effort be undertaken; is the City planning on providing areas where flyers can be posted; and can flyers be put in business windows.

It was the consensus of Council to educate the public on what types of signs fall under this ordinance and to provide venues (billboards, kiosks, etc.) on where people can advertise.

Mayor Bellamy asked that the record show that City Council received this information and instructed the City Manager to place this item on an upcoming City Council agenda.

REVIEW OF CONDITIONAL ZONING PROCESS AND ITS APPLICATION TO THE SMOKY PARK HIGHWAY WAL-MART

City Attorney Oast highlighted some important differences in the processes of conditional use permits (which we use), conditional use zoning (which we used to use) and the conditional zoning (which we now use).

Planning & Development Director Scott Shuford explained the appropriate considerations for conditional zoning requests and how the public hearing should be handled as follow:

- Conditional zoning is a legislative process, not quasi-judicial like the conditional use permit process. As such, it does NOT require sworn testimony and ALLOWS outside-the-meeting communication.
- Conditions may be imposed but require agreement by developer; in the event that the developer does not agree, the proposal can be denied.
- Conditions must have some identifiable relationship to the impact created by the development, as identified in "an officially adopted comprehensive plan or other plan ...[or to]... impacts reasonably expected to be generated by the development or use." (quoted language is from newly amended statute). The impacts identified should be based on factual rather than anecdotal information and should not be speculative, and they should be specific to the project. Acceptable areas of consideration for conditions on conditional zoning ordinances—primarily in connection with major developments but applicable to any scale depending on context-- include, but are not necessarily limited to:
 - Height and setback
 - Buffers, landscaping, and open space

-11-

- Traffic impact mitigation, such as turn lanes, traffic calming, and similar measures
- Operational issues that create noise, such as loading, dumpster service, etc.
- Economic impact on small business
- Stormwater management
- Building scale and appearance
- Provisions for demolition or reuse of the building after proposed occupant vacates
- Site lighting
- Retaining wall height and design
- Extent of grading
- Natural feature preservation
- Adequacy of support infrastructure like water or sewer services
- Multimodal access – pedestrian, bike and transit
- Any conditions set forth in the City's ordinances

Public Hearing Process

- Two public hearings are required – one before the Planning and Zoning Commission and one before the City Council
- The Planning and Zoning Commission public hearing is scheduled for February 1
- Typical public hearing procedures include the following steps in the listed order:
 - Staff presentation
 - Opening the public hearing
 - The developer is given a reasonable amount of time to present his/her case (the Planning and Zoning Commission has suggested a 30-minute limit)
 - Groups are given 10-minutes; individuals have 3-minutes; different times may be allowed in the Council's discretion
 - Closing the public hearing
 - Council questions and discussion
 - Motion and action
- In managing the public hearing, the goal is fairness. Council may:
 - Set some limit on the duration of public comment (Council rules provide for one hour exclusive of staff presentation and Council discussion, but this may be extended to ensure fairness)
 - Request speakers to not repeat information previously presented
 - Request speakers to confine remarks to issues associated with development impact
 - Limit applause or other outbursts
 - Ask questions of speakers or staff

Although this is not a quasi-judicial process, Council members should wait until all the information has been received before making a decision. In complex cases involving conditions that are technical or require careful wording, continuing the matter to allow for drafting to be completed is always an option.

Conditional zonings are adopted in the form and manner of zoning map amendments; the protest petition procedure contained in North Carolina statutes and in the City Code applies to most conditional zoning requests.

There was considerable discussion on what other type of considerations could be considered for a conditional zoning request, i.e. pollution, wages, impact on the local economy, is the business creating the quality of jobs our community wants, etc.

-12-

In response to Councilman Freeborn, Mr. Shuford felt that the appropriate time for City Council to request an economic impact statement would be soon so that staff could relay that concern to the developer who would have time to address that issue at the Planning & Zoning Commission hearing.

After discussion, it was the majority of Council's direction to have staff bring forward to Council some recommendations on requiring that developers provide an economic impact statement on small businesses on all future conditional use permit applications for projects.

Upon inquiry of Councilman Newman, Mr. Shuford said that his staff does not have the background to do an economic

development analysis and would need to hire an outside consultant. Therefore, it was the majority of Council's direction to ask staff to prepare a report on the cost and scope of work needed for the City to have an economic development analysis performed. Council will then determine whether to move forward on that study or not.

Discussion then surrounded the rules for the public hearing on the Smoky Park Highway Wal-Mart. It was the majority of Council's direction City staff disseminate the following rules after the Planning & Zoning Commission hearing on February 1, 2006: (1) the developer and organized groups be allowed a total of one hour; (2) the public comment period be limited to two hours; (3) encouraging people to contact City Council with their comments via phone, e-mail, fax, letters, meetings, etc.; (4) sign-up sheet with people directly affected by the development be allowed to speak first and then City residents being allowed to speak next; and (5) single e-mail address for citizens to write their comments to entire Council.

UDO AMENDMENT REVIEWS

- **Setback Requirements for Outdoor Storage and the Temporary Outdoor Display of Products**
- **Deletion of the Number of Seats "Cap" for Theaters in the Urban Village District**
- **Deletion of Planned Unit Development Zoning Overlay District**

Due to the lateness of the hour, it was the consensus of Council to forego the briefings and meet with staff prior to the public hearings if they need clarification before the scheduled public hearings on January 24, 2006.

REPORT ON FLOOD MANAGEMENT

Vice-Mayor Jones reported on the Asheville-Buncombe Flood Reduction Task Force. She said that she has been working with Buncombe County Commissioner David Gantt on this initiative, which purpose is to establish a regional approach in developing a long-range plan based on best practices models to protect our floodplains/floodways and manage our watershed. Such a plan should integrate objectives of flood control, transportation, economic development, land use and community planning, recreation and environmental preservation.

The objectives would be (1) to study strategies to reduce future flood levels in the Swannanoa Watershed during heavy rain episodes; (2) to study strategies to minimize the economic, environmental and social impacts and the risk to human life when floods occur in the future; (3) to analyze whether current development patters are affecting the severity of flooding during heavy rain events; (4) to review the current flood studies underway and access the feasibility of developing a dynamic and predictive capability to keep abreast of those variables that affect future flood potential; (5) to make recommendations to the local governments on these matters; and (6) to act as a citizen advisory board for stormwater utility issues, as needed.

-13-

She said the structure would be that this is a citizen task force, to be comprised of individuals with technical expertise in this topic. Buncombe County will appoint five members; Asheville City Council will appoint five members; and Black Mountain Town Council will appoint two members. Staff support will be made available to facilitate the work product, if necessary. And, staff will be available to present background information to the commission, if requested.

She said the timeline (which can be extended if needed) is six months to report back to the elective bodies – the Buncombe County Commissioners, Asheville City Council and Black Mountain Town Aldermen.

She said that a defined scope of work is being proposed to initiate the commission. A similar effort may follow for Hominy Valley.

After a short discussion, Vice-Mayor Jones said that she would meet with Commissioner Gantt and discuss Council's concerns and work with City Attorney on an ordinance to bring back to City Council for consideration.

APPOINTMENT OF METROPOLITAN PLANNING ORGANIZATION/TRANSPORTATION ADVISORY COMMITTEE MEMBERS

Vice-Mayor Jones, Chair of the Boards & Commissions Committee, moved to waive the rules in order to take formal action

at this meeting in order to facilitate the appointment of the Metropolitan Planning Organization/Transportation Advisory Committee (TAC) members. She explained that the current boards and commissions appointments are scheduled for the Council's retreat on January 20-21, 2006. Historically we have done the appointment process at a worksession. Unfortunately the first organizational meeting of the TAC occurs on January 19, 2006, and she feels we will serve the community best if we can have both our representatives at the table from the start. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

Vice-Mayor Jones said that is one of the two members of City Council on the TAC, however, she will not be seeking reappointment in that others have expressed an interest to serve on that Committee. City Council will need to appoint two regular members and two alternate members to that Committee.

Councilman Mumpower said that historically people are removed from boards based on attendance or failure to perform in an effective manner. During his four years of service on the TAC, he worked hard to act in terms of balance and he felt this process is an effort to set up the committee for people who share a fixed agenda to tilt the participation of this very important board in their direction. He felt this was a political agenda and was uncomfortable in proceeding in this fashion. He stressed that this is changing policy without deliberation.

Councilman Davis spoke in support of Councilman Mumpower remaining on the TAC in that he has represented Asheville well and there is no reason to replace him.

Mayor Bellamy spoke in support of Councilman Mumpower's dedication to the TAC and would support his reappointment.

After Mayor Bellamy called for a vote, Councilman Newman received 6 votes; Councilman Freeborn received 4 votes; Councilman Davis received 3 votes; Councilwoman Cape received 3 votes; and Councilman Mumpower received 3 votes. Therefore, Councilman Newman and Councilman Freeborn were appointed as the City's regular representatives to the MPO/TAC. When asked who was interested in the alternate positions on the TAC, Councilwoman Cape and

-14-

Councilman Davis expressed an interest. Therefore, Councilwoman Cape and Councilman Davis were appointed as the City's alternate representatives to the MPO/TAC.

BOARDS AND COMMISSIONS:

Vice-Mayor Jones outlined a process in which she felt would streamline the process, in that they had received approximately 140 applications for 27 vacancies. Councilman Mumpower spoke against this process in that he felt it was too far away from the established process. After a brief discussion, Vice-Mayor Jones determined to proceed with the appointment process used in the past.

It was the consensus of City Council to (1) interview Jonathan Glover, James Sheeler and Cheryl Johnson for alternate positions; and (2) reappoint Richard Fort and Robert Middlemas as regular members on the Board of Adjustment.

It was the consensus of City Council to (1) interview Rev. Keith Ogden, Veronica Sotolongo and Martha Brown for a vacancy; and (2) reappoint Michael Burkhead to the Asheville-Buncombe Community Relations Council.

It was the consensus of City Council to (1) interview Guadalupe Chavarria, Michael McDonough, Kitty Brown, Sherry Luft, Larry Johnson and Daniel Sanders for a vacancy; and (2) reappoint Pat Whalen to the Asheville Downtown Commission.

It was the consensus of City Council to interview Becky Anderson, John Payne, Phillip Ray Gibson, Kenneth Brown, Matthew Raker, Neil Newberry, Smithson Mills, LaVoy Spooner, Lewis Lankford and Kimberly Hodges for vacancies on the Economic Development Advisory Committee.

It was the consensus of City Council to interview Paul Ford, Jeff McMickens, Mary Robertson, C. Joy Thigpen and Jessica Erwin Leaven for vacancies on the Asheville-Buncombe Fair Housing Commission.

It was the consensus of City Council to (1) interview Glen Locascio, Starr Silvis, Sarai Rightmyer, Dawa Clark and Marc Hunt; and (2) reappoint Linda Giltz and David Tuch to the Asheville Greenway Commission.

It was the consensus of City Council to delay appointment on the Metropolitan Sewerage District Board of Directors until City Council's annual retreat.

It was the consensus of City Council to appoint Barbara Hodgson to the Noise Ordinance Appeals Board.

It was the consensus of City Council to (1) interview Terry Taylor, Kenn Kotara, Kristin MacLeod, Janiece Meek and Bill Branyon; and (2) reappoint Bill Fishburne and Dana Irwin to the Public Art Board.

It was the consensus of City Council to (1) interview Richard Koerber, Hartwell Carson, Starr Silvis, Donna Clark, Bob Gale and Bill Branyon; and (2) reappoint Bill Jones to the Asheville Tree Commission.

-15-

ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 10:30 p.m.

CITY CLERK

MAYOR