

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; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Keisha Lipe

Absent: Councilman Brownie W. Newman

**VISITORS FROM SISTER CITY VLADIKAVKAZ RUSSIA**

Mayor Bellamy said that the City of Asheville and Asheville Sister Cities are proud to welcome our friends from our first Sister City of Vladikavkaz, Russia, to Asheville. The visit was sponsored by the Open World Leadership Program of the Library of Congress as an Arts and Culture tour. She hoped that their visit is both profitable and memorable. She was particularly happy to see our long-dormant relationship with Vladikavkaz being revived. The citizens of Asheville look forward to continued exchanges between our two cities. She asked that our visitors extend our best wishes to their fellow citizens of Vladikavkaz upon their return home. She presented them each with a small gift. In turn, Akhsar Yesenov, senior instructor/art professor from the North Ossetia State University, presented Mayor Bellamy with a medallion and a painting, which he painted, showing a view of Vladikavkaz.

Mayor Bellamy was then pleased to introduce Ms. Valeria Watson-Doost who has just returned from Osogbo, Osun State, Nigeria. Ms. Watson-Doost briefly spoke about the trip to Osogbo and how she hoped that Osogbo, Osun State, Nigeria, will be able to establish a relationship with the Asheville Sister Cities Program. She presented Mayor Bellamy with a letter from the Honorable Chairmen of Olorunda Local Government and Osogbo Local Government and a beautiful piece of fabric.

**BUNCOMBE COUNTY MENTAL HEALTH CRISIS CLINIC**

Ms. Mandi Stone, representing Buncombe County, outlined Buncombe County's current plans a Crisis Stabilization Facility in Buncombe County. She said that the purpose is to provide medical, non-hospital detoxification and facility based crisis services to individuals. It is located at 277 Biltmore Avenue, Asheville, NC. This is a county owned building that currently houses the Neil Dobbins Detoxification Center. The facility will be operated by ARP-Phoenix. They currently manage the detox program and have managed other crisis facilities in North Carolina. It is a locked facility providing mental health crisis stabilization services from 23 hours to 15 days. The individual will meet criteria for involuntary commitment. There is a reasonable expectation of stability and step-down to a lower level of care in less than 24 hours. There will be clinical programs for rapid stabilization; aggressive medication or crisis counseling. The facility will have on-site capacity for "first responder team" to begin developing step down plan: Crisis plan including safety plan; Immediate community support (ACT Team, CBS Services); Discharge medication, refill arrangements, and MD follow-up appointment; Residential plan; and Transportation. There will be 24/7 law enforcement presence on site. This facility will have 16 beds as defined by licensure regulations Division of Facility Services.

- County Investment Crisis Facility:

- \$1.2 M Building Renovations
- \$ 71,640 Annual Rent Subsidy
- \$500,000 Projected Operating Shortfall
- \$250,000 24/7 Law Enforcement Presence (4 FTE) + 1 Vehicle

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- Additional County Investment In Crisis Services

Integrated Care

- Western North Carolina Community Health Services (\$130,000)
- ARP-Phoenix (\$150,000)

Detention Center

- Behavioral Health Staff: \$110,000 (therapist, psychiatric consultation, pharmacy)
- Community Based Services (total is \$84,000 combined with Substance Abuse Services)
- Substance Abuse Services

Ms. Stone responded to various questions/comments from Council, some being, but are not limited to: how will this facility help the pressures in the jail; is the facility only for those intoxicated or does it include other mental health crises; are the hospitals supportive of this facility;

Councilman Mumpower thanked the County for their leadership and tax dollars to make this facility happen. He said that typically cities don't get involved in direct services, but questioned how the City help. Ms. Stone responded that the City is helping via this forum as they are still working to get the word out that this is one area we are trying to develop. Also, she said that they will be challenged around the 24/7 law enforcement presence and the City may want to look at the amount of time they are currently spending related to transporting people to out of town hospitals and whether this, at some point, might allow the City to reallocate some resources to help with that piece. Clearly understanding though, that the delivery of mental health services is the County's responsibility.

Mayor Bellamy also thanked Ms. Stone who is also supporting families in crises.

There was a majority of Council's support to direct the City Manager to see if there are any opportunities for cost-sharing to assist with the 24/7 police presence.

**PROGRESS REPORT ON THE HOMELESS (10-YEAR PLAN)**

Ms. Amy Sawyer, Affordable Housing Coalition, said that the he Homeless Initiative coordinates community planning and action to implement the 10-Year Plan to End Homelessness, adopted by the City of Asheville and Buncombe County in January 2004.

The overall goals of the plan are: reduce the number of people who become homeless; increase the number of homeless people placed into permanent housing; decrease the length and disruption of homeless episodes, and provide community-based services and supports that prevent homelessness before it happens and/or limit opportunities for homelessness to reoccur. Regular updates are provided through the website ([www.abchomeless.org](http://www.abchomeless.org)), a newsletter, and quarterly stakeholder meetings. Six workgroups meet monthly to plan and coordinate actions in the areas of: Oversight, Feedback, Prevention, Housing, Services, and Discharge. Membership in the workgroups includes business and community representatives, service agencies, advocates, and homeless individuals.

The coordinator for the Homeless Initiative participates in community groups that have shared interests, including the Homeless Coalition, the Drug Treatment Subcommittee of the Buncombe County Drug Commission, the Adult System of Care Group, and BEACON (the network of emergency assistance providers). She also sits on the state's Interagency Council on Homeless Programs. This minimizes duplication and provides for broader community collaboration.

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Point-in-time counts record the number of people experiencing homelessness on a single day. The most recent count was conducted on July 26, 2006:

Date	Total # Experiencing Homelessness	Experiencing Chronic Homelessness	Formerly Homeless in Permanent Housing
Jan 2003	700 estimate	293 estimate	n/a
April 2004	689	n/a	n/a
Jan 2005	502	169	n/a
Jan 2006	486	127	55
July 2006	598	134	78
Difference Jan-July '06	+112	+7	+23

Notes:

- 1) Chronic homeless individuals are those with a disabling condition who have been homeless for a year or more, or have had four episodes of homelessness in the last three years.
- 2) A seasonal increase in people experiencing homelessness is expected in the summer in our area; however, the number of chronically homeless has not significantly increased this year.
- 3) Most of the increase in the July count was in the number of people in families. This is due in part to better measurement of this group with almost 100% agency participation.

- 4) The Point In Time evaluation tool is now used uniformly across North Carolina and should remain consistent from this point forward.
- 5) Formerly homeless people in permanent supportive housing are not counted as homeless, but would likely face homelessness again without this support.

Six mandated agencies have been using the Homeless Management Information System (HMIS) since May, 2006. The Homeless Initiative is working closely with state-wide HMIS administrators to address technical problems and start to track data, including, eventually, an unduplicated count of people experiencing homelessness over a period of time. A group HMIS training is planned within the next two months, but the cost of joining the system is a major barrier to smaller agencies. The State has applied for additional HUD funding to mitigate some of these costs.

Housing First, the placement of chronically homeless people in permanent supportive housing as a first step in addressing their problems, is one of the key strategies adopted in the 10-Year Plan. The increase in numbers this year has been largely due to expansion of WNC Community Health Services' Shelter Plus Care program.

In addition to the existing units noted in the table above, 18 units at the rehabilitated Woodfin Apartments are currently being filled, with full lease-up expected over the next few weeks. Applications are also being accepted for the new Griffin Apartments, where 15 units will be available for homeless people by the end of October.

Representatives listed below have been meeting to plan the implementation of the Housing First program at the Griffin and Woodfin apartments.

- Mountain Housing Opportunities (Developer)
- Hospitality House (Case Management)

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- Western North Carolina Community Health Services (Case Management - AIDS)
- Clay Properties (Property Management)
- Harris Brown (Property Management)
- The City's Community Development Division

A doctoral student from the University of North Carolina will be gathering research data on the cost effectiveness of supportive housing for persons who are chronically homeless.

Barriers:

- **Public Will:** There is a great deal of community support for the Homeless Initiative, as seen in the list of partners. However, ongoing clashes in downtown accentuate a piece of the problem and frustrate many community members. The answer is continued education, stakeholder collaboration, and community-wide events that show the positive work that is being done.
- **Mental Health Services:** Mental Health and Substance abuse treatment are essential. While the 10-Year Plan sets a goal of expanding mental health treatment, specifically with two interdisciplinary ACT Teams, this has not occurred. Recent state mental health reforms have had the opposite impact. Strict criteria, long waiting lists, and struggling service providers make accessing the mental health system a challenge felt across the community, including by those who are experiencing homelessness, or at risk of experiencing homelessness.
- **Funding:** Direct funding of services by the federal government is declining.

Some upcoming events include:

- **October: An Annual Report** will be presented to the community in the first week in October. Philip Mangano, Director of the United States Interagency Council on Homelessness will attend, along with local and state representatives. It would be an honor to have City Council members in attendance.
- **December: Project Connect** is a day-long national event planned for early December, with over 30 cities from across the country participating. Project Connect will provide a safe, friendly place where individuals experiencing homelessness can access a wide array of services, including health checks and housing options. We are very grateful to Mayor Bellamy for

the support she has given to this event.

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Ms. Sawyer and Ms. Charlotte Caplan, Community Development Director, responded to various questions/comments from Council (and those they were unable to respond to they would obtain that information and share it with Council), some being, but are not limited to: what is the total budget for Housing First, including housing, food, treatment, medical care, supervision, case management, etc.; is the target group still the core chronic homeless group downtown; what percentage of the people moving into the Griffin Apartments are working or have substance abuse or mental health problems; is treatment for substance abuse a requirement those who want to live in the apartments; what was the capital investment for Woodfin Apartments; are criminal background checks performed; is the Asheville-Buncombe Community Christian Ministries (ABCCM), Western Carolina Rescue Ministries and the Salvation Army been a part of the process; are the agencies participating in the Plan comfortable with the process; have you seen the number of chronic homeless decrease; is Asheville still amongst one of the largest cities that has the largest chronic homeless population in the state; and is the Housing Authority

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involved and have they provided or will they participate in providing any units in some of the housing developments.

Councilman Mumpower didn't personally agree with some of the initiatives, but they are shining a light on the problem. He asked for detailed budget information if we are going to participating in this initiative going forward. He is concerned about the dollars and the effectiveness when we are dealing with a chronic population of substance abusers. He said we are talking about 33 people out of 134 and there is certainly a concern that after we get the 33 off the street they will be replaced with another 33. He personally has a hard time with the amount of money we will be putting into this for the limited number of people. When we look at all the people in the community who are working hard trying to make ends meet and then to set people up with limited requirements for behavioral maturity in an apartment of their own for free, doesn't seem right.

Vice-Mayor Jones said that Rev. Scott Rogers with the ABCCM did meet with the Housing & Community Development Committee and they had a constructive interchange. It is her understanding that he is committed to working with the City on this initiative in moving forward. In term of the 10-Year Plan, the chronic homelessness initiative is only one part of the Plan. She was very encouraged to hear how Buncombe County has integrated strategies straight out of the 10-Year Plan in their planning of the detox facility.

Councilwoman Cape said that the detox facility will have 16 beds and noted they are paying \$350 per person per night for those beds for a total of about \$10,000 per month per person. If we can get those 16 people into a stabilized situation through this initiative, that would be a lot of money freed up to do a lot of other things in our community on a larger scale. She felt this is a good step to addressing this problem and would be interested in seeing how it moves forward.

Mayor Bellamy said that there are some people who are homeless and some people who just like to hang out. One thing that has impacted the visibility is A-Hope's hours of operation. The day reporting center that was in place is one element missing. Mental health has a direct impact on our homeless issue, and we should write a letter to our legislators and congressmen asking them to assist with this issue now because it is going to be a huge burden on our resources. She asked for Council's support in sending the letter.

At the suggestion of Councilman Mumpower, it was the consensus of Council to instruct the City Attorney to draft a very specific resolution in response to recent events and that it be placed on Council's next formal meeting agenda.

On behalf of City Council, Mayor Bellamy thanked Ms. Sawyer for this update. She said that City Council will look for further updates in the future.

#### **I-26 AESTHETICS ADVISORY COMMITTEE**

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Mayor Bellamy informed the public of three citizen information workshops being held by the N.C. Dept. of Transportation for the purpose of showing all preliminary designs for the I-26/240 widening project. Public input from these meeting will be included in the draft environmental impact statement and will be used in the decision making process.

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Ms. Alice Oglesby, designer representing the I-26 Aesthetics Advisory Committee, updated Council on their progress over the past two years noting that they will be participating with the N.C. Dept. of Transportation at the public workshops.

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She reviewed with Council some of the overview items and then showed them some focus areas they are targeting.

What they based everything on was what the Community Coordinating Committee had set up as design criteria, approved by Council. We are looking at matching the skill of the project to the character of the community. We are looking at reunification and connectivity of the community in various ways; recommend neighborhoods and downtown connectivity; compatibility with community's existing design vision and future plans - compatibility with river front; and designed with recognizable community character and included local artists. She reviewed with Council the areas of focus, i.e., river crossing bridges, overpasses/underpasses, etc.

She briefly discussed the I-4401 section sound barrier walls and showed Council examples of other walls across the country.

She then showed Council and explained some targeted areas using examples of other cities and how they addressed the aesthetics: Amboy Road, medium sound barrier walls in the center section, State Street underpass, Haywood Road overpass and bridge.

They will be looking for public comment from the community and then they will come back to Council at a later date with a recommendation.

On behalf of City Council, Mayor Bellamy thanked Ms. Oglesby for this update and looked forward to the next report.

**STATUS OF UDO AMENDMENTS**

Planning & Development Director Scott Shuford said that at Council's direction, Planning and Development staff members are hard at work on making significant revisions to the Unified Development Ordinance (UDO). These revisions include stand-alone ordinances and a comprehensive UDO re-write based on Council priorities. For example, Council concern about steep slope development warrants a stand-alone ordinance, whereas changes in UDO layout and formatting can be covered as part of the comprehensive re-write.

**Stand-Alone Ordinances** – These ordinances are among the more significant that Council will likely see prior to the comprehensive UDO update.

**Steep Slope and Ridgetop Overlay/Retaining Walls/Open Space Ordinances** – These separate ordinances are grouped together because of their interrelationship. Staff convened a focus group of design professionals to provide advice and guidance on a comprehensive steep slope and ridgetop ordinance that addressed the public safety and appearance issues in a comprehensive fashion. The associated retaining wall ordinance recognized that less grading on steep slopes will result in the construction of additional retaining walls, prompting an ordinance that primarily deals with the appearance of such walls. The open space ordinance has been revised to reflect current staff research on how this issue is handled in other communities and to ensure that Council Strategic Operating Plan direction concerning fees-in-lieu of open space and greenway development are adequately covered in the ordinance. On September 6, the Planning and Zoning Commission considered these amendments and continued action until their November 1 meeting to allow staff an opportunity to communicate more fully with stakeholder groups and the public.

**Mixed Use District** – This ordinance is being prepared for application on the Merrimon Avenue corridor as part of the zoning study for the corridor. It is anticipated to eventually replace two existing mixed use zoning districts (Neighborhood Corridor and Urban Place).

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**Comprehensive UDO Re-Write** – These general categories of the update are currently being reviewed with the Planning and Economic Development Committee and the Planning and Zoning Commission for policy guidance.

**Zoning Districts** – Staff is not planning on substantive changes to residential zoning districts but does hope to be able to consolidate existing nonresidential and mixed-use districts into a smaller number of districts by classifying the districts by development type. For example, the following table provides examples of how this can be accomplished.

Category	New District	Would Replace	Comments
Suburban	Commerce	RB, HB, OB, CI, CB-I, CB-II	Floor Area Ratio Design standards

	Office	OI, OII, OB	
<b>Urban</b>			
	CBD	N/A	No substantive changes to existing CBD
	Urban Village	N/A	No substantive changes to existing UV district
	Mixed Use	NCD, UP, CB-I, CB-II	Allows "tailoring" of requirements for different areas
	Neighborhood Infill	NB, URD	
<b>Specialty</b>			
	Industrial	I, LI	No substantive changes
	Institutional	N/A	No substantive changes
	Resort	N/A	No substantive changes
<b>Overlays</b>			
	Existing Overlays	N/A	No substantive changes to existing overlay districts
	Mixed Use	New	Allows choice of suburban or urban development styles
	Adaptive Re-Use	New	Increases flexibility of use while retaining existing buildings
	Steep Slope, Ridgetop	New	Regulates slope and ridgetop development

Vulnerable Areas: These are areas where existing zoning is problematic for a variety of reasons. The following table describes the problem situation for each area.

Area	Problem	Proposed Resolution
Haywood Road	Zoning (CBD and CB-II) doesn't match desired development	Zoning study underway
Merrimon Avenue	Zoning doesn't match desired development	Zoning study underway
WECAN	Zoning doesn't match plan	UDO revision process
Large lot areas	Zoning doesn't match development pattern	Residential Estate zoning
Chestnut, Arlington, etc.	Potential for suburban development	Adaptive Reuse district
RM-16 areas	Zoning doesn't match development pattern	UDO revision process

Development Incentives – Council has requested staff create additional development incentives intended to encourage the following desired development types:

- Compatible infill development
- Higher density development
- Development that is Healthy-Built or LEED certified
- Development that is transit-oriented
- Development that promotes affordable housing
- Development that preserves historic or character-defining structures

Each category of development type (urban, steep slope, suburban, residential, etc.) lists existing or proposed incentives. Additionally, there is a listing of procedural incentives that may apply in a variety of development type situations.

### Urban Development Incentives (Mixed Use Districts)

#### **Density Incentives**

**Density standards** - Maximum residential density shall be 32 units per acre but may be increased up to a maximum of 48 units per acre if at least 25% of the total number of dwelling units meet City of Asheville affordability standards or at least 10% of the total number of dwelling units meet City of Asheville affordability standards and at least 25% of the

total number of dwelling units contain 700 square feet or less of gross floor area.

**Other Incentives**

**Community Incentive Table** - In order to promote community goals of energy efficiency, mixed use development, and historic preservation, the following gross floor area and height incentives may be applied provided the requisite goals are met. For the purpose of applying this table, each incentive is available for each goal achieved (e.g., a building that is LEED-certified can take advantage of both the gross floor area incentive and the height incentive).

Community Incentive Table			
Incentives	Energy Efficiency	Mixed Use	Existing Historic Structures
Total gross floor area up to 48,000 square feet	LEED or Healthy Built Certification or Green Roof	Ground floor is 100% nonresidential and a minimum of 50% of the gross floor area of the upper floors are residential	Compatible adaptive reuse and/or additions to historic structures provided the architectural character of the principal structure, including fenestration (i.e., door and window openings), is maintained with regard to any facade that faces a street or is prominently visible from adjoining properties

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Maximum four story height (max. height of 55 feet; min. 70% of total gross floor area above ground floor)	LEED or Healthy Built Certification or Green Roof	Ground floor is 100% nonresidential and a minimum of 50% of the gross floor area of the upper floors are residential	Compatible adaptive reuse and/or additions to historic structures provided the architectural character of the principal structure, including fenestration (i.e., door and window openings), is maintained with regard to any facade that faces a street or is prominently visible from adjoining properties
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**Conditional Use Permit Incentives**

**Urban Place Conditional Use Permit** - This proposed conditional use permit would allow up to Urban Place-level mixed use development to occur on urban properties of sufficient size to accommodate stand-alone urban development like the development proposed on Haywood Road at the St. Joan of Arc site.

**Steep Slope Development Incentives**

**Density Incentives**

**Density bonus** - A density bonus of 10% may be granted for each of the following items at the discretion of the planning and development director. A total density bonus of up to 50% of the allowable density may be achieved under this provision.

- a. Buildings, parking, and other improvements are clustered on less steep and sensitive areas of the site to reduce the amount of grading.
- b. Grading is limited to 10% or more under the maximum allowed under subsection (e) above.
- c. Buildings and parking areas are screened by vegetation to minimize the visual impact from key viewing areas, which include the downtown central business district, the Blue Ridge Parkway, public parkland and recreational areas, and major streets and highways.
- d. Grading of roads and access drives is located outside of slopes exceeding 20%.

- e. Grading for principal structures is located completely outside of slopes exceeding 20%.

**Intensity Incentives**

**Intensity bonus** - An intensity bonus of 10% may be granted for each of the following items at the discretion of the planning and development director. A total intensity bonus of up to 50% of the allowable intensity may be achieved under this provision. No intensity bonus shall allow a structure of greater size than allowed under the underlying zoning district.

- a. Buildings, parking, and other improvements are clustered on less steep and sensitive areas of the site to reduce the amount of grading, including placing parking in or under the principal structure(s).
- b. Grading is limited to 10% under the maximum allowed under subsection (e) above.

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- c. Buildings and parking areas are screened by vegetation to minimize the visual impact from key viewing areas which include the downtown central business district, the Blue Ridge Parkway, public parkland and recreational areas, and major streets and highways.
- d. Grading of roads and access drives is located outside of slopes exceeding 20%.
- e. Grading for principal structures is located completely outside of slopes exceeding 20%.

**Suburban Development Incentives**

**Density Incentives**

Residential density “bonuses” will be developed to promote affordable housing. An example is provided below; the density allowance will vary based on the zoning district (e.g., the Commerce District would likely have a 24 unit per acre “base” density while the Office District would likely have a 16 unit per acre “base” density).

**Density standards** - Maximum residential density shall be \_\_\_ units per acre but may be increased up to a maximum of \_\_\_ units per acre if at least 25% of the total number of dwelling units meet City of Asheville affordability standards or at least 10% of the total number of dwelling units meet City of Asheville affordability standards and at least 25% of the total number of dwelling units contain 700 square feet or less of gross floor area.

**Intensity Incentives**

**Floor Area Ratio (FAR) bonuses** – These can be used to encourage developments that the City would like to see for nonresidential suburban development. An example is provided below (numbers used are for illustration purposes only).

<u>Site Design</u>	<u>FAR</u>	<u>Building size (1 acre lot)</u>
One-story building(s)	0.2	8,712
Multistory building(s)*	0.35	15,246
LEED-Certified	0.3 (one-story)	13,068
	0.5 (multi-story)	21,780
150% landscaping	0.3 (one-story)	13,068
	0.5 (multi-story)	21,780
Green roof	0.3 (one-story)	13,068
	0.5 (multi-story)	21,780
Mixed use (50% or more residential)	0.3 (one-story)	13,068
	0.5 (multi-story)	21,780
Structured parking (50% or more spaces)	0.3 (one-story)	13,068
	0.5 (multi-story)	21,780

Maximum Allowable FAR = 0.5

\*40% or more of total building GFA provided on second floor for a 2-story building and 60% or more of total building GFA provided on floors 2 and above for buildings 3-stories and taller

## **Conditional Use Permit Incentives**

**Mixed Use Conditional Use Permit** – This proposed conditional use permit would allow up to Urban Place-level mixed use development to occur on

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suburban properties of sufficient size to accommodate stand-alone urban development like Gerber Village.

## **Procedural Development Incentives**

### **Fee Structure and Permit Processing Incentives**

Building Safety Director Robert Griffin is developing fee structure and permit processing incentives for Green Building projects that will be shared in a separate memorandum.

#### **Level III Thresholds**

Proposed Level III exemptions and threshold adjustments:

**Exemption for development in the downtown CBD.** Development located in the downtown central business district shall be exempt from the Level III review requirements provided such development is in compliance with the downtown design guidelines as determined by the downtown commission in accordance with the applicable review procedures.

- **Exemption for development in a local historic district.** Development located in a local historic district shall be exempt from the Level III review requirements provided such development is in compliance with the applicable design guidelines as determined by the historic resources commission in accordance with the applicable review procedures.
- **Threshold adjustment for development in the NCD, URD and UPD districts.** The Level III threshold for residential development in the neighborhood corridor and urban residential districts shall be more than 100 dwelling units. The Level III threshold for residential development in the urban place district shall be more than 150 dwelling units.
- **Threshold adjustment for long-term housing affordability.** Dwelling units that meet City of Asheville requirements for housing affordability for a period of ten years or longer shall not be counted toward the Level III threshold requirement.
- **Threshold adjustment for smaller residential units.** Dwelling units that contain 450 or fewer square feet in gross floor area shall not be counted toward the Level III threshold requirement. Dwelling units that contain one or more bedrooms and 600 or fewer square feet in gross floor area shall not be counted toward the Level III threshold requirement. Dwelling units that contain two bedrooms and 850 or fewer square feet in gross floor area shall be counted at 0.5 unit toward the Level III threshold requirement. Dwelling units that contain three or more bedrooms and 1,000 or fewer square feet in gross floor area shall be counted at 0.5 unit toward the Level III threshold requirement.
- **Threshold adjustment for transit-oriented development.** The Level III threshold for residential developments located on a transit route and that significantly integrate transit into their site design and operation shall be more than 100 units. The Level III threshold for nonresidential developments located on a transit route and that significantly integrate transit into their site design and operation shall be more than 150,000 square feet of gross floor area provided such developments also meet the minimum requirements for approval of large scale commercial projects using the applicable checklist review by the planning and development department. (**NOTE:** There is a proposal for certain types/scales of developments to pay into a transit fund; this may be one way to allow developments to meet the transit-orientation requirement for a threshold adjustment.)
- **Threshold adjustment for LEED or Healthy-Built Certified developments.** The Level III threshold for residential developments certified as Healthy-Built shall be more than 100 units. The Level III threshold for nonresidential

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developments that are LEED-Certified shall be more than 150,000 square feet of gross floor area provided such developments also meet the minimum requirements for approval of large scale commercial projects using the applicable checklist review by the planning and development department.

## **Residentially-Zoned Properties Development Incentives**

### **Density Incentives (Existing)**

**Development Standard Bonuses** -There is an existing conditional use permit process that allows densities to be increased by up to 150% in single family districts and 200% in multifamily districts for developments that contribute to meeting City goals such as affordable housing, environmental protection, infrastructure provision, and public transit. The process also allows taller structures to be constructed in multifamily zoning districts to accommodate the increased density. Setbacks are established by the conditional use permit process. (**NOTE:** As part of the UDO update, staff will evaluate whether this bonus provision should be expanded to cover additional goals and whether the density incentives are sufficient to entice their use.)

**Duplex Uses In Single Family Zones** - Duplexes meeting certain design requirements are uses by right subject to special requirements in single family zoning districts.

**Duplex, Triplex and Quadraplex Uses in Single Family Zones** -These small-scale multifamily uses are allowed with a conditional use permit in single family zoning districts.

### **Density and Development Incentives (Proposed)**

**Adaptive Re-Use Overlay District** - This proposed code amendment is intended to implement several infill development, community compatibility, and economic development goals and strategies of the **Asheville City Development Plan 2025** through the creation of an overlay district that allows for and provides incentives for adaptively reusing valuable buildings. Asheville has a stock of fine older buildings that greatly contribute to the City's quality of life and urban character. Due to design, location, and/or condition, these buildings may become functionally obsolete for use under their current zoning. An example of this is might be a very large older home on a large lot in a single family zoning district; the home may be too large for continued use as a single family home and the only value it may have for the owner is through demolition of the house and subdivision of the site into several lots. Adaptively reusing the building and lot in their current arrangement for multifamily and/or limited office uses may well be a much better option for the owner, neighborhood, and City relative to the subdivision option. The overlay district would "overlay" a selected portion of an existing zoning district, allowing supplementary incentives and requirements to apply to the property covered by the overlay district.

**Cottage Development** – Staff is working on a cottage development overlay district or conditional use permit process that would allow the clustering of single family homes on parcels of a certain size pursuant to a "cottage development" plan. Typical "cottage development" concentrates parking in one location and organizes home arrangement around a green or park area.

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Landscaping – Staff has been working with a focus group of design professionals and Tree Commission members to significantly revise the landscaping and buffering sections of the UDO. These revisions will propose to:

- Simplify the requirements for greater clarity and compliance
- Resolve the conflict between loading and buffering in favor of buffering
- Assign buffering requirements by zoning district rather than use
- Establish a new fee structure for landscaping violations

Nonconformities – Staff has received policy direction from the Planning and Economic Development Committee concerning nonconformities. This direction is resulting in a proposed ordinance that will contain:

- Simplified language
- One key substantive change – still require site upgrades for renovations greater than 50% in value but define "renovation" as leaving the walls and roof structures intact; additions or expansions greater than 50% in value must bring building location, design into compliance for the expansion/addition area.

Standards and Specifications Manual – Planning staff is coordinating with other departments to move certain UDO standards into the updated Standards and Specifications Manual. These standards are primarily engineering standards such as parking and loading space size, width of parking lot travel aisles, and sight distance triangle requirements.

Enforcement – Planning staff is coordinating with the City Attorney's office to develop streamlined and more effective enforcement provisions into our zoning regulations.

Owens' Report Follow-up – Staff will be including the following specific adjustments to the UDO in response to the Owens' Report:

- **Sight distance triangle** - Staff will eliminate the confusion between the UDO and the Standards and Specifications Manual regarding application and enforcement of sight distance triangle standards. We will use traffic engineering "best practices" as the standard, rather than the somewhat arbitrary, non-site-specific standards in the UDO. These requirements will be placed in the Standards and Specifications Manual.
- **Sign height** - As part of the UDO update, we will correct the confusing table that has led some to interpret that sign height standards apply to attached signs.
- **Sign area/placement/background** - Staff will bring alternatives for sign area calculations, sign placement and sign background issues (and their consequences relative to existing signs) to the PED Committee for policy direction. The direction received will be incorporated into the UDO update.
- **Pedestrian-oriented uses/setbacks** - Planning staff has already implemented a "team" approach to the application of the ped-oriented setback allowances. Two or more planners must review ped designs and make a recommendation to the Planning Director as to whether the design meets the standards. Staff will also include clarifying language in the UDO update, such as clearly applying the design standards to corner side setbacks and providing greater direction as to what constitutes ped-oriented design. Lastly, the proposal to address urban and suburban design issues more explicitly in the UDO update will favorably affect how this code provision is implemented.
- **Loading vs. buffering** - Planning staff is currently working with a focus group of Tree Commission members and landscape design professionals to revise buffer standards as part of the UDO update. It is our intention to resolve the buffer/loading conflict in favor of buffering to the greatest extent practical.

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- **Landscaping issues** – The focus group mentioned above is also addressing general landscaping issues with an eye to increasing both the simplicity of the regulations and their effectiveness. Included in this effort will be changes to the alternative compliance process to better identify and specify the situations in which that process may be used.
- **Driveways/residential streets** - This section of the UDO requires significant revision to reflect a variety of factors, including community expectations, case law on property rights, and application. These factors will be resolved in the coming amendments to the UDO. Staff will seek policy direction from the PED Committee if needed.
- **50% improvement issue** – Staff has discussed this matter with the PED Committee and has received direction to: (a) continue the site upgrade requirements already existing in the UDO; and (b) strengthen the requirements for what constitutes building "renovation" so that a greater degree of façade and building floor area preservation is a component of overall site upgrades when the nonconforming building location is to remain. This direction will be included in the upcoming UDO amendments. Additionally, Building Safety staff have instituted a new process for double-checking improvement values using standard construction valuation techniques.

Mayor Bellamy explained her concern with the exemption for development in the downtown CDB district being exempt from the Level III review requirements in relationship to mandatory review, but not mandatory compliance. Mr. Shuford said that if this exemption is in place, we would expect that the design guidelines to be mandatory at that point in time. However, there are proposed developments that are currently underway in our downtown that are in such scale that it may be appropriate for Council to look at them.

Mayor Bellamy also said that in the threshold adjustment for transit-oriented development and in the threshold adjustment for LEED or healthy-built certified developments, the threshold is 100 units, which is essentially doubling the threshold for current Level III review projects. She asked what rationale was used in the 100 units. Mr. Shuford said that the 100 units was a number put out for policy consideration, noting that none of the thresholds are to some degree arbitrary, but they represent sizes of projects that people can conceptualize and understand and that gives Council some way of determining whether that number is an appropriate one or not. Mayor Bellamy suggested a threshold between 50 and 100 units to first see if we get developers who are interested in these types of incentives and not move the community too far too soon.

Mr. Shuford said that we also want to make sure the development community has a chance to review these incentives to see if they will actually encourage the type of development we are looking for. He said that he would come back to Council with some rationales on any unit numbers they arrive at.

Councilwoman Cape said that she and Councilman Newman have been talking about a few things and essentially the idea is the development of a cafeteria-style point system that might identify what the strategic goals of our community are. And then a range of incentives based on how many of those goals they meet. It would be like earning incentives by the number of

strategic goals that are met, whether it is a combination of green-building, affordability, transit-oriented or site selection, then all of them add up to make the threshold rise and fall accordingly.

Mayor Bellamy was concerned that in the cottage development incentives if we ask people to go through the conditional use permit process, it may deter people from pursuing this type of development because it will add more cost and time to the project and she understood our goal was to simplify the process. Mr. Shuford responded that the process by which cottage developments can be approved is an important policy issue for Council because they have the potential to be in areas that don't necessarily have to be on a major corridor. Perhaps there is

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some way that in certain areas it is a use by right, subject to special requirements; in other areas, it might be better suited as a conditional use permit; and in other areas, it could be achieved as an overlay district. We may be able to come into this in a variety of ways being cognizant in making it a simpler process.

Councilman Mumpower said that with the need of approximately 10,000 new housing units needed in the next 10-15 years, we need to try to take away any hurdles for cottage, accessory or auxiliary housing developments.

In response to Councilman Freeborn, Mr. Shuford said we are looking at each of our zoning districts and what their purposes are and whether the list of uses are ones that support those purposes. We have done a fair amount of advanced planning in the River District from the Wilma Dykeman Plan to the River Redevelopment Plan. We are going through a public process to further refine the viewpoints of the major stakeholders, mainly the property owners that have invested in the river. He feels Council will see a shorter list of allowed uses in the River District after the process is complete. As far as the mixed use overlay, we noticed corridors in the City that seemed to be urban corridors and they need to have an urban development pattern; other corridors were suburban in nature; and some corridors are in areas of transition. One thing they have suggested in the past would be to have a parallel code so that you could have both a suburban development opportunity and a mixed use opportunity. That is what the mixed use overlay would attempt to do - give you the choice of whatever development pattern you felt was appropriate.

Upon inquiry of Councilman Freeborn, Mr. Shuford explained the vision of the new Neighborhood Infill District.

In response to Councilwoman Cape, Mr. Shuford explained why City staff thinks it may be appropriate to look at some of the areas zoned RM-16 Residential Multi-Family High Density District to identify whether the RM-16 District is really what the City's goal is. There are areas of the community that it would be appropriate to change the zoning to a single-family designation.

City Manager Jackson said that City staff is also taking a pro-active look at how we can stimulate job creation and capital investment. They are preparing a similar type of review and presentation for the Council Planning & Economic Development Committee and the Sustainable Economic Development Committee to talk about innovative ways we can really make an impact and take our economic development efforts to the next level.

At 5:07 p.m., Councilman Mumpower moved to go into closed session for the following reason: 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 locations include: Swannanoa River Road and Asheville Commerce Park. The statutory authorization is contained in G.S. 143-318.11(a)(5). This motion was seconded by Councilman Freeborn and carried unanimously.

At 5:42 p.m., Vice-Mayor Jones moved to continue the closed session to the end of the regular meeting. This motion was seconded by Councilman Freeborn and carried unanimously.

At 5:42 p.m., Councilwoman Cape moved to go out of closed session and return to the regular meeting. This motion seconded by Vice-Mayor Jones and carried unanimously.

## **BROADBAND PLANNING**

Information Technology Director Jonathan Feldman briefed council on broadband planning for our community.

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The City of Asheville has significant operational requirements for high speed data networks. Ongoing operational costs of

these networks is quite high even without stipulations for highly reliable service, so infrastructure builds are appropriate for internal usage.

It is unclear at this time whether cities should become involved in the provisioning of citizen networks. It is clear that cities who are participating in the great municipal experiment of providing broadband services to citizens are cities that are able to shoulder the risk of litigation and potential resource loss. However, there is potential economic development impact of having adequate or inadequate reasonably priced high speed data communications within a city, and Council may wish to re-examine municipal involvement in citizen broadband as conditions change. The history of cooperative/municipal electric utilities is instructive when considering this issue.

Current assets currently include fiber optic through the Charter Cable franchise agreement as well as the ERC (Educational Research Consortium) franchise agreement. Telecommunication towers are also a significant asset when considering future infrastructure planning for the City.

Policy direction for broadband at the City of Asheville essentially consists of choices between intended uses of the broadband infrastructure and how aggressively the City wishes to build its own infrastructure. Staff's recommendation is to be collaborative with other agencies when it comes to use; and to be strategic, rather than aggressive or minimal, when it comes to building infrastructure for future needs.

He reviewed a summary of current activities and projects, which included leveraging the current and future AFR fire station build-out to achieve a fault tolerant topology for City services.

Next steps would include creating metrics to track success in activities as well as more exploration into how upcoming City department projects can be leveraged in order to provide more strategic broadband infrastructure for future use.

- **Data Rates & Operational Needs**

When making decisions about broadband, it is very helpful to know in general terms what is possible with which types of technologies, and it is also helpful to know where the limits are set as to what type of data speed constitutes "broadband."

Data speeds are generally measured in the industry as megabits (1000 bits) or gigabits (1000 megabits). The FCC (Federal Communications Commission) defines broadband as speeds greater than 2/10ths of a megabit. On the other hand, the ITU (International Telecommunications Union) defines broadband as speeds greater than 1.5 megabits.

Text Box:

The following chart shows a comparison of types of connectivity. It is worth noting that fiber optic connectivity has far greater capacity than any of the types shown. In fact, if the chart were to show the entire capacity of fiber optic, the other types would essentially show as zero because of the significant scale difference. It is also worth noting that wireless at its worst offers



approximately the same data rate as the maximum speed of dial-up access. Even forthcoming higher-speed cellular based wireless such as EVDO (EVolution Data Optimized) only offer effective rates at approximately a half a megabit.

Without being paired up to real world needs, data rates remain an abstraction. So it is worth considering that the effective requirements for acceptable real-time GIS performance at remote fire substations is certainly well above the 10 megabit rate; and that this type of computing requires in the range of 100 megabits to perform without undue delay. It becomes obvious very quickly

that any effective data network must integrate both wired and wireless data networking technologies in order to combine mobility capabilities with desired data rates in buildings.

However, acquiring high speed connectivity in North Carolina (and indeed in the United States in general) remains a costly exercise. Essentially, incumbent telecommunications organizations are in a very difficult, competitive, and low-margin business currently. Reasons for this are varied, but some cite the Federal Telecommunications Act of 1996 (which regulated the telcos) in combination with significant sunk costs in expensive-to-maintain infrastructure technologies. When last pricing high speed connectivity for City usage, rates were \$1040/month for a 100 megabit link.

From a wireless perspective, it is difficult to say when cellular providers will deploy higher speed wireless data. Some industry insider estimates have EVDO reaching Asheville in late 2007, but this may be optimistic.

Ultimately, ongoing operational costs of institutional high speed network services remain quite expensive even without service level agreements (contracts with financial clauses for failure that tend to be more expensive, but that help to ensure that the provider has incentive for reliability). Preparing broadband infrastructure in a sensible way for city functions both now and in years to come is definitely a staff priority.

- **Citizen Broadband Perspective**

Clearly, it is of benefit for citizens to have a city services that have a robust and cost-effective data network. Whether it is for mundane purposes such as telephones or for critical emergency response purposes, city business happens more effectively for citizens if the city has an effective broadband network. It is less clear whether cities should become involved in the end-user provisioning of citizen networks. From staff's perspective, at this time, a city would need significant surplus resources and a mandate from citizens to embark upon such a task. From staff's perspective, these conditions do not now exist in Asheville.

It is not a unique attribute of Asheville that consumer-grade high speed connections remain relatively expensive and sometimes tied to "bundling" practices where there is a punishment/reward discount for consumers choosing bundled services (such as cable or telephone services) along with data services. Bundling has the effect of creating a barrier to customers switching providers, and therefore gives citizens less choice.

Moreover, it also appears that carrier (telecomm / cable) data speed technologies are evolving at a far less dramatic rate than commodity wireless and wired technologies. Asheville is also not the attractive high-density data market that Atlanta or Charlotte is. Using history as a guide, there is a possibility in the future that citizens in Asheville may not have the connectivity choices that citizens of larger cities do. Since there is a potential economic development impact of having adequate/inadequate data communication in a given city, Council may wish to re-examine the role of the municipality in filling this need at a future time. (As a real example of how data network availability has translated into cash savings, see example figure showing how

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British Telecom has quantified the savings of having adequate bandwidth available for workers to telecommute/telework.)

Again, history – not of data networking, but that of electric utility – can bring an interesting perspective to the matter at hand.



*A century ago,  
private electric*

*utilities ... insisted that that rural areas would be too costly to serve. In response, more than 3,000 communities formed their own utilities, arousing corporate charges of unfair competition, and "un-American" and "Bolshevik" tactics. Today, 1/4 of the country's electricity is still generated by the remaining municipal and rural electrical cooperatives."*

–Neal Pierce, Nation's Cities, 4/24/2006.



While cities such as St. Cloud, Florida, and Philadelphia, Pennsylvania, have constructed WiFi data networks for citizens, such constructions have shown that WiFi in a municipal context is a relatively slow technology that is fraught with radio frequency complications. Moreover, the model deployments (if they are done by the cities themselves rather than by private industry) have been shown to be legally challenged. In the case of municipally-done deployments that went forward (such as St. Cloud), legal challenges were obviously successfully overcome, but staff believes that most if not all municipal deployment to citizens will be legally challenged by the incumbent telecoms and cable companies. However, for longer term planning purposes, it is possible that conditions may change in Asheville or on a national level such that it

may be in citizens' best interest for the City to get involved in such a deployment.

- **Current City Assets**

The City enjoys substantial connectivity not experienced by other agencies in Buncombe County. In particular, both the Charter Cable franchise agreement as well as the ERC (Educational Research Consortium, a 501-c3 started by Congressman Taylor) franchise agreements have had the effect of markedly expanding Asheville's truly high-speed data network. Many remote sites, including all fire stations and police sub stations are connected by this fiber, and Asheville citizens enjoy better service from personnel as a result of the high-speed (100 megabit) network.

There are contractual restrictions on use for the Charter fiber, specifically that third party (e.g. non-City) traffic cannot travel on this network. Given the changing telecommunications climate, this may be something that the Council may wish to revisit when the franchise agreement is up for renewal in July of 2010.

Asheville has also been fortunate in building & utilizing its own telecommunications towers over the years. These towers are a significant strategic asset, not only for their current usage as public safety radio transmission/reception points, but also for future expansion of the City's data network. Any wireless networking is a challenge, given Asheville's mountainous topography, so the elevation and strategic locations of these towers are significant assets when considering any type of infrastructure planning.

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- **Risks & Approach to Broadband Planning**

Staff would suggest that there are two areas of consideration when thinking about the City's approach to broadband planning. First, Council may wish to consider the level of infrastructure building that we engage in. Second, as mentioned previously, types and level of utilization is certainly an important aspect of how staff moves forward with tactical decisions.

Whatever Council's policy on use of the City's broadband infrastructure is (both now and in the future), an approach to infrastructure build-out that is too passive may leave us with significant future costs. Specifically, staff believes that when we build infrastructure, if it is not cost-prohibitive, we should be very mindful of future growth, City strategy, and Council policy direction. Of course, it is also desirable to avoid the risk of building out too aggressively, as this would not be a good use of public dollars. The following table summarizes each policy choice, showing green for low risk, yellow for some risk, and red for considerable risk. The checkmark indicates staff's current recommendation – collaboration and strategically building.

Staff's specific thoughts regarding this position are:

- Use Geographic Information System (GIS) analysis to understand where collaboration with local entities makes sense in order to explore cost-sharing and better communications between agencies.
- Build strategically so that cost is not prohibitive – but plan for some excess capacity for potential collaboration
- Maintain current direction of owning radio tower infrastructure; investigate further investment in infrastructure as City grows
- Actively investigate & implement “win-win” collaboration scenarios

- **Current actions/projects being undertaken:**

With the philosophy of “meet current short-term needs, and leverage existing projects to plan for future long-term needs,” the following is a status update on

tactical actions being taken to address broadband infrastructure needs:

- **Cellular Data Project for Patrol Cars.** Moves data services from sub-dialup speeds (.01 megabit) to speeds slightly better than dialup (.05-.12 megabit). Moving forward on this project as a pragmatic move to ensure that basic needs of APD Patrol are met. While this does not provide adequate bandwidth for future enhanced services, basic services such as reasonably responsive in-car mug shots and access to records management systems are supported.



- **Wireless HotZone Pilot.** An unfunded project for FY07 that would have built 11-54 megabit capabilities around fire and police stations as a proof of concept for covering a

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larger area and providing enhanced data services to all city mobile operators (i.e. Building Safety, Fire, Police, etc). Staff intends to re-visit this as a CIP project for FY08.

- **Tower Site – Public Safety Radios.** To commence as a proposal for FY 2009-2010 CIP. As the City annexes out towards the West, it is apparent to staff that more radio coverage will be needed in order to enable Public Safety communications in these areas. Staff is currently in the process of (1) looking at 10-year plans for annexation; (2) assessing current city-owned land sites that are available as potential appropriate sites; (3) performing coverage analysis; and (4) obtaining estimated equipment costs. We pay \$26,000 per year in rent on the current Westside tower (with an annual increase of 4%), which may not cover the full area needed by public safety in the future. Current risks of rental include no cost control and the potential for a carrier to deny us access to the tower in the future. Future benefits of strategically placed city-owned towers include potential to be used for broadband infrastructure for mobile users as well as tower rental income potential.
- **Fire Station Fault Tolerant Fiber Ring.** In the past, new site connectivity has been planned on a short-term individual site basis. Recently, AFR and IT Services have partnered on both the current and upcoming fire station construction in order to plan infrastructure in a more strategic manner.

Instead of building more direct lines from fire stations to City Hall, staff has started the process of building a fault-tolerant fiber optic “ring”. This layout utilizes links from existing stations, and requires less new construction via the Charter franchise agreement.

The City Attorney and IT Services are currently investigating the possibility of performing industry-standard “fiber swap” agreements with other governmental and quasi-governmental agencies in order to complete the AFR ring without additional construction costs. In addition to providing a high level of service to both new and existing stations on the ring, this project will also open up exiting opportunities for better Continuity of Operations and potential Disaster Recovery for all City services.

- **ERC Relationship.** As previously mentioned, the ERC is a not-for-profit organization originally set up by Congressman Charles Taylor. In its mission statement it states that it seeks to “further economic development in the Western Carolinas through education, infrastructure and capital development.” If contractually possible through the Charter agreement, ERC is one candidate for a potential fiber swap to complete the AFR fault tolerant fiber ring.

Additionally, IT Services is pursuing a memorandum of understanding between ERC and the City in order to collaborate on centralizing storage of fiber optic data points. This will allow the City real-time access to ERC build-out points – and thus, better planning capabilities.

- **EDC (Economic Development Coalition for Asheville-Buncombe County) Participation.** IT Services has been participating in the Technology subcommittee of the EDC (Cliff Dodson, Chair). The salient question has been “can we collaborate to build out broadband infrastructure similarly to other communities?” We are currently investigating which parts of the WNC EdNET project are appropriate for possible implementation here in Asheville.

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- **Next Steps**

Clearly, broadband development is a cross-functional discipline involving City Information Technology, Planning, and Economic Development, among others.

Staff is very receptive to Council ideas regarding policy direction on these issues, and would suggest that policy direction be based on the “level of use” and “type of build” model outlined above.

Further next steps will certainly include creating metrics to track success in the various broadband infrastructure activities engaged in as well as more exploration into how upcoming City projects can be leveraged in order to better provide broadband infrastructure for the future.

When Councilman Mumpower noted that Council wanted to see how the City could take a leadership role in WiFi, but with

the unreliability of some of the technology and fast-changing pace of the technology we may be stepping in over our heads to process forward. Mr. Feldman felt we would need a lot of resources and the will to see some of those resources at risk.

Councilman Mumpower wondered if there will be opportunities for us to take a leadership role in 2010 when we renegotiate our contract with Charter Communications. Mr. Feldman said that there are restrictions on how we can use the fiber that we are allowed to use under that agreement. If it is Council's wish to do any kind of operations other than collaborating with other agencies, we would need different language in that contract.

Councilman Mumpower spoke in support of receiving Mr. Feldman's report but not taking any direct action at this time, beyond those specific collaborative possibilities mentioned.

Vice-Mayor Jones didn't want to limit the collaborations to just other agencies, but to look for other opportunities as they unfold and collaborate with them as well.

In response to Councilman Freeborn, Mr. Feldman explained the citizen utility and the statement that our infrastructure is not there yet.

Councilman Davis said that he hoped the City is not being compared to Buncombe County as they providing WiFi services in the downtown area. What the City is talking about is very serious operations of the City business and the possibility of providing that service to the citizens. He understands that it is not practical at this time and supported collaboration in the future.

Councilwoman Cape noted that the kind of infrastructure we are talking about to serve our community would be massive.

In response to Mayor Bellamy, City Attorney Oast was instructed to prepare a memorandum to Council on what parts of the Charter Communications contract we can negotiate and what parts of the contract is under State control, when the contract expires in 2010.

#### **WATER CAPITAL PROGRAM**

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City Manager Jackson said that this will be an overview of the (1) Capital Improvement Plan Rate Adjustment (residential customers); (2) Condo Associations; (3) Financial Plan Analysis (police direction); and (4) Uniform Rate Analysis (providing information only).

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At the suggestion of Councilman Mumpower and after a brief discussion, it was the consensus to not discuss the uniform rate analysis at this time since Councilman Newman is not present.

Water Resources Director David Hanks reviewed with Council the residential customer overview: (1) 44,000 meter (customer base); (2) 99% have less 1 inch meter size; (3) less than 1% or approximately 150 customers have one inch or more meter size; and (4) analysis: oversized residential meters may have adverse impact on residential water bill - One inch meter: \$48.00 per month; - 5/8 inch meter - \$3.50 per month.

He recommended: 1 inch residential meter of \$5.00 month; 1.5 inch residential meter of \$6.00 month; and 2 inch residential meter of \$7.00 month. He asked it be retroactive effective date of July 1, 2006. The affect on annual revenue is approximately \$77,000. His alternative would be \$3.50 per month for all single family residential customers: \$80,000 revenue impact.

Regarding the Condo Associations' concerns, they have discussed (1) working with individual associations to reduce cost; (2) changing to combination fire protection/domestic meters have less than one year return on investment; (3) reduced domestic meter sizes will result in significant savings; (4) backflow/cross connection concerns being addressed; and; (5) recommend stay on course with fee structure. The condos (except one person) wanted to change to combination fire protection/domestic meters.

Regarding the uniform rate structure staff has provided information concerning uniform rates separately. In addition, staff recommends this issue be discussed at a future Council worksession for further policy direction.

In response to Councilwoman Cape, Mr. Hanks said the reason why some people choose a bigger than 5/8 meter is because of a service issue. Since the meters are at the road and the houses are several hundred feet away from the meter, a smaller 5/8 meter will not serve that unit.

Councilwoman Cape wondered if there is a consideration for people to pay a little more money because it costs more to get water to their homes. Mr. Hanks said that the cost variables for the City is actually the meter size as far as maintenance and replacement.

In response to Councilwoman Cape, Mr. Hanks said that the condos would have to change out their fittings in the near future because most have been in place for 20-30 years or more and they don't meet the current State requirement for backflow protection.

In response to Councilman Mumpower, Mr. Hanks explained the cost of replacing the different size meters.

Councilman Mumpower said we don't want to gouge anybody and are trying to find a point of fairness, but questioned if these amounts will compensate for the additional costs of repairing these meters. Mr. Hanks said that he did some analysis about how often are we having to replace these meters, and typically the larger meters last longer than the smaller meters. He does believe the \$5, \$6 and \$7 adequately addresses the needs of replacement because of the longevity of those meters. If we are looking for equity across this whole class, the \$3.50 could be considered also.

Mr. Hanks responded to Councilman Freeborn's question about why we are not looking at a CIP fee based on consumption.

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After a brief discussion surrounding the residential fee and the publicity on that fee, it was the consensus of Council that for all single-family residential customers the rate be \$3.50 per month and that this change be reflected at the next formal Council meeting.

Mayor Bellamy said that she has received a letter from the Buncombe County School Board in effect stating that they have to pay an additional \$180,462 annually for the CIP water fee and were notified of this after they adopted their annual budget. Mr. Hanks said that he has had some discussion regarding this with the City Attorney's Office and has been advised that all State law doesn't allow us to differentiate within classes of customers and schools (City schools, County schools, UNC-Asheville, Warren Wilson, private schools, etc.) are a separate class for us.

Mayor Bellamy said that City schools have a supplemental tax and they have a little more flexibility than Buncombe County schools. She would like to see City staff see if there is something we can do for that class.

Councilman Freeborn understands the County School Board's concern, however, no one else in their class has complained and they are using our water system like everyone else. He felt that all organizations that face tough budget choices can always find a place to cut without sacrificing quality of service.

Councilman Mumpower supported Mayor Bellamy's suggestion and felt that large dramatic increases aren't fair to anyone, especially outside of the normal budget cycle, and if we have done that inadvertently, then we should look for alternatives.

City Manager Jackson said that he will look at the financing plan because the educational institutions are large users and to exempt them would be pretty significant adjustments without considering the large range impact. He suggested Council allow the Chief Financial Officer to look into the financing plan because that might be the better alternative than looking at a pay-as-you-go plan.

Vice-Mayor Jones is a strong advocate for education, however, Asheville has so much off the tax rolls that she thinks the CIP water fee is fair and this is one way water and water infrastructure can pay for themselves. She could not be supportive of looking at a way to make adjustment for that class because it is more complex than this.

In response to Councilman Mumpower, Mr. Hanks said that this has been discussed for 5 years and at many of the open forums and open meetings Buncombe County schools were represented. In addition, there has been a lot of coverage on this issue by the media.

Councilman Davis felt that even though the discussion has been going on for several years, the County schools are a large water customer and another governmental agency, we maybe we should have sent them a letter stating that this was going to happen soon. He suggested the Mayor write a letter apologizing the suddenness of the increase, but noting it has been very open discussion for several years.

In response to Councilman Mumpower, Chief Financial Officer Ben Durant said that he would have to report back to

Council on what percentage did the CIP raise the County school's budget.

Chief Financial Officer Ben Durant said that key capital financing strategies/practices of where we are: (1) maintain adequate operating fund balance; (2) commit annual revenues to fund capital; (3) determine and remain within debt capacity; (4) maintain or improve bond ratings (A1); and (5) prepare multi-year forecast for operating/capital budget. Where we need to go is (1)

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balance pay-as-you-go and debt financing; and (2) adopt governing board policies to guide capital finance.

He then explained five measures to calculate water system debt capacity.

The pay-as-you-go and debt financing includes earmarked revenues, cash reserves, grants or contributions, etc. It is similar to private sector use of equity to finance business capital needs. Debt financing is borrowing money to finance capital needs and making periodic debt service payments back to the lender.

We must achieve a balance of pay-as-you-go vs. debt. Over-reliance on pay-as-you-go creates project delays. Over-reliance on debt builds up fixed costs and limits operating flexibility. Capital needs are financed most effectively by striking the "right" balance.

Factors affecting debt vs. pay-as-you-go include: rate of community growth; rate of revenue growth; age of infrastructure; size of operating fund balances; size of capital reserves; operating budget's to fund recurring capital needs with annual revenue; rate of revenue growth; and who should pay, the current or future rate payers.

He then explained the current financing structure of (1) debt vs. pay-as-you-go ratio over a five-year period; (2) water capital improvement plan pay-as-you-go plan; (3) alternative financing structure of debt vs. pay-as-you-go ratio (assumes a \$35 Million revenue bond issued at 5% coupon rate for major infrastructure needs); and (4) water capital improvements plan (\$35 Million bond issue).

His general recommendations include (1) build capital reserves; (2) minimize future rate increases; (3) consider CIP fee rebates or other; (4) restructure residential CIP fee; and (5) provide specific recommendations in October pending further Council direction.

Throughout discussion, Mr. Durant responded to various questions/comments from Council, some being, but are not limited to: does operating reserve equal fund balance; what would our annual debt payment be on \$35 Million; will we be realizing our goals of capital improvements more quickly by this process; will this preclude us in looking at bond issues for other projects; why would we stage this for three years as interest only; what is the percentage of interest; are we treating the revenues we were getting prior to Sullivan Acts II and III as Fund Balance now and are they included in what we are doing, or is there an opportunity to treat that differently; what is the cost for capital improvements over the next few years; how do we determine if bonds are fixed opposed to adjustable; and do bonds have to be voted on by the citizens.

City Manager Jackson said that we would have to look at a project list and see what we can realistically manage. If Council wanted to see that, staff would develop some alternative schedules that would produce less balance of funds in those out years and get more projects done in the earlier years.

Councilman Mumpower's hoped we don't press on with this anytime soon until we get the legalities of the Sullivan Acts resolved. Mr. Durant said that he spoke with bond rating agencies who said that regardless of what happens with the Sullivan Acts, we have strengthen our position just from taking over our water system. In response, Councilman Mumpower said that he was concerned that even though it may enhance our position, it will not enhance the community's understanding of the complex realities of water.

At 7:25 p.m., Mayor Bellamy announced a short break.

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#### **ESTABLISHMENT OF SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT**

Councilwoman Cape said that this is the consideration of a resolution establishing a Sustainable Energy and Environment Advisory Committee for the City of Asheville. This will follow up discussions by Council at the meeting of June 12 and July 18 of this year where she and Councilman Newman were asked to continue to work on the committee structure and return to Council for

final review. This committee has been advertising for applications and is currently accepting them through an October 14 deadline.

The President's Council for Sustainable Development (PCSD) was established in June 1993 to develop a national strategy for meeting the needs of the present without compromising the opportunities of future generations. One of the implementation recommendations from the President's Council (PCSD) was to assist in the development of local councils as a way to strengthen communities and enhance their role in decisions about environment, equity, natural resources and economic progress. Cities throughout the United States have created committees and or departments on the environment, energy and sustainability to address the concerns of their communities about these issues.

In August of 1994, San Jose's City Council adopted San Jose 2020 as its general plan. Included within the plan was a new Strategy entitled the "Sustainable City Major Strategy." In Germantown, Pennsylvania, the Environmental Commission, an eleven member commission chosen from among the residents of the City, convenes to establish and support the *Sustainable Germantown Plan* which sets the example for Germantown's citizens and those of other municipalities through programs that conserve natural resources and promote energy efficiency. In 1993, the San Francisco Board of Supervisors established a Commission on San Francisco's Environment, charged among other things with drafting and implementing a plan for San Francisco's long-term environmental sustainability. The sustainability plan, now a City document, was drafted by a community collaboration in which City staff contributed on equal footing with members of other sectors of the community. From Port St. Lucie, Florida, to Seattle, Washington, cities across the country are employing stakeholder committees, in the dialogue about community energy, environment and sustainability issues.

The City of Asheville has a history of employing the expertise and interests of its Citizens by the implementation of Boards and Commissions. Currently 34 active, standing boards and commissions serve in this capacity addressing the diverse and complexities inherent in our vibrant city.

She suggested the Sustainable Energy and Environment Advisory Committee's powers and duties include: (1) Develop rules and by laws for the conduct of its business; (2) Develop an Energy and Environment Vision Plan; (3) Develop Benchmarks and standards by which progress toward the Vision Plan Elements can be measured; (4) Develop a program for increasing community awareness of energy and environmental sustainability issues through activities including outreach, education and publicity; (5) Work on special or one-time projects that are consistent with the goals of the Committee; and (6) The Committee shall generally advise council as to the above listed items and such other matters as may from time to time be referred to it by Council.

It is important to emphasize that an Energy and Environment Vision plan should be recognized as a *means*, not an *end*. The plan is a means by which we evaluate our current energy and environmental profile, and set goals and measures for future action. To proceed in a sensible way to change long-standing environmental and energy use practices, it's necessary to come up with practical goals, actions, and objectives to be achieved. To begin to address current

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and future adaptation to the existing and emerging energy and environmental realities is to act responsibly for our own futures and the futures of our children.

She suggested the membership of the committee be nine members: One member with demonstrated expertise in the field of energy management (i.e. production, conservation, application; one member currently involved in a substantial way in the operation of a business with the City of Asheville; one member currently employed in the construction industry within the City of Asheville; one member currently employed in the real estate development industry with the City of Asheville; and five remaining seats shall be at large appointments.

She suggested the term of office shall be three years all of which shall be deemed to commence as of the date of appointment of the ninth member. Three of the initial terms shall expire on year from the date of commencement, three of the initial terms shall expire two years from the date of commencement and three shall be full terms, expiring three years from the date of commencement. Council shall designate the initial terms in its resolution of appointment.

Regarding reporting to Council, she suggested the Committee shall within 180 days from the date of commencement of their initial terms, provide a written report to Council setting forth its plan for carrying out its powers and duties and a timeline for their goals. After this initial report, the Committee shall provide a report to Council on an annual basis or more frequently as directed by Council.

With regard to assistance, she suggested the City Manager shall upon request, make space available within city facilities for said committee to conduct its meetings, and shall provide clerical assistance in fulfilling the legal requirements for said meeting pursuant to Open Meetings Law of North Carolina and such other assistance as is customary for boards and commissions.

In summary, she felt that with the creation of the Sustainable Energy and Environment Advisory Committee, the City of Asheville publicly acknowledges that it has joined other cities in becoming energy and environmentally sustainable. Embarking on the path toward sustainability marks this council as one who is willing to make a commitment with our community partners to recognize the importance of current actions for future generations. It recognizes the importance of issues of the environment and energy within their jurisdictional purview and accepts the responsibility in participating this community dialogue.

She felt the pros of this Committee would be (1) The involvement of community stakeholders with the City in issues of energy and environment; (2) Support for the City in education, publicity and community dialogue on these issues; and (3) Initiation of a Vision plan for the community on these issues of community concern. Two cons she noted would be (1) Another committee; and (2) Staff resources will be needed for support as in all Committees.

Councilwoman Cape recommends adoption of the resolution establishing a committee to be known as the Sustainable Advisory Committee on Energy & the Environment.

Councilman Freeborn spoke in support of the Committee and felt the annual report would be good to tie in with the budget process if there are any recommendations that have budget implications for the City.

She is not proposing that the Committee takes on all roles concerning environment and energy and the dialogue of this Council. She thinks that staff and Council both have an interest in initiating some of that. She wants to be careful about giving them too much. The Committee's job is not to be the policy directors for energy and the environment, only convening the dialogue. She wants us to be careful to note that everything doesn't have to go through this Committee before it comes to Council.

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Councilman Davis felt that the intent of the Committee is good, but had some concerns about how much power ultimately goes to the Committee. He can see this one having the room for a lot of latitude that some of the other boards don't have. Councilwoman Cape said that we didn't have that role to the Committee. She is not suggesting that this Committee be a policy directive agency. She envisions this Committee similar to the 2025 Plan Committee where they helped roll out a vision for us and we can refer to it.

Councilman Davis said that he would have a problem if the Committee becomes an oversight committee where Department Directors have to reconcile what they are doing with their activities. He is, however, okay with the Committee being just an advisory committee.

Councilman Mumpower thanked Councilwoman Cape for her leadership; however, he could not support this effort. He sees the potential for abuse and misinterpretation. He felt that the two issues of energy and environment should be a part of all Council decisions and should be incorporated in all that we do. He didn't think we needed another level of bureaucracy and control to do that.

Mayor Bellamy said that as a matter of procedure, we will place this resolution on the agenda for the next week's Council meeting.

#### **BOARDS AND COMMISSIONS:**

It was the consensus of City Council to arrange the following interviews for a vacancy on the Crimestoppers Board of Directors: William Price and David Herbert. Regarding the City Council appointment on Crimestoppers, Councilman Mumpower said that he has modified his schedule and can continue in that seat unless another member of Council would like to participate on that Board. After a short discussion, City Attorney Oast was instructed to research the reasoning why one member has to be a City Council member (since Buncombe County's appointments did not have such a requirement). Depending on the outcome of such research, it was the consensus of Council to (1) continue with the two interviews for the one vacant at-large seat, and if the seat must remain a City Council member that Councilman Mumpower would remain on the Board; or (2) appoint William Price and David Herbert to the Board, if the Council member seat can be opened for an at-large member. If the Council member seat can be opened for an at-large member, the City Attorney was instructed to prepare the proper resolution making that change.

At 7:55 p.m., Councilman Mumpower moved to go back into closed session. This motion was seconded by Councilman Freeborn and carried unanimously.

At 8:15, Councilman Mumpower moved come out of closed session. This motion was seconded by Councilman Freeborn and carried unanimously.

**ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 8:15 p.m.

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CITY CLERK

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MAYOR