

Regular Meeting

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 Keisha Lipe

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Freeborn gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

Councilman Mumpower requested Consent Agenda Items "C", "E", and "F" be removed from the Consent Agenda for individual votes.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 22, 2007**
- B. RESOLUTION NO. 07-116 - RESOLUTION REAPPOINTING BARBARA MARLOWE TO THE CIVIL SERVICE BOARD**
RESOLUTION BOOK NO. 30 - PAGE
- C. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH KIMLEY-HORN & ASSOCIATES INC. TO PREPARE FEASIBILITY STUDY FOR A PARKING GARAGE ON RANKIN AVENUE**

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

- D. RESOLUTION NO. 07-118- RESOLUTION AUTHORIZING AN INCREASE IN THE DELEGATED AUTHORITY OF THE PURCHASING MANAGER FOR THE DISPOSITION OF SURPLUS PERSONAL PROPERTY**

Summary: The consideration of a resolution authorizing an increase the delegated authority of the Purchasing Manager for the disposal of surplus personal property.

The Purchasing Manager currently has delegated authority for the disposal of surplus personal property under City Council Resolution 85-99.

The NC Legislature enacted S.L. 2005-227 (H1332) effective July 27, 2005 which increased the value of property that may be sold under a delegation of authority as provided in G.S. 160A-266(c) to \$30,000. This legislation also provides a broader authority for the use of electronic auctions or other methods of selling property as it becomes surplus as an alternative to sale by public auction. The law, however, was not automatic and requires the approval of Council to the increased level.

Pros:

- Permits the ongoing disposal of surplus personal property providing a continuing flow of revenue to the City.
- Alleviates the need to store surplus personal property for disposal at an annual public auction.

Con: None.

Staff recommends Council approve a resolution authorizing an increase the delegated authority of the Purchasing Manager

for the disposal of surplus personal property.

RESOLUTION BOOK NO. 30 - PAGE

E. RESOLUTION AUTHORIZING A LEASE OF REAL PROPERTY AT CHARLOTTE STREET AND CELIA PLACE TO THE PRESERVATION SOCIETY OF ASHEVILLE AND BUNCOMBE COUNTY

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

F. RESOLUTION MODIFYING THE 2007 CITY COUNCIL MEETING SCHEDULE TO DELETE THE JULY 17, 2007, AND THE JULY 31, 2007, MEETINGS

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

RESOLUTION BOOK NO. 30 - PAGE

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Jones moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

C. RESOLUTION NO. 07-117 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH KIMLEY-HORN & ASSOCIATES INC. TO PREPARE FEASIBILITY STUDY FOR A PARKING GARAGE ON RANKIN AVENUE

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Kimley-Horn in an amount not to exceed \$154,100 to prepare a feasibility study for a proposed parking garage on Rankin Avenue.

On November 28, 2006, City Council approved the Downtown Parking Action Plan. Item number seven indicates that we will determine the feasibility of locating a parking garage behind the Civic Center along Rankin Avenue. The City owns the property required to build a garage in this location. Adjacent property owners have expressed an interest in partnering on a potential multi-use facility.

In order to move forward, we need to prepare a feasibility study that addresses issues like the number of spaces needed in the area, ability to construct an adequate size parking lot on the property, financial performance, opportunity for LEED certification and conceptual design.

To this end, staff prepared requests for proposals to secure professional services to perform these tasks. Three firms submitted proposals for this work. Staff has determined that Kimley-Horn and Associates, Inc., is the most qualified to perform this work. The original proposal was estimated at approximately \$215,000. Staff has worked with the consultant to reduce this cost to \$154,100.

The money for this project will come from the parking enterprise fund.

Pros

- This action will allow us to move forward on providing public parking in downtown.
- The feasibility study will determine the ability to construct a parking garage in this area.
- Money for this project is available in the Parking Enterprise Fund.

Cons:

- While this is a necessary step in the process, it represents a significant investment.

City staff recommends City Council approve the resolution authorizing the City Manager to execute a contract with Kimley-Horn in an amount not to exceed \$154,100 to prepare a feasibility study for a proposed parking garage on Rankin Avenue.

Councilman Mumpower said that we spent approximately \$1.4 Million to plan to build a parking garage in front of the Civic Center and 10 or so years of staff time. He felt that Council made an ill advised move to walk away from that parking garage, and

he is not prepared to see us waste that money with still another effort to build a parking garage beside two existing garages.

City Engineer Cathy Ball responded to questions from Councilwoman Cape regarding the private property considerations.

Councilman Newman moved for the adoption of Resolution No. 07-117. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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E. RESOLUTION NO. 07-119- RESOLUTION AUTHORIZING A LEASE OF REAL PROPERTY AT CHARLOTTE STREET AND CELIA PLACE TO THE PRESERVATION SOCIETY OF ASHEVILLE AND BUNCOMBE COUNTY

Summary: The consideration of a resolution authorizing a lease of real property at Charlotte Street and Celia Place to the Preservation Society of Asheville and Buncombe County

The City proposes to lease the structure at the corner of Charlotte Street and Celia Place (NW corner) to the Preservation Society for use as the Society's business office. The structure is a 1,158 square foot rock building. It was built by E. W. Grove and used as his company's office during the development of Grove Park. It also housed the Asheville Art Museum for several years, but has been vacant recently.

The proposed term of the lease is 9 years 11 months. The proposed rent is \$10.00 per month. In addition, the Lessee proposes to undertake improvements to the structure necessary to bring the structure into compliance with applicable codes. These improvements will be subject to the City's approval, but will be done at the Lessee's expense, they will become the property of the City upon surrender of the premises.

Because the Preservation Society is a non-profit entity and is carrying out a public purpose, the law permits the Council to authorize the lease subject to a condition limiting its use to a public purpose, and then to publish a notice of its action; the lease cannot be finalized until the 10 days after the notice has run. This is the process being utilized here.

Some Council members may recall that the City previously authorized a lease to the Preservation Society back in 2002. This proposal is substantially the same, except that the rent in the previous proposal was \$550 / month.

Council may also recall that this property was previously the subject of a conditional use rezoning back in 2002. However, because the building was never used pursuant to that Conditional Use Permit (CUP), the rezoning and CUP lapsed, and the property has reverted to its previous zoning classification of RS-4. Before the property could be used pursuant to this lease, Council will need to take zoning action to allow the proposed use to occur. This process has been commenced and will be coming before Council in the near future. This will present a further opportunity to regulate the use of the property.

Pros:

- Permits public purpose utilization of a property that has not been used recently, and is not suitable for residential use.
- Provides for City-owned structure to be brought up to applicable code standards.
- The building would become the Lessee's maintenance responsibility.

Cons:

- Rent is below market.
- Introduces a low-impact non-residential use into a residential area.

If Council approves of this proposal, adoption of the resolution is recommended.

In response to Councilwoman Cape, Mr. Jim Coman, President of the Preservation Society, said that the proposed cost for renovations is approximately \$125,000. He also noted that they will not make a request to City Council to fund the renovations.

City Attorney Oast said that although he and Mr. Coman have not negotiated this detail, the structure and the immediate grounds will be the Preservation Society's maintenance responsibility.

In response to Councilman Newman, City Attorney Oast said that he could include language in the lease that makes it clear that when the lease has expired, the rent will not be less than market rate.

Councilman Mumpower moved for the adoption of Resolution No. 07-119, with the provision that once the lease has expired, the rent will not be less than market rate. This motion was seconded by Councilwoman Cape and carried unanimously.

RESOLUTION BOOK NO. 30 - PAGE

F. RESOLUTION NO. 07-120- RESOLUTION MODIFYING THE 2007 CITY COUNCIL MEETING SCHEDULE TO DELETE THE JULY 17, 2007, AND THE JULY 31, 2007, MEETINGS

Mayor Bellamy responded to Councilman Mumpower's inquiry as to why City Council was canceling the July 17, 2007, meeting.

Councilman Mumpower moved for the adoption of Resolution No. 07-120. This motion was seconded by Vice-Mayor Jones and carried unanimously.

RESOLUTION BOOK NO. 30 - PAGE

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING FOR THE FISCAL YEAR 2007-08 ANNUAL OPERATING BUDGET

Mayor Bellamy opened the public hearing at 5:23 p.m.

Chief Financial Officer Ben Durant said that the City Council conducts a public hearing each year to receive public input on budget issues before the Annual Operating Budget is adopted.

The Fiscal 2007/2008 Annual Operating Budget was presented to City Council on May 8, 2007. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the Public Hearing was published on June 1, 2007, and June 8, 2007. Adoption of the budget ordinance is scheduled for June 19, 2007, at the regularly scheduled City Council meeting.

The Fiscal Year 2007/2008 Annual Operating Budget is balanced with an Ad Valorem tax rate of \$0.42 per \$100 of assessed value. All essential City services are maintained, and a number of service enhancements and new initiatives are included in the proposed budget.

A copy of the budget is available for public inspection in the City Clerk's office. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption with the only exception being the Ad Valorem Tax rate, which can not be changed once adopted.

Staff recommends City Council conduct the public hearing on the City of Asheville Fiscal Year 2007/2008 Annual Operating budget and include public input in considerations on the budget.

Mr. Mike Marshall, representing the Asheville Firefighters Association, requested an update on the proposal he presented for a matching 457 to offset inequities that the firefighters now incur as opposed to general employees and in particular the Police Department.

The following individuals urged Council to support renovations at the Reid Community Center:

Mr. Gene Bell
Mr. Al Whitesides
Ms. Jennifer Pickering
Ms. Robin Young
An area resident
Ms. Cora White
Ms. Neidra Wilson
Rev. Spencer Hardaway

Ms. Emily Hancock Myers
Mr. Graham Paul
Ms. Leah Karpen

At 5:55 p.m., Mayor Bellamy closed the public hearing.

In response to Councilman Freeborn, Human Resources Director Lisa Roth recommended funding the pay plan and that we provide the same benefit to all employees. She said that currently the firefighters take home 6.25% more in net pay than the rest of the general employees because they do not participate in Social Security and the 6.25% is the employee contribution to Social Security.

After discussion regarding the firefighters' proposal and the majority of Council's urging that the firefighters vote to participate in Social Security (Councilman Davis made, but later rescinded, a motion which Councilman Freeborn seconded to include a 2% match to a 401-A for firefighters), it was the consensus of Council to have a Social Security representative at the meeting on June 19, 2007, in addition to staff providing Council with information from prior worksessions with staff options.

After discussion regarding renovations to the Reid Community Center (\$500,000 allocated last year and in 2008-09 fund the renovations with \$250,000 and in 2010-11 an additional \$100,000 for renovations), it was the consensus of Council to schedule this to come back to Council in July, 2007 with the Parks & Recreation Department's capital improvements, at which time Council requested additional information, some being, to get a plan on what we can use the \$500,000 already allocated for; a deferred maintenance plan for all our facilities; information on a bond program to assist with some of these initiatives; how we can give the Raise the Roof at Reid Campaign \$300,000 by October, 2007, so they will have a match in order that they not lose a \$900,000 grant; and what are we committing to in the long-run in terms of operations.

Mayor Bellamy said that on June 19, 2007, City Council will consider adoption of the budget.

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR ASHEVILLE RADIO GROUP LOCATED AT 1190 PATTON AVENUE FOR THE CONSTRUCTION OF A TELECOMMUNICATION TOWER

ORDINANCE NO. 3481- ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR ASHEVILLE RADIO GROUP LOCATED AT 1190 PATTON AVENUE FOR THE CONSTRUCTION OF A TELECOMMUNICATION TOWER

City Clerk Lipe administered the oath to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 6:41 p.m.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Attorney Oast said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

Urban Planner Nate Pennington submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Mr. Pennington said that this is the consideration of the issuance of a conditional use permit for Asheville Radio Group located at 1190 Patton Avenue for the construction of a telecommunication tower.

The applicant is requesting a Conditional Use Permit for a .56 acre parcel to allow for the installation of a 60-foot lattice self supporting telecommunication tower mounted on a concrete base behind an existing building. The tower's function is to provide a communication link between the radio station and their relay tower on Spivey Mountain in north Buncombe County.

The subject site is located at 1190 Patton Ave. in West Asheville (Attachment to City Exhibit 3 - Aerial Map). The property consists of one lot zoned Highway Business (HB) and is comprised of .56 acres according to Buncombe County tax records. The

subject site is bounded to the north by a convenience store and Patton Avenue, to the east by Auto Zone, to the west by an ATM and US Cellular, and to the south by a commercial parking lot used by the radio station and all zoned HB. Pursuant to Section 7-8-16(e) of the Unified Development Ordinance (UDO), telecommunication towers are reviewed as conditional uses.

The site was brought into compliance with UDO landscaping requirements when it underwent an expansion and remodel in June of 2006 (Attachment to City Exhibit 3 - Site, Landscape & Zoning Plan). Because of the existing nature of the building and parking lot, a request for alternative compliance for areas where new landscaping could not be accommodated was requested and approved. The subject site is surrounded by steep slope and dense vegetation along the rear and east side of the property. However, pursuant to the UDO telecommunication towers shall be buffered from adjacent properties with a buffer which at a minimum meets the requirements of a "B" buffer regardless of adjacent zoning district classifications or uses. Therefore, the applicant is requesting that the existing landscaping on and offsite suffice for this requirement in the form of an alternative compliance request due to the proximity of the tower to the existing building and the fact that the tower pad would be located in an existing parking lot. The tower pad area is 64 square feet, will be enclosed by an 8-foot security fence and will not be visible from the road because of its location behind the building. As required by the UDO, the tower is designed to accommodate at least one other user for co-location.

The Highway Business District is established to address the needs of commercial development along major thoroughfares. Automobile oriented development is prevalent within this district and a wide range of commercial uses is permitted. Due to the dominance of the automobile, a major objective within this district is to preserve the traffic capacity of the thoroughfare. This is attempted through minimizing the number of access points onto the thoroughfare, encouraging zero-lot line development, and promoting shared parking and access between adjacent businesses. Development which enhances the function of the thoroughfare and is sensitive to the appearance of the corridor is essential within the district. These major corridors are the gateways to Asheville and often define the first image of the city.

As part of the special requirements applied to Conditional Uses in the HB zoning district per Sec. 7-16-2(b)(3), the project must meet a number of conditions for telecommunication towers including those technical conditions addressed in the Technical Review Committee (TRC) staff report. In addition to the technical conditions, the following non-technical standards must also be met:

- f. Applicants shall first be encouraged to consider properties owned by the City or Buncombe County before considering private properties.

The applicant researched the possibility of utilizing an existing monopole on city owned property located at 50 Oregon Ave. Documentation was provided that indicates, "A roof top mount would not work because the tree line would block our signal. There is no direct line-of-sight from the roof of the studio building to the monopole because of tree obstruction."

- i. No telecommunication facility shall interfere with usual and customary radio and television reception.

The applicant possesses a current FCC license and no interference with other radio or television transmissions is expected.

- t.7. Generators may not be used as a primary electrical power source.

Generators will not be used as a primary electrical power source.

- t.13. The City Council may require any other conditions deemed necessary or desirable to ameliorate the impact of the tower on the adjacent properties and uses.

Additional conditions to be proposed as deemed necessary by Council.

- u. An annual wireless telecommunication facility permit shall be required for each wireless telecommunication facility located in the city.

In order to annually renew this permit the applicant must certify the information described in Sec. 7-16-2(c)(3)(u)1-6.

- v. Conditional use permits for telecommunication towers shall be valid for an initial period of five years.

In order to review the permit for an additional five year period, the applicant must submit a renewal request within 60 days prior to the expiration of the initial permit period. A review shall be conducted to determine whether and under what conditions the conditional use may be extended for successive five year periods. Additional details of this renewal process are described in Sec. 7-16-2(c)(3)(v).

- w. A conditional use approval for a telecommunication tower shall become null and void if the facility is not constructed and placed in service within one year of the date of approval.

Approval will become null and void after a period of one year, however, the conditional use approval may be extended for a period of 6 months if substantial construction has commenced before the end of the initial year. If construction has not begun before the end of the initial year, re-application for a new conditional use permit would be required.

At their May 7, 2007, meeting the TRC approved this project subject to the conditions in the staff report.

As of the time of this writing, staff has received no communication from adjacent property owners or other citizens concerning the proposed development.

City Council must take formal action as set forth in Section 7-5-5(e)(3) of the UDO, and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of the case pursuant to Section 7-16-2(c) of the UDO. Staff's review indicates that all seven standards are met as proposed in the site plan.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
This has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the UDO, the Standards and Specifications Manual, the North Carolina Building Code and all other applicable laws and standards that protect the public health and safety.
2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
The proposed tower will be located along a busy commercial corridor and will be sited approximately 75 feet below the adjacent residential neighborhood along Belleair Rd. In addition, the installation is extremely limited in its footprint and will require an extremely small amount of site disturbance with little to no grading or ground disturbing activity.
3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
The telecommunication tower is proposed to be 60 feet from existing grade - the maximum height of structures allowed in the HB zoning district and the tower pad area will not be visible from the street. The tower structure itself will be most visible from the adjacent commercial corridor where the impact of a tower will be nominal. In addition, no reception interference is expected which could potentially affect other quality of life issues for adjacent or nearby residents.
4. **That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
As mentioned earlier, the tower pad/installation area is extremely small (64 s.f.) and, by definition, is designed to be in harmony with the scale, bulk, coverage, density and character of the area or neighborhood. The tower would be located in proximity with other poles and objects of significant height including; flagpoles, power poles, light poles, signage and transmission lines.
5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
The Asheville City Development Plan 2025 thoroughly describes the need to accommodate and encourage new technology as a critical factor in sustainable economic development both through the further stimulation of investment and technology and through the improved quality of life desired by residents and tourists. In addition, the location of the radio station supports the notable smart growth goal of adaptive reuse/infill through the seamless co-operation with an existing site.
6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**
The proposed development is located near transportation facilities and other utilities appear adequate. The initial technical

review by other technical agencies and utility providers has not revealed any problems for serving the use.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The proposed installation is not expected to cause any increase in traffic to the site other than the occasional maintenance visit.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- Tower designed for co-location, which eliminates the need for additional towers in the future.
- Facilitates the functionality of a newly established radio station studio.

Cons:

- Tower will be 60 feet tall and visible along Patton Ave.

Staff concurs with the Technical Review recommendation of approval with the conditions outlined in the TRC report, but additionally recommends that the City Council consider a concealed monopole or other architectural design be used in lieu of the proposed lattice style tower (Attachment to City Exhibit 3 - Elevation Plan).

Mr. Randy Cable, Vice-President and General Manager of Asheville Radio Group, explained the importance of this request for this tower. He said the tower will not be used as a broadcast tower but a point to point communication device. The tower will not be lighted. In addition, he felt that a lattice style tower is better than a monopole.

Ms. Diana Love, resident on Mace Avenue, spoke in opposition to the request, mainly for aesthetic reasons.

Councilwoman Cape initiated discussion regarding the elevation of the pole and how it would be seen from surrounding residential properties (City Exhibits 4, 5, 6 and 7).

Regarding the buffering, Councilman Davis questioned if we could condition the lot in the back which adjoins residential property to remain in a vegetative state. Assistant Planning & Development Director Shannon Tuch suggested the following condition "that the property owner pursue a lot combination and include this property with the subject property" or as an alternative we could propose a recombination where a portion of the property is recombined to preserve a buffer area. Mr. Cable said that he would have no problem with that condition.

After rebuttal, Mayor Bellamy closed the public hearing at 6:59 p.m.

Councilman Davis moved for the adoption of Ordinance No. 3481, granting a conditional use permit for Asheville Radio Group located at 1190 Patton Avenue for the construction of a telecommunication tower, to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (3) The structure design, construction materials, and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (4) No outdoor lighting or lighting attached to structure (lighting is not proposed for tower structure); (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) The lot in the back of the building be preserved as a buffer, noting that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Councilman Newman.

There was discussion of whether the tower should be a concealed monopole or other architectural design vs. the proposed lattice style tower. Mr. Pennington said that a lattice style tower might work with so much tree line and vegetation in the rear; however, staff thinks that a monopole will have less visual impact.

Councilman Mumpower moved for a lattice style pole and not a monopole. The motion died for lack of a second.

Councilwoman Cape moved for a concealed monopole style and not a lattice style pole. The motion died for lack of a second.

The original motion made by Councilman Davis and seconded by Councilman Newman carried on a 4-2 vote, with Mayor Bellamy, Vice-Mayor Jones, Councilman Davis and Councilman Newman voting "yes" and Councilman Freeborn and Councilman Mumpower voting "no". Councilwoman Cape abstained from voting because of the dilemma that they have cut down trees in the alternate buffer.

City Attorney Oast noted that Councilwoman Cape cannot abstain from voting for the reasons set forth.

The original motion was re-voted. The original motion made by Councilman Davis and seconded by Councilman Newman carried on a 4-3 vote, with Mayor Bellamy, Vice-Mayor Jones, Councilman Davis and Councilman Newman voting "yes" and Councilwoman Cape, Councilman Freeborn and Councilman Mumpower voting "no".

City Attorney Oast said that due to the vote, a second reading of Ordinance No. 3481 would be required at the next formal meeting.

ORDINANCE BOOK NO. 23 - PAGE

At 7:15 p.m., Councilman Mumpower moved to go into closed session in order to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: City of Asheville, State of North Carolina and County of Buncombe. The statutory authorization is N. C. Gen. Stat. sec. 143-318.11 (a) (3). This motion was seconded by Vice-Mayor Jones and carried unanimously.

At 7:30 p.m., Councilman Freeborn moved to come out of closed session and return to the regular meeting. This motion was seconded by Vice-Mayor Jones and carried unanimously.

C. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF CONTIGUOUS PROPERTY LOCATED AT 1903 OLD HAYWOOD ROAD

ORDINANCE NO. 3482 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY LOCATED AT 1903 OLD HAYWOOD ROAD

Mayor Bellamy opened the public hearing at 7:35 p.m. This public hearing was advertised on June 1, 2007.

Urban Planner Julia Cogburn said that this is the public hearing and consideration of an ordinance for the annexation of one lot located at 1903 Old Haywood Road, the site of the new fire station.

The City of Asheville is completing construction of a new fire station, Fire Station #10, at 1903 Old Haywood Road in West Asheville. The station is scheduled to become operational in July of this year.

This property at 1903 Old Haywood Road (PIN 9618.20-90-5200) is contiguous to the current city limits of the City of Asheville but not located within the corporate boundaries. Part 1 of Article 4A of Chapter 160A of the North Carolina General Statutes authorizes annexation of property owned by a municipality and contiguous to current municipal boundaries.

Pursuant to N. C. Gen. Stat. sec.160A-31, a public hearing must be held prior to adopting any ordinance for annexing municipally owned property. If Council decides to proceed with this request, it is proposed that the annexation become effective on June 30, 2007.

Pros:

- Brings City owned-property into the corporate limits in accordance with state law.

Cons:

- Some property owners in the area may be concerned about annexation of their property.

- City staff recommends that City Council adopt the ordinance annexing the property at 1903 Old Haywood Road.

Mayor Bellamy closed the public hearing at 7:37 p.m.

Mayor Bellamy said that members of Council have been previously furnished with copies of the ordinance and it would not be read.

Councilwoman Cape moved for the adoption of Ordinance No. 3482. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

D. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING AN ALLEYWAY OFF RICHARD STREET

RESOLUTION NO. 07-121 - RESOLUTION CLOSING AN ALLEYWAY OFF RICHARD STREET

Mayor Bellamy opened the public hearing at 7:41 p.m.

Public Works Director Mark Combs said that this is the consideration of a resolution to permanently close an alleyway off Richard Street. This public hearing was advertised on May 18, 25, June 1 and 8, 2007.

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

Pursuant to this statute, Joseph R. Bly has requested the City of Asheville permanently close an alleyway off Richard Street that runs between his properties on Richard Street.

Public Works Department staff has researched and determined this alleyway is not maintained by the City. Closure of this alleyway will not deny any of the adjoining property owners' reasonable means of ingress and egress as all adjoining property owners have joined in signing the petition requesting the alleyway to be closed.

We notified all utilities and City departments and have received no objections to the closing. In addition, Parks & Recreation staff does not see the closing affecting any greenways.

Pros:

- The closure allows the property to be used to its maximum potential.
- There will be no future compromise of ingress/regress to other property

Cons:

- In consideration of the location of the alleyway, staff can find no potential challenges regarding the closure of the alley.

City staff recommends City Council approve a resolution to permanently close an alleyway off Richard Street.

Mayor Bellamy closed the public hearing at 7:42 p.m.

Mayor Bellamy said that members of Council have been previously furnished with copies of the resolution and it would not be read.

Councilwoman Cape moved for the adoption of Resolution No. 07-121. This motion was seconded by Councilman Mumpower and carried unanimously.

RESOLUTION BOOK NO. 30 - PAGE

E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO CREATING NEW STANDARDS FOR PROHIBITING GATED COMMUNITIES

ORDINANCE NO. 3483 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO CREATING NEW STANDARDS FOR PROHIBITING GATED COMMUNITIES

Mayor Bellamy opened the public hearing at 7:43 p.m.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of amendments to the Unified Development Ordinance (UDO) to add new standards to Article VIII prohibiting "gated communities" as a Conditional Use. This public hearing was advertised on June 1 and 8, 2007.

Presently, the City of Asheville does not prohibit gated communities and, as a result, has faced some challenges with a number of recent residential projects that propose to restrict access to non-residents, thereby fragmenting the urban fabric and transportation network. The appeal and occurrence of gated communities has been growing steadily particularly in the south and southwest; in an effort to be pro-active and mitigate any potential negative impacts of gated communities, staff is following policy direction to establish standards that would prohibit gated communities.

Reducing or eliminating the opportunity for gated communities is well supported by the Smart Growth Transportation

Policies adopted by the City as well as those policies that promote diversity, affordability, walkability, mixed-uses, and public open space.

In March of this year, the Planning & Zoning Commission reviewed a staff report providing options for regulating gated communities as part of a recent amendment dealing primarily with subdivision standards. At that time, the Commission requested that the portion related to gated communities be removed for separate consideration and instructed staff to explore allowing gated communities as a Conditional Use with standards as opposed to a prohibited use. A separate amendment returned in April with recommended standards; a fair amount of discussion and deliberation over those standards occurred which prompted staff to request additional time for refinement to the standards being discussed. Staff again returned with an amendment the following month where the discussion focused on the practical effect of the restrictive standards; ultimately this resulted in a decision by the Commission to return to the original proposal that prohibited gated communities which was approved 6-1.

In summary, this ordinance is intended to:

1. Amend Article II to include a definition for "Gated community"
2. Amend Article VIII to add "Gated community" to the list of Prohibited Uses for all districts that allow residential development.

This draft has been circulated to CIBO, CAN, and CREIA along with other interested parties.

Pros

- Better reflects City adopted goals and objectives.
- Allows greater opportunity for vehicular and pedestrian connectivity.
- Allows greater opportunity for community connectivity and integration.

Cons

- Restricts the ability to develop a private gated community, thereby restricting the opportunity for this housing option.

City staff recommends approve the amendment to the UDO to add new standards to Article VIII prohibiting "gated communities" as a Conditional Use.

Ms. Heather Rayburn explained some research performed by Ms. Grace Curry on gated communities and outlined their pros and cons. She, personally, did not support gated communities.

Rev. Christopher Chiaromonte spoke against gated communities.

Mayor Bellamy closed the public hearing at 7:51 p.m.

Mayor Bellamy said that members of Council have been previously furnished with copies of the ordinance and it would not be read.

Councilman Freeborn moved for the adoption of Ordinance No. 3483. This motion was seconded by Councilman Newman.

Councilwoman Cape was concerned of the unintended consequences to flatly refuse gated communities, e.g. public safety. She moved to amend the main motion that gated communities be a conditional use rather than to restrict them completely, specifying that the gates be used only for vehicular traffic but that they remain open for pedestrians and bike traffic. This amended motion was seconded by Councilman Davis.

Councilman Newman finds the public safety issue compelling and if a conditional use permit process was utilized, he would want to see clear criteria when gated communities would be allowed.

City Attorney Oast said that if Council chooses to allow gated communities as a conditional use, then he suggested that the main motion be continued to allow staff an opportunity to develop conditional use permit criteria and that it be presented to Council at a later date.

Councilman Mumpower felt this effort is an unnecessary control of private property rights. He felt gated communities will build outside the City limits and contribute to sprawl.

The amended motion made by Councilwoman Cape and seconded by Councilman Davis failed on a 2-5 vote, with Councilwoman Cape and Councilman Davis voting "yes" and Mayor Bellamy, Vice-Mayor Jones, Councilman Freeborn, Councilman Newman and Councilman Mumpower voting "no."

The original motion made by Councilman Freeborn and seconded by Councilman Newman carried on a 5-2 vote, with Mayor Bellamy, Vice-Mayor Jones, Councilwoman Cape, Councilman Freeborn and Councilman Newman voting "yes" and Councilman Davis and Councilman Mumpower voting "no."

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F. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO CHANGES TO PARKING, LOADING AND ACCESS STANDARDS

ORDINANCE NO. 3484- ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO PARKING, LOADING AND ACCESS STANDARDS

Mayor Bellamy opened the public hearing at 8:02 p.m.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of amendments to the Unified Development Ordinance to add new standards to Article XI to better address more urban forms related to car channelization and sight visibility triangles. This public hearing was advertised on June 1 and 8, 2007.

The standards for sight visibility triangles and car channelization noted in 7-11-1 reflect a suburban standard that was the predominant form when the ordinance was created. Subsequent amendments and additions to the ordinance encouraging an urban form of development where buildings must be constructed along the edge of the right-of-way and where parking structures are encouraged are in conflict with these more suburban standards.

Currently, when a more urban form is proposed and fails to meet the suburban standard in the ordinance, the applicant must pursue a Board of Adjustment (BOA) variance. The Asheville BOA has expressed discomfort with rendering these decisions stating that they feel that these are highly technical issues that should be addressed by professionals through amended standards. Staff has recognized the need for alternative standards for urban forms for some time and has been working towards a restructuring that would remove all existing standards and from the *Ordinance* and place them in the *City's Standards and Specifications Manual* where more technical standards are typically found. In addition, engineering staff have been working to develop some new standards that are proposed to be included in the *Manual* to address these more urban forms that are occurring with more frequency.

With the adoption date of the new *Manual* still some time out and with the research not being complete, staff felt it best to address this matter with a minor amendment in the interim.

This amendment was reviewed by the Planning & Zoning Commission at their May 2, 2007, meeting where the amendment was approved unanimously.

In summary, this ordinance is intended to:

1. Add a new standard for measuring sight visibility triangles for buildings that require or allow 0-foot setbacks, with other measures to be applied if deemed necessary by the City Traffic Engineer.
2. Add a new standard that exempts parking structures from the car channelization standards developed for surface parking lots, requiring that the structure's parking and access design be approved by the City's Traffic Engineer.

This draft has been circulated to CIBO, CAN, and CREIA along with other interested parties.

Pros:

- Better reflects City adopted goals and objectives of encouraging a more urban and Smart Growth form – removes conflict with suburban standards.
- Allows for more context appropriate standards for urban vs. suburban developments.
- Removes the need to accommodate these urban form developments with a Board of Adjustment variance.

Cons:

- None identified.

Staff recommends City Council approve the amendment to the Unified Development Ordinance to add new standards for parking, loading and access.

Mayor Bellamy closed the public hearing at 8:05 p.m.

Mayor Bellamy did not support buildings constructed up to the street.

Mayor Bellamy said that members of Council have been previously furnished with copies of the ordinance and it would not be read.

Councilman Mumpower moved for the adoption of Ordinance No. 3484. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Mayor Bellamy voting "no."

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V. UNFINISHED BUSINESS:

A. SECOND READING OF ORDINANCE NO. 3480 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO CHANGES TO TEMPORARY USES

Mayor Bellamy said that this public hearing was held on May 22, 2007.

Assistant Planning & Development Director Shannon Tuch said that City staff presented an amendment to the City's current Temporary and Accessory Uses and Structures (Sec. 7-14-1 and 7-14-2) at the May 22nd hearing. There were a couple questions raised by the Council the night of the hearing; additionally, staff was contacted by Mr. Jim Jenkins of Alpha Storage Containers with additional questions after the hearing. As a result of these inquiries, staff would like to offer the following clarifications:

- This amendment does not establish a process for requiring temporary and accessory use permits; these permits have been required since the Unified Development Ordinance (UDO) was adopted in 1997. This amendment seeks to clarify and make readily available, through the addition of the chart, the time restrictions for different structures and uses.
- Private, non-commercial events on private property are not regulated through this section of the code and do not require a permit of any kind.
- Private, non-commercial events on public property are regulated through the Special Events permit process.
- Block parties are not regulated through this section of the code; this would be considered a private, non-commercial event. If the road is closed, a road closure permit would be required through the Engineering department.
- Storage containers have always required temporary use permits. Time limitations have not changed for non-residential properties; residential properties are proposed to be restricted to no more than 14 days.
- Storage containers in association with a building permit (new construction, renovation, addition, demolition, etc.) do not require a temporary use permit – this is regulated through the building permit. The 14 day time limitation in residential areas does not apply when the container is being used in association with a valid building permit.
- Properties such as large retail sites may have more than one storage container (example of Wal-Mart where 30+ containers are used for seasonal material storage). One permit may be used for all containers.
- Enforcement actions are not proposed to change – staff will follow the same procedures established prior to the adoption of this amendment.

Staff would like to recommend that Council approve the proposed draft amendment with some very minor clarifications as outlined by City staff in Sec. 7-14-2(g).

Mayor Bellamy said that members of Council have been previously furnished with copies of the ordinance and it would not

be read.

Councilman Mumpower didn't believe that this represents a simplification of the UDO and would not support the ordinance.

Councilman Freeborn moved to adopt Ordinance No. 3480 on its second and final reading, with the minor clarifications outlined by City staff. This motion was seconded by Councilwoman Cape and carried on a 4-3 vote, with Mayor Bellamy, Councilman Davis and Councilman Mumpower voting "no."

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VI. NEW BUSINESS:

A. ENDORSEMENT OF HEALTH CARE BILLS OF INTEREST TO MISSION HOSPITALS

City Manager Jackson said that at a recent meeting with the Board of Directors of Mission Hospitals, they asked for City Council's endorsement of Senate Bill 1512 "A bill to enact the 'Health North Carolina' program to facilitate the availability of affordable accident and health insurance coverage to small employers, self-employed individuals, and uninsured workers. To create the North Carolina Health Insurance Risk Pool to help meet the health insurance coverage needs of individuals who cannot obtain affordable health insurance because of high-risk health conditions; and to appropriate funds for the implementation of this act"; and House Bill 265 "An act to establish the North Carolina Health Risk Pool and to appropriate funds."

Council's options are that (1) if Council wants to endorse the bills at this meeting, that they allow City staff to do further research to determine that this is a neutral impact upon us. If endorsed by Council at this meeting, he would not submit endorsement letters for the Mayor to send to our local delegation until that research was completed; or (2) if Council has questions and wants to make sure City staff thoroughly researches this, then he suggested a continuance.

Councilman Mumpower sees how this would assist Mission Hospitals, but would speak against the endorsement as there are a lot of socialistic implications in this effort.

Councilman Davis requested City staff to investigate the pros and cons of the Senate Bill 1512 feature that requires the top 15 health insurers to participate.

Councilman Mumpower moved to continue this matter until June 26, 2006, in order to allow City staff time to thoroughly research the issue to make sure that this is a neutral impact upon us. This motion was seconded by Councilman Davis and carried unanimously.

B. FLOOD MANAGEMENT POLICY DIRECTION

Ms. Mary Leonard White, Chair of the Asheville-Buncombe Flood Damage Reduction Task Force, introduced the Task Force Members.

She said that nine major floods have occurred in the past 100 years. The most serious were in 1916 and 2004, but there have been damaging floods on an average of every 20 years. Building has occurred first along the river because that is the accessible land and the most easily traversed. Census data indicates that there will be an additional 30,000 people in Buncombe County over the next 20 years, putting continued pressure to build along the river in the floodplain.

The mission of the Task Force is to establish a regional approach and long-range plan for flood damage reduction, floodplain protection and watershed management. Base the approach and plan on best management models, which integrate objectives of flood control, transportation, economic development, land use and community planning, recreation and environmental preservation.

Their approach was (1) to gather information from subject matter experts on a broad spectrum of topics including flooding, development, transportation, etc.; (2) analyze strategies to reduce the impacts of future flooding; and (3) analyze current development patterns and the impact on future flooding.

She reviewed with Council the numerous studies which were reviewed.

The lessons learned from the experts were (1) watershed issues are interconnected; (2) proper planning can reduce the severity of flooding; (3) a regional holistic solution is needed; and (4) all development, redevelopment and improvement projects

must meet community priorities. Communication and balance are key.

The following are recommendations to reduce flood damage (1) plan and implement physical measures to reduce flooding (a) keep it out, slow it down, get out of the way; (b) act now to save lives, property and money; and (c) plan based on a future regional build-out scenario; (2) education (a) decision-makers; (b) builders and developers; and (c) general public; and (3) communication between and across communities (a) electronic communication from rain and stream gauges widely and easily available; (b) ongoing regional meetings of planning agencies for emergency; and (c) expand flood warning system, especially below North Fork dam.

To plan and implement physical measures to reduce flooding (1) keep it out (a) initiate incentives or requirements to ensure low impact development; (b) stormwater management; and (c) reduction in impervious surface and steep slope development; (2) slow it down (a) retention, reservoir, impoundments; (b) channel and conveyance improvements; and (c) other engineering and structural improvements; and (3) get out of the way (a) "smart" development, both public and private, in flood hazard zone; (b) encourage removal of flood-prone structures; and (c) education and outreach; and (d) emergency response and warning system.

We are all connected by watershed and need to "share the pain" and the solution. For this reason, we need a regional approach. In Swannanoa - more development on hillsides means more adverse impact on the flooding in the valley. In the River District and Biltmore Village - must take an integrated approach to look at all of the issues. At the North Fork Reservoir - must balance between drought and flood management. In Montreat - steep slopes enhance and maximize stormwater runoff and flooding. In Black Mountain - being upstream of Asheville, any decisions on impervious surface have a large impact.

Decisions made throughout the Swannanoa watershed have a direct impact on Biltmore Village and the River District (1) limit the amount of impervious surface; (2) implement steep slope protection measures; (3) facilitate (through tax credits) low impact development that mimics hydrologic cycle; and (4) encourage extensive best management practices to ensure no increased runoff from development.

Floodway issues (1) no new structures in the floodway (a) current regulations allow buildings with a no-rise certificate, but this should not be allowed along the main channel; (b) greenways allowed; and (c) parking lots allowed - this is a water quality issue, not flow constriction; (2) don't constrict channel with bridges, sewer lines, buildings (a) new bridge on US 25 in Biltmore Village should have larger "throat"; (3) purchase key properties in floodway; and (4) better upkeep of floodway (a) keep it cleaned up - debris removal in the floodway in addition to stream channel; and (b) improve conveyance of streams.

Floodplain and flood fringe issues (1) no net fill in the flood fringe (a) minimum buffer (top of bank) on all streams unless a variance is granted (for example, hardship reasons on single family lots) - 100 ft. minimum buffer along Swannanoa and French Broad River; 50 ft. on primary tributaries; 35 ft. on secondary tributaries; (b) proof of no-rise studies; (2) close the 50% improvement rule loophole by using the latest tax valuation of the structure in the floodplain; and (3) cooperate regionally to map future floodplain scenarios (a) base planning and regulation on build out scenarios - the current model will soon be outdated; (b) require a certain amount of open space be set aside for every acre that is developed in the floodplain; (c) reward developers who meet high environmental standards with a higher density development; and (b) ensure that there is balance between flood mitigation and economic development.

Specific recommendations for Swannanoa River through Biltmore Village (1) clear the channel to accommodate the minor, more common rain events and prevent flooding; (2) ensure the new bridge and surrounding area does not impede water flood as much as current bridge; (3) flood proof the buildings located in the floodplain; (4) purchase flood-prone structures; and (5) choose green space and parks over structures in this "choke point" and high flood risk areas.

The Wilma Dykeman Riverway Plan is a model for the balance between protection and development.

Implement Management Plan for North Fork Reservoir (1) Flood Operations Plan (a) operate reservoir to provide flood storage and reduce flood levels; (b) maintain drought response plan; (2) Emergency Action Plan (a) protect the dam and water supply from extreme events; and (3) Advance Flood Warning System (a) notify emergency management and citizens.

Recommendations to reduce flood damage (1) plan and implement physical measures to reduce flooding (a) keep it out, slow it down and get out of the way (b) act now to save lives, property and money in the future; and (c) plan based on a future regional build-out scenario; (2) education (a) decision makers; (b) builders and developers; and (c) general public; and (3) communication between and across communities (a) electronic communication from rain and stream gauges widely and easily available; (b) ongoing regional meetings of planning agencies for emergency; and (c) expand flood warning system, especially below North Fork dam.

In summary (1) working together, we can reduce the impact of flooding "inch by inch"; (2) we are all connected by the

watershed and need to "share the pain" and the solution through a regional approach; (3) we must be proactive now (a) projections show County growing by 30,000 people in the next 20 years, putting even more people and property in harm's way; (b) severity of climate change will increase chance of severe flooding in our area; and (c) we cannot continue with current development plan; and (4) there is a cost/benefit - research has shown that for every one dollar that is spent on mitigation approximately four dollars are saved from monies that are eventually spent on correcting damages.

Councilman Mumpower felt that it was important that we not over react to stand alone events. He asked that City staff seek the point of balance. He personally did not believe we have done what needs to be done about clearing out the river and conduit pipes.

Councilman Newman requested more information on what are the different land use policies that we need to be putting in place in Asheville, our extraterritorial jurisdiction area and at a regional level to have a beneficial rather than an adverse effect on the flooding and floodplain equation.

Upon inquiry of Vice-Mayor Jones, Ms. White suggested City Council contact the N.C. Dept. of Transportation and request them to construct the bridge at Biltmore Village to have a wide a span as possible.

Ms. White said that she hoped that one recommendation from Council would be a regional watershed plan and there are efforts underway to find funding for that plan and to get cooperation from the other governmental bodies.

On behalf of City Council, Mayor Bellamy thanked the Task Force for their hard work on this effort. The next step for Council will be that City staff take the information and come back with ordinances, etc. for Council to consider.

C. ORDINANCE NO. 3485- ORDINANCE AMENDING THE CITY CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE THAT PRIMARIES AND ELECTIONS TO THE OFFICES OF MAYOR AND COUNCIL MEMBERS BE CONDUCTED ON A PARTISAN BASIS

City Attorney Oast said that this is the consideration of an ordinance to amend the Charter of the City of Asheville to provide for partisan election

He said that on May 8, 2007, he gave an explanation of the process for amending the City's Charter to provide for partisan elections.

The Resolution of Intent was adopted on May 8, 2007; the public hearing was advertised and held on May 22, 2007. The next step in the process is adoption of the ordinance, scheduled to occur on June 12. Due to legally-prescribed time periods, the ordinance must be adopted on June 12 if it is to be effective for the 2007 primary and election cycle.

If adopted, the ordinance will be advertised and there will be a 30-day window for a petitioned referendum. If a petition drive is successful, the question of partisan elections would have to be put to a vote of the people, which would delay the effective date of the ordinance past the 2007 election cycle.

After a brief discussion on re-opening the public hearing, Councilman Mumpower moved to re-open the public hearing. This motion was seconded by Councilman Davis and failed on a 3-4 vote, with Mayor Bellamy, Councilman Davis and Councilman Mumpower voting "yes" and Vice-Mayor Jones, Councilwoman Cape, Councilman Freeborn and Councilman Newman voting "no."

Mayor Bellamy said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Newman moved for the adoption of Ordinance No. 3485. This motion was seconded by Vice-Mayor Jones.

Councilman Newman supported the ordinance because (1) political parties are already actively involved in municipal elections; (2) a Council member's basic philosophy has a direct bearing on how they tend to view the issues; and (3) having this process creates a level playing field between both the political parties in the general municipal elections. The most compelling argument against the involvement of political parties in municipal elections is that the State of North Carolina has made it unnecessarily difficult for third party candidates to get on the ballot at all levels of government in North Carolina. He believes there should be rules, but agrees that it is more difficult than it should be. He voiced support for efforts to make it easier for candidates from third parties to run for office at all levels of government.

Vice-Mayor Jones voiced her support for partisan elections noting that research has shown that introducing the political parties in elections will increase voter turnout. She also pointed out that partisan vs. non-partisan election discussion began after

the last City Council election.

Councilwoman Cape felt that while it appears on the surface that it penalizes individual candidates, she didn't believe in the long run that it truly does. An independent candidate cannot come in at the last minute and expect to complete on an equal level. In addition, another thing that would help individual candidates would be Instant Runoff Voting, which can only be done in partisan elections.

Councilman Mumpower believed this is about progressive power. Our current system is designed to provide a balance on perspectives and out of 500 cities in North Carolina, only 9 of them have partisan elections.

Councilman Davis did not support the ordinance in that he felt it goes against the very thing that democratic parties are built around and that is inclusiveness.

Councilman Freeborn supported the change to partisan elections in that he felt the voters really do care about the candidate's political party.

The motion made by Councilman Newman and seconded by Vice-Mayor Jones carried on a 4-3 vote, with Vice-Mayor Jones, Councilwoman Cape, Councilman Freeborn and Councilman Newman voting "yes" and Mayor Bellamy, Councilman Davis and Councilman Mumpower voting "no."

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VII. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of April 27 - May 24, 2007: Bryan Plunkett (Streets), AT&T (Water), Robert Glasgow (Sanitation), Priscilla McDowell (Water), Peggy T. Reid (Water), Susan Lamont (Water), Sarah Folse (Streets) and AT&T (Water).

The following claims were received by the City of Asheville during the period of May 25 - June 8, 2007: Mickey Donathan (Water), Lennie Sparks (Sanitation), Marci King (Transit Services), Global Rental Company (Streets), Progress Energy (Sanitation), Howard Hurwitz (Water) and Timothy Moore (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaromonte challenged anyone running for City Council submit to a drug test.

Ms. Mary Steiner alerted City Council that younger drug dealers are returning back to Pisgah View Apartments.

Mr. Mike Fryer questioned City buses running outside the City limits. In addition he spoke about the number of police officers in the City. Mayor Bellamy instructed City Manager Jackson to contact Mr. Fryer with accurate information.

When Mr. Matt Mittan began speaking of an issue already voted on the agenda (which City Council rules prohibit), he disobeyed the decorum of the Chamber and was escorted out.

Mr. Joe Minicozzi, President of the Coalition of Asheville Neighborhoods, requested for an update in writing regarding Greenlife Grocery on Maxwell Street. Councilman Newman remained hopeful that the ideas discussed with Greenlife will move forward. He questioned what the process would be for setting a timeline to move forward with the other option of traffic calming on Maxwell Street, if Mr. Swann does not proceed with the good faith participation of re-designing the loading dock. After a brief discussion, Mayor Bellamy instructed the City Attorney to update Council next week in a closed session due to Mr. Reid Thompson having filed a lawsuit against the City of Asheville and Greenlife Grocery. Thereafter, an update will be provided to the community in writing.

IX. ADJOURNMENT:

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

CITY CLERK

MAYOR