

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding (arrived in meeting at 8:03 p.m. due to City business in Washington, D.C.); 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

Vice-Mayor Jones led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Cape gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF JEFF LONG

Vice-Mayor Jones recognized Mr. Jeff Long, Assistant Superintendent of the Municipal Golf Course, as the winner of the Amateur Division of the 48th Michelob Ultra Skyview Pro/Am.

B. RECOGNITION OF CITY EMPLOYEES

City Manager Jackson recognized the following City employees: Assistant City Manager Jeff Richardson as being awarded the North Carolina City/County Management Association Assistant Manager of the Year; Beth Howland, recipient of the Excellence in Public Service Outstanding Supervisor Award; Tony McDowell, recipient of the Excellence in Public Service Outstanding Manager Award; David Foster; recipient of the Robert S. Hobson Award for Leadership in Public Works; Brenda Mills and Bryan Fish, recipients of the City of Asheville Scholarship for Western Carolina MPA Program; and Assistant Fire Chief Scott Burnette, recipient of the Chief Fire Officer designation from the Center for Public Safety Excellence.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items "B", "I" and "J" were removed from the Consent Agenda for individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 10, 2007

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION TO THE N.C. DEPT. OF COMMERCE FOR DESIGNATION OF THREE URBAN PROGRESS ZONES WITHIN THE CITY OF ASHEVILLE

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

C. RESOLUTION NO. 07-139 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH DIXON HUGHES, PLLC, CERTIFIED PUBLIC ACCOUNTANTS AND ADVISORS, FOR AUDITING SERVICES FOR FISCAL YEAR 2006-07

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Dixon Hughes, PLLC, Certified Public Accountants and Advisors, for auditing services for Fiscal Year 2006-07.

NC General Statute sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

Based on our review of a proposal submitted by Dixon Hughes, staff recommends retaining their services for Fiscal Year 2006-07. We have previously worked with Dixon Hughes and they have consistently provided a thorough and high quality audit for the City.

The base fee has been proposed at \$81,400. Funds are appropriated in the budget of the Accounting Division of the Finance Department.

Pro: Allows us to meet NC General Statute sec. 159-34.

Con: No cons noted.

City staff recommends Council approve a resolution authorizing the Mayor to execute a contract with Dixon Hughes, PLLC, Certified Public Accountants and Advisors, for auditing services for Fiscal Year 2006-07.

RESOLUTION BOOK NO. 30 - PAGE

D. ORDINANCE NO. 3504 - ORDINANCE AMENDING CHAPTER 21 OF THE CITY OF ASHEVILLE CODE OF ORDINANCES ENTITLED "WATER DISTRIBUTION SYSTEM"

Summary: The consideration of an ordinance amending the Chapter 21 of the City of Asheville Code of Ordinances entitled "Water Distribution System."

Ordinance Number 2448, Water Distribution System, approved by City Council on February 10, 1998, enabled the City of Asheville Engineering Department to approve and permit locally water system improvements and line extensions for the Regional Water Authority of Asheville, Buncombe, and Henderson.

This ordinance needs to be changed to remove references of the Regional Water Authority as the water provider for the City of Asheville water system and to transfer water plan review and permitting from the City Engineering Department to the Water Resources Department which took over this function effective July 1, 2007.

Pro:

- This is an administrative change to reflect the deletion of the Regional Water Authority as the water provider for the City of Asheville water system and to reflect the permitting department changes from Engineering to Water Resources.

Con:

- There are no cons to these requested changes.

Staff recommends that City Council approve an ordinance amending the City of Asheville Code of Ordinances Chapter 21 entitled "Water Distribution System."

ORDINANCE BOOK NO. 23 - PAGE

E. ORDINANCE NO. 3505- BUDGET AMENDMENT TO AUTHORIZE THE USE OF N.C. STATE DRUG SEIZURE FUNDS TO PURCHASE EQUIPMENT AND FUND IMPROVEMENTS AND TRAINING FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a budget amendment, in the amount of \$64,158, to authorize the use of North Carolina State Drug Seizure Funds to purchase equipment and fund improvements and training for the Asheville Police Department (APD).

The North Carolina State drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the North Carolina State government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

During the past fiscal year, the City of Asheville Police Department has received \$64,158 in North Carolina State drug seizure funding. This amendment will authorize the use of that funding to purchase drug enforcement equipment, training, and improvements not covered by the APD operating budget.

This action conforms to the City Council's Strategic Operating Plan under Partnerships to Improve Critical Services and Infrastructure. Goal 2, Objective A: Research and develop strategies for securing significant new recurring revenue sources.

Pro:

- North Carolina State drug seizure revenue used to fund drug enforcement equipment, training, and improvements at no cost to city taxpayers.

Con:

- None noted.

City staff recommends City Council approve the budget amendment, in the amount of \$64,158, to authorize the use of North Carolina State Drug Seizure Funds to fund drug enforcement equipment, training, and improvements for the Asheville Police Department.

ORDINANCE BOOK NO. 23 - PAGE

F. ORDINANCE NO. 3506- BUDGET AMENDMENT TO AUTHORIZE THE USE OF FEDERAL DRUG SEIZURE FUNDS TO PURCHASE EQUIPMENT AND FUND IMPROVEMENTS AND TRAINING FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a budget amendment, in the amount of \$248,725, to authorize the use of Federal Drug Seizure Funds to purchase equipment and fund improvements and training for the Asheville Police Department (APD).

The federal drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the federal government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 20% going to the federal agency adopting the seizure and 80% going to the local law enforcement agency initiating the seizure. During the past fiscal year, the City of Asheville Police Department has received \$248,725 in federal drug seizure funding. This proposed budget amendment would authorize the use of this funding for critical improvements, training, and equipment purchases for the Asheville Police Department.

Among the items slated for purchase with this funding include: 1) NarTest drug analysis system to test illegal drugs and provide a conclusive analysis for court purposes; 2) Open-Text document imaging system to provide for electronic submission of felony papering to the District Attorney's Office; 3) In-Car video camera systems for applicable police vehicles, allowing for better documentation and evidence of offenses; 4) Automatic License Plate Recognition system(s) for criminal interdiction; 5) Training and travel for law enforcement training related to drug and gang enforcement; 6) Other uniforms and equipment not covered by the APD operating budget.

This action conforms to the City Council's Strategic Operating Plan under Partnerships to Improve Critical Services and Infrastructure. Goal 2, Objective A: Research and develop strategies for securing significant new recurring revenue sources.

Pro:

- Federal seizure revenue to cover the cost of equipment and training related to street level drug enforcement and community policing

Con: None noted.

City staff recommends City Council approve the budget amendment, in the amount of \$248,725, to authorize the use of Federal Drug Seizure Funds to purchase equipment and training for the Asheville Police Department.

ORDINANCE BOOK NO. 23 - PAGE

G. RESOLUTION NO. 07-140 - RESOLUTION OF INTENT TO CLOSE STEVENS STREET AND SETTING A PUBLIC HEARING FOR AUGUST 21, 2007

Summary: The consideration of a resolution of intent to close Stevens Street and request a public hearing would be set for August 21, 2007, regarding this issue.

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

Pursuant to this statute, Patsy Brison, on behalf of B. Fletcher Carter, has requested the City of Asheville permanently close Stevens Street. This street formerly intersected with Fairview Road and was removed during the construction of the new Bleachery Boulevard. Public Works Department staff has researched and determined that Stevens Street still remains on the City maintained streets listing.

Provided Council sets a public hearing, City staff will research and determine the pros and cons of the request. This will include determination of whether the closure affects abutting property owners, transportation plans, greenway plans, utilities, etc.

City staff recommends that City Council adopt the resolution setting a public hearing for August 21, 2007, to close Stevens Street.

RESOLUTION BOOK NO. 30 - PAGE

H. RESOLUTION NO. 07-141 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE ROCKIN THE RIVER FESTIVAL AND RAFT RACES ON AUGUST 11, 2007

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Rockin The River Festival & Raft Races (a fundraiser for RiverLink, Inc.) on August 11, 2007.

The RiverLink, Inc. group has requested through the Asheville Parks and Recreation Department that City Council permit them to serve beer and/or unfortified wine at their event and allow for consumption at this event. The Rockin' The River Raft Race Festival will be held on Saturday, August 11, 2007, from 10:00 a.m. – 7:00 p.m. at French Broad River Park.

Pros:

- Allows fundraising opportunities for charity
- Generates economic impact for the community
- Provides additional quality cultural programming and diversity

Con:

- Potential for public safety issues

The Asheville Parks and Recreation Department recommends City Council approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Rockin The River Festival & Raft Races on August 11, 2007.

RESOLUTION BOOK NO. 30 - PAGE

I. RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT WITH KIMLEY-HORN TO PREPARE A DOWNTOWN PARKING STUDY

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

J. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH CORT ARCHITECTURAL GROUP, P.A., TO PROVIDE A FEASIBILITY ANALYSIS FOR A "GREEN" ROOF REPLACEMENT FOR THE CIVIC CENTER, TO DEVELOP CONSTRUCTION PLANS AND DOCUMENTS, AND TO PROVIDE CONSTRUCTION ADMINISTRATION SERVICES

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

RESOLUTION BOOK NO. 30 - PAGE

Vice-Mayor Jones 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.

Councilman Freeborn 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

B. RESOLUTION NO. 07-138- RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION TO THE N.C. DEPT. OF COMMERCE FOR DESIGNATION OF THREE URBAN PROGRESS ZONES WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to submit an application to the North Carolina

Department of Commerce for designation of three Urban Progress Zones within the City of Asheville.

In July of 2006 the NC General Assembly passed legislation (House Bill 2170) that created a new business tax credit program, replacing the William S. Lee credits, which will be repealed for business activities that occur on or after January 1, 2007.

Under the new program, businesses that add new jobs or invest in business property, and operate under specific NAICS codes, are eligible for state tax credits. To be eligible, the business must also:

- pay an average weekly wage for all full-time employees equal to or greater than 110% of the state average weekly wage,
- provide health insurance for full-time employees and pay 50% of premiums,
- have no significant environmental violations in the last five years,
- have no outstanding citations under OSHA and no serious violations within the last three years, and
- have no overdue taxes.

Municipalities have the authority to apply for Urban Progress Zones within their boundaries, subject to strict state-defined criteria, wherein these eligible businesses are provided enhanced state tax credits when adding jobs or investing in business property.

Urban Progress Zones are comprised of contiguous census tracts and/or block groups. Census tracts and block groups must meet strict criteria to be eligible for inclusion in an Urban Progress Zone. Once an Urban Progress Zone is assembled from its eligible parts, it too must meet strict criteria to be eligible as a whole. In general, the requirements indicate that the State is looking for zones with high levels of poverty, and a balance between residential and commercial land uses.

There is no limit on the number of Urban Progress Zones that a municipality may apply for, but the total cumulative area of all zones may not exceed 15% of the municipality's area. The extraterritorial jurisdiction area is not eligible. The total land area of the City of Asheville equals 43.77 square miles. Therefore, a maximum of 6.57 square miles may be designated as part of an Urban Progress Zone. (Note: This area is significantly smaller than the land area that was previously eligible for William S. Lee tax credits)

Staff research identified three areas that are eligible for designation as Urban Progress Zones. Total cumulative area of the three zones equals 6.40 square miles. Some brief statistics are provided below:

	Zone 1	Zone 2	Zone 3
Total Population	9,119	3,788	1,191
Total Population Below Poverty Level	27.90%	16.97%	21.49%
Total Area (sq. miles)	3.85	2.02	0.53
Total Land Area Zoned as Non Residential*	33.82%	32.62%	29.95%

* must not exceed 35%

Pros:

- This action will allow us to provide incentives for business growth and investment within distressed Asheville communities.
- Urban Progress Zones do not require city investment beyond identification of eligible zones and application. Credits are applied only to state taxes.
- Eligible businesses are allowed to file for the tax credits as part of their NC corporate income tax, NC corporate franchise tax, or -in the case of insurance companies- the state premiums tax. No separate application process to redeem the credits is required.
- The Asheville-Buncombe Economic Development Committee has endorsed Urban Progress Zones.

Con:

- Must reapply each year.

City staff recommends City Council approve a resolution authorizing the City Manager to submit an application to the North Carolina Department of Commerce for designation of three Urban Progress Zones within the City of Asheville.

Councilman Mumpower was not comfortable with the concept and felt it creates another layer of bureaucracy.

Councilman Davis noted that eligible businesses in the zones are given a small tax credit which provides for employment and better development in those areas.

Councilwoman Cape moved for the adoption of Resolution No. 07-138. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 - PAGE

I. RESOLUTION NO. 07-142 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT WITH KIMLEY-HORN TO PREPARE A DOWNTOWN PARKING STUDY

Summary: The consideration of a resolution authorizing the City Manager to amend the contract with Kimley-Horn, in an amount not to exceed \$97,500, to prepare a downtown parking study.

On June, 12, 2007, City Council authorized the City Manager to execute an agreement with Kimley-Horn for the feasibility study of a parking garage on Rankin Avenue. Since that time, Council has requested that staff expand the scope of work to include a downtown parking study for all of the Central Business District. The additional cost to perform this work is \$97,500.

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

Pros:

- This action will allow us to update the parking study that was completed in 1998.
- Money for this project is available in the Parking Enterprise Fund.
- The parking study of the Central Business District will allow us to plan for parking in the future.

Con:

- While this is necessary, it represents a significant investment.

Staff recommends City Council approve a resolution authorizing the City Manager to amend the contract with Kimley-Horn in an amount not to exceed \$97,500 to prepare a downtown parking study.

Councilman Mumpower felt that we have invested millions of dollars into creating a parking plan that we stepped away from and he did not want to invest additional new dollars.

Councilman Davis moved for the adoption of Resolution No. 07-142. This motion was seconded by Councilman Newman and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 - PAGE

J. RESOLUTION NO. 07-143- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH CORT ARCHITECTURAL GROUP, P.A., TO PROVIDE A FEASIBILITY ANALYSIS FOR A "GREEN" ROOF REPLACEMENT FOR THE CIVIC CENTER

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Cort Architectural Group, PA, in the amount not to exceed \$302,290, to provide a feasibility analysis for a "green" roof replacement for the Civic Center, develop the construction plans and documents, and provide construction administration services.

The City of Asheville requested proposals from architects to provide a feasibility analysis for a "green" roof replacement for the Civic Center, develop the construction documents, and provide construction administration services in February 2007. Staff received two proposals from architects to provide this work.

Staff interviewed the two firms to determine the most qualified. The interview panel consisted of three staff members and one citizen. This group determined that Cort Architectural Group, PA, was qualified to perform the majority of the work with the exception of the feasibility analysis of a "green" roof option. Staff requested that Cort Architectural Group propose a sub-consultant that had experience working on "green" roofs. Cort has proposed to use Mr. Madonia with Roof Engineering, Inc. Mr. Madonia worked for the City of Charlotte in the Discovery Place Roof project.

The estimated cost for the work is broken down by stages as follows:

Stage I:	Structural Analysis	\$18,000
Stage II:	Feasibility Study for Environmental Roof	\$18,090
	A: Landscaped Roof	\$14,590

	B: Environmental Sensitive Roof	\$ 3,500
Stage III:	Design and Construction (Maximum Costs)	\$266,200
	Option 1: Landscaped Roof	\$266,200
	Option 2: Environmentally Sensitive Roof	\$132,099
Maximum Total Costs:		\$302,290

If the structural analysis indicates that a landscaped roof will not be an option, the cost of this contract could be as low as \$153,599.

The design and construction cost is estimated at ten percent of construction costs plus additional costs.

Prior to moving forward with the design and construction, staff will report back to City Council on the findings of the feasibility analysis.

Staff has briefed the Civic Center Commission at its May, June and July meetings. They were supportive of the direction we were proceeding.

Pros:

- This action will allow us to move forward on replacing the Civic Center Arena and Concourse Roof.
- The feasibility study will determine our ability to replace the roof with a landscaped roof alternative.
- Money for this project is available in the current budget.

Con:

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

Staff recommends City Council approve a resolution authorizing the City Manager to execute a contract with Cort Architectural Group, PA, in the amount not to exceed \$302,290, to provide a feasibility analysis for a "green" roof replacement for the Civic Center, develop the construction documents, and provide construction administration services.

Councilman Mumpower expressed the following concerns: (1) if we are about to relinquish this facility, he would have a hard time investing that kind of money; (2) because we didn't receive any bids earlier he felt this was a marginal proposition in terms of real potential; and (3) \$302,290 just to support the feasibility is an extraordinary investment of dollars in something that is nice, but not necessary.

Rev. Christopher Chiaromonte urged Council to stop spending money on studies and just design it.

Mr. Dennis Justice questioned if Buncombe County was agreeable to a green roof since the City is talking about transferring the facility to them. The City should do the repairs that must be done to fix the roof but suggested City Council postpone action on this for two months. He also felt that the financing should come when the final solution about the Civic Center is determined, whether through a room tax or a food/beverage tax.

Mr. David Hughes felt the money for a green roof could more wisely be spent on houses for low income people or teachers' salaries.

Director of Transportation and Engineering Cathy Ball said that the first phase of this is the structural analysis for \$18,000 and the feasibility study of approximately \$18,000. The rest is the design and administration and the cost of the roof will vary depending on the kind of roof becomes feasible.

Councilman Newman said that research shows that the lifetime of a green roof is about double the lifetime of other conventional roofing materials and there are also great benefits from a stormwater management standpoint.

In response to Councilwoman Cape, Ms. Ball said that out of the \$302,290, approximately \$150,000 is what we would need to repair the roof in general (without a green roof).

Councilwoman Cape suggested we move forward with the structural analysis alone, since that is needed regardless of which roof is decided upon. After the analysis is done, she recommended City staff report back to Council at which time Council

can make the decision on the type of roof, since the roof may not be able to bear the weight of a landscaped roof.

Councilman Davis regretted that the Civic Center is a negotiating chip, along with other city properties, in the water agreement negotiations. He personally was not in favor of that. He felt we do need to move forward, but agreed with Councilwoman Cape that we needed to do it in increments.

Councilman Mumpower said that in view of the continued negotiations with Buncombe County, could we postpone action for 30 days rather than commit dollars to something the City may or may not own.

Councilwoman Cape felt it would be a good faith relationship with the County to keep working towards taking care of our buildings. The roof needs to be repaired for the whole community.

Councilman Newman moved to approve \$18,000 for the structural analysis for the Civic Center roof repairs. This motion was seconded by Councilwoman Cape.

Councilman Mumpower does not want to give the Buncombe County City taxpayer dollars on this and he won't support giving up the Civic Center under any circumstances.

Councilman Davis said that there is also uncertainty in what the County will do with the Civic Center should they take the Civic Center over. He thinks this is the first time that he has ever voted against repairs to the Civic Center, but he would do that tonight.

Councilman Newman said that there are conversations taking place between the City and the County around trying to resolve the water dispute. The old Water Agreement included a range of recreational facilities and there is a range of conversations around potential ways to find a meeting of the minds. Just as he voted to invest funds to repair the water system as we try to seek this negotiated settlement, or if we resolve the issue through the judicial process, we can't afford to let our facilities be ignored while conversations are taking place. We have worked to improve the Civic Center with the financial resources that we have and until other decisions are made, it is a City of Asheville facility and we need to take care of it.

The motion made by Councilman Newman and seconded by Councilwoman Cape carried on a 4-2 vote, with Councilman Davis and Councilman Mumpower voting "no."

City Attorney Oast said that because of the vote, this matter would have to come back for a second reading.

RESOLUTION BOOK NO. 30 - PAGE

III. PRESENTATIONS & REPORTS:

A. BOARD OF ELECTRICAL EXAMINERS ANNUAL REPORT

Mr. Harold Garland, Chair of the Board of Electrical Examiners, said the purpose of the Board is to examine the applications for journeyman electrical licenses for the City of Asheville.

Building Safety Director Robert Griffin said that the ordinance states that the licensed electrician may employ a journeyman to work under their oversight and to perform work meeting the NC State Electrical Code. The journeyman may have one helper who is not required to have the journeyman license.

The 2006-07 highlights include: (1) journeyman exam given six times; (2) 70 applicants (a) 46 passing grades - 75 or higher; and (b) 24 did not pass; (3) highest grade was 97; and (4) Asheville-Buncombe Technical College and the City of Asheville joined forces and gave a Spanish language journeyman exam on January 9, 2007. This was a first in the State of North Carolina.

The 2007-08 objectives include: (1) issue photo id's to all journeymen; (2) continue with Spanish exams, when appropriate; (3) hold special exam dates when necessary; (4) maintain high standards; (5) consider making recommended changes in ordinance to improve quality; and (6) continue reciprocity with seven other North Carolina cities.

On behalf of City Council, Vice-Mayor Jones thanked Mr. Garland and the Board for this hard work on this Board.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE BILTMORE LAKE AREA

Vice-Mayor Jones opened the public hearing at 5:53 p.m.

Urban Planner Julia Cogburn said that this is the public hearing to consider the annexation of the Biltmore Lake area. This public hearing was advertised on June 18 and 25, 2007.

On May 15, 2007, City Council adopted Resolutions of Intent beginning the annexation process for the following three areas: Biltmore Lake; Sardis Road; Schenck Gateway. The Annexation Services Plan for these areas was approved on May 22, 2007, and a public information meeting was held on July 2, 2007. Approximately 65 persons affected by the proposed annexations attended this meeting. Remaining steps include:

Adoption of annexation ordinances - August 14, 2007

Effective date of annexations - December 31, 2007

Ms. Cogburn made a brief presentation concerning the Services Plan for the Biltmore Lake area.

The following individuals spoke against the annexation of the Biltmore Lake area for various reasons, some being, but are not limited to: line drawn for annexation only includes a partial annexation of the neighborhood which may cause confusion of service delivery along with discord of the neighborhood, particularly over homeowner association dues; arbitrary line drawn for annexation goes between two houses; homeowners have already paid for the infrastructure with no reimbursement; if annexation must occur, it should occur when the entire community is built out; the City offers no new services that are not already provided for through the homeowner association fees; Biltmore Lake residents will pay \$1,178,000 per year and receive services valued only at \$253,000 per year; a referendum should be presented to all citizens who are confronted with annexation; taxation without representation; residents have retained an attorney and the City should not accept the N.C. League of Municipalities assistance but have taxpayers pay for their representation; and the City already cannot handle the problems they currently have:

Mr. Dieter Beutler, resident of Biltmore Lake
Mr. Nelson Sartoris, resident of Biltmore Lake
Mr. Tom Keleher, resident of Biltmore Lake
Mr. Jerry Jensen, resident of Biltmore Lake
Ms. Louise Glickman, resident of Biltmore Lake
Rev. Christopher Chiaromonte
Ms. Teri Shaull, resident of Biltmore Lake
Ms. Carol Keleher, resident of Biltmore Lake
Mr. Lee Loy, resident of Biltmore Lake
Ms. Diann Jensen, resident of Biltmore Lake

Ms. Lindsey Simerly spoke in support of annexation in that Biltmore Lake residents who live on the fringe of the City do receive benefits from the City of Asheville.

City Attorney Oast said that the N.C. League of Municipalities has not offered any assistance and that he, as City Attorney, handles the City's litigation, sometimes with outside legal counsel which the City of Asheville pays for.

Ms. Cogburn explained how the lines are drawn. She said that a great deal of time is devoted to studying the area by not only the Planning Department but other City departments as well. The lines drawn are not arbitrary. They are drawn to make as much sense as possible on a number of issues regarding service delivery and even though it is an inexact science, they do take it very seriously and they do look very carefully at following the state statutes and providing good service to areas that are annexed.

Urban Planner Blake Esselstyn reiterated Ms. Cogburn's comments about how the lines are drawn. He said that the State statutes state that annexation boundaries have to follow property lines. He acknowledges there were times when a house was being built, but that property had not been divided off and we can't arbitrarily draw a line around where we think that house lot will be, because we must follow property lines. Biltmore Lake is in a constant state of flux and no matter where the lines are drawn, there would be future development on the other side of that line.

Ms. Cogburn explained the procedure used at the public information meeting.

Vice-Mayor Jones said that the public is welcome to submit any other questions in writing assuring them that their questions will be responded to.

Vice-Mayor Jones closed the public hearing at 6:44 p.m.

Vice-Mayor Jones said that consideration of the ordinance to annex the Biltmore Lake area will be held on August 14, 2007.

B. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE SARDIS ROAD AREA

Vice-Mayor Jones opened the public hearing at 6:44 p.m.

Urban Planner Julia Cogburn said that this is the public hearing to consider the annexation of the Sardis Road area. This public hearing was advertised on June 18 and 25, 2007.

On May 15, 2007, City Council adopted Resolutions of Intent beginning the annexation process for the following three areas: Biltmore Lake; Sardis Road; Schenck Gateway. The Annexation Services Plan for these areas was approved on May 22, 2007, and a public information meeting was held on July 2, 2007. Approximately 65 persons affected by the proposed annexations attended this meeting. Remaining steps include:

Adoption of annexation ordinances - August 14, 2007

Effective date of annexations - December 31, 2007

Ms. Cogburn made a brief presentation concerning the Services Plan for the Sardis Road area.

Mr. Jack Dainty, resident on Slosman Drive, felt Council should annex all the contiguous areas that are next to the City so that everyone will be impacted in the same way. He felt that forced annexation does not meet reasonable common sense and is morally wrong. He urged Council to instruct the N.C. Dept. of Transportation (NC DOT) to install a traffic light at the intersection of Oakview and Sand Hill Road. He also noted that his questions were not responded to from the public information meeting.

A representative of an owner of property in Crowell Farms also noted that a traffic light is needed at the intersection of Oakview and Sand Hill Road.

At the request of Councilman Davis who said that this request has been forwarded to the NC DOT about two years ago, Councilman Freeborn, member of the Metropolitan Planning Organization, said that he would follow-up on this request.

Vice-Mayor Jones closed the public hearing at 6:53 p.m.

Vice-Mayor Jones said that consideration of the ordinance to annex the Sardis Road area will be held on August 14, 2007.

C. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE SCHENCK GATEWAY AREA

Vice-Mayor Jones opened the public hearing at 6:53 p.m.

Urban Planner Julia Cogburn said that this is the public hearing to consider the annexation of the Schenck Gateway area. This public hearing was advertised on June 18 and 25, 2007.

On May 15, 2007, City Council adopted Resolutions of Intent beginning the annexation process for the following three areas: Biltmore Lake; Sardis Road; Schenck Gateway. The Annexation Services Plan for these areas was approved on May 22, 2007, and a public information meeting was held on July 2, 2007. Approximately 65 persons affected by the proposed annexations attended this meeting. Remaining steps include:

Adoption of annexation ordinances - August 14, 2007

Effective date of annexations - December 31, 2007

Staff made a brief presentation concerning the Services Plan for the Schenck Gateway area.

Vice-Mayor Jones closed the public hearing at 6:54 p.m.

Vice-Mayor Jones said that consideration of the ordinance to annex the Schenck Gateway area will be held on August 14, 2007.

D. PUBLIC HEARING TO CONSIDER A REQUEST TO REVIEW A PROPOSED MASTER SIGN PACKAGE FOR PHASE II OF BILTMORE PARK TOWN SQUARE

ORDINANCE NO. 3507 - ORDINANCE APPROVING A MASTER SIGN PACKAGE FOR PHASE II OF BILTMORE PARK TOWN SQUARE

Vice-Mayor Jones opened the public hearing at 6:55 p.m.

Interim Planning & Development Director Shannon Tuch said that this is the consideration of a signage plan for Phase II of Biltmore Park Town Square. This public hearing was advertised on July 13 and 20, 2007.

Earlier this year, City Council adopted an ordinance that allows larger developments an opportunity to propose a "signage plan" that would address on-site signage in a comprehensive fashion. This represents the first signage plan reviewed by staff; as a consequence, we would appreciate any Council feedback about the ordinance, review process, and submittal package.

The subject signage plan is for the Biltmore Park Town Square. The plan covers the "public" signage for the development as well as the signage for the businesses; individual sign permits must be applied for separately and are not part of this plan approval process.

Since the subject submittal is so comprehensive, this review will group the proposed signage by general category to simplify decision-making.

Traffic control signs – These include sign types S and T. The Town Square streets will be public and would ordinarily be signed with standard City street name signs, stop signs, etc. The applicant is proposing custom frames for signs like stop signs. Custom street name signs are also proposed. Staff supports such efforts to create community identity and our review indicates that this approach is satisfactory under certain conditions. All signs that control traffic must meet MUTCD standards in terms of location, size, color, message, shape, and height. Additionally, all poles supporting any of these signs must meet the breakaway standards for such poles. Finally, since these are custom frames and, in some cases, entire signs, the City will require a maintenance agreement with the developer to place maintenance and replacement on the developer for perpetuity so that the general public will not bear the extra expense of City maintenance and replacement of custom signage.

Directional signs – These include sign types D, E, F, G, H, J, K, L, N, R, and X. These signs provide directional information to persons inside the development. While the applicant could perhaps use the provisions of the City sign code to provide directional signage, staff finds the applicant's proposal to be an enhancement over what is more generally allowed by code. When a comprehensive update of the City sign code occurs, staff would want to include some of these options to improve our directional sign allowances to make them more attractive and effective. The proposed directional signs should have conditions placed on them to eliminate conflicts with City safety requirements. Freestanding signs should be placed outside of sight distance triangles, signs should not block sidewalks and provide for adequate pedestrian room (including meeting ADA clearance standards), and any signs placed in sidewalks or over rights-of-way should comply with the requirements of the building code that address clearance heights for pedestrians and vehicles, as applicable.

Gateway signs – These include sign types B, BB and C. The Town Square development is currently the largest Urban Village project in the City. As a consequence, staff believes enhanced signage to "highlight" the project from its immediate periphery is appropriate, to a degree. Gateway (monument) signs B and BB seem entirely appropriate in terms of purpose and scale for this development provided sight distance triangle requirements are met and any necessary encroachment agreement requirements (if located in public rights-of-way) are complied with, including private maintenance and liability insurance. Sign C, however, is extremely large and is located above the roof of the structure to which it is attached. Additionally, while located internally on the site, its message appears to be directed to passerby traffic on the nearby interstate. No specific dimensions are provided but staff estimates the size of the sign at over 700 square feet using the letter height information provided by the applicant. Additionally, the prominent location may prove problematic for residents of Biltmore Park outside the Town Square area. Staff recognizes the regional destination nature of this development and is not opposed to some large signage directed toward I-26 traffic. We would be more comfortable with, say, a 350 square foot (or even larger) sign attached to the rear wall of the theater to identify the site to those on the interstate.

Tenant signs – These include sign types P, V, W, Y, Z, AA and CC. Staff finds these proposed tenant signs to be acceptable within certain size and number limits. The table below serves as our recommendation on sign size and number. Any sign overhanging a pedestrian or vehicle way must comply with the clearance requirements of the building code.

Staff recommends a maximum of 20 square feet and only one sign per business on the window tenant identity signage. The applicant has requested a maximum of 25 square feet and in order to promote creativity not limit the number of signs. Staff is comfortable with that change and will support that.

Additionally, staff recommends an additional allowance from those requested by the applicant. Since this is an urban environment, staff suggests that tenants be given the opportunity to place A-frame signs like those allowed in the Central Business District (CBD) (subject, of course, to the same placement and size standards for such signs).

SIGN TYPE	DESCRIPTION	MAXIMUM SQUARE FOOTAGE
P	Residential Lobby Sign	20 square feet; one per lobby access
V	Major Tenant Building ID	One square foot for every one linear foot of building façade to which the sign is attached up to a maximum of 200 square feet; one such sign per facade.
W	Office Lobby Sign	20 square feet; one per lobby access
Y	Tenant Blade Sign	4 square feet; one per tenant facade
Z	Hours of Operation Sign	4 square feet; one per door open to public
AA	Window Tenant Sign	20 square feet, not to exceed 25% of area of window to which sign is attached; one per tenant façade
CC	Tenant ID Sign	One square foot for every one linear foot of tenant façade to which the sign is attached up to a maximum of 75 square feet; one such sign per façade having tenant access.
DD	Office Tennant ID Sign	125 square feet; one per building; maximum 2 total for entire development

The applicant has also requested the ability to locate up to four “Major Tenant” identities on the south elevation of the movie theater which would normally be considered off-premise signage and would not be allowed per code. This application process could allow for that provision; however, staff has concerns over this request primarily due to the extent of signage that would already be permitted through the adoption of this custom sign package where it is believed that tenant identity would be more than adequately accommodated. Four tenants with letters that are 4’ tall could result in signage well in excess of a typical billboard face (300 square feet) and has the potential for adding to the visual clutter along Interstate 26. At the time of this public hearing, the applicant has withdrawn this request.

Lastly, the applicant is requesting the ability to reserve the right to comply with existing code requirements/allowances in place of those set forth in this package (note in upper right hand corner of Sheet 2). This also concerns staff primarily due to the inconsistency that could result by allowing signage that was not originally designed to blend with the other proposed signage. This process affords applicants the opportunity to develop custom signage that works best for their specific development plans and to stray from the package undermines the cohesiveness and coordination of the overall design and, to some degree, the public benefit. Should Council wish to consider this option, staff would recommend allowing signage not described in this package to otherwise comply with those sign standards established specifically for the Urban Village zoning district. At the time of this public hearing, the applicant has withdrawn this request.

Pros:

- Comprehensive, graphically consistent signage
- Enhanced gateway and wayfinding (directional)
- Consistent with urban pedestrian-oriented destination development

Con:

- Sign Type C may be too large and set precedent for above-roof signs

Staff recommends City Council approve the signage plan for Biltmore Park Town Square as proposed, except as modified in the list of conditions as follows:

- All signs shall meet site distance triangle and building code requirements, including clearance requirements for pedestrian and vehicular traffic.
- Traffic control and street name signs shall meet MUTCD standards in terms of location, size, color, message, shape, and height. All poles supporting any of these signs shall meet the breakaway standards for such poles. A maintenance agreement acceptable to the City shall be required from the developer to place maintenance and replacement on the developer for perpetuity.
- Gateway monument signs shall be subject to an encroachment agreement acceptable to the City.
- Tenant signs shall comply with the size and number requirements of the table provided in this staff report.
- An allowance for A-frame signs in accordance with the provisions for such signs in the CBD shall be provided to the

- applicant as an added part of this signage plan approval.
- All signs in the project area shall comply with the proposed standards and no exceptions or variances are permitted.
 - Sign Type C is not approved (rooftop sign)
 - Off-premise Major Tenant ID on south side of the movie theater is not allowed.
 - Project Identity signage is allowed on south side of the movie theater; size not to exceed 350 square feet (or other determined by Council).

The only questionable sign is the rooftop parapet project identity sign. It is proposed to be located on top of the parking structure. The original plan mentioned something close to 700 square feet to be located on that parking structure on the south side of the development. The City of Asheville prohibits all rooftop signage and staff is not comfortable in supporting that request. Some reasons why the City prohibits rooftop signs range from questionable concerns over safety, distraction to motorists, but mainly due to concerns over the aesthetics. Rooftop signage does create some visual clutter, detracts from other attractive features on the site; and competes with skylines, rooflines and ridgelines. Staff proposed a reduction in the size of the sign to 350 square feet to be placed on the south side of the movie theatre. That was the location that the applicant has proposed the 4 major tenant signs that they have now dropped. There is good visibility from the interstate and 350 square feet is reasonable. In consideration of staff's consideration, the applicant is okay with the size but is still requesting that the Council consider the rooftop location on the parking structure.

Staff fully supports the proposal before Council today with the (1) one small amendment that we increase the window tenant identity signage to 25 square feet in total; and (2) the rooftop sign not be allowed and that we instead consider relocating it to the south side of the movie theatre at a maximum of 350 square feet.

Mr. Harry Mark, Biltmore Park Town Square signage consultant, spoke in support of the signage plan. He explained why they felt it the rooftop of the parking deck is the appropriate place for the 350 square foot sign. Using pictures, he showed the proposed location of the sign atop the parking structure. Since parking decks are visually challenged, they feel that this will draw the eye away from the deck and place your attention to the sign and the overall project. Although the sign is located on top of this parking deck, there is a building behind the parking deck that is approximately 30 feet taller and the sign will not compete with the skyline. He felt 350 square feet is an appropriate scale for the freeway visibility of the project. They do not recommend internal illumination, but an externally illuminated sign with a softer glow on the signs themselves. They don't feel that the sign will create clutter, but create identify for an enhanced experience for the shopper and for the resident.

The President of the Biltmore Park Homeowners Association supported staff's recommendation that the 350 square foot rooftop sign be located on the south side of the movie theatre.

Ms. Paula Youngblood, Biltmore Park resident, urged Council to keep the residential community in mind. They want to keep the quaint urban village atmosphere.

Vice-Mayor Jones closed the public hearing at 7:16 p.m.

There was a brief discussion about the location of the parapet sign.

City Attorney Oast said that in order to ensure that this has the same enforceability as zoning regulations this action should be adopted as an ordinance. With the exemptions being outlined by Councilwoman Cape, he read the following ordinance: "Whereas the City of Asheville has the authority pursuant to N.C. Gen. Stat. sec. 160A-381 to adopt and amend zoning ordinances, including sign regulations; and Whereas, following a public hearing on July 24, 2007, the City Council has determined that it is in the interest of the City to adopt the proposed sign package for the property known as 'Biltmore Park Town Square' as shown on Exhibit A (which will be attached to the ordinance); Now, therefore, be it ordained by the City Council of the City of Asheville that the sign package attached hereto as Exhibit B (which will be attached to the ordinance), be an the same is hereby adopted as the sign regulations for the property known as 'Biltmore Park Town Square, except as modified in the following list of conditions: (1) All signs shall meet site distance triangle and building code requirements, including clearance requirements for pedestrian and vehicular traffic; (2) Traffic control and street name signs shall meet MUTCD standards in terms of location, size, color, message, shape, and height. All poles supporting any of these signs shall meet the breakaway standards for such poles. A maintenance agreement acceptable to the City shall be required from the developer to place maintenance and replacement on the developer for perpetuity; (3) Gateway monument signs shall be subject to an encroachment agreement acceptable to the City; (4) Tenant signs shall comply with the size and number requirements of the table provided in this staff report; (5) An allowance for A-frame signs in accordance with the provisions for such signs in the CBD shall be provided to the applicant as an added part of this signage plan approval; (6) All signs in the project area shall comply with the proposed standards and no exceptions or variances are permitted; (7) Sign Type C is not approved (rooftop sign); (8) Off-premise Major Tenant ID on south side of the movie theater is not allowed; and (9) Project Identity signage is allowed on south side of the movie theater; size not to exceed 350 square feet; and (10) increase the window tenant identity signage to 25 square feet in total."

Councilwoman Cape moved to approve Ordinance No. 3507 as read by City Attorney Oast. This motion was seconded by Councilman Newman.

Ms. Tuch responded to Councilman Mumpower's question if staff was aware of any trend nationally, for the parapet sign in question, for creative efforts to draw attention to commerce.

Ms. Tuch said that in conference with the applicant, they were requesting that should Council prefer the alternative where the sign is 350 sq. ft. on the side of the building, due to concerns of visibility at the southern side of the movie theatre, that they would like Council to consider a 350 sq. ft. wall sign on either the southern side of the movie theatre or possibly just down on the side of the parking structure where they had proposed the rooftop sign. Staff indicated that they would not have any problem with either location.

Councilwoman Cape said her motion was that it be a side attached sign.

Councilman Mumpower felt the site visibility for the residents is marginal at best. He felt that requiring 3.5 feet tall letters on the parapet sign is exerting an unnecessary level of control. Biltmore Farms doesn't have a reputation of being tacky and this has some potential for being unique. He felt we are guilty of creating a double standard. He felt we should modify our ordinance on signs to give other people the opportunity to do some things that this applicant is proposing.

The motion made by Councilwoman Cape and seconded by Councilman Newman carried on a 4-2 vote, with Councilman Davis and Councilman Mumpower voting "no."

City Attorney Oast said that due to the vote, this ordinance will need to come back to Council for a second reading.

ORDINANCE BOOK NO. 23 - PAGE

Closed Session

Vice-Mayor Jones said that during City Council's break, they would conduct a closed session. At 7:27 p.m., Councilwoman Cape moved to go into closed session in order to (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: City of Asheville; May 1st We Are One America Committee; State of North Carolina; and County of Buncombe - The statutory authorization is contained in G.S. 143-318.11(a)(3); (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5); and (3) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in G.S. 143-318.11(a)(4). This motion was seconded by Councilman Freeborn.

Councilman Mumpower asked for a friendly amendment to divide the motion, taking out the Sullivan Act litigation involving the City of Asheville, State of North Carolina and County of Buncombe.

Councilwoman Cape and Councilman Freeborn agreed to the friendly amendment.

The amended closed session motion carried unanimously.

At 7:33 p.m. Councilman Freeborn 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 contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no."

At 8:00 p.m., Councilman Freeborn moved to recess closed session and continue it after the formal meeting. This motion was seconded by Councilman Davis and carried unanimously.

V. UNFINISHED BUSINESS:

A. CONTINUATION OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT

ORDINANCE RELATING TO REVISIONS TO THE STORMWATER EROSION CONTROL ORDINANCE

As this item was discussed earlier in the meeting, Mayor Bellamy was not present.

Vice-Mayor Jones said that this public hearing was held on June 26, 2007, and continued to this date.

City Manager Jackson said that since the June 26, 2007, meeting, staff has held a public meeting on July 19, 2007, inviting river property owners, the River Design Review Committee and the general public. Staff also met with the Greenway Commission at their regular meeting on July 12th and the City Manager's Panel on Development Process on July 11th. Staff presented detailed explanations, however, the stakeholders preferred to see the final documents. Therefore, staff recommends that City Council continue the public hearing until September 11, 2007, in order to give public ample opportunity within which to review the final documents and for staff to present a cleaner recommendation to Council.

In response to Councilman Freeborn, Assistant City Attorney Martha McGlohon believed that Director of Transportation and Engineering Cathy Ball has discussed this need for continuance with the appropriate state agency. She said that we were required to have an ordinance in place by July 1, 2007, and the consequences of not having an ordinance in place is that someone could bring a lawsuit against the City.

Councilman Mumpower moved to continue the public hearing until September 11, 2007. This motion was seconded by Councilman Davis.

Councilman Freeborn felt we should act in a more timely manner and suggested a friendly amendment to continue the public hearing until August 28, 2007, which closes the timeframe within which the City is open for a potential lawsuit and is closer to the date of compliance (since City staff felt that at least 4 weeks would give the opportunity for two additional meetings).

Councilman Mumpower did not accept the friendly amendment in that he felt City staff recommended September 11 intentionally.

In response to Councilman Freeborn's concern about the lack of compliance, Ms. McGlohon believed that the State would consider all of the good faith efforts the City has made in that we have proceeded with all due diligence in an expedited manner to try to involve the community and get the ordinance adopted.

The motion made by Councilman Mumpower and seconded by Councilman Davis to continue the public hearing to September 11, 2007, failed on a 2-4 vote, with Councilman Davis and Councilman Mumpower voting "yes" and Vice-Mayor Jones, Councilwoman Cape, Councilman Freeborn and Councilman Newman voting "no."

Councilman Freeborn moved to continue the public hearing until August 21, 2007. This motion was seconded by Councilman Newman and carried on a 4-2 vote, with Councilman Davis and Councilman Mumpower voting "no."

B. ORDINANCE NO. 3508 - ORDINANCE ADOPTING THE 2007-08 AMENDMENTS TO THE CITY'S FEES & CHARGES MANUAL

ORDINANCE NO. 3509- BUDGET AMENDMENT FOR STAFFING AT BEE TREE WATER TREATMENT PLANT

At 8:03 p.m., Vice-Mayor Jones turned the gavel over to Mayor Bellamy.

Mayor Bellamy said that during Council's budget process, the motion adopting the Fiscal Year 2007-08 annual operating budget did not include adoption of the fees & charges. City staff has requested clear direction from Council.

City Manager Jackson said that staff is requesting clear direction on the treatment of fees and charges in the General Fund and Council's preference on whether or not we include the Revenue and Finance Committee's recommendation as part of the Council adopted budget and whether it was Council's intent to adopt the Water Fund fees. It was staff's assumption that those were to be approved and built in with that assumption is that the staffing for the Bee Tree Water Treatment Plan (in the amount of \$338,090) would be funded from the Water development fees.

On June 19th, 2007, City Council adopted the FY 2007/2008 annual budget. Typically when Council approves the annual budget ordinance, a separate vote is held to affirm support for the Fees & Charges recommendations. However, this year a separate vote was not taken. In order to provide staff with direction on this issue, we are requesting that Council review the recommendations and vote to adopt FY 2007/2008 Fees & Charges.

Most of the Fees & Charges adjustments involve General Fund fees, but does include a proposed adjustment in the Water Fund's development fees. The recommended adjustment to the Water development fees will generate an estimated \$480,000 in revenue, which will provide the necessary resources to fund the staffing plan to bring the Bee Tree Water Treatment Plant back into service.

Staff requests that Council review the FY 2007/2008 Fees & Charges recommendations and affirm the following actions: (1) General Fund Fee Adjustments; and (2) Water Fund Fee Adjustments & Bee Tree Staffing Plan.

Mayor Bellamy said that members of Council have previously received copies of the ordinances and they would not be read.

Councilman Freeborn moved to (1) adopt Ordinance No. 3508, affirming support for the fees & charges recommendations (from the Revenue and Finance Committee) in the General Fund as part of the Council adopted budget including an adjustment in the Water Fund's development fees and (2) adopt Ordinance No. 3509, a budget amendment in the amount of \$338,090.00 to fund staffing at the Bee Tree Water Treatment Plant. This motion was seconded by Vice-Mayor Jones.

Ms. Elaine Lite questioned increasing some parks and recreation fees that are utilized by low income families vs. increasing the building and construction cost fees.

Rev. Christopher Chiaromonte questioned the inequity of a man with a hotdog stand who is required to have \$1 Million of liability insurance where large restaurants are only required to have \$500,000 of liability insurance.

City Manager Jackson explained that the process we go through on an annual basis for all City fees is to look at how they compare to the cost of delivering the service. We question if we are recovering from those who use the services and if not, do we know the reason why. We want to keep Council apprised of what our cost-recovery basis is. We also try to look at historical trends, i.e., how many years has it been since we have adjusted the fees. In addition, we also look at the market comparisons.

Building Safety Director Robert Griffin responded to the question raised about building permit fees, noting that our higher minimum construction cost fees are still one of the highest in the state on a comparison basis.

Vice-Mayor Jones gave examples of how part of the fees that are being proposed are actually a deeper discount for our citizens. From her perspective, we have held the line for the people that are the most in need in our community that are utilizing our parks and recreation centers.

In response to Councilwoman Cape, City Manager Jackson said that training for our inspectors is factored into the cost recovery.

Councilman Freeborn spoke in support of the annual swim and annual bus passes. He felt that is a great way to utilize City services and save money.

The motion made by Councilman Freeborn and seconded by Vice-Mayor Jones carried on a 6-1 vote, with Councilman Mumpower voting "no".

ORDINANCE NO. 3508 - ORDINANCE BOOK NO. 23 - PAGE

ORDINANCE NO. 3509 - ORDINANCE BOOK NO. 23 - PAGE

C. PROGRESS REPORT ON THE REDEVELOPMENT PLAN FOR CITY-OWNED PROPERTY

Economic Development Director Sam Powers said that this is a status report on the progress of redevelopment opportunities for city owned properties; and consideration of approval of Phase II Additional Scope of Services for Project Management for City Owned Properties (RFP phase) in an amount not to exceed \$66,850.

In January 2007, City Council approved proceeding with Phase II of evaluation of city owned properties. Council approved a contract with the firm Real Estate Research Consultants (RERC) for a Scope of Services to assist the City with the project management associated with the structure and development of the Request for Qualifications (RFQ) process for redevelopment of City owned properties. The project management firm conducted a Market Scan, and assisted with in depth stakeholder meetings. Four sites were recommended and approved by Council to be included in an RFQ. Staff and the project manager collaborated in the development of the RFQ document, and in developing a detailed list of potential developers. The RFQ was advertised in the southeastern US and in real estate publications.

The RFQ closed on July 17th, and the City received 14 Statements of Qualification (SOQ) from interested development teams. Local and national developers submitted SOQs. Staff considers the submittal of 14 SOQ to be a very successful indicator of interest in the City sites. Each of the four sites received expressions of interest, with two of the four sites receiving the most interest. Staff and the Project Manager will now conduct an evaluation of the Statements of Qualification received from development teams. The current timeline for proceeding with the four Phase II sites is as follows:

Council approval additional Project Management Scope of Services (RFP Phase)	July 24, 2007
Notification of adjacent property owners	August 7, 2007
Evaluation and Council Approval of Pre-qualified Develop List (Announced short list of qualified Development Teams)	August 14, 2007
Public Open House	September 6, 2007
Meet with short listed teams to discuss subsequent RFP procedures	September 14, 2007
Formal Request for Proposal (RFP) documents distributed	October 12, 2007
Comprehensive RFP responses due from short listed firms	January 31, 2008
Interview with respondents, if necessary	February 22, 2008
Detailed proposals ranked	March 7, 2008
City Council Approval of Rankings	March 18, 2008
Negotiations with preferred Development Team for each site initiated by	March 28, 2008

At the time of Council's approval of the Project Management Scope of Services, staff indicated that there would be two additions to the original Scope of Services. The first addition would allow the project management consultant to assist the City in the RFP phase once the short list of developers is formed. The second addition would be a third phase of detailed negotiations with any firms advancing from the RFP phase into the Development Agreement phase.

The action requested from Council is to approve the Addition to the Project Management Contract Scope of Services approved on March 6, 2007, by City Council. This will allow the City to build upon the identification and qualification of developers conducted in the RFQ Phase by taking the next step of outlining the City's specific expectations and requirements for each of the four sites and inviting the pre-qualified developers to propose in some detail how they would approach, finance, and implement development on those sites consistent with the City's goals.

Funding for this RFP Phase addition to the Scope of Services is available in the City's 2007-08 Budget in the Office of Economic Development budget. Therefore, a budget amendment is not required.

Pros:

- Assistance to staff and Council in determining appropriate mix or scale of retail, residential, office, lodging, and civic uses within development sites.
- Ability to advise staff and council concerning the expectations about the market's ability to support the above or similar uses.
- Knowledge of analytical processes to review financial and technical capabilities of respondents to RFQ and RFP that are not within the scope of staff expertise.
- National project experience in developing similar public offerings of property to developers to achieve specific public goals.

Con:

- City will be required to provide compensation to consultant prior to cost recovery.

City staff recommends City Council authorize the City Manager to approve the additional RFP Phase Scope of Services

with Real Estate Research Consultants for professional services required for project management services in an amount not to exceed \$66,850.

In response to Councilman Davis, Mr. Powers said that the project management assistance in the next phase is necessary as we are going to be developing very specific requirements for each of the four sites, in terms of what Council is requesting and what their desires are for the four sites. Staff and the project manager understand the importance of getting the kinds of proposals submitted that Council will want to see.

Councilman Freeborn moved to adopt a resolution authorizing the City Manager to enter into an agreement with Real Estate Research Consultants for Phase II of the project management professional services for City-owned property. This motion was seconded by Councilman Davis.

Throughout discussion, Mr. Powers responded to various questions/comments from Council, some being, but are not limited to: were any responses from the RFQ site specific proposals; do we have the ability or expertise to proceed in-house; what is the next step in this process; how does this work with the Center City Plan; does the \$66,850 take us through the March 28, 2008, timeline - the final phase; is there a link with this process in the other various development plans, i.e., Parking Master Plan, updated Center City Plan, etc.; do we have a timeline for the Downtown Master Plan; how many pieces of City-owned property did we start looking at; at what stage will we solicit specific public input on each of the four properties; what will the public open house format look like; are there creative ways for the City to remain a partner and retain some assets at the same time, e.g., long-term leases; and do the properties have to be sold at market rate.

Councilman Mumpower felt this is a flawed process. He sees a lot of expense and dollars being invested in what ultimately has the largest potential to be a dead-end invitation for these developers. With the current climate in Asheville, the chances of developers with high dollar initiatives getting their projects through Council and this community is very low. Regarding affordable housing, he believes there may be potential to duplicate the model in Cherokee that targets affordable housing initiatives.

Mayor Bellamy said that the model in Cherokee is a land trust and over the coming months, as the Affordable Housing Task Force convenes that will be one of the issues they put forth to Council to consider.

Mayor Bellamy said that the bottom line for what she would like to see, not necessarily in the RFQ/RFP process, is the long term planning for our needs related to building and growth for the City of Asheville.

City Manager Jackson said that we are doing facility planning as part of the relocation of the park maintenance facility that is included in this process. Separately, staff and a firm has been engaged to go through each of the departments and identify what their projection is of growth, staff needs, space needs, etc. and thereby developing a facility assessment. He said we are inventorying the needs, planning for the future and hope to have a report back to Council this fall.

Mayor Bellamy was concerned that not all neighboring property owners were informed of the RFQ/RFP process. Mr. Powers said that they have had stakeholder meetings with what they believed to be most of the property owners for the four pieces of property and they will also be sending out post-cards and announcements about the open house to all adjacent property owners.

When Mayor Bellamy asked if it was too late for adjacent property owners to put in a proposal, Mr. Powers said that the deadline for submitting SOQ has closed. However, Council has the right to amend the process at any time.

In that Mayor Bellamy felt that adjacent property owners should have an opportunity to participate, she asked for a friendly amendment to amend the process allowing adjacent property owners an opportunity to submit a SOQ.

Councilman Freeborn and Councilman Davis each accepted the Mayor's friendly amendment to their motion.

Mayor Bellamy wanted to make sure that all adjacent property owners, big or small, are notified about this process and allow them to be involved if they choose to. She suggested sending out the notices by certified mail to the last known address, just to verify that we have done our best to inform them of the process.

During a clarification by Councilwoman Cape of the public open house, Mayor Bellamy asked staff to consider a Saturday in addition to the September 6 date for the public open house in order to gather as much public input as possible.

Councilman Newman envisioned that with each of the four properties the end result would be a very specific proposal for the future of the site and then the development agreement. He is supportive of taking step and if that process works, that's great. But, the only downside to it that he sees is that development is a risky business. Let's keep our eyes wide open on this process as

we go through it because he can envision scenarios where it wouldn't make sense for the City to walk hand in hand with the developer all the way to the end of it. He likes the idea of getting public input and identifying qualified people, but these properties are not needed for City purposes and again he can envision where it might make sense from our standpoint to simply transfer ownership and let whoever buys the property assume more of the risk. Right now we are investing a lot of funds into it and we are also consequently assuming more risk. Let's keep our eyes and options open on what is the best way to proceed as we go forward on each of these projects.

Mayor Bellamy could not support the motion because, from the retreat, the focus was to be on affordable housing and we have gone away from that. If there was an emphasis on affordable housing with some commercial development at the base of the building that would be better. But when we get into lodging and other uses, she would not be supportive of it. Also, in the past looking at the RFP's requested, the cost was too high to make it feasible to do affordable housing, so we are creating a scenario which calls for a subsidy which means we will have to have higher price condos to offset that balance. If we don't get more tools to work with we will have problems going forward and will not get the product we really want. We may get a higher end mix and maybe 10-15 units of affordable housing, but not exactly what we want. When the idea was brought up originally, it was presented of how can we have affordable housing in our community and this has expanded in a lot of different ways.

Mayor Bellamy felt that if we look at these properties in the form of a TIF District we could probably get the intended outcome that we want, and partner with some other development that is occurring downtown, as opposed to the RFP process. She felt there are other creative ways to get to our main focus.

Councilman Newman suggested putting a restriction on one or more of the sites saying that whatever is built must have 25% of the units affordable, or whatever percentage we decide. That by itself affects the value of the property. He recalled that affordable housing was collectively identified as a high priority. However, all of these are unique properties and lend themselves to different things.

Mr. Powers said that in the RFQ process, based on the market overview, the consultants and staff felt (1) the site across from the Civic Center probably lended itself to more to something in a commercial nature like a hotel or mixed use; and (2) the parks maintenance facility was determined to be most appropriate for multi-family residential with limited supporting commercial uses. We tried not to limit people, but he did believe that the parks maintenance site, in particular, could have a more affordable or workforce component to it. At this point there is no guarantee. It is ultimately in the basis of cost that the developer has in the property. He did believe there is interest, in especially the park maintenance facility site, for primarily housing that could potentially include a more affordable component.

Councilwoman Cape distinctly remembered bringing up that we had strategic goals that we wanted to have happen on these properties. She didn't understand why we moved ahead with the process that now we may abandon after soliciting interest from the development community to help us develop these toward strategic goals. There is enough interest where these properties can be developed with those strategic goals in hand. She wondered what has changed and why we cannot now achieve our strategic goals from when we first started this process.

Mayor Bellamy reiterated that the primary goal is, and was, for affordable housing. She attended a presentation (which the majority of Council was present at) on the Tax Increment Financing (TIF) District which showed a benefit analysis of a TIF District vs. the RFP/RFQ process, showing that a TIF District would financially be a wind-fall for developers who buy into this process. She also wanted to get the product that we know we want, noting that the RFP/RFQ process will cost more than a TIF District.

Mayor Bellamy recommended a worksession to look at all sides of this issue, including the RFP/RFQ process vs. a TIF District.

In response to Councilman Freeborn, Mr. Powers said that he didn't think postponing action would be detrimental because this is our proposed timetable and we reserved the right to change it. We certainly would want to notify the interested development teams and adjacent property owners.

In response to Councilman Freeborn, City Manager Jackson said that in soliciting the RFQ's we have communicated that Council wants to have strategic goals for the property and that while the land needs to be sold according to State law (at fair market value), that in order to accomplish Council's goals, Council will entertain financial assistance and development agreements with each of the properties.

Councilman Newman withdrew his motion and suggested that within the next 30 days we have a worksession to clarify what exactly we want to do strategically. He is not supportive of moving any type of development of city-owned property forward if it does not meet our strategic goals, one of that being workforce housing.

Vice-Mayor Jones said that our one foray into this so far has been all about affordable housing. She wanted the community to know that this is a process that we started and step one is underway. She felt this will be a real exciting project that will unfold. She hoped the community understands that what we really want is workforce housing for our community.

Mayor Bellamy respectfully disagreed with Vice-Mayor Jones in that this is mixed-income, not completely affordable housing.

Councilman Davis felt we must recognize that not all these properties are the same and he hopes we don't lose site of the Eagle-Market Street area. There are some opportunities with Mt. Zion and the developers who are coming in to do some affordability down there. He doesn't think it's realistic to expect we are going to get affordable housing out of the Office of Economic Development on Haywood Street or on the site across from the Civic Center. But we have to recognize that those are things that do pay good tax dollars that helps this community get to a better place. He thinks that we need to recognize those properties. He don't disagree that we need to have clarity amongst ourselves, and when we talk about TIF Districts, we also have to be aware that we have limited financing abilities. He hoped that we don't way-lay this process fearing that we won't achieve our goals because frankly that is what this process is doing the second phase.

Mayor Bellamy personally felt that from the questions raised today, Council needs clarification on what, exactly, are we trying to accomplish. She thinks that it will be clearer to her that if we say this site is 50% affordable housing or 70% affordable housing, that is the goal, but we have not outlined our goals. We have identified what is feasible or possible, but we, as a Council, did not stress what we want. In order for us to get clarity with a measurable and attainable goal, we need to know what those are up front, not just whatever we get back. If we want to move Eagle-Market Street area forward, that would be fine, but her concern is we have not articulated clearly what we expect, except we want our strategic goals met.

Councilman Davis agreed that we should put our goals out there and communicate those to the developers, but we have to rely on what the market will bear.

Councilman Newman said when we started off looking at these properties, we set broad goals, which affordable housing was a big part, and then other goals, like helping our tax base, growth management, green building, etc. Now as we develop more and more specific plans for each one of the sites, it would seem arbitrary for him to say on this property we want this much affordable. Hopefully this process gets us to be in a position that we can become more detailed about what is appropriate and feasible on each of these different sites.

Mayor Bellamy's concern is that if it's not clear, when the product comes back finished, it will not be what we wanted. We need to clarify our expectations and let the market respond to our expectations. This is the City's land. We are to look at the financing tools that are available to help assist the developers to give us exactly what we want.

It was the majority of Council's consensus to hold a worksession on this item, including the financing tools available, no later than 30 days from now.

VI. NEW BUSINESS:

A. CONSIDERATION OF AN APPEAL FROM AN ORDER OF THE BUILDING SAFETY DEPARTMENT ORDERING BUILDINGS LOCATED AT 1500 TUNNEL ROAD DEMOLISHED

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

Assistant City Attorney Martha McGlohon said that this is the consideration of an Appeal from an Order of the Building Safety Department ordering the buildings located at 1500 Tunnel Road, demolished.

1500 Tunnel Road is the site of the former "Days Inn Motel," consisting of 3 separate buildings. Prior to its condemnation in 2004 by the Building Safety Department, (BSD), the Property operated as the Mountainview Inn.

The Property has a troubled history. In 2005, the BSD condemned the buildings as unsafe. Following a hearing, the buildings were ordered repaired so as to comply with the Building Code. After failure to comply, the buildings were ordered vacated and closed with all electricity and water terminated. An appeal of the order to repair, vacate and close was taken to City Council (CC). For almost one year, efforts to contact the owner and to verify the status of the person making the appeal to CC were not successful. In March of 2006, when the matter was placed on CC agenda, the owner surfaced. CC granted the BSD's motion to dismiss the appeal after granting the owner a continuance. The owners needed time to determine what they were going to do with the Property and BSD provided that time while in the meantime, the owners were required to clean up the outside perimeter, board up the open doors and windows and install a chain link security fence around the Property in April of 2006. No

further action was taken and the owner once again disappeared between July 2006 and March 2007. During the owner's extended absence, vagrants accessed the Property despite the presence of the perimeter fence. They removed the plywood boarding and pilfered sections of the plumbing, electric and HVAC systems. Unable to make contact with the owner, the Property was posted and a notice was advertised for a hearing in April 2007. Again, the owner surfaced to attend the hearing in which the BSD ordered the buildings demolished. The matter before CC today is the owner's appeal of that Order.

The owner contends that there was insufficient evidence upon which the BSD could conclude that the buildings warrant demolition in accordance with NCGS 160A-426. The owner further contends the owner's intent to renovate the buildings, the alleged good faith efforts made in that regard and the need an unspecified amount of time to accomplish the renovation task. The BSD asserts that the Order of demolition is valid in every respect, that the owner has had over four years to renovate the buildings and that to date, no substantial good faith efforts have been made by the owner to timely bring the buildings into compliance with the Building Code. The owner is asking CC to reverse the Order to demolish and or to otherwise provide an unspecified period of time to allow the owner to renovate the Property.

Pros:

1. Authorizes City staff to initiate appropriate proceedings to abate a fire and safety hazard.
2. Allows the City to proceed with obtaining bids to demolish the buildings at the City's expense.
3. Allows the City to be reimbursed for the cost of demolition by foreclosing on the Property if the cost of demolition is not paid.
4. Allows the City to consider the 2.5 million offer to purchase the owner allegedly already received for the Property.
5. Eliminates frequent calls to police fire, building and housing staff

Cons:

1. Requires the City to fund the cost of demolition and await the foreclosure process for reimbursement of the cost of demolition.
2. Requires the initiation of a lawsuit to commence the foreclosure process.

This action complies with City Council Strategic Operating Plan on Partnerships to Improve Critical Services and Infrastructure by providing sufficient, safe, and affordable housing for Asheville residents. As long as places such as the present Property exist within a City, its most vulnerable residents will always be prey to those who without proper permits, rent out such decrepit lodgings.

City staff recommends City Council affirm the Order of Demolition in its entirety.

Mr. Philip Roth, attorney representing the owner, requested Council extend the deadline on the demolition order an additional 45 days in that they have retained an architect Barbara Field and structural engineer who are drafting renovation plans. He said that his architect acknowledged that the building is a nuisance. He also felt that the structures need to be renovated or demolished, however, this is a large family business and the younger generation is taking steps to renovate the structures on this valuable piece of property. Again, he urged Council to extend the deadline for an additional 45 days.

Councilman Freeborn moves to affirm the Order of Demolition for 1500 Tunnel Road. This motion was seconded by Councilman Newman

Even though Councilman Mumpower was not inclined to grant the extension, he asked what conditions could be attached to that extension, if granted, e.g., clear contact person, clear telephone contact information; clear structure of the owners, etc. Ms. McGlohon explained that while the Order to Demolish or to present sealed building plans to repair the buildings expires tomorrow, the City can't move forward to demolish the structures for a period of time. She explained that we will need to (1) find out how much the demolition will cost; and (2) come back to City Council for that funding. She anticipated that 45 days will expire between that time and the time we get back to Council with the request for funds to do the demolition. Because of the process itself, they will have that 45 day extension of time.

In response to Councilman Mumpower, Ms. McGlohon assured Council that within that 45 day time period if they were to submit plans showing sealed building plans, the Building Safety Department would work with them as staff has always been receptive to working with this property owner. Staff would not need to come back to Council to reverse the Order of Demolition as it is entered by staff.

Councilman Davis hoped that the property owners will take this 45 day timeframe and begin to renovate the buildings.

Vice-Mayor Jones was disturbed about the number of staff hours involved in this matter. She felt that Council should look for ways that we can begin to fine people that don't make an effort to remedy the problems.

Councilman Newman questioned if we have the option of issuing fines to motivate people to respond. Ms. McGlohon responded that there are finds under our Housing Code, but no fines set forth under the State law (which we use) for an owner's failure to make himself available or his failure to keep his building in a reasonably safe condition or in compliance with the State Building Codes. She said that the City can, however, assess the cost of demolition as a lien against the property.

In response to Councilman Newman, City Attorney Oast said that he would research if City Council has any authority to issue fines under the building safety laws.

Mayor Bellamy was supportive of making the property owner bring the structures into compliance, however, we would not support the motion as she has worked with the architect in the past and if she is drafting renovation plans, she would be amenable to giving them an additional 30 days, without the Order of Demolition in place.

The motion made by Councilman Freeborn and seconded by Councilman Newman carried on a 5-2 vote, with Mayor Bellamy and Councilman Davis voting "no."

B. RESOLUTION NO. 07-__ - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE ASHEVILLE DESIGN CENTER TO PERFORM FURTHER ENGINEERING ANALYSIS OF THE ALTERNATIVE DESIGN FOR I-26 CONNECTOR PROPOSED BY THE ASHEVILLE DESIGN CENTER

ORDINANCE NO. 144- BUDGET AMENDMENT FOR ENGINEERING ANALYSIS OF THE ALTERNATIVE DESIGN FOR I-26 CONNECTOR PROPOSED BY THE ASHEVILLE DESIGN CENTER

Director of Transportation and Engineering Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to execute an agreement with the Asheville Design Center, in the amount of \$70,000, to perform an Engineering Analysis of the alternative design for I-26 proposed by the Asheville Design Center.

She said that the purpose of this report is to provide information on options for assisting the Asheville Design Center with an engineering evaluation of its I-26 proposed alignment.

On April 24, 2007, the Asheville Design Center, ADC, made a presentation to City Council. In their presentation, they outlined a proposed alignment for the I-26 Connector. At Council's June 26, 2007, meeting, the N.C. Dept. of Transportation, (NCDOT) reported that they had reviewed the ADC proposal and found that it had some problems with weaving and transitioning that made the alignment problematic. NCDOT indicated that in order to make the ADC's proposal work, it would need to have an expanded footprint looking much like NCDOT's alternate number four.

Council directed staff at its June 26, 2007, meeting to provide options for further assessing the ADC's proposal.

Two items for consideration when making this evaluation are scope of work and process for the contract administration.

Scope of Work: In order to determine how much it will cost to hire a consultant, it is necessary to determine the desired scope of their work. Three different options with estimated costs for each are outlined below:

Option A: The consultant would evaluate the methodology the North Carolina Department of Transportation used in their review of the Asheville Design Center's alignment. The consultant would meet with the NCDOT and review the criteria used to make its recommendation. The consultant would then provide City Council with a report detailing their findings.

Cost: \$20,000
Time: 30 days

Option B: The consultant would complete the work described in Option A and, if possible, try to develop options to overcome the hurdles that NCDOT outlined their report.

Cost: \$70,000
Time: 90 days

Option C: The consultant would perform an independent analysis of the Design Center's proposed alignment. They would determine if the alignment was feasible and/or any changes that could make the design work. This option would

require a detailed review of the existing conditions as well as the proposed alignment.

Cost: Unknown
Time: 6 months

Contract Administration: The issue of contract administration deals with deciding which entity is the best party to manage the contract with the consultant. If Council chooses to move forward with an option listed above, the contract could be handled in one of two ways.

- A. The City of Asheville would administer the contract with input from the Design Center.
- B. The Design Center would hire the consultant and administer the contract with oversight from a technical review committee consisting of members from the City, ADC, NCDOT, County and the Technical Coordinating Committee, TCC of the Metropolitan Planning Organization (MPO). The City would enter into a contract with the Design Center to perform the work.

The Asheville Design Center has obtained their status as a non-profit agency and is able to contract with the City, as well as a consultant, to perform the work. Administering the contract under this scenario would still require some staff time. The Asheville Design Center has indicated its preference for the option B.

Staff recommends that the City contract with the ADC to provide engineering services to perform the option 2 or \$70,000 option. Staff also recommends that a technical review committee be established by City Council to evaluate the process and findings of the engineering study.

Council may wish to request financial participation from the County, the MPO and other strategic partners to off-set the cost to the City of Asheville taxpayer.

Pros:

- Allow the study to begin quickly. It will take longer for the City to enter into a contract with the Consultant due to the City's need to solicit qualifications for projects over \$30,000; and,
- Based on conversations with Alan McGuinn with the ADC, they would prefer to contract with the consulting firm directly, with oversight from the City; and,
- Assist the City in deciding how to move forward with the Design Center's proposed alignment.

Con:

- The cost to the City could be \$70,000 to the City unless other agencies could assist in the cost.

Staff recommends that City Council authorize the City Manager to execute an agreement with the Asheville Design Center, in the amount of \$70,000, to perform an engineering analysis of the alternative design for I-26 proposed by the Asheville Design Center.

Mayor Bellamy read into the minutes the following letter dated July 20, 2007, from Daniel Devan for Lyndo Tippet, Secretary of the N.C. Dept. of Transportation: "State Board of Transportation member Alan Thornburg, my staff members, and I have discussed the Asheville City Council's concerns regarding our review of the Asheville Design Center's (ADC) Alternative for the I-26 Connector project. Based on the concerns expressed by the city council, the Department is willing to, as set forth below, further work with the city and your designee regarding this alternative. Specifically, the Department is offering to have the private engineering firms under contract with us for the project to determine if the ADC Alternative can be modified to meet interstate design criteria and eliminate the operational and environmental concerns that were noted in our previous review. To assist the engineering firms in this review, we are asking that you appoint a representative to coordinate and work with the firms. We request that the representative have highway design experience. The Department and the private engineering firms will work closely and expeditiously with the city in this process. The Department will also coordinate with the Asheville Aesthetics Committee to determine the type of visualization work that may be necessary to more clearly convey the project alternative(s) under consideration. However, this review and coordination will cause delay in the completion of the Draft Environmental Impact Statement for the project and ultimately the right-of-way acquisition and construction schedules for the project. The extent of the delay will not be known until the study is complete. In addition, if the alternative can be modified, it does not ensure that the alternative will ultimately be selected as the 'Least Environmentally Damaging Practicable Alternative' for this project. I hope this information helps address and relieve the concerns noted by the city council. The Department looks forward to further coordination with the city regarding this important project. Please contact Mr. Thornburg at ... and let him know if you would like for us to proceed with this additional study and to provide the name of the city representative that will assist in this effort." She said that she met with Mr. Thornburg after the NCDOT presentation was made to City Council and expressed concerns of how their staff treated

Council. On behalf of the NCDOT staff, Mr. Thornburg apologized on the way some of the answers were given to Council. He said that he would see that the NCDOT worked with City Council on this issue. She asked him to put that in writing, which was the letter she just read.

A resident of West Asheville was concerned that all aspects of Alternative B for I-26 and I-240 extend to about 100 yards from his affordable housing residence and he has not been notified at all about any of these I-26 proposal plans. He was concerned about how this proposed project affects him regarding noise, emissions, lighting, overall construction process, and relocation. He hoped the proposal does not go through.

Ms. Connie Mitchell, architect, said the Asheville Design Center is comprised of architects from our community and she trusts their input.

Mr. Joe Bassett encouraged Council to adopt the resolution.

Councilman Freeborn moved for the adoption of Resolution No. 07-___, authorizing the City Manager to execute an agreement with the ADC center in an amount not to exceed \$70,000 to perform further engineering and analysis of the ADC's proposed alternative to the I-26 Connector Project in conjunction with NCDOT efforts, and whoever the consultant is that is hired by the ADC be the City's representative to coordinate and work with engineering firms under contract with the NCDOT.) This motion was seconded by Councilman Newman.

Councilman Newman spoke about how the I-26 Connector project is the biggest development issue facing Asheville and Western North Carolina in the next decade. He praised the work of the ADC. Of all the different positive planning efforts in Asheville, he thinks this is the most visionary and probably the most important in terms of the potential it has for taking this project forward.

In response to Councilman Newman, Ms. Ball said that in discussions with the NCDOT and the ADC, their desire is to have a report back to Council in 90 continuous days but it may take 2-3 weeks to get geared up.

In response to Councilman Mumpower about delays, Ms. Ball said that there will be a delay but Mr. Thornburg couldn't commit to an exact timeframe. If the study takes approximately three months and they can't find solutions that will work, the study will end. If it will work, then it could take another 6 to 9 more months to bring this alternative up to the same level as the other alternatives that are being explored in the Environmental Impact Statement (EIS) and there may be other things that come up as well. Councilman Freeborn noted that the NCDOT felt that if they didn't fully investigate this alternative now, a viable alternative may come in later during the EIS phase which would then delay the project further.

Councilman Mumpower felt it was unfortunate that we have a process that people can arbitrarily delay. He felt the reason the NCDOT didn't offer solutions was because they felt the problems were insurmountable. He was not willing to spend any more money which will result in delays.

Mayor Bellamy said that the NCDOT has recently held a meeting taking Alternative 5 off the table and asked Asheville to support their decision. What is left on the table is two of the original proposals that the community was not supportive of and one that the ADC looked at and felt they could do better. She didn't see this as hijacking the process, but sees this as what is best for our community in the future. She couldn't speak to why the NCDOT has taken as long (since the mid-1980's) to get to this point, but does feel that there is a sincerity with the ADC's process in that they want to design something that our community can be proud of and be an asset to our community.

When Councilman Davis questioned how the \$70,000 figure was arrived at, Ms. Ball said that the ADC made contact with firms and the City also checked a number of firms as well. The \$70,000 amount does sound reasonable.

Councilman Davis had reservations about where we are going and what we are buying with that \$70,000, however, would like to get past this process. Vice-Mayor Jones responded that since this is a study from an engineering firm, and they stake out their reputation when they place their seal on the study. Because of that she felt there is a lot less likelihood that they will say what the client wants to hear.

Mayor Bellamy said that there has been a couple of Buncombe County Commissioners who would like to see this item on their agenda, so she will ask them formally if they will pitch in, as well as the Land-of-Sky Regional Council.

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

The motion made by Councilman Freeborn and seconded by Councilman Newman carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 - PAGE

Councilman Freeborn moved to adopt Resolution No. 07-144. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

C. RESOLUTION NO. 07-145 - RESOLUTION AMENDING THE RULES OF PROCEDURE FOR THE ASHEVILLE CITY COUNCIL

City Attorney Oast said that in recent months, issues have arisen and practices have developed regarding presentations at Council meetings that warrant addressing in Council's rules. With the availability and wide use of PowerPoint and other technology, presentations to Council increasingly include a major visual component. The proposed amendment to Rule 4 (as seen below) would require that these materials be submitted in advance in order to allow for appropriate staff review and preparation. This requirement would apply to scheduled presentations, not public comment on agenda items, or under informal discussion. This requirement would not apply to quasi-judicial matters or other matters where legal considerations may dictate a different process.

The Rule has also been divided into separate paragraphs for ease of reference (amendments appear as underlines):

4. AGENDA

(a) The city clerk shall prepare the agenda for each meeting as directed by the mayor and the city manager. Any council member may have an item placed on the agenda so long as the request is timely and is consistent with the notice requirements of Rule 2, if applicable, and subject to other requirements set out in these rules. A copy of all proposed ordinances shall be attached to the agenda.

(b) An agenda package shall be prepared that includes, for each item of business placed on the agenda, as much background information on the subject as is available and feasible to reproduce. In order to facilitate preparation of the agenda package, written materials (including display materials) that will be used in presenting an agenda item, including presentations by Council members, shall be provided to the city clerk no later than two Thursdays prior to the day of the meeting at which the item is scheduled. The preceding sentence does not apply to items originating with the City Manager or City Attorney. Each council member shall receive a copy of the agenda and the agenda package and they shall be available for public inspection and distribution or copying when they are distributed to the council members.

PROS:

- Codifies some practices that have recently developed at Council meetings
- Clarifies the situations in which certain rules apply
- Clarifies that rule applies to presentations by Council members

CON:

- May require more advance preparation of agenda items

If Council approves of the proposed rule change, adoption of the resolution is recommended.

When Councilwoman Cape how much notice will be given when the Council member's item is placed on the agenda, Mayor Bellamy said that she would let them know 3 weeks in advance, so the Council member will have the opportunity to get the information to the City Clerk. Mayor Bellamy said that she would like that incorporated into a Rule and voted on as well at a future meeting.

In response to Councilman Freeborn, City Attorney Oast said that Rule 2 deals with the calling a special, emergency, adjourned or recessed meeting. What that essentially means is that you cannot present an item for consideration that the City Clerk was not able to advertise so as to meet legal requirements.

In response to Councilman Freeborn about what is the expectation of a "timely manner," Mayor Bellamy said that she would appreciate not being asked to put something on the agenda today for next week. After a request is received, she would like to have 30 days within which to schedule the item. But when we are at the meeting and someone arbitrarily adds something to a future agenda, she does not have the ability to review what is already scheduled (e.g., public hearings) and re-schedule items, if

necessary. She is not trying to negate anyone's issues, but only asking for common courtesy to allow her the opportunity to review the agendas and place the item as soon as possible where appropriate.

When Councilman Freeborn requested access to the 8-week outlook, Mayor Bellamy reminded him that all of Council receives that information the first Friday of each month. She also noted that Council receives notice of the public hearings that are scheduled two weeks out.

In response to Councilman Newman, City Attorney Oast clarified that the materials for the agenda should be given to the City Clerk about 10 days before the formal meeting that the item is scheduled on.

In response to Vice-Mayor Jones, Mayor Bellamy said that any Council member can have an item placed on the agenda.

When Vice-Mayor Jones felt that at a very minimum Council needs to bring our agendas into lesser content, Mayor Bellamy appreciated that, however, the reality is that our agendas are not that bad, but Council discussion is what prolongs the meeting.

Vice-Mayor Jones said we limited the amount of public comment, but feels trapped because this is a no-win situation since anything can be placed on the agenda. If that starts getting abused by one Council member, then another Council member may wish to do that and then the Mayor is in the middle. Her point is that this is more complex than just this modification.

Mayor Bellamy said that she looked at the entire system holistically and created a system of Council Committees. That is being hijacked as well. It's difficult to sit here knowing that we are spending a lot of time because we love to talk. Some are learning a lot and others are getting bothered. She doesn't have the answer to the balance, so she just tries to keep it going as smoothly as possible, but reality is on some issues we do like conveying our opinion a lot. She challenged someone in the community to time Council comments individually.

Councilman Mumpower felt we are fixing a problem that doesn't exist. There is no pattern of arbitrarily putting things on the agenda, but there have been last minute additions because of legislative issues, etc. He also felt that 1.5 weeks to get the material to the City Clerk is unreasonable. He felt that is not required of City staff and thus creating a double standard. Quite often we don't get our packet from staff until Friday afternoon before the Tuesday meeting and sometimes there is no staff information until the Tuesday meeting. He doesn't think the Mayor needs 1.5 weeks to view Council's material, unless there is some control or censorship issue, and he would be bothered by that. In the few cases where the Mayor has felt challenged or unsupported in her efforts to run the Council meetings, he suggested that a phone call or a discussion prior to the meeting probably could have resolved the majority of concerns. He will not support this action because he feels this will unnecessarily impair Council leadership initiatives and this is not a staff-run City. It is a Council-elected official run City and we should do everything in our power to encourage individual Council members to bring leadership initiatives forward and get it voted up or down on their ability to persuade the majority.

Mayor Bellamy said that as an English major she knows how powerful words are and it is not her goal to impair any activity by any Council member of their ability to be creative in bringing endeavors before this Council. However, as Mayor she is asking to have the authority to do what she has been tasked to do by the citizens - control over the agenda. Staff does have to adhere to this standard as well. Per her instructions, the City Clerk has pulled items off the agenda if the material is not submitted in a timely manner. What she is asking is that Council come into alignment with that schedule process. She understands that Council is thinking of ways to improve the quality of life for our citizens, but she just asks for the timely opportunity to schedule it so that all Council members and the community know that it is coming.

Vice-Mayor Jones asked if an outside group's presentation contained some inappropriate material, what is our ability to say that material is not appropriate. Mayor Bellamy said that she would screen the presentation in advance. Council already has a rule in place about being respectful of the Council and the public by refraining from the use of profanity or foul language, to refrain from personal attacks, etc.

There is a brief discussion about the partisan election presentation made by Councilman Mumpower on July 10, 2007, and whether or not the presentation was made available to the Mayor in advance.

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

Councilman Newman moved for the adoption of Resolution No. 07-145. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

D. RESOLUTION NO. 07-146- RESOLUTION AMENDING THE CITY'S 2006 AND 2007 ACTION PLANS TO REALLOCATE FUNDING FOR DIRECT HOME OWNERSHIP ASSISTANCE FROM NEIGHBORHOOD HOUSING SERVICES OF ASHEVILLE TO MOUNTAIN HOUSING OPPORTUNITIES

Mayor Bellamy said that "I have been a proud employee for Mountain Housing Opportunities for the last 10.5 years. I've grown as an individual in a lot of different ways being a member of that staff as a Marketing Manager. After a lot of prayer and a heart-felt decision, my husband asked me to come work with his business and I gladly accepted to work with him as a marketing manager, so to speak. As of July 31 I will no longer be employed by Mountain Housing Opportunities and this will probably be the last time that I will be recused - but there are some HUD standards so I will have to wait some time before I vote on their issues. In the past, whenever Mountain Housing Opportunities comes up, I had the mike over to the Vice-Mayor and I politely leave the room and don't discuss the issue with Council. But I felt like this affects me as Mayor that I need, from this seat, to announce to the community that I am leaving my friends, I'm leaving people who have supported me when others didn't. I'm leaving people who have been there for me when others in the community were not. And so, with that ..." Feeling emotional, Mayor Bellamy turned the gavel over to Vice-Mayor Jones.

City Attorney Oast said that he checked into the issue of the Mayor waiting a period of time before voting on their issues and that may not be the case.

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

City Attorney Oast read the following HUD disclosure statement for Mayor Terry M. Bellamy: "Under North Carolina law, all members of City Council, including the Mayor, are precluded from voting on matters in which they have a financial interest or that involves their own official conduct. They are also prohibited from entering into contracts with the City or otherwise having a financial interest in such contracts. Further, recent amendments to the zoning enabling laws have expanded and clarified the issue of council member conflicts of interest with respect to land use decisions. Under State law, a Council member may not only not participate in the vote on matters in which they have a financial interest, they may not attempt to influence the vote or the administration of the contract. Where an employee of an agency that receives funds from the U. S. Department of Housing and Urban Development (HUD) becomes a member of the governing board of a unit of local government that makes decisions regarding those funds, federal regulations require the additional step of reporting the situation to HUD, and requesting an opinion as to whether that employee's governmental service is consistent with the intent of the regulations. When such opinions are requested, exceptions are made as appropriate. Mayor Terry Bellamy is an employee of Mountain Housing Opportunities, an organization that receives funds from HUD, through the City of Asheville. Although she is not directly involved in any HUD-funded activities, her election to Council in 1999 and as Mayor in 2005 triggers the application of the regulation requiring us to seek the exception with respect to Council actions involving the City's receipt or disposition of HUD funds. Our review - including analysis of the regulation, conversations with HUD officials, Ms. Bellamy and other officials at MHO - has indicated that Ms. Bellamy, because of the nature of her job, is not in a position to benefit directly from the receipt of HUD funds by MHO. Even so, as Mayor and a member of Council, State law would preclude her from voting on any matters that directly affected MHO. While State law affects the ability of a member of Council to vote on particular items, the exception required by HUD affects the City's ability to receive and administer HUD funds, and HUD officials have advised that the exception should be requested on a case-by-case basis. In this case, the action for which the exception will be requested is the amendment to the City's 2006-07 Action Plan to re-allocate funding for direct home ownership assistance from Neighborhood Housing Services to Mountain Housing Opportunities. (New Business item D. on the July 24, 2007, agenda.) This is brought to your attention now because public disclosure is one of the prerequisites of requesting the exception from HUD. Unless Council has questions or an objection, the City Attorney's office will send out the appropriate correspondence to HUD to inquire about and, if necessary, to secure the exception as soon as possible."

Community Development Director Charlotte Caplan said that this is the consideration of a resolution to amend the City's 2006 and 2007 Action Plans to re-allocate funding for direct homeownership assistance from Neighborhood Housing Services of Asheville (NHS) to Mountain Housing Opportunities (MHO).

NHS closed down its daily operations on June 30, 2007, after experiencing financial problems stemming from rising costs in its housing construction program. Its lending program, which provides second mortgage loans to low-income homebuyers, remains an active and viable program which has helped over 60 families to buy homes in the Asheville area in the past year. The NHS Board has proposed transferring the program to MHO, which is willing to take it over.

The lending program is currently funded from several sources, which gives it considerable flexibility in meeting the needs of different clients. The following funds committed by the City to this program are currently unspent:

CDBG: \$436,238 for loans in Asheville (balance of \$59,988 from 2006 plus a new allocation of \$376,250 in 2007).

ADDI (American Dream Downpayment Initiative): \$34,949 for loans in Buncombe, Madison, and Transylvania Counties (balance of \$10,023 from 2006 plus \$24,926 in 2007).

Additionally, NHS was to be the administrative agent for \$164,076 in HOME funds awarded to Buncombe County for loans in Buncombe County outside Asheville. Buncombe County is in process of selecting a new administrative agency for those funds, and we expect MHO will apply.

NHS also manages an extensive portfolio of loans from previous City-funded rehabilitation, housing construction, and direct homebuyer assistance programs. The value of the portfolio is approximately \$1,800,000. Income from loan repayments must be used for CDBG- or HOME-eligible activities. There is provision in the original funding agreements for loans to be assigned to another entity, provided the City approves.

NHS and MHO have requested that the CDBG and ADDI funding, together with the existing loan portfolio, be transferred to MHO. MHO will also seek to become NHS's successor as the local NeighborWorks charter member, giving it access to other funding sources.

Re-allocation of the CDBG and ADDI funds to another agency is a non-substantial Action Plan amendment, requiring Council approval but no public hearing.

The Housing and Community Development Committee has recommended re-allocating the CDBG funding and the existing CDBG loan portfolio to MHO, and the Asheville Regional Housing Consortium Board has made a similar recommendation for the ADDI funds.

Pros:

- Continues a valuable and effective program with minimum disruption to its operation and staffing;
- MHO has proven capacity in operating a wide range of affordable housing programs;
- Retains a variety of funding sources under control of one agency - important for program efficiency and flexibility;

Con:

- Puts a lot of eggs in one basket. CDBG and HOME allocations to MHO for all its activities in Fiscal Year 2008 would increase from \$1,116,608 to \$1,522,720, or from 29% to 40% of total funds available.

Alternatives to the NHS/MHO proposal are:

1. Advertise a request for proposals from agencies interested in operating the program.
 - Pro – Introduces open competition into process.
 - Con – Will delay resumption of services; key staff may seek other employment;
 - MHO is likely to emerge as the best qualified, if not the only applicant.
2. Cancel loan program and re-allocate funds to other activities.
 - Pro – Allows full exploration of other program options.
 - Con – Loss of an effective program for making homeownership affordable.

Staff recommends that City Council approve a resolution to amend the City's 2006 and 2007 Action Plans to re-allocate funding for direct homeownership assistance from Neighborhood Housing Services of Asheville (NHS) to Mountain Housing Opportunities (MHO).

On behalf of City Council, Vice-Mayor Jones thanked NHS for their great service to our community.

Vice-Mayor Jones said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Mumpower moved for the adoption of Resolution No. 07-146. This motion was seconded by Councilwoman Cape and carried unanimously.

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At this time, Vice-Mayor Jones turned the gavel back over to Mayor Bellamy.

VII. OTHER BUSINESS:

A. SECTION 287 (G) OF THE IMMIGRATION AND NATIONALITY ACT

Police Chief Bill Hogan said that based on City Council's direction to research the viability of the Asheville Police Department's participation in Section 287(g) of the Immigration and Nationality Act, I have compiled the following report.

Section 287 (g) authorizes the Secretary of Homeland Security to enter into agreements with state and local law enforcement agencies, permitting designated officers to perform immigration law enforcement functions, pursuant to a Memorandum of Agreement (MOA), provided that the local law enforcement officers receive appropriate training and function under the supervision of sworn U.S. Immigration and Customs Enforcement (ICE) officers.

This report contains a summary of findings as related to the Asheville Police Department.

- Section 287 (g) does not give local law enforcement blanket authority to act in the capacity of a federal immigration agent. The law allows state and local governments to enter into a Memorandum of Agreement (MOA) with the Homeland Security Department to act as immigration officers under direct federal supervision.
- The Henderson County Sheriff's Department has signed an MOA with the federal government to become the regional clearing facility for illegal aliens. This local agency would have the same arrangement with the Immigration and Customs Enforcement Agency (ICE) as the Mecklenburg County Sheriff's Department. To date, Henderson County has not been trained, which is required before their agency becomes the regional hub and transportation agency for illegal immigrants.
- We have attempted to contact the local ICE agent to discuss the details of a 287 (g) agreement but have been unable to meet with this gentleman. We wanted to know if ICE would recognize two regional agencies and enter into an agreement with both agencies. This question remains unanswered at this time.
- The sworn members of the Asheville Police Department are responsible for enforcing all criminal violations of state law and city ordinances.
- The majority of immigration violations are considered civil and are enforced through a civil deportation process.
- Any unlawful detention of an individual may subject the City of Asheville to a civil rights lawsuit under Title 42 USC section 1983.
- The city at its own initiative does not have the legal authority to detain and transport illegal immigrants to a regional processing facility.
- APD officers can only seize a person suspected of committing a deportable immigration violation if ICE has issued a detainer for that person.
- Pursuant to a properly issued detainer, a suspected illegal immigrant is detained at a local jail. ICE is responsible for going to the local facility to determine whether there is an immigration violation. ICE decides whether to release the suspect or transport the suspect to a regional processing facility for further action. Local law enforcement cannot force ICE to take a suspect for further immigration proceedings.
- Asheville police officers *already* detain suspected illegal immigrants involved in drug sales pursuant to 8 USC 1357, if the officers think the suspects are not lawfully admitted to the U.S., but only when specific conditions are met. The officer must immediately notify ICE regarding the facts and then ICE must issue a detainer. If ICE does not issue a detainer, the APD officer cannot continue to hold the individual for a suspected immigration violation. However, APD can detain the person for the state criminal law violation subject to a bond being set for release.

It is the Police Chief's recommendation that police personnel of the Asheville Police Department continue to focus their efforts on violations of criminal law. As we have done in the past, we will continue to address illegal immigration associated with violations of criminal law.

If it is the direction of City Council to pursue a 287 (g) agreement with the Secretary of Homeland Security, we will enter into such an agreement as quickly as ICE will assist and accommodate us in this request.

The following individuals spoke in support of the Police Chief's recommendation (1) to not participate in Section 287(g) of the Immigration and Nationality Act; (2) that the Police Department continue to focus their efforts on violations of criminal law; and (3) to continue to address illegal immigration associated with violations of criminal law:

Mr. Carlos Gomez, executive director of a health care safety net provider
Rev. Christopher Chiaromonte
Ms. Ada Volkmer, citizen of the United States
Ms. Minnie Jones, civil rights leader
Ms. Sorto, speaking on behalf of the Center for Participatory Change
Employee of a transitional housing program for women and children who are homeless

due to domestic violence

Ms. Althea Gonzales, Director of Health Parity of the Buncombe County Medical Society
Legal Assistant for the immigration attorney at Pisgah Legal Services
Ms. Jeri Soloman, Director of Internationally
A Catholic Priest
Ms. Heather Rayburn, Asheville resident
Ms. Andrea Golden, Asheville resident
Ms. Edna Campos, Asheville business owner
Ms. Sara Hardin, citizen of the United States
Ms. Bango, area consultant

The following individuals spoke in favor of the City addressing illegal immigration:

Mr. H. L. Carlyle
Ms. Kathy Lack, Asheville business owner
Ms. Cathy Rhodarmer, Buncombe County resident

Police Chief Hogan responded to various questions from Councilman Mumpower, some being, but are not limited to: request for the name of the local ICE agent; how many illegal immigrants have we identified and transferred to ICE over the past two years; and what can happen to an illegal immigrant who is arrested for DUI and has no license.

Councilman Mumpower said that he is the ally of people who come to this country legally to uplift it. He is the enemy of people who come to this country illegally to use it. That is why he keeps bring this issue up. Statistics are not accurate because we have no way of measuring who we have - no way of identifying those people and the statistics only apply to people who are clearly identified. He read some of the illegal immigration laws of Mexico, e.g., there will be no special bi-lingual programs in the schools; all ballots will be in this nations language; all government business will be conducted in our language; non-residents will not have the right to vote no matter how long they are here; non-citizens will never be able to hold political office; foreigners will not be a burden to tax-payers; there will be no welfare, no food stamps, no health care or other governmental assistance programs; anyone who shall become a burden shall be deported, if you do come to this country illegally, you will be actively hunted and when caught, sent to jail until your deportation can be arranged, etc. He felt it's absolutely absurd that on the other side of the border they have draconian laws and on this side we represent the other extreme. He felt that Section 287 (g) is a symbolic step. We are trying to create some bridge to the federal government that gives us some ability to take some action. He will be back with more proposals.

Vice-Mayor Jones moved to adopt Police Chief Hogan's recommendations. This motion was seconded by Councilwoman Cape.

Mayor Bellamy said that sitting as Mayor, she goes to different meetings and some of the information received isn't public knowledge. She met with the U.S. Attorney's Office and talked about illegal immigration as it relates to illegal crimes and drug charges. During the meeting they talked about our illegal drug trade and the fact that in North Carolina we did a good thing in Raleigh of taking Sudafed off the shelves and requiring it to be bought behind the counter. Our local meth labs plummeted. But then they saw a spike going back up with meth usage and creation because it was being brought in. They also talked about how our region is being affected by uncut ice and uncut meth. It is unprecedented to anything that was being created locally. Regardless of whether people are mules, doing it for payment to get in the country legally, or because their families are being held hostage, the U.S. Attorney made a correlation between illegal activities and people coming into our country illegally. One reason why she asked for a local immigration study committee of objective people, people who care about good government, was to have them really look at these issues so we can have good data to see the statistics. She has heard conflicting numbers the last couple of weeks. The Charlotte-Mecklenburg model works because they have people who are sincere and who want to accumulate good data. She was conflicted not only because the Chief didn't support it, but because we don't have good data. There are some things that need to be addressed locally, and is this one of them. Again, she doesn't have the data to know if this is the best thing to do. She questioned if Sheriff Duncan feels the same way; does the District Attorney support it; how are we working with them, particularly because they are in charge of the jails; and have we received anything from Henderson County to say they want Asheville to join with them or do they feel like if they have more people supporting their initiative that maybe we will get more response from the Dept. of Homeland Security. There is no data.

Vice-Mayor Jones sympathized with the issue as she adopted a Guatemalan girl and it has taken her 3.5 years to get her daughter's citizenship, which process was expedited by Senator Dole. At some point along the way she will experience this issue. This is not a big problem for us, but it is a big problem for our country. She is still conflicted about the Local Immigration Study Committee and felt this is a bad use of community energy. She was going to ask Council to re-visit that issue. She doesn't think this will take our community forward.

The motion made by Vice-Mayor Jones and seconded by Councilwoman Cape carried on a 6-1 vote, with Councilman Mumpower voting "no."

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Councilman Mumpower updated Council on his trip to New York City. He spent two days with drug intervention officers. Based on that exposure in New York, they have a model of success in driving their open air drug market underground. There is a model of success. He felt if they can do it, we can do it.

Councilman Davis updated Council on his, Mayor Bellamy and Vice-Mayor Jones' inter-city visit to Chattanooga, Tennessee, to review a homeless service campus model. He felt that was time well spent and hoped that we can assemble the information learned there and use that in the future.

Mayor Bellamy briefed City Council on her trip from Washington, D.C., earlier today. She has been traveling quite a bit talking to our local representatives and congressmen as well as our senators in order to keep Asheville in the forefront of their minds. Years ago City Council decided not to hire a lobbyist and so as Mayor she feels that as a policy-maker she should continue conversation with them. On behalf of the City of Asheville she had an opportunity to talk to Congressman Shuler and he gave her following update on what is happening financially for the City of Asheville. Some of them have passed the House and are going to the Senate and some are still pending: (1) City of Asheville - Asheville Replacement Buses - \$300,000; (2) City of Asheville - Police Department Firing Range - \$100,000; (3) City of Asheville - Methamphetamine Enforcement - \$100,000; (4) UNC-Asheville - Zeis Science and Multimedia Building - \$100,000; (5) Mission Hospitals - Mission Children's Hospital in Asheville - \$200,000; (6) Blue Ridge Parkway - Visitors Center - \$500,000; (7) Blue Ridge Parkway - Road Maintenance - \$1.9 Million; (8) NC National Guard - Asheville Field Maintenance Shop - Pending; and (9) Mission Hospitals - Records System - Pending. Some additional grants that his staff is working on includes: (1) Asheville-Buncombe Community Christian Ministry - Homeless Veterans Reintegration Program - \$600,000 over 3 years; (2) F.I.R.S.T. - Community Parent Resource Centers - \$100,000; and (3) UNC-Asheville - Complete publication of Henry of Ghent's longest work - \$80,000. Another thing she has talked with him about consistently is the shortage of agents we have in our community. On behalf of the 11th District, Congressman Shuler has written a letter to the Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives for additional agents. Said letter reads in part "According to my information, the area is allocated three agents and we only have one, leaving us two agents short." Congressman Shuler also sent a letter on Asheville's behalf to the Director of the Federal Bureau of Investigation. Said letter reads in part "According to my information, the area is allocated eight agents and one supervisor, and we only have four agents and one supervisor, leaving us four agents short." She also advised Congressman Shuler today about we are short in DEA agents so he will also look into that on our behalf. Senator Burr has assisted us in getting \$200,000 appropriation for the Reid Center. This is a start in helping build a relationship. She also pressed upon them the fact that we wanted no more unfunded mandates. Today we delayed the talk of stormwater requirements and that was at the urging of our federal government to put that into place. It is an unfunded mandate that requires local governments to enact on people. She asked them lessen the number of unfunded mandates in the future.

Rev. Christopher Chiaromonte questioned the possibility of conflict of interest of all Council members regarding partisan vs. non-partisan election.

Mr. H. L. Carlyle suggested City Council face all the seating and amenities in Pritchard Park inward like the "Great Wall of China." Regarding restrooms, he suggested placing a couple of port-a-johns in the area drilled into the ground.

At 11:53 p.m., Councilman Freeborn moved to go back into closed session. This motion was seconded by Councilwoman Cape and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

At 12:00 a.m., Councilwoman Cape moved to come out of closed session. This motion was seconded by Councilman Freeborn and carried unanimously.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 12:00 a.m.

CITY CLERK

MAYOR