

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Davis gave the invocation.

I. PROCLAMATIONS:

Mayor Bellamy recognized Dr. Betty Young, new President of Asheville-Buncombe Technical Community College and said that the City of Asheville held a formal reception welcoming her to our community. Dr. Young spoke about her excitement of growing and sustaining A-B Technical Community College. Dr. Ann Ponder, Chancellor of UNC-Asheville also welcomed Dr. Young to Asheville.

Mayor Bellamy also said it was her honor to recognize the scientists at NOAA's National Climatic Data Center for their role with the United Nations' Intergovernmental Panel on Climate Change. This remarkable group of scientists was recently awarded the Nobel Peace Prize for their efforts to disseminate knowledge about man-made climate change. The IPCC has issued a series of reports on climate change. Hundreds of authors from all regions of the planet have devoted an incredible amount of time and expertise to writing and reviewing the reports. None of them has been paid for their time. Asheville boasts four lead authors of the most recent report, issued in 2007, three of which are employed by NOAA in our community. These citizens are Thomas Karl (Review Editor), David Easterling (Lead Author), Thomas Peterson (Lead Author) and Lennie Bernstein (Lead Author). In addition, more than half dozen other scientists who live in Asheville and work with the National Climatic Data Center served as contributing authors of the report. This achievement is a remarkable testament to the dedication, commitment and sheer talent of these professionals. She was extremely proud of their work, which is a watershed movement to comprehensively assess climate change. She was even more proud to say that these scientists are our neighbors, our friends and our colleagues in Asheville. She said that the City of Asheville is in the process of organizing a more formal reception for these individuals, but wanted to highlight them as extraordinary citizens.

A. PROCLAMATION PROCLAIMING OCTOBER 2007 AS "BREAST CANCER AWARENESS MONTH"

Vice-Mayor Jones read the proclamation proclaiming October, 2007, as "Breast Cancer Awareness Month" in the City of Asheville. She presented the proclamation to Ms. Denise Steuber and Ms. Janet Magruder, both from Mission Hospitals, who thanked Council for this recognition.

B. PROCLAMATION PROCLAIMING OCTOBER 2007 AS "FIRE PREVENTION MONTH"

Councilman Davis read the proclamation proclaiming October, 2007, as "Fire Prevention Month" in the City of Asheville. He presented the proclamation to Fire Chief Greg Grayson and Specialist Kelley Webb, who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING OCTOBER 16, 2007 AS "TRAVIS MILLER DAY"

Mayor Bellamy read the proclamation proclaiming October 16, 2007, as "Travis Miller Day" in the City of Asheville. She presented the proclamation to Mr. Miller, a Junior Lifeguard who made a life save at the Malvern Hills pool. On behalf of the American Red Cross, he was also presented with a Certificate of Recognition for Extraordinary Personal Action for his commitment to saving lives.

D. PROCLAMATION PROCLAIMING OCTOBER 20, 2007 AS "CONSCIOUS MOVEMENT DAY"

Councilwoman Cape read the proclamation proclaiming October 20, 2007, as "Conscious Movement Day" in the City of Asheville. She presented the proclamation to Mr. Accem Scott, representing A Circle of Light Healing, who thanked Council for their recognition noting that there should be conscious movement every day.

E. PROCLAMATION PROCLAIMING OCTOBER 27, 2007 AS "MAKE A DIFFERENCE DAY"

Councilman Freeborn read the proclamation proclaiming October 27, 2007, as "Make A Difference Day" in the City of Asheville. He presented the proclamation to Mr. Lance Edwards, representing the United Way of Asheville-Buncombe County, who thanked Council for their recognition.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items "A" and "F" - "K" were removed from the Consent Agenda for individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 25, 2007, AND THE SPECIAL MEETING ON OCTOBER 3, 2007

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

B. RESOLUTION NO. 07-178 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY AN EASEMENT OVER A PORTION OF CITY-OWNED PROPERTY AT 70 WEST CHAPEL ROAD AT THE RAY KISIAH PARK TO RDG DEVELOPMENT FOR THE PURPOSE OF INSTALLING A SEWER LINE TO SERVICE A RESIDENTIAL SUBDIVISION

Summary: The consideration of a resolution authorizing the Mayor to convey an easement over a portion of City-owned property at 70 West Chapel Road at the Ray Kisiah Park to RDG Development for the purpose of installing a sewer line to service a residential subdivision.

The City owns property (PIN # 9657.19-52-1012) located on West Chapel Road that is currently maintained as the Ray Kisiah Park. The potential easement area is located on the Southern property line of the Ray Kisiah Park, running approximately 320 feet alongside West Chapel Road. This area consists of a grassed lawn with a swale that carries street runoff water. The Parks Department has stated that there are no proposed uses or plantings intended for this area due to needed sight distance from the park's entry drive and the sloping terrain. Conveying this easement will have no effect on the Greenway Master Plan, in that no trail is proposed through this area and moreover, greenways can be constructed over underground Metropolitan Sewerage District (MSD) structures, with approval from MSD.

Considering the location of existing MSD structures, the requested easement would provide the most direct and efficient route to the sewer main. The easement would be solely for the purpose of installing and maintaining the sewer line and would not restrict the City from maintaining the current use and would not restrict the City from installing a sidewalk, if future plans arise.

Using updated tax valuations, the value of the easement was determined by averaging the City property land value with three other adjacent property land values to determine a per acre price, then reducing the per acre value by 50% to reflect easement interest. The easement comprises an area of approximately 6,238.8 square feet (0.14 acres) and the corresponding price for easement purchase is \$ 2,932.

The Recreation Board has approved the easement to RDG Development LLC for this purpose. Approval of the resolution will authorize conveyance of the easement to RDG Development LLC for the purpose of a sewer line to service a subdivision.

Pros:

- Modest amount of compensation for the property
- The easement would not interfere with the operation of the Ray Kisiah Park nor any relevant future plans
- It would benefit a proposed, neighboring residential development

Con:

- A modest amount of land could not be used in the Ray Kisiah Park

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Parks & Recreation and Economic Development staff recommends City Council approve a resolution authorizing the Mayor to convey an easement over a portion of City-owned property at 70 West Chapel Road at the Ray Kisiah Park to RDG Development for the purpose of installing a sewer line to service a residential subdivision.

RESOLUTION BOOK NO. 30 - PAGE 437

C. RESOLUTION NO. 07-179 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY AN EASEMENT OVER A PORTION OF CITY-OWNED PROPERTY AT THE NATURE CENTER LOCATED AT 75 GASHES CREEK ROAD TO JOHN REESE FOR THE PURPOSE OF A PRIVATE RESIDENTIAL SEPTIC FIELD

Summary: The consideration of a resolution authorizing the Mayor to convey an easement over a portion of City-owned property at the Nature Center to John Reese for the purpose of a private residential septic field.

The City owns property (PIN 9668.13-03-6345) located at 75 Gashes Creek Road that encompasses the Nature Center. The potential easement area is located along the southeast property line of the Nature Center, within an area that is maintained as a wooded buffer between the established residential neighborhood and City property.

John David Reese owns property directly adjacent to the Nature Center property, and would like to build a small home on his lot to replace the mobile home that he currently occupies. In order to accomplish this, the Buncombe County environmental inspector requires that his septic drain field be improved and enlarged. With the given narrowness of the lot, it is necessary a small portion of the new drain field encroach upon City property to accommodate the repair area. The easement would be solely for the purpose of installing and maintaining a septic drain field and would not restrict the City from maintaining the current use as a buffer area. Conveying this easement will have no effect on the Greenway Master Plan, in that no portion of the greenway trail is proposed through this area.

Note that connection to a Metropolitan Sewerage District sewer main is not realistic in this situation. The closest sanitary sewer connection is over 500 feet in distance. Excavation of this incredible distance would be prohibitively expensive and would likely be complicated by the potential lines' depth necessary to achieve positive gravity feed and the probability of encountering rock.

The total area that Mr. Reese is requesting is 0.071 acres (3,092.76 square feet). The Buncombe County tax valuation of the Nature Center property is at \$ 98,599 per acre. The easement value is calculated at 50% of the land value rendering an easement value of \$ 3,500.

Pros:

- Modest amount of compensation for the property
- The easement would not interfere with the operation of the Nature Center nor any future plans
- It would benefit an existing, neighboring residential use

Con:

- A modest amount of land could not be used by the Nature Center

Parks & Recreation and Economic Development staff recommends City Council approve a resolution authorizing the Mayor to convey an easement over a portion of City-owned property at the Nature Center to John Reese for the purpose of a private residential septic field.

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D. RESOLUTION NO. 07-180 - RESOLUTION OF INTENT TO CLOSE A PORTION OF ATKINS STREET AND SET A PUBLIC HEARING FOR NOVEMBER 13, 2007

Summary: The consideration of a resolution of intent to close a portion of Atkins Street and set a public hearing for November 13, 2007

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

Pursuant to this statute, David Matney, attorney at law, on behalf of 2130 Hendersonville Road, LLC has requested the City of Asheville permanently close a portion of Atkins Street.

Prior to the public hearing scheduled for November 13, 2007 agencies that may be affected by the closure of Atkins Street will be contacted, including Utilities, and City of Asheville Departments. The closure of Atkins Street will be presented to the Greenway Commission on October 11, 2007.

City staff recommends that City Council adopt the resolution setting a public hearing for November 13, 2007 to close a portion of Atkins Street.

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E. RESOLUTION NO. 07-181 - RESOLUTION OF INTENT TO CLOSE A PORTION OF THE RIGHT-OF-WAY FOR ROSSCRAGGON ROAD AND SET A PUBLIC HEARING FOR NOVEMBER 13, 2007

Summary: The consideration of a resolution of intent to permanently close a portion of the right-of-way for Rosscraggon Road and set a public hearing for November 13, 2007.

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

Pursuant to this statute, David Matney, attorney at law, on behalf of 2130 Hendersonville Road, LLC has requested the City of Asheville permanently close a portion of the right-of-way for Rosscraggon Road.

Prior to the public hearing scheduled for November 13, 2007 agencies that may be affected by the closure of a portion of the right-of-way for Rosscraggon Road will be contacted, including Utilities and City of Asheville Departments. The closure of a portion of the right-of-way for Rosscraggon will be presented to the Greenway Commission on October 11, 2007.

City staff recommends that City Council adopt the resolution setting a public hearing for November 13, 2007 to close a portion of the right-of-way for Rosscraggon Road.

RESOLUTION BOOK NO. 30 - PAGE 440

F. RESOLUTION APPROVING ORGANIZATION AND PRESERVATION OF ASHEVILLE URBAN RENEWAL FILES AT THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE

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

G. BUDGET AMENDMENT FOR THE ORGANIZATION AND PRESERVATION OF ASHEVILLE URBAN RENEWAL FILES AT THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE

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

ORDINANCE BOOK NO. 23 - PAGE

H. RESOLUTION AUTHORIZING A PUBLIC HEARING TO BE HELD ON NOVEMBER 13, 2007, ON AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO VOLVO CONSTRUCTION EQUIPMENT NORTH CAROLINA INC.

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

I. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH FIGG BRIDGE TO EVALUATE THE ASHEVILLE DESIGN CENTER'S ALTERNATE OF THE I-26 CONNECTOR

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

J. BUDGET AMENDMENT TO REFLECT BUNCOMBE COUNTY'S CONTRIBUTION FOR THE EVALUATION OF THE ASHEVILLE DESIGN CENTER'S ALTERNATE OF THE I-26 CONNECTOR

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

K. RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO ENTER INTO A CONTRACT WITH GREENPLAY, LLC, TO DEVELOP A PARKS & RECREATION MASTER PLAN

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

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

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 25, 2007, AND THE SPECIAL MEETING ON OCTOBER 3, 2007

Councilman Freeborn moved to approve the minutes of the September 25, 2007, City Council meeting. This motion was seconded by Councilwoman Cape and carried unanimously.

At Councilman Mumpower's request to amend the October 3, 2007, City Council minutes to include Representative Bruce Goforth's comments regarding consolidation, he moved to continue approval of the October 3, 2007, minutes until November 13, 2007. This motion was seconded by Councilman Freeborn and carried unanimously.

F. RESOLUTION NO. 07-182 - RESOLUTION APPROVING ORGANIZATION AND PRESERVATION OF ASHEVILLE URBAN RENEWAL FILES AT THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE

Summary: The consideration of a resolution approving organization and preservation of Asheville Urban Renewal Files at the UNC-Asheville and associated budget amendment in the amount of \$10,000.

Over the years, the City of Asheville has participated in the United States Urban Renewal Plan. During this renewal, many of the neighborhoods in Asheville were substantively changed, along with the history of businesses and homes that existed prior to urban renewal. During this Renewal, the Asheville Housing Authority requested that the City of Asheville save and store many of the files relating to the original businesses and homes.

City staff determined that many of the original files, including photographs, were of significant historical value to the City of Asheville and its residents. Staff worked with Mountain Housing Opportunities to sort through an extensive number of original real estate files.

UNC-Asheville offered to organize, preserve and make available to the community these important historical documents, and staff made arrangements to have them delivered to the D.H. Ramsey Library on the UNC-Asheville campus.

UNC-Asheville has requested funding in the amount of \$10,000 for processing of the documents. Processing includes, but is not limited to, preservation, organization, re-boxing, labeling, scanning, OCR, data entry, web-page development, data access management and data migration of the Urban Renewal Files.

This would be funded through the \$100,000 in City Manager Contingency funding that was included in the adopted 2007/2008 General Fund budget.

Pros:

- The history of the businesses and homes that existed prior to urban renewal is important to the history of the City of Asheville.
- UNC Asheville has a valuable and heavily used special collection of historical archival information about the City of Asheville and the Western North Carolina region.
- UNC Asheville has a strong interest in providing scholarly access to urban Appalachian material for the community, the university and to scholars at large.
- The Urban Renewal of the south-side of Asheville was a significant historical event for the African American community and for Asheville UNC-Asheville Special Collections seeks to preserve and to share this important history with the community at large to better understand future urban re-development.

Con:

- Cost.

Staff recommends consideration by City Council a resolution approving organization and preservation of Asheville Urban Renewal Files at the UNC-Asheville and associated budget amendment in the amount of \$10,000.

In response to Councilman Mumpower, Mayor Bellamy said that the work that has been done to preserve Asheville's history of what happened during urban renewal is monumental and the level of filing and documenting is important to be done

correctly. She was pleased that we are partnering with UNC-Asheville and thanked them for their ability to accept this task to house a piece of Asheville's history.

Vice-Mayor Jones agreed with Mayor Bellamy that this is a great deal for what UNC-A is offering. She supported the local history program at UNC-Asheville, noting this is an excellent way that we can tap into our history from our home computers.

Vice-Mayor Jones moved for the adoption of Resolution No. 07-182. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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G. ORDINANCE NO. 3539 - BUDGET AMENDMENT FOR THE ORGANIZATION AND PRESERVATION OF ASHEVILLE URBAN RENEWAL FILES AT THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE

Summary: See Item "F" above.

Vice-Mayor Jones moved for the adoption of Ordinance No. 3539. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

H. RESOLUTION NO. 07-183 - RESOLUTION AUTHORIZING A PUBLIC HEARING TO BE HELD ON NOVEMBER 13, 2007, ON AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO VOLVO CONSTRUCTION EQUIPMENT NORTH CAROLINA INC.

Summary: The consideration of a resolution authorizing a public hearing to be held on November 13, 2007 to consider an Economic Development Incentive Grant for Volvo Construction Equipment North America, Inc.

Volvo Construction Equipment North America, Inc. is an internationally recognized leader in the manufacture of construction equipment with a facility in Asheville. The company is proposing new, taxable, capital investment of \$20,000,000 for additional production equipment and facility improvements. Volvo Construction Equipment North America, Inc. has requested consideration for an incentive grant under the City of Asheville Economic Development policy. The City of Asheville is considering offering Volvo Construction Equipment North America, Inc. a performance-based grant totaling \$599,200. The performance-based grant will be paid over a seven (7) year period. Payments begin after the investment is made, taxes are paid and verified, and the company requests payment.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

City staff recommends Council approve a resolution authorizing a public hearing to be held on November 13, 2007 to consider an Economic Development Incentive Grant for Volvo Construction Equipment North America, Inc.

Councilman Mumpower said that we are basically rewarding Volvo for making a significant investment in the community. He was pleased to have them as a strong employer, but he was not comfortable with what some people call corporate welfare.

Mayor Bellamy was excited about setting the public hearing for the public to learn about what the City of Asheville is doing to invest in additional high paying jobs in our community.

Councilman Newman moved for the adoption of Resolution No. 07-183. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 - PAGE 442

I. RESOLUTION NO. 07-184 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH FIGG BRIDGE TO EVALUATE THE ASHEVILLE DESIGN CENTER'S ALTERNATE OF THE I-26 CONNECTOR

Summary: The consideration of a resolution authorizing the City Manager to execute an agreement with Figg Bridge in the amount of \$70,000 to evaluate the Asheville Design Center's alternate of the I-26 Connector and the associated budget revision.

On August 14, 2007, City Council authorized staff to solicit proposals from qualified professionals to evaluate the Asheville Design Center's (ADC) alternative for the I-26 Connector. A Technical Review Committee (TRC) was established consisting of six

professionals in the area of engineering, architecture and/or planning. This group consists of two representatives from the County, two from the City and two from the Asheville Design Center.

We received four proposals on September 12, 2007. The TRC reviewed the proposals and short listed three consulting firms. The TRC interviewed these firms on September 24, 2007. The committee selected Figg Bridge to perform the work.

Following Council's approval, Figg Bridge will be given a notice to proceed. The work will take ninety (90) days to complete the work. They should be complete by mid-January 2008.

Figg Bridge will evaluate the methodology the North Carolina Department of Transportation (NCDOT) used in their review of the Asheville Design Center's alignment. The consultant will meet with the NCDOT and review the criteria used to make its recommendation develop options to overcome the hurdles that NCDOT outlined their report. The consultant will then provide City Council with a report detailing their findings.

On July 24, 2007, City Council adopted a budget amendment appropriating \$70,000 from the fund balance for this project. Since that time, Buncombe County has agreed to contribute \$35,000 toward the cost of this project. The budget revision changes the original amendment that was adopted by City Council to reflect Buncombe County's contribution, thus reducing the fund balance appropriation by \$35,000.

Pros:

- Assist the City in deciding how to move forward with the Design Center's proposed alignment.
- Buncombe County will be paying \$35,000 toward the study.
- A technical review committee will be established to oversee the engineering process.
- The time schedule will meet the NCDOT's requested deadline.

Con:

- The cost to the City is \$35,000.

Staff recommends that City Council approve a resolution authorizing the City Manager to execute an agreement with Figg Bridge in the amount of \$70,000 to evaluate the Asheville Design Center's alternate of the I-26 Connector and the associated budget revision.

Councilman Mumpower felt there are strong arguments for design improvement, however, he was concerned that we are missing the urgency behind this project.

Councilwoman Cape moved for the adoption of Resolution No. 07-184. This motion was seconded by Councilman Freeborn and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 - PAGE 443

J. ORDINANCE NO. 3540 - BUDGET AMENDMENT TO REFLECT BUNCOMBE COUNTY'S CONTRIBUTION FOR THE EVALUATION OF THE ASHEVILLE DESIGN CENTER'S ALTERNATE OF THE I-26 CONNECTOR

Summary: See Item "I" above.

Councilwoman Cape moved for the adoption of Ordinance No. 3540. This motion was seconded by Councilman Freeborn and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

K. RESOLUTION NO. 07-185 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO ENTER INTO A CONTRACT WITH GREENPLAY, LLC, TO DEVELOP A PARKS & RECREATION MASTER PLAN

Summary: The consideration of a resolution stating the intent of the City of Asheville to enter into a contract with GreenPlay, LLC in the amount not to exceed \$120,000 to develop the Parks and Recreation Master Plan.

On June 19, 2007, City Council approved \$120,000 for the creation of a new Parks and Recreation Master Plan for the City of Asheville. After a thorough selection process the Parks and Recreation Department selected GreenPlay, LLC as the best consultant for this project and is seeking Council's approval to enter into a contract with GreenPlay, LLC in an amount not to exceed \$120,000.

The City issued a Request for Proposals for Parks and Recreation Master Planning services and formed a panel composed of staff and Parks and Recreation Board, Art Board and Greenway Commission members to interview qualified consultants. The City received proposals from eight firms and short-listed five. The interview panel interviewed each of the five short-listed firms and scored each candidate on a list of baseline criteria. The panel came to a consensus that GreenPlay, LLC was the best match for the City and recommended their selection to parks and recreation director Roderick Simmons.

Pros:

- The contract amount will not exceed the approved project budget of \$120,000.
- Entering into an agreement with GreenPlay, LLC to lead the master planning process will make staff resources available for other priority projects within parks and recreation while still participating in the master plan process.
- GreenPlay, LLC brings a unique approach to parks and recreation master planning and staff feel they will deliver a comprehensive and practical planning document to guide the growth of the parks and recreation services over the next ten years.

Con:

- Staff has not identified any disadvantages to contracting with GreenPlay, LLC

The Parks and Recreation Department recommends City Council approve a resolution stating the intent of the City of Asheville to enter into a contract with GreenPlay, LLC in the amount not to exceed \$120,000 to develop the Parks and Recreation Master Plan.

Councilman Mumpower didn't believe elaborate and complex planning documents provide a reasonable return on investment for the City.

Councilman Freeborn moved for the adoption of Resolution No. 07-185. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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City Manager Jackson introduced the City's new Real Estate Manager Nikki Gunter.

III. PRESENTATIONS & REPORTS:

A. THE ASHEVILLE INITIATIVE FOR MATHEMATICS PRESENTATION FROM THE DEPARTMENT OF MATHEMATICS AT UNC-ASHEVILLE

Dr. Samuel Kaplan, Associate Professor of Mathematics at UNC-Asheville, said that the Asheville Initiative for Mathematics began in the fall of 2006 as a community outreach project run from the Department of Mathematics at UNC-Asheville. A community advisory group made up of educators and business leaders assists in setting priorities and identifying opportunities.

Their mission is to enhance mathematical education and numeracy (numerical literacy) in Asheville-Buncombe County for students (pre-K to college), teachers, parents and all residents.

Their current involvement includes (1) partnering with Randy Harter of Buncombe County Schools to write a N.C. Dept. of Public Instruction grant in support of professional development of 6-12 teachers in math. We were awarded \$360,240 for this project; (2) working with Kathi Ballard of the Asheville Buncombe Education Coalition to start a math tutor certification program serving Asheville and Buncombe County Schools as well as after-school programs; (3) initiated an annual one-day workshop on the connections between math education and work-force development, civil rights, social justice and public health. The first Numeracy Summit is slated for February 28, 2008; (4) collaborating with others at UNC-Asheville and Mission Hospitals to bring Bob Moses, the civil rights leader and founder of the Algebra Project to speak in Asheville on his life and work February 27, 2008; (5) starting a series of learning circles on math and civil rights at UNC-Asheville and Mission Health and Hospitals; and (6) seeking to establish a full scholarship program for math majors whose recipients are required to serve as mentors and tutors to P-12 students in Asheville and Buncombe County schools.

Long-term goals include (1) establishing an independent Institute with a full-time staff to promote positive and enriching mathematical experiences for students and workers in Asheville and Buncombe County; and (2) seeking to house four year-long residency positions at UNC-Asheville, Department of Mathematics, to facilitate the mission of AIM. A master teacher and three professors will help develop and direct activities for AIM as well as carry out their own writing and research.

He asked for (1) a letter of support from City Council for the National Science Foundation grant proposal; and (2) pending approval of the grant, cooperation with the City in effectively implementing the placement of Fellows in the Asheville City School system.

In response to Councilman Mumpower, Dr. Kaplan said that there are no City dollars involved.

Mr. Bruce McTaggart spoke in support of the project.

Councilman Davis moved to authorize a letter of endorsement from the City for the National Science Foundation grant proposal. This motion was seconded by Councilman Freeborn and carried unanimously.

In response to Councilman Mumpower, Mayor Bellamy suggested the City send a letter to the Asheville City School Board noting that City Council supports the grant proposal, as City Council has no direct influence over the Asheville City School system's participation in the program.

Mayor Bellamy thanked Dr. Kaplan for his leadership in this program. She felt it was great for them to bring this to the table and attempt to address some of the problems that we have with some of our young people.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR PROPERTY LOCATED AT 47 RUTHERFORD ROAD FROM COMMUNITY BUSINESS II DISTRICT TO LIGHT INDUSTRIAL DISTRICT/CONDITIONAL ZONING IN ORDER TO ESTABLISH A CONFORMING OFFICE/WAREHOUSE USE WITH OUTDOOR STORAGE

Mayor Bellamy said that this public hearing was continued from March 13, 2007, at the petitioner's request. In addition, on April 17, 2007, City Council granted a six-month continuance in order to explore other zoning options.

Assistant Planning & Development Director Shannon Tuch said that on August 12, 2007, the Planning & Development Department received a letter from SigNet Real Estate, LLC withdrawing the conditional zoning request. We understand that the applicant is investigating the possibility of legally grandfathering the non-conforming uses.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 100 PARK AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 41-UNIT MULTI-FAMILY PROJECT WITH MODIFICATIONS TO SETBACK REGULATIONS

ORDINANCE NO. 3541 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 100 PARK AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 41-UNIT MULTI-FAMILY PROJECT WITH MODIFICATIONS TO SETBACK REGULATIONS

Mayor Bellamy opened the public hearing at 5:58 p.m.

Urban Planner Alan Glines said that this is the consideration of an ordinance to conditionally zone property located at 100 Park Avenue from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning for the development of a 41-unit multi-family project with modifications to setback regulations. This public hearing was advertised on October 5 and 12, 2007.

Mr. Glines said that the developer is seeking conditional zoning approval from RM-8 to RM-16 to build 41 condominium units on a 3.25 acre site. The proposed density is just over 12 units per acre. In addition the project is requesting a modification for the rear setback for building 7. Four of the smaller units in building 7 will be affordable units meeting City of Asheville standards for affordability.

The project is located on the site of the former Pioneer Welding Company. The industrial use was located in this residential area for many years. The business relocated and the buildings were dismantled to be recycled. The site was graded and mostly cleared of vegetation during this former use. At some point in the past, fill was placed along Jefferson Drive to expand the flat area at the top of the property. This slope is quite steep with few trees and is about 40 feet between Jefferson Drive and the top. There are existing trees on the site that will be protected and saved under the current proposal and are shown on the site plan. The two large oaks on the southern side of the property will be preserved. The steps shown on the plans and connecting to Jefferson Drive will be carefully placed to limit the number of trees that must be removed to accommodate the walkway.

The proposed development includes 41 units in seven buildings. The development provides four 3-bedroom units, 27 two-bedroom units and 10 one-bedroom units. The development will have vehicular access from Park Avenue by an existing one-way driveway loop and a proposed second driveway on Park Avenue. All of the structures will face Park Avenue and the loop driveway except Building 6 and Building 3. Building 3 (a town-home building) will face into the site because this section of the property is well above Park Avenue right of way area. The relationship to the internal part of the site is stronger. Building 6 faces the parking area that flanks it but will provide a porch area on the Park Avenue side of the building (rendering provided for this). Building elevations have been provided in the submittal materials. The buildings generally use a combination of shingle, siding and some stone at the building base. Porches and balconies are prevalent on the units and the longer structures provide variety by staggering the facades to improve the scale of the structures. The height of the units will be within the limit of 40 feet which is allowable in the RM-16 district. The building designs should complement and be compatible with the residential character of the neighborhood. Parking is provided on site. The development is providing 67 parking spaces that will be divided between garage parking and in surface lots. This number is within proper range for parking.

The project was submitted earlier this year with 39 units. The community was concerned with impact on the neighborhood because of the single access on Park Avenue and the proposed prices of the new units which were thought to be higher than the rest of the neighborhood. Neighbors requested affordable units be included as a part of this project. The layout has remained mostly the same but Building 7 was adjusted to provide the 4 affordable units. The neighbors also requested the project provide for a future connection to the City of Asheville Transit Center should that property be re-developed. A space for this future driveway was accommodated between buildings 6 and 7.

The project has been reviewed by the Technical Review Committee (TRC) and was found to comply with requirements of the Unified Development Ordinance (UDO) with minor changes to be provided with final TRC review. There is a modification request for a rear setback for building 7. The rear setback is based on the number of units in a building (14 units in this case) and for Building 7 totals a 35 foot setback. A section of the building and deck will encroach into the setback as shown on the plans by 8 feet. Part of the reason for placement of building 7 setback as proposed is to accommodate a future driveway between buildings 7 and 6 and provide space for the affordable units. The single neighboring home along Jefferson Drive is about 40 feet below this area and should not be adversely affected by the rear setback modifications. The developer is willing to provide additional planting materials to screen the structure at this point as well. The grade change and the planting should minimize the effect of the setback modification. The site plan shows the proposed layout of Building 7 with a 27 foot setback (which represents the 8 foot rear setback modification).

- The project will be seeking Health Built Home designation by meeting guidelines concerning sustainable building practices and provide for energy efficiency. The site plan will be providing an area for water infiltration on the site reducing stormwater runoff. In addition the kudzu problem along the Jefferson Street will be cleaned up on the project site.

- Section 7-7-8(d)(2) of the UDO states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The development has been reviewed by the Technical Review Committee and the project has not been found to present a danger to public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The development will not require significant grading. The development has proposed to preserve some important trees on the site. The development will provide a neighborhood pedestrian connection from Park Avenue to Jefferson Drive which does not exist today.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The project is not expected to injure the value of existing homes in the area. The proposal will be a substantial investment in residential development that should complement the existing neighborhood.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The proposed structures have a residential character that will be in harmony with the scale bulk coverage and density and character of the neighborhood. The structures are grouped in a town home and condominium style that groups the units in

a way that provides open space and a connection for the neighborhood and preserves some of the more significant trees on the site. The proposed use is certainly compatible with the residential character of the neighborhood. Affordable units will be provided within the project and are needed within the community.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The comprehensive plan recommends and encourages quality, compatible infill development in places where the infrastructure is in place to support the development. Affordable housing is identified as a community challenge and is being offered in a portion of this development. The smart growth policy supports this type of residential infill in neighborhoods.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The proposed development has been reviewed by the Technical Review Committee and the area has sufficient infrastructure either on-site or available to the site with infrastructure extensions. Water is available to the site from Jefferson Drive.

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

The City Traffic Engineer has reviewed the plan for the development and feels that Park Avenue has sufficient width to support the plan even with the existing parking on the street. The number of units does not justify a traffic impact analysis because of the small scale of the development. Some of the concerns from neighbors are mainly associated with on-street parking occurring in the neighborhood along Park Avenue.

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

This conditional zoning request was recommended for approval by a 5-0 vote by the Planning and Zoning Commission. One person spoke on behalf of the West-End Clingman Avenue Neighborhood Association in support of the proposal.

Pros:

- A former industrial site is being redeveloped.
- The proposed development will complement the existing residential fabric of the neighborhood.
- The development will provide a pedestrian connection linking two areas of the neighborhood that are separated today.
- Affordable units are provided in the project and are identified as a priority issue in the community.

Cons:

- Additional traffic will be added to Park Avenue which has concerned some neighbors.

This conditional zoning request was recommended for approval by a 5-0 by the Planning and Zoning Commission with the recommendation to approve the Building 7 setback modification. Staff concurs with this recommendation.

Mr. Gerald Green, representing GreenPlan, spoke in support of this conditional zoning. He felt that this plan meets several City goals and reiterated some of the highlights of the project and their requested setback variance.

Mr. Hank Joiner, developer, showed Council a historic view of the area. He said they met with the neighborhood and addressed their concern regarding scale of the new buildings in relation to existing structures. He reviewed the fabric of the West End/Clingman Avenue Neighborhood (WECAN) by noting 19% of the lots are less than 0.08 acre; 27% of lots are vacant; 33% of lots are builder/investor owned; and 24% are non-owner occupied. He reviewed some of the property values of the homes in the neighborhood and prices of recent sales. He noted the existing affordable housing in the neighborhood provided by Mountain Housing Opportunities - Prospect Terrace and WECAN area housing (25 affordable units total), Merritt Park (9 affordable units), and Clingman Avenue Townhomes (11 affordable units). Mathews Architecture designed a modern-day architectural interpretation of the neighboring early 20th Century history. He briefly reviewed the final site plan and noted two changes made from the Planning & Zoning Commissions recommendations: (1) added four "affordable" units, each one bedroom - partnering with Mountain Housing Opportunities on these units; and (2) improved the pedestrian connection to Jefferson Street. He said 100 Park Avenue North will be built green with a commitment to become certified through the NC Healthy Built Home Program. Already an environmental study was conducted by the N.C. Dept. of Environmental and Natural Resources finding no contamination in the soil from the removal of all underground storage tanks and the industrial buildings on the site were disassembled and reused in another location. A conscious effort was made during planning to (1) save the existing mature trees; (2) add common green space; (3) offer pedestrian connections to the neighborhood; (4) save in place the old stone wall; (5) minimize grading by retaining 57% pervious surfaces; (6) implement environmentally-sensitive stormwater management through bio-detention commonly known as

“rain gardens”; and (7) all units will be healthy built certified. They met with WECAN several times. The following changes to the project plans were implemented as a result of the request of neighbors both on the hill and in the River Arts District: (1) re-alignment of buildings; (2) future possible connection to the transit site; and (3) more parking on this site to reduce the potential number of cars parking on the street. WECAN still has some concerns, but they remain optimistic and welcome new neighbors.

Mr. Jesse Junior spoke in support of the plan.

Mr. Alan Ditmore, Treasurer of the Asheville Homeless Network, said that affordability is a function of supply and demand and therefore, any additional units will positively affect affordability county-wide.

Mayor Bellamy closed the public hearing at 6:16 p.m.

In response to Vice-Mayor Jones, Ms. Jane Mathews, representing Mathews Architecture, said that at this time Healthy Built Homes is the North Carolina program for residential construction certification program.

In response to Councilwoman Cape, Ms. Mathews explained how the certification process works.

Vice-Mayor Jones urged the developer to think of ways they can participate with the neighborhood in reclaiming Aston Park.

Mayor Bellamy complimented the architect for the great design while Mr. Green responded to her comments regarding the trail around the property.

In response to Councilman Newman’s inquiry about the neighboring large piece of N.C. Dept. of Transportation (NCDOT) right-of-way along Clingman Avenue, Mayor Bellamy said there are plans for the streetscape to change. Mr. Green said that they did contact NCDOT early in the process and they are still waiting for a response.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3541, to conditionally zone property located at 100 Park Avenue from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning for the development of a 41-unit multi-family project with the Building 7 setback modification, subject to (1) the conditions recommended by staff and (2) The project shall comply with all conditions outlined in the TRC staff report; (3) All site lighting must comply with the City’s Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) Four units will be offered at an affordable price meeting City of Asheville guidelines for affordability. This motion was seconded by Councilman Newman and carried unanimously.

ORDINANCE BOOK NO. 23 - PAGE

Closed Session

Mayor Bellamy said that during City Council’s break, they would conduct a closed session. At 6:25 p.m., Councilman Mumpower moved to go into closed session in order to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: Louise Pack Metcalf, Barbara Pack Holcombe, Michael Lawrence, Black Dog Realty LLC, and Buncombe County - The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Freeborn and carried unanimously.

At 6:50 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Councilman Freeborn and carried unanimously.

C. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE PROJECT KNOWN AS THE ELLINGTON HOTEL, LOCATED ON BILTMORE AVENUE, ASTON STREET AND SOUTH LEXINGTON AVENUE TO INCLUDE 125 HOTEL ROOMS AND 52 RESIDENTIAL CONDOMINIUMS

ORDINANCE NO. 3542 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE PROJECT KNOWN AS THE ELLINGTON HOTEL, LOCATED ON BILTMORE AVENUE, ASTON STREET AND SOUTH

LEXINGTON AVENUE TO INCLUDE 125 HOTEL ROOMS AND 52 RESIDENTIAL CONDOMINIUMS

Mayor Bellamy said that this public hearing was held on September 11, 2007, and the matter was continued to this date in order to receive new information on the reduction of height of the building, clarification on the LEED certification efforts, and the issue of eliminating the driveway cut on Biltmore Avenue. Receipt of new information will be limited to those issues.

Mayor Bellamy then re-opened the public hearing at 6:55 p.m.

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

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

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

Urban Planner Alan Glines said that the conditional use permit request for the Ellington Hotel consisting of a 125 room hotel and 52 condominium units in a mixed use building in the downtown central business district of Asheville was originally considered by City Council on September 11, 2007 (City Exhibit 6 - Memorandum dated October 16, 2007; City Exhibit 7 - Aerial Map). The purpose of this report is to summarize the list of items for developer consideration and to provide a summary of the developers' responses.

During the meeting, many comments were given and several motions were made and withdrawn. A motion however, to continue the item until the October 16, 2007, meeting was approved. During the hearing City Council provided a list of items for the developer to consider regarding the project. Many of the items were based on impacts to the community and surrounding area and concerns raised by citizens and Council. The final list summarized here is taken from the meeting minutes. Of course this may not be a final list and is not binding until a final vote is taken by City Council. The list is as follows: (1) The project shall comply with all conditions outlined in the Technical Review Committee (TRC) staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (4) This project will undergo final review by the TRC prior to issuance of any required permits; (5) Approval of the sidewalk modification on Aston Street; (6) Rear or front accesses to the businesses not be disruptive (work with the City to plan any instances where they may bring in a big load of material and an exit or entrance may be blocked for a nominal period of time); (7) that the developer work with the neighborhood regarding staging of the construction with adequate signage; (8) the 35 sustainable design items be achieved as proposed by the developer; (9) the Arts Program as proposed by the developer; (10) the Affordable Housing Program with the Community Foundation of Western North Carolina as proposed by the developer; (11) use of Lexington Street to deliver building materials in order to keep as much construction traffic off Biltmore Avenue; (12) a detailed stormwater plan in place at the TRC level; (13) a website to keep the neighbors informed of the project as it progresses - and perhaps list street closings; (14) shuttle service be limited to 8:00 a.m. - Midnight with no PA after 10:00 p.m.; (15) the developer provide an ombudsman person to manage community comments, manage the schedule for nearby neighbors, and also provide an interface for people affected by the development during the construction phase of the project; (16) everything else the developer included in his package; (17) eliminating the drive-way curb cut along Biltmore Avenue and designing for other access points; (18) left-turn restriction be applied during the weekdays only (not applicable on the weekends) and at specific times; (19) Biltmore Avenue not used for the staging for this project; (20) any utilities (specifically mentioned were the poles on the Lexington Street) be placed underground; and (21) a plan of either dimming or cutting off the lights at 11:00 p.m. for migrating birds.

Since the Council meeting on September 11, the development team has been working to address these particular items and concerns. Amended materials have been submitted to staff for distribution to City Council for the meeting on October 16, 2007. This new information and changes to the plan are submitted for consideration. Not every sheet or drawing has been re-submitted - only the sheets that shows changes. The developer has proposed to reduce the height of the building by two stories which will represent a reduction in the overall height of 31 feet. The terrace space at the front of the building above the ninth floor has been redesigned to accommodate the building area displaced by the change in height. This concept was presented by the project architect during the hearing on September 11 (Attachment to City Exhibit 6 - View of the Ellington from Biltmore Avenue). In addition to the height reduction, the developer has agreed with the following items (numbering may not agree completely with the above referenced list):

- (1) The project shall comply with all conditions outlined in the TRC staff report;
- (2) All site lighting will comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets;

- (3) The building design, construction materials, and orientation on site will comply with the conceptual site plan and building elevations presented with this application. Deviations from these plans may result in reconsideration of the project by the reviewing boards;
- (4) This project will undergo final review by the TRC prior to issuance of any required permits;
- (5) Aston Street sidewalk modified as proposed;
- (6) Rear or front accesses to nearby businesses will not be disrupted; the developer will coordinate with City and project ombudsman when large loads may block entrances or exits for a nominal period of time. Adequate signage will be provided
- (7) The project will be LEED eligible providing 36 items for LEED certification. LEED certification can only be applied for after the building is open and all systems are operational;
- (8) The Arts Program will be implemented as outlined in the proposal with art shadow boxes provided along Aston Street and Lexington Avenue;
- (9) The Affordable Housing Program will be coordinated with the Community Foundation of Western North Carolina as proposed in earlier materials;
- (10) Lexington Street will be used to deliver building materials with staging occurring on the lot located at 86 S. Lexington Avenue in order to keep construction traffic off of Biltmore Avenue;
- (11) A detailed stormwater plan will be in place for final TRC review;
- (12) A website will be created to keep the neighbors informed of the project as it progresses noting closures and other construction related information;
- (13) Shuttle service will operate using alternative fuel vehicles and be limited to 8:00 a.m. - Midnight;
- (14) An ombudsman will be hired to manage community comments, manage the schedule for nearby neighbors, and also provide an interface for people affected by the development during the construction phases and staging of equipment and materials for the project;
- (15) Left-turns from Biltmore Avenue into the hotel entrance will be day or time restricted as required by City Council with signage if required and consistent with directional materials provided by the hotel;
- (16) Biltmore Avenue will not be used for the staging for the project;
- (17) Utility poles in the vicinity of the project will be placed underground;
- (18) The building penthouse lantern will be dimmed during the September and October song bird migration and again during the April and May migration periods;
- (19) The development will participate in the NC Green Power Program to develop renewable source energy at the 'champion level' of support';
- (20) The project will participate in the 'Green Plan for Hotels' program administered by the NC Division of Pollution Prevention and Environmental Assistance;
- (21) Other items will be included in the project as noted in earlier submitted materials such as a retail space along Aston, café space along Biltmore, shared laundry facilities off site, quality building materials as noted on drawings.

Finally, the developer has provided materials and analysis to compare the height and massing of the BB&T Building and the Ellington proposal. The BB&T Building uses a nearby garage for parking. When this information is compared with the Ellington proposal the differences are reduced.

The Planning and Zoning Commission voted to recommend approval of the project 7-0 during the August 1, 2007, meeting. Staff concurs with the recommendation.

City Attorney Oast said that on September 11, 2007, Councilman Davis made a motion (which was not seconded), but which was pending when the matter was continued. Therefore, procedurally, it was his opinion that Councilman Davis should withdraw his motion without prejudice to him or anyone else making a similar motion later on. Councilman Davis, therefore, withdrew his motion.

Mr. W. Louis Bissette Jr., attorney representing the Ellington Partners, developer of the Ellington project, briefly summarized (Applicant Exhibit 4) (1) the economic impact over 10 years of the project; (2) the workforce housing; (3) the Ellington/Grove Park shuttle; (4) the ombudsman; (5) the migratory song birds; (6) the parking/pedestrians/transportation issues; (7) sustainability; (8) the height and massing revisions; and (9) the height and massing of other Central Business District buildings. Regarding the workforce housing, he understood that the Buncombe County Commissioners did pass a resolution today committing \$455,000 of their share of the property taxes annually to affordable housing. Regarding the migratory song birds, they will dim the penthouse lantern and exterior lighting after 11:00 p.m. during the Spring and Fall migratory seasons. They agree to no left turns off of Biltmore Avenue into the Ellington. He said that their employees will be transported from off-site parking areas on Riverside Drive and was proud to announce that the developer entered into a contract with the City of Asheville for the Grove Park Inn and the Ellington to pay the cost of public transportation for all Grove Park Inn and Ellington employees who desire to ride the Asheville Transit System. That payment will not only include just transit to and from work, but it will be available to those at any time and without cost to them. In addition to the 35 green items previously said they were going to put into the project, the Grove Park Inn

has agreed to purchase a closed loop laundry recycle system for their laundry, which handles both their laundry and the Ellington's laundry. It's their understanding that this system will save 1.5 Million gallons of water per month. They will also contribute to the N.C. Green Power Program at a "champion level", which is at least \$24,000 a year. They will comply with the N.C. Division of Pollution Prevention and Environmental Assistance Initiatives for Hospitality and Lodging Properties for the "Green Plan" for hotels. In response to the City's desire for smart buildings, the Ellington partners are proud to announce that the Ellington Hotel will be a U.S. Green Building Council LEED Registered Project for Core and Shell Building Design and Construction Process. The partners will seek for LEED certification of the project after completion and upon occupancy. If that occurred today, the Ellington would be the first LEED certified building in Asheville, the second LEED certified building in Buncombe County, the 24th LEED certified building in North Carolina, and the 1st hotel LEED certified building in North Carolina. Regarding the height and massing concerns, the developers and architects have designed an alternative structure which will reduce the height of the Ellington by 31 feet and eliminate 2 floors. At the new height, the Ellington will be only 7 feet taller than the BB&T Building as measured from the tops of the elevator towers on both buildings. As far as the massing is concerned, he provided additional information on comparable buildings in the Central Business District, including the BB&T Building, which confirms the Ellington's harmony with the scale and density in its Central Business District neighborhood.

Mr. Gary Koerner, the project's architect, provided Council details on the alternative design of the Ellington. He reviewed information on comparable buildings (Attachment to Applicant Exhibit 4 - Comparable Elevation) and showed a 3-D view of the buildings downtown. He then addressed the comparison of what they did in the two designs (Attachment to Application Exhibit 4 - Comparison of the Original Design Building next to the Comparison of the Alternative Building Design). He urged Council to approve the project in that the Ellington is smart growth, has workforce housing, includes public transportation, will be LEED certified, includes an art program, has economic benefits, and will be a landmark architecture building.

When Mayor Bellamy asked for the organized opposition, Mr. Bob Malkin, representing Asheville Citizen Voices, showed Council a large 3-D model of the Ellington and surrounding businesses (Neighborhood Exhibit 5). The scaled model is 200 feet above Biltmore Avenue and is out of scale with the neighboring businesses. If Council approves this large structure, then others will follow (Neighborhood Exhibit 6 - Photo of Downtown Area 350 Miles Away from Asheville). He showed Council some preliminary artwork of the newly formed Asheville Citizen Voices (Neighborhood Exhibit 7). He presented Council with a petition containing 1,800 people who oppose the Ellington project (Neighborhood Exhibit 8). Since City Council has authorized a Master Plan for Downtown, he felt that Council should wait until that Master Plan is finished before considering this project. In addition, he felt consideration of the project should not be given until after the new Planning Director is hired who may have his/her own vision bringing a wealth of experience. He said that even though the developer had an overall height reduction of 31 feet, it's still almost equivalent to two vertical Wal-Marts on a 1/2 acre lot. He said the same problems remain of parking, sidewalks, no change on the Biltmore Avenue curb cut, and the curb cut is risky for pedestrians. In addition, he said there was not enough water pressure to go up into the Ellington, since the BB&T Building can't get water pressure over 8 stories. Regarding sustainability, he questioned whether they would complete the "green" list items since the City has no enforcement power. He urged Council to deny the conditional use permit and see if they come back with a better project after the Downtown Master Plan is adopted.

City Attorney Oast said that he did not advise Council that they would not have the ability to enforce conditions on the conditional use permit, if issued.

City Attorney Oast also said that under North Carolina law, the petitions have very limited evidentiary value and advised Council not to base any critical findings of fact on these petitions.

The following individuals spoke in opposition of the conditional use permit, for various reasons, some being, but are not limited to: loss of sunlight and views to adjoining residences, thus resulting in a decrease of property values; request for a supplemental traffic study on the Grove Park/Sunset Mountain neighborhood; regarding the laundry facility, what are the truck routes, how many trucks will be involved, will there be a need to enlarge the Grove Park Inn's facilities, will the enlargement of the laundry facilities create additional noise, and is the Grove Park Inn zoned to take in laundry from other facilities off site; scale and size of the building is too large for the site; building is not smart growth; construction will result in 3-6 years of traffic gridlock on Biltmore Avenue; using the BB&T Building and their garage across the street is not a good comparison; and building is too high:

Mr. Jessie Junior

Ms. Lori Ritter, resident of 52 Biltmore Avenue

Ms. Grace Curry, President of the Grove Park/Sunset Mountain Neighborhood Association

Mr. Bill Wescott, professional engineer and developer

Mr. Bill Maloney, Asheville downtown business owner

The following individuals spoke in support of the conditional use permit:

Mr. Marvin Chambers, Chair Elect of the Eagle-Market Streets Development Corporation
(Neighborhood Exhibit 9)

Mr. Jim Kammann, resident and business owner in Asheville (read an e-mail on behalf of
the 60 members (31 of which are in downtown Asheville) and the Board of
Directors of the Asheville Independent Restaurant Association)

Ms. Tracy Adler, owner of Café on the Square

Mr. Fred A. Martin, Vice-President of the Mast General Store Inc. (Neighborhood Exhibit
10)

Mr. Joe Eblen, representing Eblen Charities
Asheville citizen

Mayor Bellamy closed the public hearing at 8:00 p.m.

Councilwoman Cape said that this is not a one-sided picture and it contains a lot of emotions. She has tried to look at what we can do in our community to be healthy now and be healthy in generations to come. She uses the model of sustainability as the guiding principles by which she has to assess things. Sustainability is economic, social and environmental health. As such, this building fits that model. Regarding the LEED certification, the developer is making a commitment to a 50% minimal energy reduction in our community. Buildings coming into our community need to be at least be 50% less energy users. The social aspects of housing, the developer is making a big symbolic building, but she feels like as she has weighted the issues they are moving in a direction that says they want to do things in a sustainable way. One block is not relevant - we have to look at the whole community and if you look at the whole downtown as a neighborhood, this building fits in.

Councilwoman Cape moved to approve the proposed master plan (alternative structure which will reduce the height of the Ellington by 31 feet and eliminate 2 floors) subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting will comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) The building design, construction materials, and orientation on site will comply with the conceptual site plan and building elevations presented with this application. Deviations from these plans may result in reconsideration of the project by the reviewing boards; (4) This project will undergo final review by the TRC prior to issuance of any required permits; (5) Aston Street sidewalk modified as proposed; (6) Rear or front accesses to nearby businesses will not be disrupted; the developer will coordinate with City and project ombudsman when large loads may block entrances or exits for a nominal period of time. Adequate signage will be provided; (7) The project will be LEED eligible providing 36 items for LEED certification. LEED certification can only be applied for after the building is open and all systems are operational; (8) The Arts Program will be implemented as outlined in the proposal with art shadow boxes provided along Aston Street and Lexington Avenue; (9) The Affordable Housing Program will be coordinated with the Community Foundation of Western North Carolina as proposed in earlier materials; (10) Lexington Street will be used to deliver building materials with staging occurring on the lot located at 86 S. Lexington Avenue in order to keep construction traffic off of Biltmore Avenue; (11) A detailed stormwater plan will be in place for final TRC review; (12) A website will be created to keep the neighbors informed of the project as it progresses noting closures and other construction related information; (13) Shuttle service will operate using alternative fuel vehicles and be limited to 8:00 a.m. - Midnight; (14) An ombudsman will be hired to manage community comments, manage the schedule for nearby neighbors, and also provide an interface for people affected by the development during the construction phases and staging of equipment and materials for the project; (15) Left-turns from Biltmore Avenue into the hotel entrance will be day or time restricted as required by City Council with signage if required and consistent with directional materials provided by the hotel; (16) Biltmore Avenue will not be used for the staging for the project; (17) Utility poles in the vicinity of the project will be placed underground; (18) The building penthouse lantern will be dimmed during the September and October song bird migration and again during the April and May migration periods; (19) The development will participate in the NC Green Power Program to develop renewable source energy at the 'champion level' of support'; (20) The project will participate in the 'Green Plan for Hotels' program administered by the NC Division of Pollution Prevention and Environmental Assistance; and (21) Other items will be included in the project as noted in earlier submitted materials such as a retail space along Aston, café space along Biltmore, shared laundry facilities off site, quality building materials as noted on drawings. This motion was seconded by Councilman Davis.

When Councilman Davis asked about the water pressure, availability, etc., Mr. Glines said that the Water Resources Department has representatives on the TRC and they did not offer any concerns regarding those items.

In response to Councilman Davis, Mr. Bob Kuykendall explained that the construction parking is off-site at 86 S. Lexington Avenue and the construction office is at 34 S. Lexington Avenue.

Councilman Mumpower felt that when you look at the symmetry, power and impact of the original design over the alternative design, we have lost something. He asked if Council would be willing to re-consider the original design.

Councilman Davis personally liked the original design and withdrew his second. At this time, Vice-Mayor Jones seconded

Councilwoman Cape's motion.

Councilman Newman was concerned of the overall mass of the building and even though the height was reduced in the alternate design, the mass was kept in the same proportions. He felt that the other proportions were being reduced as well, it would have been a better project. That said, he supported the original design.

City Traffic Engineer Ken Putnam responded to various questions from Councilman Freeborn regarding the traffic study and how the project, shuttle service and laundry facility would impact the service level on Macon Avenue. In addition, he responded to questions related to pedestrian safety as a result of the curb-cut on Biltmore Avenue.

Councilwoman Cape amended condition no. 15 to read "no left turns off Biltmore Avenue into the Ellington." Vice-Mayor Jones agreed with that amendment. She did, however, also prefer the original design.

In response to Vice-Mayor Jones, Ms. Karen Tessier, with the Ellington Public Relations, said that the following parts of the Ellington will be open to the public: the sidewalk café at the front of the hotel on Biltmore Avenue; the 9th floor restaurant and terrace bar; and areas on the 2nd floor for meeting rooms. She encouraged the public to enjoy the Ellington.

Councilwoman Cape amended her original motion to approve the proposed master plan with the original design presented on September 11, 2007, subject to the conditions outlined above in her original motion except condition no. 15 is to read: "no left turns off Biltmore Avenue into the Ellington." Vice-Mayor Jones withdrew her second. At this time, Councilman Mumpower seconded Councilwoman Cape's amended motion.

In response to Vice-Mayor Jones, Ms. Pat Smith of the Community Foundation of Western North Carolina, explained how their plan is to work with the housing organizations in the community about the best way to structure the housing fund and how the fund will operate. She said that the City's Community Development Director will be included in that dialogue.

In response to Councilman Newman, City Attorney Oast felt that City Council has given staff enough guidance to work with the applicant to construct a condition regarding the migratory song bird plan, which meets the intent of City Council.

Councilman Mumpower was dismayed to see Council getting into detailed regulation of the building on behalf of the migratory birds.

At 8:30 p.m., Mayor Bellamy called the question as there had been 20 minutes of Council discussion.

The amended motion made by Councilwoman Cape and seconded by Councilman Mumpower to approve the proposed master plan with the original design presented on September 11, 2007, subject to the conditions outlined above by City staff, with the exception that condition no. 15 read: "no left turns off Biltmore Avenue into the Ellington", carried on a 6-1 vote, with Councilman Freeborn voting "no."

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At 8:30 p.m., Mayor Bellamy announced a short recess.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. APPROVAL OF A SHORT LIST OF PRE-QUALIFIED DEVELOPERS TO BE INVITED TO SUBMIT A PROPOSAL FOR DOWNTOWN REDEVELOPMENT OPPORTUNITIES

Mr. Matt Taylor from Real Estate Research, reviewed the RFQ-RFP process to date. He explained the RFQ-RFP process to date.

He said that today we want to focus on (1) discussion of potential RFP criteria, and (2) pre-qualified list of developers.

Using a PowerPoint presentation, he reviewed the potential RFP criteria: (1) land use(s) - (type, intensity/density); (2) community (public art, transportation-oriented, public space, local/minority participation, sustainable design); (3) economic (tax base, housing product, new jobs; and (4) timing of development (immediate/near term, conditioned on relocated activities).

The Park Maintenance properties are as follows:

Acreage is 3.61 acres.

Land Use - mixed use - multifamily residential with street level commercial, density compatible with surrounding development

Community - develop consistent with the WECAN and Clingman Forest Master Plans, sustainable design

Economic - 100% workforce housing, city incentive(s) required, potential future opportunity to partner with Housing Authority

Timing - requires relocation of maintenance operations

The Eagle-Market Street property is as follows:

Acreage is .31 acres (potential for additional acreage with adjacent private lands).

Land use - mixed use - multifamily residential with street level commercial, intensified use of site

Community - preservation of historic façade(s), local business participation, sustainable development

Economic - Market rate with limited workforce housing, EMSDC equity position for social enterprise, create community jobs through commercial space

Timing - immediate implementation.

The Haywood Street Properties at Civic Center:

Acreage is .77 acres

Land use - Consistency with future Downtown Master Plan, more intense use of site, likely commercial and hospitality uses

Community - structured public parking, public space, public art, potential for limited civic center improvements, sustainable design, demonstrated Asheville awareness and context

Economic - economic development, enhance tax base, job creation

Timing - immediate implementation

He explained the developer pre-qualification process which included: (1) evaluation committee; and (2) evaluation criteria (a) development team's profile and capabilities; (b) local depth of resources; (c) relevant development experience; (d) public-private partnership experience; (e) Asheville experience; and (f) references.

Market opportunities and constraints consisted of (1) moderate, stable growth market; (2) small- to mid-scale projects; and (3) limited land available in the Central Business District. The developer statements of qualifications received are consistent with market outlook.

The following is the recommended list of pre-qualified developers (in alphabetical order):

Citiline Resortline (Charlotte)
Conrad Properties (St. Louis, MO)
Faison & Associates (Charlotte)
Hulsing Development Team (Asheville)
Intown Revitalization Group (Asheville)
McKibbon Hotel Group Inc. (Gainesville, GA)
Mountain Housing Opportunities Inc. (Asheville)
Public Interest Projects Inc. (Asheville)
RCG LLC and Glazer Architecture (Asheville)
Windsor/Aughtry Company Inc. (Greenville, SC)

The next steps in the RFQ-RFP process include: (1) pre-proposal meeting for qualified developers (November); (2) RFP's issued (November); (3) evaluate proposals and select developer(s) (March 2008); and (4) negotiate developer agreement(s) (Summer of 2008).

The requested action is for approval of pre-qualified developer list. An upcoming November action request will be approval of RFP's for distribution to pre-qualified developers.

From Staff Report: "Since City Council's direction in March to proceed with development of a Request for Qualifications (RFQ) for downtown sites, many activities have been completed. Numerous stakeholder meetings were conducted. The project manager conducted a market overview of the Asheville area to determine the best recommended approach for the sites, reflecting the market opportunities and constraints. An RFQ process was conducted, and expanded to include adjacent property owners. City Council held a special work session on site specific goals and corresponding uses. A public information open house was conducted in order to help provide information to the public and interested parties.

"An evaluation committee comprised of city staff with experience in relevant disciplines has reviewed the Statements of Qualifications (SOQ) submitted by 15 developers. The evaluation criteria used to review each SOQ consisted of ranking the development team's profile and capabilities, local depth of resources, relevant development experience, public-private partnership experience, Asheville experience, and references. The evaluation committee also reviewed the SOQs to affirm that those received are consistent with the market outlook: moderate, stable growth market, and small to mid-scale projects.

"Based on the evaluations, the recommended list of pre-qualified developers to be invited to submit a Proposal for the three Downtown Sites is as follows (in alphabetical order):

Park Maintenance Properties

- Citiline Resortline (Charlotte)
- Conrad Properties Corporation (St. Louis, MO)
- Faison & Associates (Charlotte)
- Hulsing Development Team (Asheville)
- Intown Revitalization Group (Asheville)
- Mountain Housing Opportunities, Inc. (Asheville)
- Windsor/Aughtry Company, Inc. (Greenville, SC)

Eagle-Market Street Property

- Citiline Resortline (Charlotte)
- Conrad Properties Corporation (St. Louis, MO)
- Intown Revitalization Group (Asheville)
- Windsor/Aughtry Company, Inc. (Greenville, SC)

Haywood Street Properties at Civic Center

- Citiline Resortline (Charlotte)
- Conrad Properties Corporation (St. Louis, MO)
- Faison & Associates (Charlotte)
- Hulsing Development Team (Asheville)
- Intown Revitalization Group (Asheville)
- McKibbon Hotel Group, Inc. (Gainesville, GA)
- Public Interest Projects, Inc. (Asheville)
- RCG LLC and Glazer Architecture (Asheville)
- Windsor/Aughtry Company, Inc. (Greenville, SC)

Pros:

1. All teams recommended have experience in projects of appropriate scale and consistent with the market outlook.
2. Outlined developers have experience to do a project that meets public goals established by City Council.
3. Market appears ready and interested in the recommended sites.
4. Selection allows project timetable to proceed consistent with that outlined to developers.
5. The overall process which includes potential future phases for more downtown sites creates the potential for additional developers in the future.

Con:

1. Individual developers have unique qualifications and some teams will not be invited to continue in this phase of the project.

"Staff recommends that City Council approve the short list of developers to be invited to submit a Proposal on the downtown properties."

Vice-Mayor Jones moved to approve the pre-qualified developer list. This motion was seconded by Councilwoman Cape.

Mr. Darryl Hart, Chairman of the Eagle-Market Streets Development Corporation, wanted to keep some of the character in the area along with some mixed use and residential, including incubation of potential businesses. He hoped we can move forward as quickly as we can.

Mr. Gene Ellison, one of the property owners at 42-44 Market Street, urged Council to put something in writing to make sure that the private property the City is interested in preserving will be available.

In response to Councilwoman Cape, City Manager Jackson explained how this process lines up with the Downtown Master Plan process and Mr. Taylor also explained that the developers will be able to have input in the process as well.

Councilwoman Cape said that some initiatives she would like to see in the RFPs would be some incentives for affordable retail (incubator retail for those smaller spaces) and sustainable initiatives, e.g., green, LEED certification, Healthy Built Homes, etc.

Regarding job creation, Vice-Mayor Jones asked if we could get an understanding of the use. For example, if it is hospitality, what jobs will be created, what are the salary ranges, what are the benefits, etc.

Mayor Bellamy suggested Mr. Taylor revise his drawings of the Eagle-Market Street properties to reflect the actual .31 acres, and not include the adjacent private lands.

Upon inquiry of Councilman Newman, Mr. Taylor said that 9 of the 10 pre-qualified teams had an interest in the Haywood Street properties. He said the primary interest expressed was for hotel development in 6 of the 9 pre-qualified terms.

City Manager Jackson said that City Attorney Oast will brief Council in a near future closed session about real estate opportunities on these properties. He said that Mr. Taylor and the development team will develop the RFP's with Council's input from tonight. Staff will distribute to Council a draft of the RFP's and schedule the closed session before we issue the RFP's.

Councilman Newman was pleased to see that we are in dialogue with the Housing Authority on the park maintenance properties.

Councilman Mumpower made a substantive motion to vote on the properties separately. Said motion died for a lack of a second.

The motion made by Vice-Mayor Jones and seconded by Councilwoman Cape to approve the pre-qualified developer list carried on a 6-1 vote, with Councilman Mumpower voting "no."

B. CONSIDERATION OF AN APPOINTMENT TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Vice-Mayor Jones, Chair of the Boards & Commissions Committee, said that the terms of Sherry Fitzpatrick (disabled community representative) and Mary Robertson (disabled community) expired on August 22, 2007.

On August 28, 2007, it was the consensus of City Council to appoint William Madison (disabled community representative) to serve a three year term, term to expire August 22, 2010, or until his successor has been appointed.

It was the consensus of Council to instruct the City Clerk to arrange interviews with Kelly Rowe Rodriguez and Thomas Marshall Redding for the disabled community position.

C. CONSIDERATION OF APPOINTMENTS TO THE FILM COMMISSION

Vice-Mayor Jones, Chair of the Boards & Commissions Committee, said that the terms of Councilwoman Cape, Mary Trimarco, Diane Linden, D Smith, Lee Nesbitt, Stephen Lutz and Melinda Raines (who resigned), expires on November 1, 2007. In addition, there currently exists two other vacancies (Robbie Williams and Michael Rangel) whose terms expired November 1, 2006.

The Film Commission recommends City Council amend the composition of the Film Commission deleting two positions (the

two vacancies of Robbie Williams and Michael Rangel). Vice-Mayor Jones said that we will formalize that in the future.

In addition, the Film Commission recommends reappointment of Councilwoman Cape, Mary Trimarco, Diane Linden and D Smith. Ms. Nesbitt is not eligible for reappointment and Mr. Lutz is not interested in reappointment.

Mayor Bellamy moved to reappoint Councilwoman Cape, Mary Trimarco, Diane Linden and D Smith to each serve an additional three-year term respectively, terms to expire November 1, 2010, or until their successors have been appointed. This motion was seconded by Councilman Mumpower and carried unanimously.

It was the consensus of Council to instruct the City Clerk to arrange the following interviews for three vacancies on the Film Commission: Nancy Sokolove, Adam Brantley Hobbs and Sandra Holden.

D. RESOLUTION NO. 07-186 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Jones, Chair of the Boards & Commissions Committee, said that the term of Ron Storto (representing the owner or operator of a hotel, motel or other taxable tourist accommodation with 100 or fewer rental units) expired on August 30, 2007.

On August 21, 2007, City Council instructed the City Clerk to arrange interviews for Mr. Storto and Rupa Russell. Ms. Russell had withdrawn from consideration and Council re-advertised.

Councilman Mumpower moved to reappoint Ron Storto as a member of the Buncombe County Tourism Development Authority (representing the owner or operator of a hotel, motel or other taxable tourist accommodation with 100 or fewer rental units) to serve a three-year term, term to expire August 30, 2010, or until his successor has been appointed. This motion was seconded by Mayor Bellamy and carried unanimously.

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VII. OTHER BUSINESS:

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Barry Durand urged Council to investigate the contamination site at the top of Mills Gap Road, as it contaminating downstream rivers. Mayor Bellamy asked City Attorney Oast to meet with Mr. Durand to see what the City of Asheville can do, since it is outside the City limits.

After a short discussion which was initiated by Mr. Joe Minicozzi, who noted that the 45 day deadline for Greenlife to proceed with conceptual plans has passed, City Manager Jackson said that staff has been in contact with Mr. Swann today and they have been assured that the submittal is being prepared in earnest and will be submitted very soon. He will follow-up with Mr. Swann and prepare a staff report for Council's November 13, 2007, meeting.

Mr. Mike Fryar spoke about (1) the number of Asheville police officers and their inadequate pay compared to other cities, e.g., Charlotte; (2) the Staples sign; and (3) the Asheville Transit ridership.

Ms. Juanita Owens, former security guard at the Grove Arcade, alleged "toxic and unethical behavior" of the management team at the Grove Arcade. At the request of Mayor Bellamy, City Attorney Oast said that he would brief Council on their rights as the land owner. When Councilman Freeborn suggested that since the City has staff on the Grove Arcade Board that we ask for a report from them regarding this issue, City Attorney Oast said that he would address that in his report to Council as well.

Mr. Jake Quinn urged Council to recruit and appoint individuals to the Tourism Development Authority who are willing to help re-orient the Tourism Development Authority to better help our community, such as making changes to allow the hotel/motel tax go for infrastructure. Mayor Bellamy noted that we too would like to see the hotel/motel money used in different ways. Councilwoman Cape said that Asheville has many boards and Council relies on citizens to help recruit people.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:47 p.m.

CITY CLERK

MAYOR