

Regular Meeting

Present: Vice-Mayor Diana Hollis Jones, Presiding; 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 Burseson

Absent: Mayor Terry M. Bellamy (City business)

PLEDGE OF ALLEGIANCE

- Den Master Steven Love and Cub Scout Pack #72 led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Newman gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Item "C" was removed from the Consent Agenda for an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 13, 2007

B. RESOLUTION NO. 07-204 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY LAND OFF BAXTER STREET TO DAVID FRECK

Summary: The consideration of a resolution authorizing the City Manager to convey land off Baxter Street.

On October 23, 2007, City Council authorized advertising for upset bids pursuant to a bid from David Freck for land off Baxter Street in the amount of \$1,700.00. The advertisement was published on October 26, 2007, and no upset bids were received.

The land off Baxter Street was acquired by the City as part of the East End/Valley Street Community Improvement Program. It is a rectangular shaped fragment lot comprising 0.02 acre±. It has no access and was intended to be sold to an adjoining property owner. It is zoned RS8, and it is not suitable to build on. The bid from David Freck is in the amount of \$1,700. We have in file an appraisal letter prepared by Troy Flack dated May 18, 2007. Mr. Freck proposes to acquire the subject parcel for assemblage with the property he owns next door.

The positive aspects of the transaction are:

1. The sale will be at fair market value as established by the upset bid process.
2. It will return property not needed for public use to the tax rolls.
3. It will transfer responsibility for maintenance to the private sector.

There is no negative impact.

The proceeds from the sale of this parcel will be Community Development Block Grant Program Income.

Economic Development staff recommends adoption of the resolution which will authorize conveyance of the property in conclusion of the sale by upset bid.

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C. RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH ACME PRESERVATION SERVICES TO UNDERTAKE AN ARCHITECTURAL SURVEY UPDATING ITS HISTORICAL INVENTORY TO HELP MITIGATE THE EFFECT OF IMPROVEMENTS ASSOCIATED WITH THE PACK SQUARE PEDESTRIAN AND ROADWAY IMPROVEMENT PROJECT

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

D. ORDINANCE NO. 3559 - BUDGET AMENDMENT TO RECOGNIZE ADDITIONAL COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Summary: The consideration of a budget amendment, in the amount of \$1,091, to recognize additional Community Development Block Grant (CDBG) funds.

The U.S. Department of HUD has recently provided documentation to the City regarding an addition of \$1,091 to our Treasury line of credit for CDBG funds. This addition corrected an overcharge by HUD's fiscal agent on a Section 108 loan repayment made in 2001.

The budget amendment adds the amount to CDBG Contingency for future allocation as needed.

Pro: Recognizes additional funds due to the City from HUD and makes the funds available for allocation.

Con: None

Staff recommends approval of the budget amendment, in the amount of \$1,091, to recognize additional CDBG funds.

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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 Davis moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Freeborn and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA FOR AN INDIVIDUAL VOTE

C. RESOLUTION NO. 07-205 - RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH ACME PRESERVATION SERVICES TO UNDERTAKE AN ARCHITECTURAL SURVEY UPDATING ITS HISTORICAL INVENTORY TO HELP MITIGATE THE EFFECT OF IMPROVEMENTS ASSOCIATED WITH THE PACK SQUARE PEDESTRIAN AND ROADWAY IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the City of Asheville to enter into a contract with Acme Preservation Services in the amount of \$105,300.42 to undertake an architectural survey updating its historic architectural inventory, to help mitigate the effects of the improvements associated with the Pack Square Pedestrian and Roadway Improvement Project.

The Federal Highway Administration (FHWA) has consulted with the North Carolina State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP) in accordance with Section 106 of the National Historic Preservation Act and have determined that the proposed federally funded Undertaking (Pack Square Pedestrian and Roadway Improvement Project) will have an adverse effect on the Downtown Asheville Historic District.

The Memorandum of Agreement (MOA) among the Federal Highway Administration, North Carolina Division, the SHPO and the ACHP, upon consultation with the City of Asheville and the Pack Square Conservancy, stipulates that the City shall undertake an architectural survey to update the historic architectural inventory of the City's entire planning area to help mitigate the adverse effects. The SHPO has determined this area to be the approximately 41 square miles within the Asheville City limits. This survey will be paid for with grant funding.

Historic architectural resources within the City of Asheville have never been comprehensively surveyed, but have been documented through two large survey projects undertaken in the late 1970's and two survey updates conducted in the 1990's.

Pros:

- The City will have a current comprehensive architectural survey.
- The terms of the MOA will be fulfilled.
- The project will be paid for with grant funding.

Cons:

The project will take two years to complete.

- City staff recommends City Council adopt the resolution authorizing the City to enter into a contract with Acme Preservation Services to conduct a comprehensive architectural survey.

Historic Resources Director Stacy Merten responded to various questions/comments from Council, some being, but are not limited to: what is the productive purpose behind the survey; what are we trying to accomplish with the survey; do we have a lack of clarity of our historic architectural survey; have we done a survey of this type in the past; and what is the adverse impact of the survey.

Vice-Mayor Jones, liaison to the Pack Square Conservancy, said that the Pack Square Conservancy didn't want to utilize the \$105,301 money that way, however, the MOU does stipulate that the City shall undertake an architectural survey to update the historic architectural inventory of the City's entire planning area to help mitigate the adverse effects.

Councilman Newman moved for the adoption of Resolution No. 07-205. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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III. PRESENTATIONS & REPORTS

A. SCHOOL BOARD REPORT

Mr. Gene Bell, Chairman of the Asheville School Board, outlined the system configuration of one 5-star pre-school; one Middle School (Asheville Middle School); one Alternative School (Randolph Learning Center); five elementary magnet schools (Claxton Elementary, Dickson Elementary, Hall Fletcher Elementary, Jones Elementary and Vance Elementary); and two special programs (Asheville Preparatory Academy and FX@AHS).

Using a chart, he explained the comparison of 16-year enrollment demographics.

Regarding socio-economics, 45.84% receive free- or reduced-price meals. As of October 8, 2007, 216 are reduced and 1,498 are free.

Regarding the special needs population, there are 496 students; 12.85 of 3,864; 50 Autistic students comprises the highest percentage statewide.

A breakdown by category includes 38 administrators, 329 teachers, 48 licensed support, 129 teacher assistants, 7 technicians, 50 clerical, 15 maintenance and 53 service workers.

Using a pie chart, Mr. Allen Johnson, Interim Superintendent of Asheville City Schools, explained the 2007-08 budget by revenue source and then by object of expenditure.

Accomplishments/recognitions for 2006-07 show (1) the freshman experience of absences, dropouts and discipline incidents are down and the grades are up; (2) All 31 2007 Advancement Via Individual Determination seniors were accepted into a college/university; (3) \$473,000 IMPACTing School Leadership Grant; and (4) Homeland Security presented the WNC Regional Consortium for Safe Schools with a \$474,000 grant.

He reviewed in detail the 2006-07 expected/high growth; the 5-year history of SAT scores; the Career Technical Education; graduation cohort data; ACS vs. NC graduation cohort data; ACS students proficient in both reading and math; and a 3-year look at achievement gaps.

The Asheville City School's strategic plan goals include (1) Asheville City Schools will produce globally competitive students; (2) 21st Century professionals will lead and teach in Asheville City Schools; (3) Asheville City Schools students will be healthy, responsible and engaged in positive relationships; (4) district leadership will guide innovation and continuous improvement in Asheville City Schools through collaboration and partnership with stakeholders; and (6) Asheville City Schools will use a 21st Century system to foster efficiency, accountability and communication.

Goals and objectives for 2007-08 include (1) offer an expanded real-world curriculum; (2) cultivate a multicultural staff; (3) ensure equal access/participation; (4) strive for a 100% graduation rate; (5) close the digital divide; and (6) improve communications.

Throughout discussion, Mr. Bell and Mr. Johnson responded to various questions/ comments from Council, some being, but are not limited to: what do you attribute the higher graduation rate to; City Council wants to know if there are things they can do from a policy standpoint; what are the facilities improvement plans as success of students can be seen with renovated buildings; how can we encourage school children to speak with business leaders for future employment; request for health and wellness initiatives; safe school planning coordination with the City and schools; need to expand the More at 4 Program; suggestion that all schools have interactive classrooms as is at Hall Fletcher; and how much is the drug activity in our neighborhoods affecting the efforts of the schools.

On behalf of City Council, Vice-Mayor Jones thanked Mr. Bell and Mr. Johnson for their hard work, and the hard work of the entire Board.

B. PUBLIC ART BOARD ANNUAL REPORT

Dr. Barbara Cary, Chair of the Public Art Board, said that the Board's mission is to identify and implement public art works that (1) recognize and promote Asheville's natural and made beauty; and (2) provide opportunities for distinctive objects and memorable places, spaces and experiences.

She introduced the members of the Board. Some public art fast facts include (1) 1983 Energy Loop was the first public art; (2) in 1999 Council adopted the Public Art Policy; (3) in 2000 the Public Art Board was established; and (4) 39 pieces in the Public Art collection valued at over \$1 Million in 2007.

The 2006-07 Public Art Board accomplishments include (1) River Sculpture Festival at the French Broad River Park; (2) launched the Public Artist of the Year – Harry McDaniel – Decko Gecko; (3) Postcards from the Ledge; (4) restored the Energy Loop; (5) begin restoration of Urban Trail Station 7; (6) begin design of Urban Trail Station 1; (7) approved the Col. Morgan Memorial, Veterans Memorial and Asheville Mural Project; (8) Public Art collection appraisal; and (9) established a Public Art 2007-08 budget.

The 2007-08 Public Art goals include: (1) implement deferred maintenance and repair; (2) install Energy Loop & Decko Gecko; (3) continue fundraising; (4) participation in the Parks & Recreation Master Plan; (5) collaborate with the Parks & Recreation boards and initiatives; and (6) partner with the Asheville Parks & Greenways Foundation and Urban Trail Committee.

Dr. Cary responded to various questions/comments from Council, noting that they are looking forward to the River Festival becoming an annual event.

On behalf of City Council, Vice-Mayor Jones thanked Dr. Cary for her hard work, and the hard work of the entire Board.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING FOR PROPERTY LOCATED AT 22 VIRGINIA AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT FOR A PROPOSED TELECOMMUNICATION TOWER.

Vice-Mayor Jones said that on November 16, 2007, Mr. Jonathan L. Yates submitted a letter stating "Please withdraw the application of AT&T (Cingular Wireless) for Conditional Zoning for Virginia Avenue/PINs 9638.14-24-5178 and 9638.14.24.5245 from the agenda of City Council for November 20, 2007. We plan to explore any other possible options in the surrounding area for this very important site."

V. UNFINISHED BUSINESS:

A. SECOND READING OF ORDINANCE NO. 3546 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 673 SAND HILL DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT FOR THE DEVELOPMENT OF A MULTI-FAMILY APARTMENT PROJECT

Vice-Mayor Jones said that this public hearing was held on October 23, 2007. On November 13, 2007, the petitioners requested, and City Council granted, a continuance to this meeting.

Councilman Newman moved for the adoption of the second and final reading of Ordinance No. 3546, including all the conditions in the original motion. This motion was seconded by Councilman Mumpower and carried on a 4-2 vote, with Vice-Mayor Jones, Councilwoman Cape, Councilman Mumpower and Councilman Newman voting "yes" and Councilman Davis and Councilman

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VI. NEW BUSINESS:

- A. RESOLUTION NO. 07-206 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT, AND ANY CHANGE ORDERS AND/OR ALTERNATES WITHIN THE BUDGETED AMOUNT, WITH VALLEY CREST LANDSCAPE DEVELOPMENT INC. FOR THE PROJECT KNOWN AS "2007-2008 PACK SQUARE PARK IMPROVEMENTS"**

ORDINANCE NO. 3560 - BUDGET AMENDMENT TO RECEIVE FUNDS FROM THE PACK SQUARE CONSERVANCY TO COVER THE PORTION OF THE 2007-2008 PACK SQUARE PARK IMPROVEMENTS PROJECT NOT COVERED BY A STATE GRANT

City Engineer Cathy Ball said that this is the consideration (1) a resolution authorizing the City Manager to sign a contract with Valley Crest Landscape Development, Inc., in the amount of \$7,464,912.00, for the project known as 2007 – 2008 Pack Square Park Improvements and authorizing the City Manager to execute subsequent change orders and/or alternates for the project up to the budget amount of \$8,100,000; and (2) a budget amendment, in the amount of \$4,340,663.00, to receive funds from the Pack Square Conservancy to cover the portion of this project not covered by a state grant.

This project generally consists of the construction and/or installation of a stage/pergola with extensive electrical service, expansive areas of brick paving, granite veneered signage/seat walls, an interactive fountain, large stabilized lawn, flagstone and concrete paving, small fountain with waterfall, seating terraces, landscape lighting, specialty railings, site furnishings, large fountain service to a 20 foot + diameter bronze bowl, street paving and granite curb installation, irrigation, and extensive landscape plantings. The project is located on a 6.5 acre site bounded by College Street to the north, Court Plaza to the east, Biltmore Avenue to the west, and South Pack Square to the south in downtown Asheville, North Carolina.

The Transportation & Engineering Department received and publicly opened two bids on Tuesday, November 6, 2007, at 2:00 p.m. Two bids were received from Valley Crest Landscape Development, Inc. and Paul Howard Construction Company, Inc. in the amounts of \$ 7,254,700.00 and \$ 7,918,545.00 respectively. After a thorough review of the bid documents by the Transportation & Engineering Department and the Office of Minority Affairs, Valley Crest Landscape Development, Inc., was found to be the lowest responsible bidder with a total bid of \$ 7,254,700.00. All contract work was solicited using the "competitive bid procedures" in accordance with Federal guidelines (23 CFR 635A) and as a result, there was no requirement to receive a minimum number of bids.

The project will be financed with monies from the Federal Highway Administration (FHWA) via the N.C. Dept. of Transportation (NCDOT) and private sources. No City monies will be used for the subject project.

The Pack Square Conservancy wishes to execute Alternate A, E and G which add an additional \$210,212.00 to the base bid of \$7,254,700 for a total contract amount of \$7,464,912.00.

Valley Crest Landscape Development, Inc., has demonstrated in a satisfactory manner that he has satisfied all of the requirements for the contractor's qualifications as stated in the contract documents including evidence that he has performed several comparable projects in the past in a satisfactory manner.

The construction time for the Pack Square Park portion of the project is identified as 210 calendar days from the written notice to proceed and for the Green / Mid-Block Park portion of the project, it is 420 calendar days from the written notice to proceed as stated in the contract documents. The contractor will be required to pay the sum of \$1,500.00 as liquidated damages for each and every calendar day that he shall be in default after the time stipulated in the contract.

In April 2006, City Council adopted a budget amendment in the amount of \$3,759,337 from the NCDOT to pay for a portion of this project. The requested budget amendment in the amount of \$4,340,663.00 to cover the remainder of the project up to the budget amount of \$8,100,000. This amount is to be provided by the Pack Square Conservancy in accordance with the agreement.

Considerations of adopting a resolution authorizing the Mayor to execute this contract are as follows:

- The execution of this contract will allow the City to meet the requirements of an agreement between the City of Asheville and the North Carolina Department of Transportation (NCDOT) dated May 30, 2006;
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- The bid amount of \$ 7,254,700.00 for the construction of the 2007 – 2008 Pack Square Park Improvements Project is

equitable, as compared to the engineer's estimate of \$ \$8,100,000;

- When the project is completed, downtown Asheville will be blessed with a "state-of-the-art" park that will be enjoyed by citizens and visitors for many years;
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- The only foreseeable disadvantage of adopting a resolution authorizing the Mayor to execute this contract is the temporary land disturbance in the immediate area of the park and the temporary inconvenience to existing adjacent business owners.

- Staff recommends City Council adopt (1) a resolution authorizing the City Manager to sign a contract with Valley Crest Landscape Development, Inc. in the amount of \$7,464,912.00, for the project known as 2007 – 2008 Pack Square Park Improvements and authorizing the City Manager to execute subsequent change orders and/or alternates for the project up to the budget amount of \$8,100,000; and (2) a budget amendment in the amount of \$4,340,663.00 to receive funds from the Pack Square Conservancy to cover the portion of this project not covered by a state grant.

Vice-Mayor Jones said that members of Council have been previously furnished with copies of the resolution and ordinance and they will not be read.

Councilman Mumpower moved for the adoption of Resolution No. 07-206. This motion was seconded by Councilwoman Cape and carried unanimously.

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Councilman Mumpower moved for the adoption of Ordinance No. 2560. This motion was seconded by Councilwoman Cape and carried unanimously.

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B. ASSIGNMENT OF DEEDS OF TRUST ON MCCORMICK HEIGHTS PROPERTY

City Attorney Oast said that this is the consideration of a resolution authorizing discounted assignment of deeds of trust held by City on McCormick Heights property.

The McCormick Heights housing development (herein "Subject Property") is owned by Asheville Mountainside, LLC, and was operated by the Housing Authority of the City of Asheville. For years, the development experienced financial and other problems, eventually leading to its closure earlier this year. There are four outstanding deeds of trust on the property in the following amounts and priorities:

1. Mechanics and Farmers \$1,900,000
2. City of Asheville CDBG loan \$225,000
3. City of Asheville HOME loan \$138,188
4. Housing Authority \$100,000

Earlier this year the payments of the first deed of trust came into arrears, and the City, a holder of the second and third deeds of trust and owner of the adjacent property, was approached about taking over the indebtedness on the first deed of trust, and essentially becoming the owner of the Subject Property. For a variety of reasons, including the fact that the restrictions on the use of the Subject Property would continue to apply to the City, severely limiting the potential uses of the Subject Property, the City declined the opportunity. The Housing Authority began the process of closing the development down, and the City provided assistance to remaining tenants who needed to relocate. The project is now vacant.

The first deed of trust has been assigned to Vision Bank, which has initiated foreclosure proceedings. A sale has been ordered, and is scheduled for November 29. An investment group out of Atlanta has been in negotiations with Vision to acquire Vision's interest in the property under the first deed of trust. A similar arrangement has been negotiated with the Housing Authority (\$10,000) to acquire the Authority's interest at about ten percent of the face value of the Housing Authority's loan.

The investor group has offered to acquire – through an assignment of the second and third deeds of trust – the City's interest in Subject Property for \$50,000, which is about 14% of the face value of the secured loans.

The investors' reasons for doing this are that, if the legal interests represented by the deeds of trust are consolidated, and the investor acquires title to the Subject Property by a deed in lieu of foreclosure, the debt will be extinguished and the title to the Subject Property will be cleared. The restrictions that would have applied to the City, if the City had acquired the Subject Property,

do not appear to apply to another party, so the Subject Property could be put to other uses.

If the Subject Property is sold through foreclosure, the City, being in second and third positions, would recover what was paid for it over and above what is necessary to satisfy the first deed of trust. The opening bid in foreclosure (the minimum that Vision can accept) is anticipated to be about \$2.5 million (which includes accrued interest, a prepayment penalty, and other fees). Recent (2005) estimates have set the value of the Subject Property at \$2.5 million, but this assumed a 90% occupancy rate of buildings in good repair. In the current real estate market, and with the Subject Property in its current condition, appears unlikely that this threshold bid will be met; exposing the City to the possibility that its indebtedness will be extinguished and that it will receive nothing.

Pros:

- Gains the City \$50,000 that it might not otherwise recover
- Facilitates the redevelopment of the Subject Property
- Facilitates the return of the Subject Property to the tax base
- Clean termination to a troublesome project

Cons:

- Extinguishes the possibility, however remote, that the Subject Property would sell for more and the City would recover more for its interest

For the reasons set forth above, staff recommends adoption of the resolution.

Throughout discussion, City Attorney Oast and Mr. Scott Best (attorney whose firm is handling the foreclosure) responded to various questions/comments from Council, some being, but are not limited to: are there other costs, other than the Mechanics and Farmers loan, that may pile up in front of the \$2.5 Million sale; will the \$2.5 Million only make the first deed of trust whole; how much would the property have to sell for before the City gets their entire amount back; explanation of the foregoing procedure; what would need to happen for the property not to go into foreclosure; and explanation of how the City got involved using CDBG and HOME monies.

Ms. Bonnie Vess and Mr. Pete Hutchins asked for, and received, an explanation of the foreclosure, but was concerned the public is only now being made aware of the action.

Councilman Davis explained how McCormick Heights is not City property and noted that the City helped with relocation of the tenants with no obligation to do that. The property is open for other people to buy it.

Councilman Mumpower explained how he felt this endeavor was a tremendous failure, noting we have lost an affordable housing resource.

Because Councilman Newman felt that the property will sell more than \$2.5 Million, meaning that the City would recover more for its interest than \$50,000, he moved to decline the offer of \$50,000 to assign the City's interest in its deeds of trust on the McCormick Heights property. This motion was seconded by Councilwoman Cape.

Vice-Mayor Jones stressed that even though this tax credit loan was issued in 1998, the City has 19 other tax credit projects that are all operating fine and are accountable. Since 1987, the CDBG funds that have come through our community total about \$40 Million and that is a good strong track record.

The motion to decline the offer made by Councilman Newman and seconded by Councilwoman Cape carried on a 4-2 vote with Vice-Mayor Jones and Councilman Davis voting "no."

C. RESOLUTION NO. 07-207 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT IN THE AMOUNT OF \$2.7 MILLION FROM THE N.C. DEPT. OF TRANSPORTATION TO PURCHASE FIVE HYBRID REPLACEMENT BUSES FOR THE CITY TRANSIT FLEET

ORDINANCE NO. 3561 - BUDGET AMENDMENT FOR 10% LOCAL MATCH FROM N.C. DEPT. OF TRANSPORTATION GRANT FOR FIVE HYBRID REPLACEMENT BUSES FOR THE CITY'S TRANSIT FLEET

Interim Transit Manager Mariate Echeverry, Interim Transit Manager, said that this is the consideration of (1) a resolution authorizing the City Manager to accept a grant in the amount of \$2.7 million from the N.C. Dept. of Transportation (NCDOT) to purchase five hybrid replacement buses for the City transit fleet; and (2) a budget amendment, in the amount of \$100,000, to cover

the 10% local match (\$200,000 is currently budgeted).

Most of the buses that compose the transit fleet are reaching their life-cycle, with more than ten years in operations; sixteen of these buses were purchased in 1996 and five were purchased in 2006. The buses purchased in 1996 are still operative; however they have begun presenting the problems attributable to age, engine repairs and other parts. Since these buses are not manufactured anymore, parts are spare and difficult to find and maintenance costs can become burdensome and may increase the operational costs in at least 30%. The fleet needs to be replaced and the replacement has been programmed for the next three years (Fiscal Years 2008, 2009 and 2010), purchasing five buses each year.

The City is recommending buying hybrid buses instead of diesel. Hybrid technology has been gaining strength mainly due to savings in fuel consumption (between 25 and 50%), no transmissions to overhaul and fewer brake pads to replace, plus the intangible cost of the cleaner air. Compared with low-emission diesel transit buses and CNG buses, the hybrids emit less than half the nitrous oxides (NOx) and one-fourth the carbon monoxide. In addition, the hybrid buses drive smoother and quieter than conventional diesel buses. Hybrid buses cost approximately 30% more than conventional diesel buses; however the differential cost can be recaptured through their life time.

Ms. Echeverry then showed a CATS hybrid bus cost comparison for Fiscal Year 2007.

The NCDOT will allocate \$6 million in Fiscal Year 2008 to help cities that want to replace their fleet. The NCDOT will give preference to hybrid technology over the conventional diesel, mainly because of the benefits to the environment. To replace these five buses programmed for Fiscal Year 2008 the City will receive \$2.7 million from the NCDOT and will contribute \$300,000 for the 10% local match, of which \$200,000 are already budgeted.

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Pros:

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- This action will reduce engine repairs and other parts and will keep maintenance costs under control.
 - Hybrid buses will represent savings in fuel consumption between 25 to 50% and will benefit the environment.
 - Hybrid buses are smoother and quieter, improving quality of service to the customers and less impact when running through the neighborhoods.

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Con:

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- NCDOT may fund partially this initiative, in which case the City will spend only the funds needed to match the State grant.

City staff recommends City Council adopt (1) resolution authorizing the City Manager to accept a grant in the amount of \$2.7 million from the NCDOT to purchase five hybrid replacement buses for the City transit fleet; and (2) the associated budget amendment, in the amount of \$100,000, to cover the ten percent local match (\$200,000 is currently budgeted.)

Throughout discussion, Ms. Echeverry and Ms. Cathy Ball, Director of Transportation and Engineering, responded to various questions/comments from Council, some being, but are not limited to: with purchase of the hybrid buses, how much will we be saving operationally; request to pursue a course to replace all our buses with hybrids; and what is the cost of a hybrid bus vs. a diesel bus.

Councilman Newman was proud of the progress over the last couple of years with our transit system. The transit system has a huge environmental footprint on its own. Creating a clean transit fleet is one of the most powerful ways we can make a very real difference in our community in terms of air quality.

Councilwoman Cape thanked the NCDOT for recognizing their role in transportation, other than just roads.

Councilman Mumpower felt it is less than responsible of us to at least not look at the reality of \$375,000 vs. \$550,000 because if there is a significant difference in capital investment it alters the equation dramatically. His greater concern was process in that this was a last minute agenda item and not reviewed by the Transit Commission.

Ms. Ball said that his does not commit the City to spending any money at this point - it only acknowledges Council's support in moving forward in this area. City staff will come back to Council prior to actually purchasing the buses.

Councilman Freeborn, liaison to the Transit Commission, spoke in support of using the grant for five hybrid buses and noted that he received an e-mail from several Transit Commission members supporting this action.

City Manager Jackson suggested Council take action on these items and allow him to look into the process concerns raised

with staff and improve upon that in the future.

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

Councilwoman Cape moved for the adoption of Resolution No. 07-207. This motion was seconded by Councilman Freeborn and carried on a 5-1 vote, with Councilman Mumpower voting "no."

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Councilman Freeborn moved for the adoption of Ordinance No. 3561. This motion was seconded by Councilman Newman and carried on a 5-1, with Councilman Mumpower voting "no."

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VII. OTHER BUSINESS:

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jack Krupnick, property owner of 48 South Market Street (Pebbledash LLC), presented Council with a new prospective for the Eagle-Market Street Redevelopment. He purchased the property at auction with the intent of redevelopment and was unaware of the City's plans to redevelop the Block. In the interim, they have demolished to the shell and have been permitted for a new roof, floor and bib. Now that the City has reignited the energy to the redevelopment project of the Block, he has been in frequent communication with the individuals involved with the plans of the City. Despite their plans and the established construction funding by Blue Ridge Savings Bank, they feel that they would be willing to cooperate with a sale of their property. Their cooperation will allow the City to fulfill its desire to revitalize one of its blighted communities. This is something that a single project rehabilitator cannot attempt. It is with this sense of cooperation and desire to see good things happen in downtown Asheville that they offer our property. The only sense of urgency is that in order to offer at or below market value, or even as a bargain sale, they must act with the greatest efficiency. Every day that the City does not act causes their base price to rise with the carrying cost of our investment. He offered to sell their property at the value price and will continue to be open to this discussion. In addition, he presented a letter from the owners of the gravel triangle parking lot stating that they too would like to be included in the Master Plan.

City Manager Jackson said that the City's real estate advisor will be at Council next week and we will make this information available to them to be discussed with Council in closed session.

Closed Session

At 7:15 p.m., Councilman Mumpower moved to go into closed session for the following reasons: (1) 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); (2) 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); and (3) 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 potential litigation. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Freeborn and carried unanimously.

At 8:13 p.m., Councilman Freeborn moved to come out of closed session. This motion was seconded by Councilman Freeborn and carried unanimously.

IX. ADJOURNMENT:

Vice-Mayor Jones adjourned the meeting at 8:13 p.m.

CITY CLERK

MAYOR