

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; Councilman William A. Russell Jr.; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Keisha Lipe

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Jones gave the invocation.

Mayor Bellamy asked for two moments of silence for (1) individuals in Kirkwood, Missouri, who were trying to do the work of community; (2) passing of former Mayor Eugene C. Ochsenreiter Jr.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING FEBRUARY, 2008, AS "BLACK HISTORY MONTH"

Mayor Bellamy read the proclamation proclaiming February, 2008, as "Black History Month" in the City of Asheville. She presented the proclamation to Ms. Cayla Washington, Seventh grader at Cane Creek Middle School (who took on an initiative to make her classmates aware of her heritage), and Mr. Brian Fisher, Parks Center Director at Shiloh Community Center, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Items "B", "E" and "F" were removed from the Consent Agenda for discussion and/or individual votes.

- A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON JANUARY 22, 2008; AND THE CITY COUNCIL RETREAT HELD ON FEBRUARY 4-5, 2008**
- B. RESOLUTION OF SUPPORT AND ADMINISTRATION FOR AN APPLICATION TO THE N.C. DEPT. OF TRANSPORTATION SAFE ROUTES TO SCHOOLS DEMONSTRATION GRANT**

This item was removed from the Consent Agenda for discussion and/or a separate vote.

- C. RESOLUTION NO. 08-20 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A SUPPLEMENTAL UTILITY AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR WATER LINE UPGRADES FOR THE US 19/23 SMOKY PARK HIGHWAY I-40 UPGRADE PROJECT**

Summary: The consideration of a resolution authorizing the Mayor to enter into a Supplemental Utility Agreement with N.C. Dept. of Transportation (NCDOT) for the project known as I-4401, and the associated budget amendment in the amount of \$40,000.00.

The NCDOT is widening I-40 at Exit 44 and making improvements along US 19/23 Smoky Park Highway from Old Haywood Road to Monte Vista Road. This road project includes replacing the current 3 inch galvanized water line along Smokey Park Highway with a new 12 inch ductile iron line. This project is part of the design-build construction of I-40 from west of SR 1224 (Monte Vista Road) to I-240 in Asheville. The original resolution for this project was approved by City Council on August 21, 2007. Additional fire protection is required through this service area.

This supplemental agreement is required to enhance the fire protection in this service area by adding another fire hydrant and other water line upgrades required to provide this service. The cost of this upgrade is \$40,000.00 to the original utility agreement current water line on this section of Smoky Park Highway is a three (3) inch galvanized that has numerous emergency

breaks during winter months and restricts flow to a 12 inch line on Smoky Park. This project will enhance customer service by eliminating costly line breaks which cause water outages to area customers on the current line and will help loop the water system to the west region of the system. The original cost was estimated at \$498,571.78. The new cost for this project is \$538,571.78. Funding for this \$40,000.00 is being reallocated from the Clingman Avenue enhancement project which bids were well below the budgeted estimate.

PRO: This project will eliminate a problematic 3 inch water line which will enhance customer pressures and flow; and provide fire protection to area businesses at and near Exit 44 of I-40.

CON: There are no cons to this project.

Staff recommends City Council approve a resolution authorizing the Mayor to enter into a Supplemental Utility Agreement with the NCDOT for the project known as I-4401, and the associated budget amendment in the amount of \$498,571.78.

At the request of Mayor Bellamy, City Manager Jackson highlighted the project. Mayor Bellamy said that area of town is growing and this is a major upgrade in this area.

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D. ORDINANCE NO. 3581 BUDGET AMENDMENT FOR THE US 19/23 SMOKY PARK HIGHWAY I-40 UPGRADE PROJECT

Summary: See Consent Agenda Item "C" above.

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E. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT TO ACCEPT AN ALLOCATION FROM THE N.C. DEPT. OF TRANSPORTATION FOR CONSTRUCTION OF PHASE II OF THE REED CREEK GREENWAY

This item was removed from the Consent Agenda for discussion and/or a separate vote.

F. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT TO AMEND THE EXISTING AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO SUPPORT CONSTRUCTION COSTS OF THE HOMINY CREEK SECTION OF THE FRENCH BROAD RIVER GREENWAY

This item was removed from the Consent Agenda for discussion and/or a separate vote.

G. RESOLUTION NO. 08-23- RESOLUTION AUTHORIZING AN EASEMENT TO PROGRESS ENERGY CAROLINAS FOR A POWER LINE ACROSS CITY-OWNED PROPERTY AT RICHMOND HILL

Summary: The consideration of a resolution approving the conveyance of an easement to Progress Energy Corporation (herein "PEC") for power transmission facilities.

PEC is requesting an easement over the City's property at Richmond Hill in order to serve the Asheville Readiness Center (National Guard) that is currently under construction there. The facilities include a power line and at least one enclosure. The line and enclosure will be installed underground. The easement area will include 10 feet on either side of the line and around the enclosure, and the City's ability to use this area will be limited, although usual park uses should not be an issue.

The proposed easement has been reviewed with the affected City departments, and no objections were noted. The Readiness Center will serve a public purpose, and is on land obtained from the City.

Pros:

- Enables the provision of utility service to a facility that will provide a public service
- Line is located underground

Cons:

- Limits City's ability to use property in easement area for some purposes.

Adoption of the resolution is recommended.

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

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION NO. 08-__ - RESOLUTION OF SUPPORT AND ADMINISTRATION FOR AN APPLICATION TO THE N.C. DEPT. OF TRANSPORTATION SAFE ROUTES TO SCHOOLS DEMONSTRATION GRANT

Summary: The consideration of a resolution of support and administration for an application to North Carolina Department of Transportation (NCDOT) for Safe Routes to Schools Demonstration Grant.

This resolution is an action item to formalize a City Council vote on November 27, 2007, in which City Council asked staff to pursue this grant opportunity.

Staff is assisting the Emma community in pursuing a grant for a sidewalk on North Louisiana Avenue. The City of Asheville is the lead agency on the grant application, which requires a formal resolution of support from City Council. The application is for a demonstration grant through the NCDOT Safe Routes to School Program.

The amount of the grant application is \$250,000. The grant does not require a local match. On November 27, 2007 City Council unanimously approved a motion to direct staff to prepare the application.

Staff recommends City Council approve resolution of support and administration for an application to NCDOT for Safe Routes to Schools Demonstration Grant.

Councilman Mumpower said that his comments are directed at Consent Agenda Items B, E and F. He felt that North Carolina's number one responsibility to us public safety and he personally feels that their number one charge is the court system. We have one of the most dysfunctional court systems in America today. Until they get that court system in place, he will vote against anything they offer us.

Councilwoman Cape said she just returned from a conference on energy in North Carolina and the United States. It was outlined very clearly that we need a new future for energy and overwhelming 80-95% of the people voted for immediate action for a change on how we do things in the state government. A lot of it was about how we do transportation and energy of all kinds. All our problems are interconnected and looking at how we can do things differently is important to the state and they are asking for that. She is supportive of any initiative to help turn around some of the issues in the community.

Councilwoman Jones spoke in support of the Safe Route to Schools program.

Councilwoman Cape moved for the adoption of Resolution No. 08-23. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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E. RESOLUTION NO. 08-21- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT TO ACCEPT AN ALLOCATION FROM THE N.C. DEPT. OF TRANSPORTATION FOR CONSTRUCTION OF PHASE II OF THE REED CREEK GREENWAY

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement to accept an allocation from the N.C. Dept. of Transportation (NCDOT) in the amount of up to \$400,000 for construction of Phase II of the Reed Creek Greenway.

The NCDOT in the Division of Bicycle and Pedestrian Transportation has awarded the City of Asheville an allocation up to \$400,000 for construction of the Reed Creek Greenway as part of the NCDOT Transportation Improvement Plan. The funds will be combined with the \$36,500 budgeted in the City's FY 07/08 capital improvement budget for Reed Creek Greenway, and used to

construct Phase II of the greenway along Broadway between Cauble and Magnolia Streets. This section of the greenway will be approximately 1,600 linear feet, 10-foot wide and paved with asphalt.

Phase I of the greenway between Catawba and Cauble Streets is complete, and Phase II is expected to begin in 2008 once the final easement and land acquisitions for this phase are complete. Once complete, Reed Creek Greenway will connect the Glenn's Creek Greenway adjacent to the UNC Asheville campus to downtown Asheville.

Pros:

- Supports City Council's priority of developing a greenway system in Asheville
- Leverages the City's existing capital funds allocated for construction of Reed Creek
- Keeps the project timeline of Reed Creek Greenway on track to complete construction in a timely manner

Con:

- None

The Parks and Recreation Department recommends City Council approve a resolution authorizing the City Manager to enter into an agreement to accept an allocation from the North Carolina Department of Transportation in the amount of up to \$400,000 for construction of Phase II of the Reed Creek Greenway.

Councilwoman Cape moved for the adoption of Resolution No. 08-21. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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F. RESOLUTION NO. 08-22 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT TO AMEND THE EXISTING AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO SUPPORT CONSTRUCTION COSTS OF THE HOMINY CREEK SECTION OF THE FRENCH BROAD RIVER GREENWAY

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement to amend the existing agreement with the N.C. Dept. of Transportation (NCDOT) for an allocation of up to \$300,000 to support construction cost of the Hominy Creek Section of the French Broad River Greenway.

The City of Asheville entered into an agreement with the NCDOT in the Division of Bicycle and Pedestrian Transportation in 2004 to accept an allocation of up to \$300,000 for construction of the Hominy Creek section of the French Broad River Greenway as part of the NCDOT Transportation Improvement Plan. The funds will be used to construct this section of greenway on the west bank of the French Broad River beginning at Carrier Park on Amboy Rd., and extend west to Hominy Creek Park.

The 2004 agreement allowed three years for trail construction to be complete, but the project was delayed due to the delay in acquiring land. City Council allocated \$590,000 in the City's Fiscal Year 2007/08 capital improvement budget to the Hominy Creek Park section of the French Broad River Greenway to be combined with the \$300,000 NCDOT allocation, making it possible to complete the land acquisition and trail construction. The amended agreement allows two more years to complete the project and includes the Disadvantaged Business Enterprise federal policies as required by NCDOT.

Pros:

- Supports City Council's priority of developing a greenway system in Asheville
- Extends the City's ability to leverage existing capital funds allocated for construction of the Hominy Creek Park section of the French Broad River Greenway
- Extends the project timeline of the Hominy Creek section and to keep it on track to complete construction in a timely manner

Con:

- None

The Parks and Recreation Department recommends City Council approve a resolution authorizing the City Manager to enter into an agreement to amend the existing agreement with the NCDOT for an allocation of up to \$300,000 to support construction cost of the Hominy Creek Section of the French Broad River Greenway.

Councilwoman Cape moved for the adoption of Resolution No. 08-22. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

III. PRESENTATIONS & REPORTS:

A. MUNICIPAL FACILITY SECURITY UPDATE

Risk Manager Betty Coulter briefed Council on a progress report on the City of Asheville's security enhancement initiative.

The current operating budget includes an appropriation of \$85,000 to develop a plan and implement various measures aimed at enhancing the overall security of our city facilities and improving employee safety. A committee lead by the Risk Management Division and composed of staff from the Police, Fire, Human Resources, Information Technology and various other departments has been charged with undertaking this tasks.

Initial Measures:

The security improvement project began with an initial evaluation process that included the following:

- Evaluating perimeter boundaries
- Controlling the lobby or reception areas
- Controlling employee spaces
- Controlling restricted or highly sensitive areas
- Emergency action/response

Several immediate impact security measures have implemented. They are as follows:

- Police officer walk-thrus are being provided in City Hall and increased security during City Council meetings;
- Lighting at the Marjorie Street parking lot has upgraded for improved visibility and employee safety.
- Controlled access at the Marjorie Street parking lot has been extended from 5:00 p.m. to 6:00 p.m.
- Employees have received security training, "Protecting Yourself against Workplace Violence."

Recreation Center Measures:

Additional measures involving City recreational facilities have also been implemented as well. Recreational and police staffing have been added at the Reid, Montford, Stephens Lee and Shiloh centers. The procurement of additional security cameras for recreational facilities is expected to be completed by February 25, 2008, with installation of these cameras planned for April 2008.

Long Term Measures:

The security committee is currently developing a comprehensive proposal and spending plan for the implementation of long term security measures. This plan will likely include major physical improvements and the enhanced use of technology at City facilities to promote controlled access and emergency response. These measures may include installation additional card access readers; construction of additional partitions and walls; installation of remote entry devices; increased usage and installation of panic alarms buttons have been earmarked. The committee is expected to have a comprehensive recommendation for technology and implementation plan by March 1, 2008.

Additional work place violence training programs planned for spring and fall 2008.

An emergency action and response plan addressing security issues is expected to be completed by October 2008.

Staff requests City Council review this report and provide further direction to staff as needed.

Ms. Coulter responded to various questions/comments from Council, some being, but are not limited to: any additional security plan for City Council meetings; what measures are in place now at recreation centers and what is the next step; and is there any discussion about using technology similar to the Buncombe County Courthouse.

Mayor Bellamy asked Ms. Coulter to keep City Council updated on this initiative.

B. REPORT ON WATER SUPPLY FLUORIDATION

Mayor Bellamy said that last fall she was approached by several people who requested this item be placed on Council's agenda. She explained Council's process and referred them to Water Resources Director David Hanks. She also met with them twice. They still asked to be placed on Council's agenda so that is why this topic is being heard by Council.

Water Resources Director David Hanks said that the City of Asheville has added fluoride to its drinking water since 1965. Fluoride was added to the drinking water through a voter referendum on May 11, 1965, and upheld by a subsequent voter referendum on September 12, 1967. The City currently uses the chemical Hydrofluorosilicic Acid to maintain its residual fluoride level. The City Attorney has reviewed the previous voter referendums and a positive voter referendum would be required to remove fluoride from the Asheville water system.

The Center for Disease Control (CDC) and the Environmental protection Agency (EPA) have a standard for residual fluoride in drinking water at 1.0 parts per million (ppm) and shall not exceed 4.0 ppm. The City's Water Resources Department monitors the fluoride residual and has never exceeded the Maximum Contaminant Level for fluoride. The goal is to have as constant as possible a 1.0 ppm fluoride residual. Typically the fluoride residual is maintained in the 0.9 – 1.1 range. Studies by the CDC and EPA have shown that low fluoride level (below 4.0 ppm) have a positive affect on preventing tooth decay and levels above 4.0 ppm have a negative affect on teeth causing molting of teeth and bone and joint problems. All water systems which fluoridate their water supplies must monitor fluoride residuals and report these levels to the State, such as the North Carolina Department of Environment and Natural Resources monthly. Fluoride is naturally found in the ground and in most well systems.

Pro: Approximately 67 percent of Americans on public water systems receive optimally fluoridated water. The CDC sited water fluoridation as one of the 10 great health achievements of the 20th century. The first municipal drinking water system to add fluoride was Grand Rapids, Michigan, on January 25, 1945. The United States Task Force on Community Preventive Services strongly recommended community water fluoridation for reducing tooth decay. The annual cost to add Hydrofluorosilicic Acid to the Asheville water supply is approximately \$16,000.00. The CDC reports have shown no link to cancer or other diseases when the optimal levels of fluoridation have been used. Fluoridation is used by dentists, in tooth paste and many bottled waters and even water bottled for children who are not on fluoridated water systems.

Con: For every positive report on the benefits of water fluoridation there are an equal number of reports stating the health hazards associated with fluoridating public water supplies. The over 4.0 ppm level causing health problems has been well documented. Some other reports and articles indicate that any level of fluoridation may be harmful. Books, such as "the fluoride deception" by Christopher Bryson have been written on fluoride and health problems associated with the use of fluoride.

Per the City Attorney the City is obligated to fluoridate the drinking water per State and EPA established standards unless reversed by a public voter referendum.

The following individuals urged City Council to eliminate fluoride to the City's water supply system for various reasons, some being, but are not limited to: the product being added to the water supply is contaminated with arsenic, lead, cadmium and other toxins; the product is not proven to be effective for preventing dental caries, etc.; the product is not proven to be safe for all levels of consumption and for all consumers; the product used to treat Asheville's water supply is derived from the sludge scrubbed from the smoke-stacks of the phosphate fertilizer industrial plants; studies that have confirmed the safety of public water fluoridation are seriously out of date; current studies shed new light on fluoride's toxicity; the American Dental Association recommended that infants who drink formula have their formula mixed with non-fluoridated water because the dosage of fluoridated water is way too much; it has been proven that fluoride is only effective topically and not systemically; and the CDC in a paper in 2001 showed that you would have to increase water concentrations 10 fold to make a significant difference to decrease tooth decay:

Dr. John Wilson, specializing in environmental medicine (presented Council with a DVD entitled "Fluoride in Our Water" with James Biddle, MD; Matt Young, DDS; and John Wilson, MD)
Dr. James Biddle, physician that practices internal medicine
Dr. Matthew Young, dentist in Hendersonville, N.C.

The following individuals urged City Council to continue their practice of adding fluoride to the City's water supply system for various reasons, some being, but are not limited to: fluoridation is based on sound science and support and vote of our citizens; all the massive body of all the scientific research and study on fluoride it has been proven to be safe and effective; over 60 years it has been more thoroughly studied than any other public health measure; it is rated one of the ten greatest public health achievements of the 20th century; opposition to fluoridation is reporting from selective data to support their prospective; tooth decay and dental disease is a big problem across the country and is the most common chronic childhood disease; if you remove fluoridation from the water system, the demographics most damaged would be in the lower socio-economic groups, in families with lower levels of parental education, in social and ethnic minorities and groups who are disadvantaged or have special needs, in those who do not seek regular dental care and those without insurance or access to care; American children every year miss more than 51 million hours of school because of dental related illness; we must not minimize the short and long-term effects of dental decay;

we must be proactive through prevention and water fluoridation is a big key in this; fluoride is not a drug but is found naturally in all water and in many foods; fluoride has been called "nature's cavity fighter" or the natural way to improve oral health; fluoridation is merely adjusting the existing fluoride levels up to an optimal level sufficient to prevent tooth decay; water fluoridation has been and still is the most effective, cost effective and efficient means for the prevention of tooth decay; fluoridation works through systemically and topical approaches; based on present scientific knowledge, there is no basis or justification to change the City's present water fluoridation policy; and national health organizations, dental and medical research groups look at this issue constantly and if there are any recommendation changes, dentists would be the first group before Council to make those recommendations:

Dr. Bill Chambers, Pediatric Dental Specialist (presented Council with literature regarding fluoridation)
Dr. Dennis Campbell, Pediatric Dentist
Dr. Steve Swearingen, Medical Director of the Buncombe County Health Center
Dr. Susan Mims, Medical Director for Mission Children's Hospital
Dr. Olson Huff, Pediatric Dentist
Ms. Allison Jordan, Executive Director of Children First
Dr. Jack Teague, Dentist
Dr. Michael Justice, Vice-President of the North Carolina Dental Society
Dr. Joe Dunn, representing Coalition of Business Men and Concerned Citizens
Dr. Ryan Haldeman, President of the Buncombe County Dental Society

Councilwoman Cape felt that the people had a choice through a referendum over 43 years ago and because people want a choice regarding their health, she moved to place this issue on the next ballot for a referendum. This motion died for lack of a second.

Councilman Newman moved to support the City's policy of adding fluoride to the City's water system. This motion was seconded by Vice-Mayor Davis.

Throughout Council discussion, Mr. Hanks and Dr. Campbell responded to various questions/comments from Council, some being, but are not limited to: are there measurable toxins in the fluoride mixture we use; are there other forms of fluoride added to our water; are there different sources for fluoride; is fluoride an abundant source; does Asheville's fluoride come from sludge scrubbed from smoke-stacks; why have other cities decided to take the fluoride out of the water supply; are there any studies showing a difference of dental issues from well water vs. city water; out of the three identified sources for fluoride, which is the most natural or the most cost effective one; and how is fluoride mined.

In response to Councilwoman Cape, Mr. Hanks said that he did send a request to the manufacturer and they showed us where they met the standards for the National Sanitation Foundation Standard 60. All levels of ingredients were well below what the standard requires. We do add chemicals to the water to kill bacteria. He said we test our water repeatedly and send it off for testing and we have some of the best drinking water you will find anywhere. He feels confident that what we are putting out there is a good product for all of our customers.

In response to Councilman Mumpower, Dr. Swearingen said that he has not heard of any incidents identified with fluoride toxicity in recent years in our community.

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

At the request of Councilwoman Jones, and by the consensus of the majority of Council, Mr. Hanks was directed to look into having an adequate supply of fluoride for the City's water system long-term and report back to Council.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REGULATING STANDARDS FOR LARGE RETAIL STRUCTURE

ORDINANCE NO. 3582 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REGULATING STANDARDS FOR LARGE RETAIL STRUCTURE

Mayor Bellamy opened the public hearing at 6:50 p.m.

Interim Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance to amend the

Unified Development Ordinance (UDO) regarding regulating standards for large retail structures. This public hearing was advertised on February 1 and 8, 2008.

As the result of several recent development proposals, City staff and the Asheville City Council have become aware of some allowances afforded large retailers when classified as multi-tenant developments.

Council recently requested an amendment to the standards for large retail structures that would restrict large retailers from exceeding the standards for single tenants by including one or more comparatively diminutive tenants in order to gain additional square footage for the primary retailer. As with many amendments there are varying degrees of restrictiveness that may be considered.

The least restrictive and most basic amendment would be to modify the definition of multi-tenant development to state that separate tenants must have their own independently occupied space with individual entrances for public access that opens onto a shared ancillary facility, such as a parking lot or structure. Currently, the definition only requires that they produce separate "activities" and that they share a common parking field or pedestrian mall area. This would not preclude the ability for a small area internal to a larger store to be leased; it would simply limit their ability to be classified as a multi-tenant.

On the other end of the spectrum, a much more restrictive option would be to limit the size of any individual retailer regardless of their classification as a single tenant or multi-tenant. Only one zoning district currently restricts the size of a single tenant - Highway Business limits single tenants to 75,000 square feet (increased up to 112,500 s.f. if complies with big box retail checklist). This restriction could be extended to a multi-tenant development to require that no single retailer exceed 75,000 square feet. This would likely preclude some large national chain retailers from locating in the Highway Business district. Highway Business is also the only zoning district that restricts the size of multi-tenant developments as well at 200,000 square feet (increased up to 300,000 square feet if development complies with big box retail check list).

Another more moderate option would be to limit the primary retailer to no more than 75% of the total gross square footage. This would allow for the primary retailer to exceed the designated square footage limitations as long as opportunities for other small or mid-sized retailers are provided. Again, this would not preclude spaces less than 25% of the total square footage being leased, it would simply limit their ability to be classified as a multi-tenant and restrict the development size to that of a single retailer.

The Planning and Zoning Commission had previously considered a more restrictive proposal that included square footage restrictions in the River district and recommended a continuance to afford staff additional time to meet with interested stakeholders in the community to better ensure that a variety of city goals would be considered. Staff attended the regularly occurring CIBO meeting the following month where a short presentation was made with an open invitation for additional feedback along with the opportunity to arrange for individual meetings. Subsequently, staff did meet with representatives of the retail grocery industry to discuss the potential impacts on recent development trends. The meeting was productive and resulted in a compromise that appeared to meet a variety of goals and address a number concerns. Given the increase in the average store size over the years, the 75,000 square foot limitation for a single tenant was challenging to the industry where the average store now exceeded 75,000 square feet. Raising the threshold to 100,000 square feet would meet their current needs with some room for additional forecasted growth and would allow a single tenant retailer to proceed without going through a public hearing process as a Conditional Use Permit. This change would not only accommodate the recent growth of the average store size but would also bring some consistency to the City's development standards where any development, regardless of zoning, that exceeds 100,000 square feet is reviewed as a Level III Conditional Use Permit. Raising this threshold makes development in the Highway Business zoning district more consistent with other Level III Conditional Use Permits. Staff is also proposing to raise the threshold for which a single tenant would need to meet the standards of the "Big Box Retail Checklist" (Appendix 7F) to 100,000 square feet feeling that a variety of the features elicited by the checklist now come standard (building materials, fenestration, etc.) or are now required through recent changes to our landscape standards (pedestrian connections, larger tree islands, etc.).

Given the existing restrictions in the Highway Business zoning district, the stated goals of City adopted plans, and the interest in supporting the economic vitality of the local grocery and other retailers, staff is proposing:

- Limiting the primary retailer to no more than 75% of the total development's square footage;
- Revising the definition of multi-tenant development for clarity; and
- Raising the threshold for a single tenant to 100,000 square feet.

Staff feels that this combination of changes will meet certain goals while still providing opportunities for developers of large retail centers.

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

Staff recommends City Council approve an ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville modifying standards for Large Retail Structures.

Mayor Bellamy closed the public hearing at 6:57 p.m.

Ms. Tuch responded to various questions from Councilman Mumpower and Newman regarding the threshold.

After Ms. Tuch explained why this amendment is being brought forward, Councilman Mumpower felt that staff has done their best to take policy guidance from Council and turn it into a functional modification of the UDO. However, he questioned Council's continued effort to invest itself in regulation and control through the UDO. We are making it increasingly complex thus making it necessary to increase staffing requirements.

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

Councilman Newman moved for the adoption of Ordinance No. 3582. This motion was seconded by Vice-Mayor Davis and carried on a 4-2 vote, with Councilman Mumpower and Councilman Russell voting "no."

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Closed Session

Mayor Bellamy said that during Council's break, Council would conduct a closed session.

At 7:05 p.m., Councilman Mumpower moved to go into closed session for the following reasons: (1) to consider the qualifications, competence, performance, character, fitness, conditions of employment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11 (a) (3); and (2) to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11 (a) (2). This motion was seconded by Councilman Newman and carried unanimously.

At 7:25 p.m., Councilwoman Jones moved to come out of closed session. This motion was seconded by Councilman Newman and carried unanimously.

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE MODIFYING STANDARDS TO ACCOMMODATE EMERGENCY WIRELESS COMMUNICATIONS

ORDINANCE NO. 3583 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE MODIFYING STANDARDS TO ACCOMMODATE EMERGENCY WIRELESS COMMUNICATIONS

Mayor Bellamy opened the public hearing at 7:25 p.m.

Interim Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) modifying standards to accommodate emergency wireless communications. This public hearing was advertised on February 1 and 8, 2008.

As the development trends continue towards tall buildings it has become increasingly important to ensure that buildings and structures do not interfere with the City's communication network. Development standards must be modified to accommodate the needs of the City's communications network, to eliminate any interference a development would create or otherwise accommodate the needs of the City's communication network. Additionally, specifications must be developed for a Radio Signal Booster System and other related technology which will correct for a reduction in the radio signal to a level below that required to assure the 95% area coverage reliability needed for public safety communications.

The City of Asheville operates a 7 channel trunked, simulcast public safety radio system in the 800 megahertz (MHz) band. The system was designed to provide clear, intelligible, in-building communication from portable radios with public safety speaker microphones mounted at shoulder height with an area coverage reliability of better than 95%. Erection of new buildings affects the radio system coverage; the effect on radio coverage is dependent on location (distance from the radio transmitter and receiver and other buildings in the vicinity), height, projected frontal area (building mass), and construction materials. If the City's analysis indicates that there may be a reduction in the radio system coverage to a level below that considered acceptable for reliable public safety communications, corrective action will be required to assure radio system coverage reliability is retained. At the minimum, a Radio Signal Booster System will be required but in some situations, it may be necessary to install a satellite receiver system or a full transmit and receive site.

Obstructions to communications typically occur with buildings that have uniform mass and heights over 60-feet. In order to address these concerns, the Unified Development Ordinance must be amended to require certain features for buildings that meet these criteria. To help direct designers and developers through the permitting process, staff is proposing to add some basic requirements to Article XI – Development and Design Standards. Detailed specifications must also be developed for the related technology and a draft of these specifications are prepared but will require some minor modifications before incorporation into the City's standards and specifications manual.

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

Pros:

- Ensures public safety and welfare.
- Provides standards to be incorporated into the original design of the building avoiding the need for retro-fits.

Con:

- May add a nominal cost to building development.

Staff recommends City Council approve an ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville modifying standards to accommodate emergency wireless communications. Staff also recommends the adoption of the RSBS specifications to be incorporated into the Standards and Specifications Manual.

Mayor Bellamy closed the public hearing at 7:34 p.m.

Throughout discussion, Ms. Tuch, Director of Building Safety Robert Griffin and Information Technologies Director Jonathan Feldman responded to various questions/comments from Council, some being, but are not limited to: how do other cities handle this problem; are there problems with existing buildings and if so, which ones; is the 1% additional cost to developers a pretty reliable figure; how will the projects be identified and will there be objective criteria applied; are the developers only providing the cabling, conduit and easement with the City installing the equipment to add the signal; did staff consider applying these standards to a particular district; what percentage of our undeveloped land within the City of Asheville is covered by our current system; what are the strategic areas in the City where these standards would apply; and did staff discuss any incentives for new construction or existing buildings.

Councilman Mumpower felt we are transferring our communication problem to other people. He felt that 1% is a significant amount of money and he is not convinced that we can apply objective criteria. Again, he felt that communication is the City's responsibility and we should seek to maximize the system at our own expense.

Councilwoman Cape believed public safety is one of our highest mandates. If we are having difficulty reaching the interior of a building with the proper signal, the risk management that we have to be careful about is how liable are we if we don't try to work together. Working with developers represents a technological approach to our safety management.

In response to Vice-Mayor Davis, Ms. Tuch said that the City is trying to minimize the costs upfront, because if we had to retrofit a building, it would be very expensive.

Mr. Feldman explained that we are not asking people to improve coverage for the City, but asking people who are constructing their buildings to make the people in their building safe.

In response to Mayor Bellamy, Ms. Tuch said that this will not be applied to single-family residential buildings, as long as they are not primarily made of metal or concrete or contain below grade storage or parking areas. Also, buildings constructed prior to adoption of this ordinance shall not be required to comply with the public safety radio coverage provisions unless they undergo renovation, restoration or significant modification to the original structure.

Mayor Bellamy felt an amendment to the proposed ordinance is necessary in order to clarify when an existing structure would need to come into compliance. Ms. Tuch suggested the following language "Also, buildings constructed prior to adoption of this ordinance shall not be required to comply ... unless they undergo renovation, restoration or significant modification (if it exceeds 50% of the value of the building) to the original structure."

In response to Councilman Mumpower regarding offering incentives, City Attorney Oast said that we have density bonuses that we offer for different kind of projects. To offer incentives for this, he believed, would require special legislation.

City Attorney Oast responded to Councilwoman Cape when she asked for clarification that we in fact could not offer

incentives for this use.

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

Councilwoman Cape moved for the adoption of Ordinance No. 3583, with the amendment suggested by Mayor Bellamy that significant modification is more than 50% of the value of the building. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 24 - PAGE

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 86 AND 88 RICHMOND HILL DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RESORT DISTRICT/CONDITIONAL ZONING FOR THE USE AS A SHORT-TERM RENTAL

ORDINANCE NO. 3584- ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 86 AND 88 RICHMOND HILL DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RESORT DISTRICT/CONDITIONAL ZONING FOR THE USE AS A SHORT-TERM RENTAL

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

Urban Planner Nathan Pennington said that this is the consideration of an ordinance to conditionally zone property located at 86 and 88 Richmond Hill Drive from RM-6 Residential Multi-Family Low Density District to Resort District/Conditional Zoning for the use as a short-term rental. This public hearing was advertised on February 1 and 8, 2008.

Mr. Pennington said that the applicant seeks the conditional zoning of two lots consisting of .59 acres currently zoned RM-6 to Resort/Conditional Zoning for the establishment of vacation rentals of less than thirty (30) days in two existing single-family residences. The subject property is located at 86 & 88 Richmond Hill Drive within the City's corporate limits.

Lodging facilities are a permitted use in Resort zoning district. This district was created to provide an area for the development of resort oriented uses and conference/retreat facilities. This district will provide areas for the development and expansion of facilities which serve primarily tourists and vacationers. Development standards are established to protect adjacent land uses from the adverse impacts of resort development. The Resort zoning district requires a minimum lot size of five (5) acres. Therefore the applicant would be required to recombine the subject parcels with the Richmond Hill Inn parent parcel in order to satisfy the minimum lot size requirement if the rezoning request is approved.

The site slopes gently towards Richmond Hill Road from the rear of the property and the majority of the lots are wooded and landscaped. Twenty (20) percent of the site has been designated as open space with the majority of this space located to the rear of the property. In addition, the property requires a 20-foot wide Class "A" buffer along the side and rear perimeter of both lots as indicated on the site plan. Due to the location of the existing building footprints, the applicant will be unable to fully accommodate the required buffer width on the eastern side of 86 and the western side of 88 Richmond Hill Drive. Therefore, the applicant is seeking a modification request by City Council to reduce the required width in these areas and plant additional required vegetation elsewhere onsite.

All parking will be limited to onsite parking in the two existing driveways, and no on street parking will be permitted.

The subject property is bounded to the north by the Richmond Hill Inn and separated by Richmond Hill Drive zoned Resort, to the east and west by vacant land zoned RM-6 and to the south by a single-family residence zoned RM-6.

At their November 5, 2007, meeting, the Technical Review Committee (TRC) approved the project with the conditions listed in their staff report dated November 5, 2007.

At their January 2, 2008, meeting, the Planning and Zoning Commission unanimously approved the project with the conditions.

At the time of this writing, staff has received no communications from neighbors regarding this project.

Section 7-7-8(d)(2) of the Unified Development Ordinance (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 proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements once the conditions enumerated by the TRC are met. The project must meet the technical standards set forth in the UDO, the City Standards and Specifications Manual, the North Carolina Building Code and other applicable laws and standards that protect the public health and safety.
2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.
The proposed use is compatible with the surrounding natural features and topography. No additional development is proposed for the site. The property is well buffered from the single-family residence to the south and a 20-foot wide Class "B" buffer will be installed along the rear of the property that will further buffer the residence from the proposed vacation rental use.
3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.
Staff does not expect that the proposed use would have anything more than a minimal impact on neighboring property values.
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 requested change in zoning from RM-6 to Resort would allow the two (2) existing units to be operated as vacation rental units and no additional units are proposed to be constructed. Therefore, the existing density and the proximity to the Richmond Hill Inn would be in character and harmony of the neighborhood in which it is located.
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 application of adaptive reuse supports a goal and objective described in The Asheville City Development Plan 2025.
6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
The proposed development is located near transportation facilities and other utilities appear adequate. The initial technical review by other technical agencies and utility providers has not revealed any problems for serving the use.
7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.
The proposed project has been reviewed by the City's traffic engineer and is not expected to cause undue traffic congestion or create a traffic hazard.

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

Pros:

- Provides another opportunity to implement the adaptive reuse of existing structures.

Cons:

- The rezoning of the property from RM-6 to Resort might be perceived as a further encroachment into an established residential neighborhood.

Staff recommends approval of the proposed project and Conditional Zoning request subject to the standard conditions as follows: (1) The project shall comply with all conditions outlined in the TRC staff report dated November 5, 2007; (2) The applicant must make application for lot recombination within sixty (60) days of zoning permit issuance; (3) Parking is limited to onsite spaces, and no on street parking is permitted; (4) 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; (5) 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 must gain approval through the Planning and Development Department; and (6) This project will undergo final review by the TRC prior to issuance of any required permits.

Mayor Bellamy closed the public hearing at 8:03 p.m.

In response to Councilwoman Cape, Interim Planning & Development Director Shannon Tuch explained that the landscape drawings may look like the buffer is against the house, but when they do a field visit, they adjust that and shift the plantings to keep them away from homes and such.

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

As Councilman Mumpower finds that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, he moved for the adoption of Ordinance No. _____, to conditionally zone property located at 86 and 88 Richmond Hill Drive from RM-6 Residential Multi-Family Low Density District to Resort District/Conditional Zoning for the use as a short-term rental, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report dated November 5, 2007; (2) The applicant must make application for lot recombination within sixty (60) days of zoning permit issuance; (3) Parking is limited to onsite spaces, and no on street parking is permitted; (4) 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; (5) 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 must gain approval through the Planning and Development Department; and (6) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 24 - PAGE

D. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE PROJECT KNOWN AS DEPOT CROSSINGS AT SWEETEN CREEK ROAD, LOCATED AT 4 ROBERTS ROAD, FOR A PROPOSED HOTEL AND RESTAURANT

ORDINANCE NO. 3585- ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE PROJECT KNOWN AS DEPOT CROSSINGS AT SWEETEN CREEK ROAD, LOCATED AT 4 ROBERTS ROAD, FOR A PROPOSED HOTEL AND RESTAURANT

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

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

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 8:07 p.m.

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

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

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

Ms. Cogburn said that this is the consideration of the issuance of a conditional use permit for the project known as Depot Crossings at Sweeten Creek Road, located at 4 Roberts Road, for a proposed hotel and restaurant.

The project site is located at the corner of Sweeten Creek Road and Roberts Road just south of the intersection of Sweeten Creek and I-40. (Attachments to City Exhibit 3 - Aerial Map and Site Plan) The site for the new hotel/café is 1.04 acres. When added to the acreage of the two adjoining lots in the same ownership, the acreage total is 6.32 acres. The new site proposal is being reviewed as a Level III project because it is a development within 1500 feet of previous development that occurred with the past three years, presented by the same developer. This same property was previously approved as part of a coordinated Level III (CUP) approval but for an office building on this site. The expansions to the recreational facility and existing office building that were proposed as part of the coordinated development have been completed.

The developer now proposes a new Level III project - the change being to place a hotel and café on the 1.04 acre site. The hotel is proposed for 69 rooms. The café will seat 50 persons. The proposed building is four (4) stories – 39 feet in height. The hotel is proposed to be 32,262 square feet. The café is proposed at 1,527 square feet. The parking has been evaluated for all three lots since there is shared parking for the various uses. Standards for the landscaping and open space for the three separate lots have been evaluated under the rules in place at the time each parcel was developed.

The City's Technical Review Committee (TRC) met on December 3, 2007, to review this development proposal. At this meeting the TRC voted to approve the project with the conditions outlined their TRC report dated December 3, 2007.

On January 2, 2008, the Asheville Planning and Zoning Commission reviewed the permit application and voted unanimously to recommend approval to the Asheville City Council.

City Council must take formal action on this matter and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case.

1. That the proposed use or development of the land will not materially endanger the public health or safety.
The proposed use has been reviewed by City staff and appears to meet all public health and safety related requirements once the conditions enumerated by the TRC are met. The project must meet the technical standards set forth in the Unified Development Ordinance (UDO), the City Standards and Specifications Manual, and the North Carolina Building Code, and other applicable laws and standards that protect the public health and safety.
2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.
The applicant has followed all applicable regulations in the location of the bottomless culvert for Sweeten Creek.
3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.
The project consists of developing a hotel and café which is appropriate for property immediately abutting interstate highway.
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 development is surrounded by major highways (I-40, US 25-A), railroad tracks, an office complex, and a major equipment sales and service operation. The scale and character of the development is in keeping with all that surrounds it.
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.
This development supports the Asheville City Development Plan 2025 in that it implements the strategy of permitting appropriate commercial developments in locations where there exist adequate public facilities.
6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
Development on the site will require final technical approval from all applicable departments including Water Resources, Metropolitan Sewerage District, Engineering, Fire and Building Safety. The conceptual plans for the development have been reviewed by the City's TRC, which found that adequate services and facilities are available for the proposed development.
7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.
The subject site is located adjacent to an interstate interchange and on a major artery in the community. Traffic associated with the development will have ample resources for access to the site. All other services are readily available to the development.

Pros

- The proposed hotel/café site is very appropriate for location at a major interstate interchange.
- The project supports the City's comprehensive plan as indicated in this report and is adequately served by needed infrastructure.
- The developer has utilized shared parking to reduce the number of parking spaces provided.

Cons

- The project site has difficult topographic challenges. Retaining walls will have to meet all applicable regulations.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and recommends approve of the conditional use permit with the conditions outlined in the TRC report dated December 3, 2007.

Mayor Bellamy closed the public hearing at 8:10 p.m.

As Councilman Mumpower finds that the request is reasonable based on information provided in the staff report and as

stated in the staff recommendation, he moved for the adoption of Ordinance No. 3585, to approve the Conditional Use Permit adopting the proposed master plan for the Depot Crossings at Sweeten Creek development subject to the conditions recommended by City staff and the standard conditions as follows: (1) The project shall comply with all conditions outlined in the TRC staff report dated December 3, 2007; (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) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (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; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilman Russell and carried unanimously.

ORDINANCE BOOK NO. 24 - PAGE

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. PROPOSAL TO CREATE A CITIZENS COMMISSION ON LOCAL ELECTIONS

Councilman Newman said that there are a number of suggestions that have been discussed by City Council and within the community about ways to improve or strengthen our local elections in Asheville. Even though these issues are not the top priority on the community's list, when the issues do come up, it is very intense. He would like to propose the formation of a Citizens Commission on Local Elections in Asheville to take a look at these questions. The commission would be charged with analyzing the pros and cons of these issues, solicit input from the community, and develop recommendations for City Council and, where authorizing legislation may be necessary, our legislative delegation.

He suggested the commission be charged with considering the following questions:

1. Should Asheville City Council adopt some form of public financing or other campaign finance reform measures for municipal elections?
2. Should Asheville City Council seats be elected all at-large or include districts?
3. What would be the pros and cons of using Instant Runoff Voting in Asheville elections?
4. How should City Council make appointments to fill vacancies on the Council (which typically occur when a sitting member of Council is elected Mayor)?
5. Are there other reforms in our local elections process that should be considered?

If Council believes such a citizens commission would be of benefit, he recommended Council appoint a 7-9 member citizens group to consider these questions, with the goal of reporting back to Council by the end of the year.

In response to Councilwoman Jones, Councilman Newman envisioned the commission soliciting public input, developing recommendations and then presenting them to Council. After that, the commission would be dissolved, unless there are additional needs identified.

Councilwoman Cape has not heard a lot of conversation from the community on these issues and appreciated Councilman Newman for bringing this to Council's attention. However, she was concerned if a 7-9 Commission would still meet the community need to be involved in this process. She wondered if there was a process by which we can expand the community conversation first, perhaps through a forum process, to see if the community wants Council to appoint a commission.

Councilman Russell was concerned that City Council may not be the right body to address some of these questions, since Buncombe County handles the election process. Along those same lines, City Council is empowered to make decisions on how we will fill vacant Council seats, not through a recommendation of another body like a commission. He felt we may need to look at this in pieces.

Councilman Mumpower felt this initiative is an attempt to fix something that is not broken. He felt there are a lot of opinions, but the problems are few and far between. He felt this is an unnecessary initiative.

Vice-Mayor Davis felt that the filling of a vacant Council seat is an important issue, but City Council alone is appointed to

handle that. He was also concerned that if a commission appointed and gives Council recommendations, there may be some expectation by the Committee members that Council should accept the recommendations and take action on them. He could not support appointing a commission at this time.

Councilwoman Jones has heard conversation about at-large districts and how a vacancy on Council should be filled. She felt this is the type of issue that Council should discuss in a formal meeting forum.

Councilwoman Cape moved to set a public hearing on March 11, 2008, on the various questions outlined above by Councilman Newman and whether the community wants Council to appoint a commission to address these issues. This motion was seconded by Councilman Newman.

Mr. Jay Quinn explained his preferences and encouraged Council to move forward with appointing a commission.

Mr. Mike Fryar expressed to Council his choices, but felt that any issue should be put on the ballot for a referendum.

Mr. Paul Van Heeten and supported a citizens committee on local elections.

Mr. David Lack felt the issues should be placed on a ballot and even if there is poor turnout, there will be more than 7-9 people to give their recommendation. .

Mayor Bellamy asked City Clerk Lipe to provide City Council with the minutes of the meeting where Council discussed and chose not to make a decision on the 4th Council seat.

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

B. RESOLUTION NO. 08-24- RESOLUTION ESTABLISHING THE CITY OF ASHEVILLE'S FEDERAL PRIORITIES AND FEDERAL FUNDING REQUESTS FOR FISCAL YEAR 2009

Economic Development Director Sam Powers said that this is the consideration of a resolution establishing the City of Asheville's federal priorities and federal funding requests for fiscal year 2009.

The purpose of this agenda item is to review and request update by City Council of prioritization of federal legislative initiatives and federal funding requests for the second session 110th Congress.

On February 20, 2007, City Council adopted its current list of priorities for federal legislative initiatives and federal funding requests.

The current adopted list of federal legislative initiatives is as follows:

1. City Council supports as top priority legislative action to remedy changes to the funding of Asheville Transit system negatively affecting the system.
2. City Council supports national and state legislation/resources to address illegal immigration issues at the local level, specifically in respect to criminal behavior and the employment of illegal aliens.
3. City Council supports federal legislation securing the necessary funds to continue the North Carolina Health Choices Initiative to insure our children in North Carolina by supporting Senate Bill S.3913 (Keep Children Covered Act of 2006).
4. City Council expresses appreciation for support in raising the federal minimum wage.
5. City Council supports legislation to restore funding to HOPE 6, as well as legislation that will allow retooling of public housing.
6. City Council supports legislation that will address the significant crisis in Crack cocaine in our cities.
7. City Council supports federal legislation that will encourage development of sustainable buildings and energy efficient public buildings.

The current project that City Council has voted to request federal funding is:

1. Reid Center for the Creative Arts Renovation - Amount requested is \$4 to \$6 Million.

In addition to the current adopted list, staff has identified the following projects as candidates to request federal funding assistance.

1. Regional Public Safety Training Facility (requested by Public Safety Committee) - Amount requested is \$4 Million.
2. Transit System Replacement Bus Purchase - Amount requested is \$7,875,000 over three years (\$2,625,000/year).
3. Traffic Signal Preemption - Amount requested is \$495,000.
4. Energy Conservation Retrofit for City Buildings - Amount requested is \$749,200.

One item not on the list is the opportunity to seek support for conversion of fleet vehicles to CNG.

Tonight the Council has an opportunity to:

- identify potential new initiatives;
- select and prioritize federal initiatives and federal funding requests for inclusion in a federal priorities agenda; and
- consider how to communicate with our legislative delegation.

Staff recommends that City Council approve a resolution establishing the City of Asheville's federal priorities and federal funding requests for Fiscal Year 2009.

Councilwoman Cape asked why Council is just now seeing this item with such a short period for deliberation. She requested that Council have the opportunity, in the future, to have more time with this funding request. She then requested that this year we delete the appreciation expressed last year for their support in raising the federal minimum wage. She suggested the Reid Center have an option to rebuild or renovate. She also requested the following initiatives be added in recognition of the US Mayor's Climate Protection Agreement that the City signed in 2005, which were (1) to urge the state and federal government to enact policies and programs to meet or beat the greenhouse gas emission reduction target for the US which is 7% from 1990 levels by 2012; and (2) to urge US Congress to pass the bi-partisan greenhouse gas reduction legislation which would establish a national emission trading system. And, she requested a bookmark for a proposal for Council to lend support for the Asheville HUB Climate Education Center Initiative that we will have on our agenda next week.

Mayor Bellamy explained that the primary reason that this issue is on Council's agenda tonight is because of the grant deadline to our legislators, which is February 19. Regarding other initiatives, she asked Council to send their requests to City Clerk Lipe and their requests will be discussed on February 26, 2008, prior to an annual National League of Cities Conference in Washington, D.C. At the conference, cities arrange times to meet with their legislators and staff to urge support for their initiatives.

Councilman Mumpower explained why he felt we should not participate in any of these things from the federal government.

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

Councilman Newman moved to adopt Resolution No. 08-24 to support the following projects and to request federal funding assistance as outlined above by Mr. Powers: (1) the Reid Center for the Creative Arts Renovation (with the flexibility of renovation or rebuilding); (2) Regional Public Safety Training Facility; (3) Transit System Replacement Bus Purchase; (4) Traffic Signal Preemption; and (5) Energy Conservation Retrofit for City Buildings, with the understanding that Council will discuss other legislative priorities before the deadline in March, 2008. This motion was seconded by Councilman Russell.

Mr. Alan Ditmore, resident of Leicester, explained the state's refusal to allow municipalities to directly fund human services.

Mr. Mike Fryar briefed Council on his research regarding diesel buses vs. hybrid buses.

Mr. David Lake urged Council to be aware of the strings attached to federal money.

In response to Vice-Mayor Davis, Ms. Echeverry, Transit Services Manager, clarified the bus replacement request of hybrid buses vs. diesel buses and how the Transit Commission has recommended this multi-year project of replacing the fleet.

Mayor Bellamy pointed out that the request at this time is if Council wants to replace the fleet due to age. She asked that in the future staff provide Council with information on the maintenance costs for each bus, different fuels available, how much a diesel, hybrid or compressed natural gas bus costs, etc.

Councilman Mumpower also asked for information regarding whether topography is a factor that is taken into consideration, because some technologies are less practical than others in different topographies.

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

Mayor Bellamy explained the purpose of the National League of Cities trip to be held March 10-12, 2008, in Washington, D.C.

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VII. OTHER BUSINESS:

Vice-Mayor Davis invited the public to the City Council Planning & Economic Development Committee meeting on February 13, 2008, at 5:30 p.m. in the Office of Economic Development at 29 Haywood Street, Asheville, N.C.

Councilwoman Cape briefed Council on the energy forum she recently attended in Raleigh, N.C. She said that the State wants to be a vibrant part of the new energy economy.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Greenlife Grocery Store on Maxwell Street

City Manager Jackson explained that Mr. Reid Thompson provided City staff with his PowerPoint presentation at the appropriate time and the City's technical consultant has made every effort for the video to be seen and heard.

Mr. Reid Thompson presented a PowerPoint Presentation regarding Greenlife Grocery store on Maxwell Street and his experience at Council meetings over the past couple of years regarding this issue.

Upon inquiry of Councilwoman Cape, City Manager Jackson said that City staff has been engaged in an ongoing conversation with Greenlife and he will provide Council with the latest update and Council can then decide on any needed direction at that point.

When Councilman Mumpower asked if the City violated the law in any area, City Attorney Oast said it was his opinion that we did not.

After a brief discussion, it was the consensus of Council to have City Manager Jackson provide Council (and the community) with a report on the status on this resolution effort by the end of this week and every two weeks until the conclusion of this matter.

Ms. Brandy Buggs, resident on Maxwell Street, urged Council to proceed quickly with a real resolution to the problem, not just a band-aid fix.

Miscellaneous

Mr. Cecil Bothwell, representing the Asheville-Buncombe Policy Institute, urged Council, in an effort of transparency and openness in government, to adopt an ordinance that when two members of Council meet, it is considered an open meeting. This policy is used in the State of Florida and if Council is interested, he would be happy to provide some ideas about enforcement.

Councilwoman Cape explained why she didn't support this concept and Councilman Mumpower felt the process is close to paralysis in communication.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:55 p.m.

CITY CLERK

MAYOR

