

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 Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

The Evergreen Middle School's Science Olympiad Team led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Mumpower gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF THE EVERGREEN MIDDLE SCHOOL'S SCIENCE OLYMPIAD TEAM

Mayor Bellamy recognized the Evergreen Middle School's Science Olympiad Team. Each member explained the medals earned. Mr. Jason Carter, Middle School Math Teacher, then explained that the Science Olympiad's mission is to create a passion for learning science by supporting K-12 Science Olympiad tournaments at district, county, state and national levels. It has an emphasis on teamwork and a commitment to excellence. Evergreen's Science Olympiad team won first place in the Regional competition at UNCA on March 15. They triumphed over 12 middle schools from all over western North Carolina. The team earned medals in 15 events of which five were gold and won \$5000 in college scholarships from UNCA. On April 5, the team traveled to NC State University in Raleigh and competed in the State Science Olympiad against 50 teams from all over North Carolina. They were the only team from western NC that placed in the top 20 (Evergreen was #20). The team was coached by Mr. Carter, Media Specialist Laura Branch and former Evergreen parent Bob Lawson.

Team Members recognized were Derek Masiello, Janyce Johnson, Ari Simmons, David Steinhoff, Gabriel Wagner, Julia Johnson, Patrick Truesdell, Henry Hines, Skye Nestler, Max Stark, Brendan Clements, and Lorax DeBuyser.

State Winners recognized were Derek Masiello and Lorax DeBuyser - 1st place in Mystery Architecture; Janyce Johnson and Julia Johnson - 7th place in Science Word; Janyce Johnson and Julia Johnson - 8th place in Scrambler; Derek Masiello and Emily Truesdell - 11th in Write It, Do It; Patrick Truesdell and David Steinhoff - 14th in Meteorology; and David Steinhoff and Gabriel Wagner - 15th in Science Crime Busters.

Mayor Bellamy was pleased to recognize the Evergreen Middle School as one of the top 10 greenest schools in the country.

B. PROCLAMATION PROCLAIMING MAY 2008 AS "MOTORCYCLE AWARENESS MONTH"

Councilman Mumpower read the proclamation proclaiming May 2008 as "Motorcycle Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Roger Williams, who briefed City Council on some activities taking place during the month and some state and federal legislative actions they are working on regarding motorcycles.

C. PROCLAMATION PROCLAIMING MAY 5-11, 2008, AS "PUBLIC SERVICE RECOGNITION WEEK"

Mayor Bellamy read the proclamation proclaiming May 5-11, 2008, as "Public Service Recognition Week" in the City of Asheville. She recognized the following individuals representing their respective City departments: Bernard McDowell (Public Works), Marcia Hart (Civic Center), Lt. Joy Ponder (Fire), Woody Ledford (Transportation & Engineering), Tim Jennings (Administration), Terry Brown (Water Resources), Brendan Morgan (Police), Pat Ezell (Human Resources), Cheryl Heywood (Finance), Gary McDaniels (Planning & Development), John Kutscher (Parks & Recreation), Kathy Wilson (Information Technology), and David Souther (Building Safety).

D. PROCLAMATION PROCLAIMING MAY 2008 AS "SEAT BELT AWARENESS MONTH"

Vice-Mayor Davis read the proclamation proclaiming May 2008 as "Seat Belt Awareness Month" in the City of Asheville. He presented the proclamation to Police Chief Bill Hogan, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of Councilwoman Cape, the minutes of the April 8, 2008, meeting were removed for amendment; and Consent Agenda "B" was removed for discussion and/or an individual vote.

At the request of Councilman Mumpower, Consent Agenda Items "C," "D" and "G" were removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE FORMA MEETING HELD ON APRIL 8, 2008, AND THE WORKSESSION HELD ON APRIL 15, 2008

The April 8, 2008, minutes were removed from the Consent Agenda for amendment.

B. RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE PROPERTY OFF HAZZARD STREET

This item was removed from the Consent Agenda for discussion and/or an individual vote.

C. RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE TO MAKE TECHNOLOGY IMPROVEMENTS IN THE AREA OF POLICE RADIOS FOR THE ASHEVILLE POLICE DEPARTMENT

This item was removed from the Consent Agenda for discussion and/or an individual vote.

D. BUDGET AMENDMENT TO ACCEPT GRANT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE TO MAKE TECHNOLOGY IMPROVEMENTS IN THE AREA OF POLICE RADIOS FOR THE ASHEVILLE POLICE DEPARTMENT

This item was removed from the Consent Agenda for discussion and/or an individual vote.

E. RESOLUTION NO. 08-84 – RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A REIMBURSEMENT AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION REGARDING THE UPGRADE OF WATER LINES ON VARIOUS N.C. DEPT. OF TRANSPORTATION ROADS AS PART OF THE \$40 MILLION REVENUE BONDS PROJECT

Summary: The consideration of a resolution authorizing the Mayor to enter into a reimbursement agreement with the N.C. Dept. of Transportation (NCDOT) regarding the upgrade of water lines on various NCDOT roads as part of the \$40 million revenue bonds project; and associated budget amendment, in the amount of \$70,000.

The revenue bond projects include upgrading water lines on Hendersonville Road, Brevard Road, Clayton Road, College Street, Tunnel Road, and Biltmore Avenue which are all NCDOT maintained roads. Some of the water line projects will require inspections during normal working hours as well as evening and night hours. The NCDOT is requiring additional inspection on these water line projects as part of their approval process. Initial cost estimate from the NCDOT is \$70,000.00. This will be adjusted with a final invoice for additional funds or a reimbursement back to the Water Fund for any funds not expended.

These projects will enhance customer service by eliminating costly line breaks which cause water outages to area customers on the current lines and will assist in the looping of the water system in the South Buncombe District.

Pro:

- This will enable the construction projects on NCDOT roads to have additional in field inspection oversight on the revenue bond water line infrastructure improvement projects.

Cons:

- Funding for these inspections was not programmed due to this being a local NCDOT request.
- Funds will have to be reallocated from current capital funding.

Regarding the Strategic Operating Plan, the revenue bond projects are part of the City Council strategic plan to improve City infrastructure.

Funding of \$70,000 is being reallocated from current fiscal year capital projects that will be covered by revenue bond proceeds.

Staff recommends City Council approve (1) a resolution authorizing the Mayor to execute the Reimbursement Agreement with NCDOT, WBS Element: 36249.2734 in the amount of \$70,000; (2) approve the City Manager to execute any future supplemental agreements for this agreement; and (3) the associated budget amendment, in the amount of \$70,000.

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F. ORDINANCE NO. 3606 – BUDGET AMENDMENT REGARDING A REIMBURSEMENT AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION REGARDING THE UPGRADE OF WATER LINES ON VARIOUS N.C. DEPT. OF TRANSPORTATION ROADS AS PART OF THE \$40 MILLION REVENUE BONDS PROJECT

Summary: See Consent Agenda “E” above.

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G. BUDGET AMENDMENT TO FACILITATE A PASS-THROUGH OF FEDERAL PLANNING FUNDS TO THE LAND-OF-SKY REGIONAL COUNCIL FOR MANAGING THE METROPOLITAN PLANNING ORGANIZATION

This item was removed from the Consent Agenda for discussion and/or an individual vote.

H. ORDINANCE NO. 3608 – ORDINANCE AMENDING ARTICLE VI OF THE CODE OF ORDINANCES REGARDING ELECTRICIANS AND THE ELECTRICAL JOURNEYMAN PROGRAM

Summary: The consideration of an Ordinance amending Article VI of Chapter 9 of the Code of Ordinances regulating electricians and the electrical journeyman program.

Article VI of Chapter 9 in the Code of Ordinances was adopted May 3, 1994. This article allows the Board of Electrical Examiners, appointed by the Council, to issue a Class I Journeyman Electrician's License. This Ordinance specifies the Examining Board appointments and allows the Board to give examinations for those who desire to work in the electrical trade within the City of Asheville. It specifies requirements for obtaining and renewal of the Journeyman license.

A person applying for the Journeyman License must pass an exam and be employed by a licensed electrician. This ordinance change requires the City of Asheville to issue a photo ID, requires the Journeyman to obtain 8 hours of continuing education approved by the North Carolina Board of Examiners for Electrical Contractors, and allows a Journeyman two helpers. The current Ordinance issues a non-photo ID, has no continuing education requirement, and allows only one helper.

The Ordinance changes allow the City of Asheville through the Board of Electrical Examiners to provide enhanced service to the citizens through the Journeyman program. The photo ID prevents exchange of cards without taking the Journeyman exam. The continuing education meets the standards for licensed electricians and closely matches the continuing education for an electrical inspector and should increase the quality of work. Allowing two helpers rather than one will increase the amount of work that can be expected thereby increasing time for completion of projects without negatively affecting quality.

This action complies with City Council Strategic Operating Plan on Partnerships to Improve Critical Services and Infrastructure by providing sufficient, safe, and affordable housing for Asheville residents.

Pros:

- Eliminates the potential for non-photo ID's being exchanged.
- Adds a continuing education component to increase code knowledge and increase quality.
- Allows the Journeyman the assistance of two helpers.

Cons:

- Requires the City to verify continuing education for renewals.
- Requires the Journeyman to attend 8 hours of continuing education or take the certification exam for renewal.

Adopting the Ordinance will have no fiscal impact on the City of Asheville.

City staff recommends City Council adopt the Ordinance amending Article IX of Chapter 9 of the Code of Ordinances.

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I. RESOLUTION NO. 08-85 – RESOLUTION AUTHORIZING THE CITY COUNCIL TO DISSOLVE THE SUSTAINABLE ECONOMIC DEVELOPMENT ADVISORY COMMITTEE

Summary: The consideration of a resolution authorizing the dissolution of the Sustainable Economic Development Advisory Committee.

The establishment of the Economic Development Advisory Committee was authorized by Resolution No. 05-184. The Economic Development Advisory Committee's name was officially revised to be the Sustainable Economic Development Advisory Committee by Resolution No. 06-72. On February 19, 2008, City Council moved to dissolve the Sustainable Economic Development Advisory Committee, due to the increased roles of HUB and Council's Planning and Economic Development Committee within the City of Asheville.

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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 Councilman Russell and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON APRIL 8, 2008

Upon request by Councilwoman Cape, the April 8, 2008, minutes were amended to replace her federal legislative items with the following:

- (1) S.1675 Local Community Radio Act of 2007 – A bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service. (Councilwoman Cape)
- (2) S.234 – Wireless Innovation Act – Would make broadband available to unconnected neighborhoods and communities – especially rural and mountainous areas – by exploiting unused frequencies in the broadcast spectrum known as “white spaces.” (Councilwoman Cape)
- (3) Support to fund the expansion of the ERC broadband and fiber optic network in our region for education, medical and emergency service support. (Councilwoman Cape)
- (4) Lend support to the Land-of-Sky Council of Government request for funding for Regional Growth Management Planning Initiative for Western North Carolina. (Councilwoman Cape)
- (5) Support funding for energy efficiency and conservation block grants. (Councilwoman Cape)

Vice-Mayor Davis moved to amend the April 8, 2008, minutes as amended. This motion was seconded by Councilman Russell and carried unanimously.

B. RESOLUTION NO. 08-82 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE PROPERTY OFF HAZZARD STREET

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer to purchase property off Hazzard Street.

A bid has been received from John Petty, Jr. in the amount of \$2,600 for the purchase of land off Hazzard Street.

The land off Hazzard Street is one of three (3) parcels donated to the City in 2001, by Sidney and Mary Schochet and Dale and Irwin Plisco. The parcels were remnants from Department of Transportation takings in connection with the construction of South Charlotte Street. The subject parcel is a rectangular shaped fragment lot comprising 0.03 acre±. It is zoned RS8, and it is not suitable to build on without additional land combination. The bid from John Petty is in the amount of \$2,600 and is higher than the tax appraised value of the property. Mr. Petty proposes to acquire the subject parcel for assemblage with the vacant property he owns next door.

The Parks, Recreation and Cultural Arts Department has verified that this parcel does not lie within an existing or proposed greenway trail according to the Greenway Master Plan and therefore is not an advantageous property to be held for use by the City of Asheville.

Pros:

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

Con:

- There is no negative impact.

The proceeds from the sale of this parcel will benefit the General Fund via the Parks, Recreation and Cultural Arts Department.

Economic Development staff recommends adoption of the resolution which will initiate the sale of the property through the upset bid process.

Councilwoman Cape said that her questions were responded to by City staff.

Councilwoman Jones moved for the adoption of Resolution No. 08-82. This motion was seconded by Councilman Russell and carried on a 5-2 vote with Councilwoman Cape and Vice-Mayor Davis voting "no."

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C. RESOLUTION NO. 08-83 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE TO MAKE TECHNOLOGY IMPROVEMENTS IN THE AREA OF POLICE RADIOS FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a resolution authorizing the City Manager to accept grant funds under the North Carolina Office of Justice Programs of the Department of Justice (JAG); and the associated budget amendment, in the amount of \$72,496.

The City of Asheville has been awarded a grant from the JAG in the amount of \$72,496 to be shared with Buncombe County Sheriff's Department. Asheville Police Department and the Buncombe County Sheriff's Department have signed a Memorandum of Understanding and APD will be the grant funds administering agency. The purpose of the grant program is to make technological Improvements in the area of police radios for the Asheville Police Department.

Motorola, Inc. is the vendor and below is the description of the products:

16	XTS2500 Model III Handheld Radio:	\$3,362.00
16	Extra batteries (One per radio):	\$77.00
16	Noise canceling speaker microphones:	\$74.50
	Total per Radio:	\$3,513.50
	Total for Grant:	\$3,513.50 x 16 = \$56,216

Pros:

- Will contribute to the reduction of crime by improving the effectiveness of police officers while working special events.
- By reducing injuries to law enforcement as well as the public, this will aid in quality of life issues.

Officer safety will be increased through proper training of the officers.

- By using these grant funds for this needed equipment, APD officers will have the items they need to properly respond to violent group incidents, that budget constraints would not allow otherwise.

Con:

- The City Of Asheville and the Asheville Police Department would be required to maintain the upkeep of the equipment, replacing equipment when needed.

This action complies with City Council's Strategic Operating Plan goal for Strong City and County Partnerships. This joint grant allows the City and the County to work together on an improvement initiative.

There is no local match and the City of Asheville's portion of the grant is \$58,365.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to enter into an agreement with the North Carolina Office of Justice Programs of the Department of Justice for grant monies; and (2) the associated budget amendment, in the amount of \$72,496.

Councilman Mumpower felt the City should pay for their own radios and that the area we need help from the State is with the dysfunctional Court system.

Upon inquiry of Councilwoman Cape, Police Chief Hogan said that this is a continuation of grant dollars and the grant is specifically earmarked.

Councilman Newman said there is no debating the need for investments in the justice system, but he felt the correct way to advocate for that is for Council and our citizens to let our legislators know that is a priority that has been neglected too long. The wrong way to advocate for that is to allow Asheville taxpayer's money to go to other communities.

Councilman Newman moved for the adoption of Resolution No. 08-83. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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D. ORDINANCE NO. 3605 – BUDGET AMENDMENT TO ACCEPT GRANT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE TO MAKE TECHNOLOGY IMPROVEMENTS IN THE AREA OF POLICE RADIOS FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: See Consent Agenda "C" above.

Councilman Newman moved for the adoption of Ordinance No. 3605. This motion was seconded by Vice-Mayor Davis and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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G. ORDINANCE NO. 3607 – BUDGET AMENDMENT TO FACILITATE A PASS-THROUGH OF FEDERAL PLANNING FUNDS TO THE LAND-OF-SKY REGIONAL COUNCIL FOR MANAGING THE METROPOLITAN PLANNING ORGANIZATION

Summary: The consideration of a budget amendment, in the amount of \$300,000, to facilitate a pass-through of federal planning funds to the Land of Sky Regional Council.

This is an action item to follow through on a resolution by City Council on February 26, 2008, to approve a contract with the Land of Sky Regional Council for a pass-through of federal planning funds for transportation planning.

Pro:

- This is a follow-up on previously approved contract. The contract allows the Land of Sky Regional Council to begin accessing federal planning funds to hire staff and begin assuming the role of managing the MPO.

Con:

- None noted.

Although this is not directly tied to the Strategic Operating Plan, this moves a regional planning function to a regional agency. This action potentially creates greater efficiency in the transportation planning process, and frees the City of this responsibility.

This is a pass-through of federal planning funds. There is no net impact to the City budget. The City has an ongoing commitment with other local governments to share the 20% local match. The City's contribution equates to about 6% of the total.

City staff requests City Council approve a budget amendment, in the amount of \$300,000, in order to pass-through federal planning funds to Land of Sky Regional Council per a previously approved contract.

Councilman Mumpower said that we have a \$10 Trillion dollar national debt and we are borrowing money that our grandchildren will have to pay.

Councilman Newman spoke in support of the action and explained how this is a strong step for support for regional governance and regional planning.

Mayor Bellamy said that people who are concerned about the federal government need to vote in that everyone can have a part in making changes. As a local government, she felt it is important that we take back some of what the Asheville taxpayers are paying into the federal system and use it efficiently and effectively. This is a collaborative effort with Land-of-Sky Regional Council and there is accountability through their transparency. As a member of the Board, she invited anyone to review their financial information to see that Asheville's partnership with them helps not only Asheville but helps smaller communities through Buncombe County, Madison County, Haywood County and Transylvania County. We need more collaboration on transportation in our area. North Carolina is projected to grow over the next 30 years by 4 Million people and we must plan for that growth. She was pleased to see a partnership of 4 counties in our region who are looking at issues for today and for our future.

Councilman Newman moved for the adoption of Ordinance No. 3607. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY IDENTIFIED AS CARRIER PARK LOFTS AND STUDIOS, LOCATED ON SHORT MICHIGAN AVENUE, CORDOVA STREET AND REDBO DRIVE, FROM NEIGHBORHOOD BUSINESS DISTRICT AND RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RIVER DISTRICT/CONDITIONAL ZONING FOR 13 LIVE/WORK UNITS

ORDINANCE NO. 3609 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY IDENTIFIED AS CARRIER PARK LOFTS AND STUDIOS, LOCATED ON SHORT MICHIGAN AVENUE, CORDOVA STREET AND REDBO DRIVE, FROM NEIGHBORHOOD BUSINESS DISTRICT AND RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RIVER DISTRICT/CONDITIONAL ZONING FOR 13 LIVE/WORK UNITS

Mayor Bellamy opened the public hearing at 5:47 p.m.

Urban Planner Alan Glines said that this is the consideration of an ordinance to conditionally zone property identified as Carrier Park Lofts and Studios, located on Short Michigan Avenue, Cordova Street and Redbo Drive from Neighborhood Business District and RM-16 Residential Multi-Family High Density District to River District/Conditional Zoning for 13 live/work units. This public hearing was advertised on April 11 and 18, 2008.

Mr. Glines said that the current proposal seeks to develop 13 live / work units on four parcels totaling an acre in west Asheville near Carrier Park and across from Pisgah View Apartments. The property has road frontage on three streets: Short Michigan Avenue, Cordova Street (Parkside) and Redbo Street. The site is zoned RM-16 (residential multi-family high density) and Neighborhood Business (NB) and currently has a single family house and a small vacant building on the property. The proposal is seeking River District Conditional Zoning in order to allow live / work units which are not allowed in the RM-16 zoning district. Staff did consider the applicability of Urban Place District zoning for this proposal which has been applied in the past to several river area properties but the nature of Urban Place did not provide the best fit. Urban Place is a true mixed-use district with thorough design and operation standards and in contrast the River District is more flexible without mixed-use design and development requirements and is more applicable to the current proposal.

The proposed structures will be three stories in height: the living space is located on the second and third floors with the studio / workspace on the lower level regardless of the entry point for each unit. Seven of the units will provide a front door and courtyard space along Cordova Street and the remaining six units are placed at a lower internal portion of the site and will face the internal parking area. From this central parking area all of the studio / work spaces have their access.

The project will provide a direct access to Carrier Park via a sidewalk connection along Short Michigan Avenue. Carrier Park is one of the most visited parks in the City. Even though the zoning will be River/Conditional Zoning the list of allowable uses for the studio/ work space will be limited to artists and other design professions and the types of activities that could be expected in a home occupation as part of a residence. The difference between this proposal and a stricter home occupation use is that with Carrier Lofts there will be some limited retail sales that will be ancillary to the primary use of the work space and the work space is not limited to a percentage of the size of the home.

The project will incorporate green building features in each unit and will be certified under the NC Healthy Built home program. Skylights, sun shades, natural cross-ventilation and higher insulation values will be included in the building design. Although the leasing/ sales process will not meet the City of Asheville Affordable Housing guidelines an artist who may live here will not have both a house payment and a studio rental payment since they will be combined into a single amount.

The Unified Development Ordinance (UDO) requires that landscape buffers be provided along property lines where adjacent to residential zoning: buffers will be required along Short Michigan Avenue and Redbo Street given the adjacent zoning. Street trees will be provided per UDO requirements along Cordova Street because this is considered the main facade of the project. Both parking lot landscaping and building impact landscaping will be provided to meet other landscape code requirements.

A 20-foot wide Type A buffer is required along Redbo Street but the pavement of the street currently encroaches onto the property. The applicant is seeking a modification of the landscape standards to reduce the landscape buffer along Redbo Street to 15 feet in width (rather than 20-feet) in order to avoid removing pavement along Redbo Street. The landscape buffer will be planted 15 feet wide at the narrowest point with the same number of plantings that would normally be required in the standard Type A buffer.

- The River District is developed to celebrate, conserve, promote and manage those areas on both sides of the French Broad and Swannanoa Rivers. The City adopted Wilma Dykeman Riverway Master Plan, a vision plan, promotes transportation, recreation, residential, arts and other business development along the river corridors. The proposed development should complement the overall goals of the River District by providing a smaller arts destination on a compact infill site. Encouraging and reinforcing the river corridors as places for artists and art studios is a goal of the plan

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

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
The project has been reviewed by the technical review committee and is not expected to endanger public health or safety. The project will comply with city and state codes and ordinances
2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
The development responds to the natural topography of the site by locating the buildings in a manner that steps down with the natural fall of the land. The project will also comply with storm water requirements, open space and pervious lot area requirements. The design of the project and the way it responds to the conditions of the site makes the development reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site.
3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
The development of the site is not expected to injure the value of surrounding properties. The project will be incorporating artist studio / flex work spaces that are considered low impact uses. Landscape buffers provided along the perimeter of the property will assist in mitigating any impacts resulting from the development.
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 proposal has a decidedly residential design and although the townhouse buildings are larger than single family homes they should be an attractive fit with the neighborhood. There are a number of industrial buildings nearby or on adjoining sites and Pisgah View Apartments is across Short Michigan Avenue. The development will be in harmony with the scale, bulk, coverage, density and character of the surrounding neighborhood.

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 development furthers the goals of the Wilma Dykeman Riverway Master Plan because it encourages redevelopment that expands opportunities for artists and arts destinations and provides residential units in close proximity to parks and greenways. The comprehensive plan also supports redevelopment of infill lots for higher densities and a mix of compatible uses. The use and development of the site will conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other plans adopted by the City.

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 project has been reviewed by the Technical Review Committee and was found to have sufficient infrastructure. The development is less than one block from Amboy Road and is served by public services and infrastructure. Two bus routes operate in the vicinity of the project area: routes One and Nine travel to Pisgah View Apartments.

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

The proposal is limited in scale and is not expected to create undue traffic congestion. Due to the small scale a TIA was not required for this project.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and supported by City adopted plans and ordinances.

This conditional zoning request was recommended for approval by a 7-0 vote by the Planning and Zoning Commission at their March 5, 2008, meeting. Besides the development team no other people spoke at the Planning & Zoning meeting. .

Pros:

- Demonstrates that public infrastructure such as the park system becomes a catalyst for private sector development
- River District is enhanced as the place for the arts in the community
- Provides live / work units promote smart growth goals and reduces sprawl
- Project infrastructure will provide a better community connection to Carrier Park
- Project buffers industrial uses and residential areas

Con:

- An affordable housing unit will be lost

The Carrier Lofts/CZ project was recommended for approval by the Planning and Zoning Commission by a vote of 7-0 with the requested buffer modification. The River District Design Review Committee reviewed the proposal at their January 23, 2008 meeting and enthusiastically voted to approve the design. Staff also supports the conditional zoning request, site plan, and the request for the buffer modification. The proposal is reasonable and supports the goals stated in the City adopted plans and reports prepared for the River district and surrounding areas.

Mr. Ray Quate, property developer/owner/general contractor, spoke in support of the project. He said the live / work studios will be leased or purchased. In addition, they are providing a sidewalk that ties this development into Carrier Park.

At 5:54 p.m., Mayor Bellamy closed the public hearing.

When Councilwoman Cape asked if the units are affordability, Mr. Quate felt they are all affordable because of the quality of work and the quality of product. She suggested Mr. Quate talk with the City's Community Development Director on how he might make one or two units affordable for artists just starting out.

When Councilwoman Jones asked for the price of a unit, Mr. Quate felt that if all expenses are taken into account (residential, studio, transportation, etc.) then they are affordable.

In response to Councilman Mumpower, City Attorney Oast said that providing affordable housing is not part of the list of

conditions in a conditional zoning ordinance. City Attorney Oast understood that Council was expressing their desire that the applicant strive to make the units affordable for people with modest income.

Mayor Bellamy thanked Mr. Quate for his investment in this area. The sidewalk was desperately needed and what he is doing is adding another safety element to that community.

Councilwoman Jones moved to call the question. This motion was seconded by Councilwoman Cape and carried on a 6-1 vote, with Councilman Mumpower voting "no".

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

Based on the above findings and the analysis provided in the staff report, Councilman Mumpower moved to adopt Ordinance No. 3609, along with the site plan and landscape modification, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) 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 Councilwoman Jones and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY IDENTIFIED AS ABBERLY RIDGE APARTMENTS LOCATED AT 7 PACODA STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO REGIONAL BUSINESS DISTRICT/ CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 422 UNIT APARTMENT COMPLEX

ORDINANCE NO. 3610 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY IDENTIFIED AS ABBERLY RIDGE APARTMENTS LOCATED AT 7 PACODA STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO REGIONAL BUSINESS DISTRICT/ CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 422 UNIT APARTMENT COMPLEX

Mayor Bellamy opened the public hearing at 6:05 p.m.

Urban Planner Nate Pennington said that this is the consideration of an ordinance to conditionally zone property identified as Abberly Ridge Apartments located at 7 Pacoda Street from RM-8 Residential Multi-Family Medium Density District to Regional Business District/Conditional Zoning for the development of a 422 unit apartment complex. This public hearing was advertised on April 11 and 18, 2008.

Mr. Pennington said that the applicant seeks the conditional zoning of 23.56 acres currently zoned RM-8, to RB/CZ for a multi-family residential project with 422 new apartment units. The property is located at 7 Pacoda Street off of Brevard Road and behind the Toys R' Us and Ingles stores within the City's extraterritorial jurisdiction (ETJ) area.

The project is proposed to be built in two phases with eight of the proposed 14 buildings to be built in the first phase. If the conditional zoning application is approved, the site would have an overall density of 17.87 dwelling units per acre. Multi-family residential uses at the density proposed would be permitted as a conditional use in the RB zoning district which allows for a maximum net density of 32 dwelling units per acre.

The units will be housed in four different building types as indicated on the site plan. The following list provides a breakdown of the proposed development:

- 14 total buildings
- 3 stories (building type 2 is a split 3-4 story configuration)
- No building type exceeds 40 feet from primary fire department access to ceiling height of highest occupied floor.
- 169 – one bedroom units
- 211 – two bedroom units
- 42 – three bedroom units

The majority of the site is currently developed with approximately 9 single-family dwellings and accessory structures. Interspersed throughout the site are previously cleared areas maintained as mowed lawns/fields and vacant/wooded expanses. Thirty (30) percent of the site has been designated as open space and tree save area with the majority of this space located along the northwest and southwest quadrants of the property. In addition, the property requires a 20 foot wide Class "A" bufferyard along the north and western perimeters of the property as indicated on the site plan.

Access to the site is proposed via Pacoda Street and Oak Terrace Road from Brevard Road. Both streets will require improvements to accommodate the proposed development. The applicant is proposing a signalized access point along Oak Terrace and Brevard Roads and the access at Pacoda Street is restricted to a right in/right out configuration due to the existing concrete median in the center of Brevard Road. Further, the applicant will be pursuing a road and right-of-way abandonment for the portion of Oak Terrace Road that runs parallel to the Toys R' Us store. It was brought to staff's attention, by the applicant and the Public Works Department, that the portion of Oak Terrace Road that runs parallel to the self storage facility and adjacent to Sardis Road was abandoned in 2000. A traffic study has been submitted to the City Traffic Engineer for review. The proposed signalized access along Oak Terrace and Brevard Road will require approval from N.C. Dept. of Transportation.

The project site is currently located in the City's extraterritorial jurisdiction area and the developer has indicated a willingness to pursue a voluntary annexation of the subject properties. Staff has received a list of the proposed rental rates that do not appear to meet the City's affordability guidelines. The applicant, however, is providing a mix of differential rental rates. At the Planning and Zoning Commission meeting it was noted by a member of the Commission that some of the rental rates proposed by the developer appear to fall within the acceptable range of what is considered "workforce housing." Additionally, the applicant has agreed to institute green building techniques into the construction of the project, and has provided a list of environmental considerations.

The subject site is surrounded by single-family uses to the north and west zoned RS-4 and RM-8, automobile sales and service uses to the south zoned CB II, and Ingles, Toys R' Us and self-storage units to the East zoned RB.

The Regional Business District is established to provide areas for large scale commercial operations. This district is intended to encourage innovative development that is integrated with adjacent uses. It is not the intent of the district to encourage strip commercial area, but rather a concentration of commercial activities with an overall design scheme. This district is designed to be located around the intersections of high traffic volume thoroughfares such as interstate highways and arterial roads. This district permits a wide range of commercial uses and is easily accessible by the automobile. The Regional Business District is characterized by high traffic generation, large structures which may contain multiple businesses, and shared parking and access between adjacent businesses. Although the automobile and bus are the primary modes of transportation to this district, pedestrian connections between the businesses within the district enhance the functionality of the district.

At the time of this writing, staff has received one communication from an adjacent property owner regarding the effect of the waterline extension to their property in relation to this project. At the TRC meeting, one individual expressed concern about stormwater runoff and the effect on adjacent property values if the project is constructed. No concerns were voiced at the Planning and Zoning Commission meeting.

At their March 17, 2008 meeting the Technical Review Committee (TRC) approved this project subject to the conditions in their March 17, 2008, staff report.

At their April 2, 2008, meeting the Planning and Zoning Commission unanimously approved this project subject to the conditions in the staff report and the addition of condition number seven regarding traffic mitigation improvements.

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.**
This has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the UDO, the Standards and Specifications Manual, the North Carolina Building Code and all other applicable laws and standards that protect the public health and safety.
2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
The proposed use is compatible with the surrounding natural features and topography. The project must comply with all City standards in regards to grading and erosion control. Over seven acres of the site will be maintained as open space

and tree save areas. A 20-foot wide Class "A" buffer will be installed along the northern and western perimeters of the property.

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. A 20-foot wide landscape buffer will be installed along the northern and western perimeters of the site where adjacent to lower density residential uses that will assist in mitigating any negative impacts resulting from the proposed use.

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-8 to RB will allow a net increase of approximately 9 additional dwelling units per acre (or twice) the allowable density than the RM-8 zoning district would accommodate. Given the proximity of the Biltmore Square Mall and surrounding commercial development, staff feels that a multi-family development of this size and density is appropriate for the area.

In addition, the higher density development could serve as a buffer/transition area to the existing RS-4 zoning and RM-8 zoning to the north and west of the site. A 20-foot wide landscape buffer will be installed along the northern and western perimeters of the site where adjacent to lower density residential uses that will assist in mitigating any negative impacts resulting from the proposed use.

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 compatible infill growth and affordable housing supports several goals and objectives as described in both **The Asheville City Development Plan 2025** and the **Strategic Operating Plan** (See **Compliance with Comprehensive Plan** and **Strategic Operating Plan Considerations** in above staff report).

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. A transit stop for the Asheville City bus system is located across Brevard Road at the Biltmore Square Mall. 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 is anticipated to generate 211 vehicles per hour (42 vph ingress and 168 vph egress) during the morning peak hour and 250 vehicles per hour (162 vph ingress and 87 vph egress) during the afternoon peak hour at full build-out conditions (three years). Based on these anticipated peak hour traffic volumes, a traffic impact study was required. The scope of work included six intersections along NC 191 (Brevard Road) and the annual traffic growth rate was 2 ½%. One of the mitigation improvements included a traffic signal at the intersection of NC 191 (Brevard Road) and Oak Terrace Road as well as right-turn lanes along the NC 191 (Brevard Road) southbound approach at the subject intersection and the intersection of NC 191 (Brevard Road) and Pacoda Street. Since these improvements would be along a state-maintained street, the N.C. Dept. of Transportation has final approval regarding the proposed mitigation improvements.

The traffic impact study has indicated that severe delay and a poor level of service can be expected along the Oak Terrace Road approach if a traffic signal is not installed. This delay could be shifted to the nearby intersections as vehicles attempt other means of access and/or vehicles would tend to accept shorter gaps in the traffic stream which could increase the possibility of crashes. The study has also indicated that the nearby intersections should function in an acceptable manner provided the mitigation improvements are installed.

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

Pros:

- The proposed development will provide an additional 422 units to the housing rental market.
- Provides another opportunity to further the City's goal of high density infill development.
- Provides an opportunity for the inclusion of 23.56 acres into the city limits by means of voluntary annexation.

Cons:

- Some citizens may perceive the rezoning as an effort to increase the allowable density in this area.

- The proposed rental rates provided by the applicant do not meet the City's criteria for providing affordable housing.

The City Traffic Engineer asked that a condition be imposed "The mitigation improvements identified in the Traffic Impact Study should be constructed subject to approval by the N.C. Dept. of Transportation. If the N.C. Dept. of Transportation denies any of the mitigation improvements, the Traffic Impact Study shall be revised to identify additional mitigation improvements that the N.C. Dept. of Transportation shall accept."

Staff recommends approval of the proposed project and Conditional Zoning request subject to the conditions in the TRC staff report and the standard conditions as follows: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) The applicant must make application for a lot recombination prior to the issuance of zoning permit; (3) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (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; (6) This project shall undergo final review by the TRC prior to issuance of any required permits; and (7) The mitigation improvements identified in the Traffic Impact Study should be constructed subject to approval by the N.C. Dept. of Transportation. If the N.C. Dept. of Transportation denies any of the mitigation improvements, the Traffic Impact Study shall be revised to identify additional mitigation improvements that the N.C. Dept. of Transportation shall accept.

Mr. Clay Mooney, Landscape Architect with Design Associates, explained the project in detail, noting that there will be 422 total units - 14 buildings on the site which will be built in two phases. He said there are 887 parking spaces including 28 handicapped accessible spaces. He said there will be two access points on Oak Terrace with proposed traffic signal at Brevard Road, pending approval by the N.C. Dept. of Transportation. The stormwater will be collected in a centralized stormwater structure. He explained the several landscaping features for the site, noting they have 7 acres dedicated to tree save and 3.97 acres dedicated to open space. Regarding the planting requirements, there will be over 3,000 trees and shrubs planted within the development. The site is located within the City's ETJ and the developer is willing to go through the voluntary annexation process as a condition of the project. He explained this is a good infill development and urged Council to support the project.

At 6:13 p.m., Mayor Bellamy closed the public hearing.

Mr. Mooney responded to various questions/comments from Council, some being, but are not limited to: are 887 parking spaces needed; is the surface parking impervious; what are the stormwater mitigations on the project; what did the traffic impact study show in terms of traffic infrastructure and levels of service on Brevard Road; are there any plans to widen Smoky Park Highway.

In response to Mayor Bellamy about a manager on site due to the number of units, Mr. Bo Cook, with HH Hunt Corporation who is the applicant, explained that they own their own management company. He said that they have incentives for their managers to live on site or within a certain distance to address any complaints that come to their attention.

When Mayor Bellamy asked about services, City Manager Jackson said that this is a well served area in terms of public safety.

In response to Councilwoman Cape, Assistant Director of Transportation & Engineering Ken Putnam said that prior to the plans going to the TRC, staff tries to identify other potential access/egress points to spread the traffic out.

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

Based on the above findings and the analysis provided in the staff report, Councilman Mumpower moved to adopt Ordinance No. 3610, subject to the conditions recommended by City staff as follows: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) The applicant must make application for a lot recombination prior to the issuance of zoning permit; (3) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (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; (6) This project shall undergo final review by the TRC prior to issuance of any required permits; and (7) The mitigation improvements identified in the Traffic Impact Study should be constructed subject to approval by the N.C. Dept. of Transportation. If the N.C. Dept. of Transportation denies any of the mitigation improvements, the Traffic Impact Study shall be revised to identify additional mitigation improvements that the N.C. Dept. of Transportation shall accept. This motion was seconded by Vice-Mayor Davis and carried unanimously.

C. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROJECT IDENTIFIED AS RAVENSCROFT, LOCATED ON RAVENSCROFT DRIVE AND COLLIER AVENUE, FOR A PROPOSED MIXED-USE COMMERCIAL AND 150-UNIT RESIDENTIAL DEVELOPMENT

ORDINANCE NO. 3611 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROJECT IDENTIFIED AS RAVENSCROFT, LOCATED ON RAVENSCROFT DRIVE AND COLLIER AVENUE, FOR A PROPOSED MIXED-USE COMMERCIAL AND 150-UNIT RESIDENTIAL DEVELOPMENT

City Clerk Burleson 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.

City Attorney Oast also said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

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

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 6:30 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.

Urban Planner Jessica Bernstein 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. Bernstein said that this is the consideration of the issuance of a conditional use permit for property identified as Ravenscroft, located on Ravenscroft Drive and Collier Avenue, for a proposed mixed-use commercial and 150-unit residential development.

Ms. Bernstein said that the applicant is requesting review of site plans for five mixed-use structures with residential and commercial components. Pursuant to section 7-5-9(a) of the Unified Development Ordinance (UDO), any residential development of more than 50 units and any mixed-use structure with more than 45,000 square feet located within a half-mile of the Central Business District (CBD) shall be considered as a Level III project and a Conditional Use.

The project area consists of 7 parcels (6 PINs) with a combined area of 2.83 acres located on Banks and Collier Avenues and Ravenscroft Drive, south of Hilliard Avenue in the CBD (Location Map, Aerial Map, Elevation Drawings, Site Plan - Attachments to City Exhibit 3). The applicant is proposing 5 structures, 4 of which will be 7-stories and one at 6 stories. The buildings contain a mix of residential condos on upper levels and commercial spaces on the ground floor, also including some live/work spaces.

There will be 150 residential units (approximately 249,000 square feet overall) and between 15,000 – 16,000 square feet of retail space (retail area subject to some flexibility depending on viability of live/work units). The breakdown is proposed as follows:

- 8 retail spaces (varying sizes)
- 24 live/work spaces (varying sizes)
- 86 2-bedroom units (1,000 – 1,200 square feet)
- 31 3-bedroom units (1,600 – 1,800 square feet)
- 13 penthouse units (no larger than 2,100 square feet)

This development proposes the creation of 2 new private streets, the widening of Collier Avenue and the closing of a portion of Ravenscroft Drive as well as an unopened alleyway. Parking will be provided on-street and in a small surface lot within

the site, as well as two subsurface deck levels. Sidewalk widths vary throughout the project area, generally meeting or exceeding the 10' requirement for the CBD. However, in a few locations the width is less than 10' and must be approved by the City Traffic Engineer (along park parcel and amenity space on Collier Avenue, in front of Building E on Banks Avenue).

Landscaping is proposed according to the City's ordinance and includes more than the required number of street trees and vehicular use area plantings. An area with existing trees in the northwest corner of the project site is being preserved and translated into a private passive park parcel (.46 acres) for the use of the residents.

Significant streetscape amenities are proposed, including pervious pavers, planters and outdoor seating areas throughout the project site. A hardscaped plaza is proposed as an entry feature at the northernmost point of the development, and includes a water feature, shade trees and terraced seatwalls. Additional landscaping has been incorporated throughout the site as buffers from adjacent uses. The pedestrian environment has been considered through the use of the hardscaping and plaza areas and access throughout the layout and to streets on all sides.

Setbacks vary slightly throughout the project site, generally meeting the 0' requirement. In the few areas where there setback is farther from the back of sidewalk, that increased area incorporates hardscaping and pedestrian plaza amenities and in no place is larger than approximately 11.5'. This increase is acceptable due to the plaza/courtyard environment created.

Stormwater is proposed to be controlled through a series of pervious pavement and underground stormwater storage and treatment areas. Combined systems will retain at least the pre-development runoff from a calculated 25-year storm.

The project was approved by the Downtown Commission on February 8, 2008. From recommendations during their design review, the applicant revised the plans to incorporate building entrances and greater activation along Collier Avenue and better pedestrian connectivity throughout the project. Materials and façade articulation were also discussed. No modifications from UDO standards were required. The applicant and architect have designed the new streets and proposed buildings in a way so that they "step" down along with the existing grade change on the site, resulting in a built environment that mirrors the natural environment.

On March 17, 2008, the Technical Review Committee (TRC) approved the project with the conditions as listed in the staff report. The project was recommended for approval by the Planning & Zoning Commission on April 2, 2008, by a unanimous vote of 6-0. At this meeting the applicant indicated that they will be seeking LEED certification on the core and shell of the buildings. No communication from abutters has been received, other than from an informational nature.

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

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
The project will meet State building code requirements and will be reviewed in detail by the Technical Review Committee to ensure compliance with safety requirements.
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 site is an infill parcel in the south slope area of the Central Business District with existing grade changes with approximately a 30' – 40' difference from the northern to the southern end of the site. The applicant has designed the new streets and buildings in a way that they "step" down along with the grade, resulting in a built environment that mirrors the natural environment. Retaining walls are used where necessary.

The retention of one of the only standing groves of trees in the CBD and reuse into a passive park space for the residents respects the existing environment and creates a valuable amenity for future City dwellers.
3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
The parcels for the proposed development are under-utilized and largely vacant. The project is expected to enhance the values of adjoining properties.
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 project is located in the Central Business District where there is no height,

density or maximum building size limitation. Nearby Zona Lofts (approved 8/2007) and Zona Village (approved 3/2008), are to be 15 and 11 stories and although these buildings have not yet been built, this structure will be compatible with the emerging character of this neighborhood.

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.

Smart Growth principles adopted in the 2025 Plan encourage these types of higher density, mixed-use infill developments. This project agrees with objectives of the Plan by encouraging development activity in an underutilized part of the City and supporting the livability and vitality of downtown by offering housing in close proximity to public transit and in a walkable urban location. The applicant has indicated that they intend to seek LEED certification on the core and shell of the building, are using pervious pavers and hoping to re-use surface runoff for irrigation onsite and are incorporating solar-powered bollards. However, the project does not include any affordable or workforce units, something that is not explicitly required but that is encouraged by City goals and objectives.

The 2025 Plan does emphasize the importance of the pedestrian environment – the design of this development is quite sensitive to the pedestrian experience and strengthens connectivity through clear walkways for “safe, comfortable travel” in and out of the project area. Additionally, the proposal includes street improvements that will enhance the connectivity and efficiency of the affected roadways.

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 project is located in the CBD in an area easily accessed for transportation, life and safety facilities and utility infrastructure.

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

The project is not expected to create traffic congestion or a traffic hazard. A Traffic Impact Study has been submitted and accepted by the City Traffic Engineer. Parking is largely contained onsite (below-grade deck) and otherwise will utilize on-street parking throughout the site. Mixed-use areas such as the CBD can reduce traffic concerns by encouraging people to walk more or use public transit.

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

Pros:

- This project provides new development and housing opportunities in an under-utilized are of the CBD.
- While not a requirement of the CBD, this project proposes more than enough parking on-site to satisfy the needs of the residents.
- The wooded .46 acre parcel is proposed to be retained and incorporated into a passive park for the residents – a rare and valuable amenity to a highly urban core.
- The applicant will be seeking LEED certification on the core and shell of the buildings.

Con:

- None of the residential units will be offered at an affordable or workforce rate.

Staff recommends approval of the project inclusive of the following conditions but encourages the developer to consider including affordable or workforce housing as well as sustainable design features: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City’s Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) 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; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) This project will comply with the requirements of the Emergency Wireless Communication Ordinance (Ordinance No. 3583).

Mr. David Payne, attorney/developer, explained who they took a large conceptual plan (450 unit project) and scaled it down to a project that will fit into the site in a positive way.

Mr. Matt Sprouse, Landscape Architect from Sitework Studios, explained how the site is underutilized, noting that all buildings on the site are deteriorating, vacant with one undeveloped parcel (Applicant Exhibit 1 - PowerPoint Presentation). In reviewing the site plan, some features include two new private streets, several pocket parks and the retention of .46 acres of

vacant land (which contains more than 20 large black oak trees) which will be a private park fenced off and gated. He reviewed the pedestrian scale streetscape, along with some green features they are trying to incorporate, e.g., solar bollard with cut-off light fixtures, pervious pavement patterns. He reviewed a chart of building height relative to topography. They are also investigating ways to use stormwater from runoff for irrigation. He urged Council's support of this request.

Mr. Peter Alberice, from Camille Alberice Architects, showed conceptual drawings of the site. He noted four main characteristics of the project: (1) they have preserved land on the property; (2) the project will be LEED certified for the core and shell; (3) they lowered the density from 450 units to 150 units; and (4) they have not requested any variances. He then urged Council for their support.

Mr. Pat Whalen, Chairman of the Downtown Commission, spoke in support of the project, noting that the Commission voted to support the project unanimously. During the course of their work with the Commission and after talking with the neighborhood, the developer made many positive changes to the project.

After rebuttal, Mayor Bellamy closed the public hearing at 6:52 p.m.

Based on the above findings and the analysis provided in the staff report, Councilman Mumpower moved to adopt Ordinance No. 3611, adopting the proposed master plan for Ravenscroft, subject to the conditions recommended by City staff as follows: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) 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; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) This project will comply with the requirements of the Emergency Wireless Communication Ordinance (Ordinance No. 3583). This motion was seconded by Councilman Newman and carried unanimously.

V. UNFINISHED BUSINESS:

A. SECOND AND FINAL READING OF ORDINANCE NO. 3602 – ORDINANCE DESIGNATING THE PROPERTY KNOWN AS THE HAMMOND-KNOWLTON HOUSE, LOCATED AT 30 KIMBERLY KNOLL, AS A LOCAL HISTORIC LANDMARK

Mayor Bellamy said that the first reading of this ordinance was on April 8, 2008, and a second reading is required due to the 4-2 vote of Council.

Councilman Mumpower felt that since this will give the property owner a significant tax break, he could not support the designation.

Councilwoman Cape moved for the second and final reading of Ordinance No. 3602. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote, with Councilman Mumpower and Councilman Newman voting "no."

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B. ORDINANCE NO. 3612 - BUDGET AMENDMENT FOR THE PRITCHARD PARK COMMITTEE RECOMMENDATIONS

MOTION TO OFFICIALLY DISSOLVE THE PRITCHARD PARK COMMITTEE

Urban Planner Stephanie Monson said that this is the consideration of a funding mechanism for the Pritchard Park Cultural Arts Program; and the consideration of officially dissolving the Pritchard Park Committee.

She reviewed the budget information which was requested by Council, in response to the Pritchard Park Committee's recommendations for Pritchard Park programming at City Council's regular meeting on April 8, 2008. At that time, Council requested staff to provide a budget for the program, and respond to general questions about the operation of the program, before considering a funding mechanism to support the program.

The Pritchard Park Cultural Arts would produce a minimum of 90 programs during the summer and early fall. Performances would occur Monday through Friday from either 11am-1 pm or 5pm-7pm. Examples of the diverse performances include jazz, blues, and bluegrass groups, local heritage-based theater, storytelling for children, comedy improvisations, and Ukrainian folk

dancing.

She briefly reviewed the program budget (including artist fees, marketing, park rental fees, insurance and administrative fees) which totals \$51,050. The Pritchard Park Committee requests that Council waive the \$100 per event park rental fees totaling \$9,000 through event co-sponsorship; and outside agency funding support for the program in the amount of \$10,000.

The fiscal impact of this action would be a total of \$10,000 in funding and \$9,000 in fee waivers.

City staff recommends that if Council wishes to (financially) support the program, that they accept the program's procession through the City co-sponsorship process (for the park rental fee waivers) and the program's procession through the Outside Agency Funding process (for the Committee's \$10,000 request).

Staff recommends Council consider disbanding the Committee as they did provide the requested programming recommendations.

Councilwoman Cape moved to approve Ordinance No. 3612 to allocate \$10,000 for this program and to waive the \$9,000 in fees. This motion was seconded by Councilwoman Jones.

Councilman Mumpower spoke against using tax dollars for cultural events. He felt we should enforce our laws in Pritchard Park.

Councilwoman Cape said that Council asked the Pritchard Park Committee to go out and look for best practices for a park that was a detriment to a community because of behavior patterns. The Committee did that and she supported trying what other communities have found success with - programming in parks. In addition, she felt that a safer community is achieved in other ways other than police officers.

Councilman Newman felt that we are doing a better job of enforcement of our laws in Pritchard Park. While he is supportive of this request now, there should be no assumption that this will be an annual automatic occurring commitment. In the future, he felt this request should be reviewed through the normal budget process.

When Mayor Bellamy asked for clarification of staff's recommendation, City Manager Jackson said that staff recognized this was a Council appointed Committee so they did not want to make dueling recommendations. The Committee's recommendation should stand on their own merits. Staff's attempt was to bring to Council's awareness that the types of requests the Committee is making are very much like outside agencies and the co-sponsorship process that we currently have. Staff was looking for direction as to how we treat these in relationship to those processes.

Mayor Bellamy noted that Council spent last week saying to the community that we have over \$243,000 worth of requests for outside agency funding and co-sponsorship requests. And now, approval of this motion will put this program in front of all other requests. She felt that 90 programs is a lot for our staff in light of our other co-sponsorship events.

In response to Mayor Bellamy, City Manager Jackson said that if Council adopts the budget amendment, he would recommend the \$10,000 come from the City Manager's Contingency, which has approximately \$50,000 in it.

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

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At the request of Mayor Bellamy, with the consensus of Council, City Manager Jackson said that an outside agency agreement will be drawn up with the Friends of Pritchard Park with performance measures for accountability of City dollars.

In response to Vice-Mayor Davis, as a result of this agreement, Parks & Recreation Director Roderick Simmons said that he will work with the Economic Development staff on performance measures regarding the behavior in and use of Pritchard Park and report that to Council quarterly.

Councilwoman Cape moved to dissolve the Pritchard Park Committee. This motion was seconded by Councilman Mumpower and carried unanimously.

Closed Session

At 7:12 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. 160A-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 authorization 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 Russell and carried unanimously.

At 7:35 p.m., Councilwoman Cape moved to recess the closed motion to return to the formal meeting, noting that the closed session would continue at the end of the formal meeting. This motion was seconded by Vice-Mayor Davis and carried unanimously.

C. DIRECTION FOR NEXT STEPS IN THE CITY-OWNED PROPERTY REQUEST FOR PROPOSALS PROCESS

Economic Development Director Sam Powers said that this is the consideration by City Council of direction for next steps in the City owned property Request for Proposal (RFP) Process.

He explained the recent activities completed include (1) RFP issued to pre-qualified developers [Dec 2007]; and (2) Proposals received and evaluated [Feb/March 2008].

City Council and staff have engaged in a Request for Qualifications/Proposals (RFQ/RFP) for potential redevelopment of city owned/controlled property for the past 24 months, most recently culminating in the receipt of Developer Proposals for 2 of 3 sites offered during Phase II of the process.

Regarding the Strategic Operating Plan, the RFP process addresses multiple goals of the 2008-09 Strategic Plan. Specific goals include: (1) Promote sustainable, high density infill growth that makes efficient use of existing resources; (2) Develop and implement the comprehensive affordable housing plan and proactively pursue strategies, including completing the city-owned land redevelopment process, to increase the supply of workforce housing; (3) Support diversified job growth and small business development; (4) Reduce energy consumption in privately owned buildings; and (5) Increase downtown cleanliness and beautification efforts.

Pros:

- Provides reinforcement to the RFP process
- Proposals meet multiple Council Goals
- Proposals meet multiple goals of 2025 Plan
- Job creation (construction and permanent)
- Proposals received are consistent with Asheville's moderate, stable growth market
- Proposals received are in the small to mid-scale range

Cons:

- Extends the time frame for possible work force housing at Parks Maintenance site.
- Extends the time frame for redevelopment of Eagle/Market and Parks Maintenance sites.
- Cost-benefit of relocation of municipal facilities.

There is no immediate impact. Intermediate and long term impacts include:

- Tax base enhancement by returning Haywood Street and Parks Maintenance Sites to private sector.
- Substantial cost recovery of acquisition costs of Haywood Street properties
- Lease cost of relocated parks maintenance which will include app. 10% equity discount for the city's interest in the property.

City staff requested City Council grant approval to move forward with recommended next steps which will be outlined by Mr. Mark Taylor, Vice-President & COO of Real Estate Research Consultants, as outlined.

Mr. Taylor reviewed with Council the following proposals:

Eagle-Market Street Properties - Eagle-Market Renaissance, LLC (1) mixed-used, 10-story multi-family residential with

street-level commercial; (2) intensified use of existing site; (3) 46 for sale housing units (13% workforce housing); (4) 3,600 – 7,500 sq. ft. of retail/office; (5) limited on-site parking spaces; (6) historic preservation of building facades (sustainable); (7) anchors cultural heritage district; (8) African American development team; (9) Eagle-Market Street Development Corporation (EMSDC) directly involved in developer discussions; (10) sustainable job creation; (11) business incubator space; (12) equity partnership between EMR and EMSDC; (13) desire to use Section 108 and Community Development Block Grant (CDBG) funds; (14) local business involvement; and (15) enhanced tax base.

He showed a picture of preliminary massing studies for the Eagle-Market Street site.

Haywood Street Properties at Civic Center – McKibbon Hotel Group, Inc. (1) mixed-used, 9-story hotel with street level commercial; (2) intensified use of existing site; (3) 140 hotel rooms (upscale: Marriott, Hilton or Starwood band); (4) 13,500 sq. ft. of retail/office; (5) integrated 350-space public parking garage; (6) green building, LEED certified (sustainable); (7) public art (local artists); (8) public hardscape for trail marker; (9) sustainable job creation; and (10) enhanced tax base.

McKibbon Hotel Group Inc. proposed terms (1) \$1.76 Million acquisition price for land and hotel and commercial space (consistent with market value indicated by 2007 City appraisal); (2) City would retain ownership of land for garage; (3) developer will build and sell parking garage to City; and (4) developer will lease 150+/- parking spaces long-term for hotel and commercial uses.

He showed a picture of preliminary concept for the Haywood Street site at Civic Center.

Park Maintenance Properties (1) no proposals received by 2/29/08 deadline but continuing interests; (2) market update (a) no shortage of workforce housing demand; (b) impact of foreclosures on financing; and (c) tightened credit markets, 10-16 months for financial markets to stabilize (ULI expert panel); and (3) remains optimal site for workforce housing product due to cost basis of land and consistency with neighborhood master plan.

Next Steps: Staff is recommending the following next steps as outlined below.

- Eagle-Market Street Properties: Work with Eagle/Market Street Development Corporation (EMSDC) to seek additional detail from EMR regarding equity partner and financials prior to making a recommendation with regard to entering negotiations.
- Haywood Street Properties at the Civic Center: Enter into negotiations with McKibbon Hotel Group to draft a development agreement for City Council review and approval.
- Park Maintenance Properties: Monitor market conditions, continue due diligence and dialogue with interested developers to produce successful outcome.

Councilman Newman moved to support the next steps outlined by staff. This motion was seconded by Vice-Mayor Davis.

Mr. Darryl Hart, Chair of the Eagle-Market Street Corporation, thanked Council for letting them be involved in the RFQ/RFP process. They believe the team on the Eagle-Market Street redevelopment is a good team and brings a unique prospective to the community. As we embark upon this project, he asked for a commitment from Council to finish this project.

Mr. W. Louis Bissette Jr., attorney representing McKibbon Hotel Group, Inc., spoke in support of staff's recommendations that the City enter into negotiations with McKibbon to draft a development agreement for Council's review and approval. He said McKibbon is not new to Asheville as they have been here since 1996. It currently operates the Spring Hill Suites and the Courtyard by Marriott. These two properties have an annual payroll now of about \$1 Million and they pay annual taxes in excess of \$600,000 locally. He felt this is a good process and that their project meets Council's goals. He said that the project is basically a purchase from the City at market value for construction of a hotel, some office and retail space and a 350 space parking garage.

Mr. Wes Townsend, Vice-President of Acquisitions from McKibbon Hotel Group, used a chart to show the fiscal impact, including this project, from McKibbon in the Asheville area. The chart shows total taxes of approximately \$1.4 Million per year and the payroll dollars are almost approximately \$2 Million. He also showed Council a report of the Asheville hotel market.

The following individuals spoke in support of Council proceeding with the staff recommendation on the Eagle-Market Street properties for various reasons, but mostly for the growth and development in terms of diversity and historical legacy of Eagle-Market Street area:

Ms. Sylvia Farrington, lead principle with Asheville Global Services Group and member of the Eagle Market Renaissance Development Team

Ms. Tayani Suma, President of Mission Redevelopment Inc. (presented Council with examples of Mission Development Projects)

Mr. Sherman Goldwin, representing EM Johnson Interest, Inc. (presented Council with information on EM Johnson Interest, Inc.)

The following individuals spoke in support of Council proceeding with the staff recommendation at the Haywood Street Properties at the Civic Center for various reasons, but mostly for the addition of parking spaces:

Mr. Bill Leonard, business owner in the Grove Arcade

A manager of a store in the Grove Arcade

A business owner in the Grove Arcade

Ms. Roslyn Whitley, business owner in the downtown area

Ms. Ruth Summers, employee in the Grove Arcade (presented Council with a "Parking Petition" containing over 177 signatures requesting the City build or allow to be built a parking facility or deck on the Battery Park side of the Grove Arcade

Ms. Karen Kennedy, Director of a gallery in the Grove Arcade

A downtown business owner

Ms. Donna Bateman questioned what impact the project at the Civic Center will have on Battery Park Apartments, the Basilica of St. Lawrence and the newly renovated Vanderbilt Apartments. In addition, she noted that Park Avenue is very narrow.

Mr. Matt Mores, representing the Basilica of St. Lawrence, said that the Basilica is against any large structures diminishing the view of the Basilica and potentially damaging the 100 year old building that is a historical landmark of the City. They have been pursuing this issue with the City for over eight months and at this point they are hoping the City would have made a decision on their own to postpone this RFP process. An intensified use is the wrong use in front of a Basilica. Again, they are against any large structures diminishing the future view between the Grove Arcade and the Basilica. He has currently put the AT&T site under contract and they are finalizing the agreement to bring 1.5 - 1.67 acres to this corridor for the City to build a parking deck. He believed the best use in front of the Basilica with its historical value would be a plaza and a more open concept with less invasive encroachment of the Basilica.

Councilwoman Cape's main concern is that the City is just about ready to start a master planning process for downtown Asheville. She felt any action on City property should be held off for this month to let the citizens participate in this process about what they want for downtown. After reviewing City Council meetings on video tape, a lot of what Council talked about regarding City-owned property is the fact that it wasn't just a matter of selling the property, but achieving the highest strategic values for our community. She urged Council to consider at least allowing City-owned property be included in the master planning process for downtown.

Councilman Mumpower felt that the City has invested well over \$200,000 and narrowed the potential 9 pieces of City-owned property down to two. He felt this has been a tremendous misinvestment of City tax dollars. The problem is that the majority of Council sought to sell City-owned property and developed guidelines for that purpose. Then Council asked people to come to Asheville and develop those properties. His concern is that staff and potential developers did what Council asked and now Council tells them we have a new planning process. Even though he voted against this process, he felt he felt that the City should at least honor the process and work with the developers to bring their projects to life.

Councilwoman Cape said that Council has had many conversations about how the RFP process will fit into the downtown master planning process. Many times she heard Council say that just because we're getting ready to go through the RFP process does not mean that at the end of the process whatever gets in front of Council gets approved. She didn't think we are changing the rules along the way. The City spent two years going through this process and postponing it for two months will not slow down the Eagle/Market Street properties, as more research is required, nor the Haywood Street Properties, because of drafting a development agreement. She felt we needed to be more comprehensive with our planning process and see how the pieces work together so one process doesn't go forward while cutting off another one. She did not think Council has been unclear in the process to date.

In response to Councilwoman Jones, Mr. Powers said that what is key from a staff prospective is do the proposals meet enough of Council's strategic goals to move into the next phases - McKibbin hotel negotiations and more due diligence on the Eagle/Market Street properties. Regarding the Haywood Street properties, staff is still determining price in terms of fair market value and other due diligence items. There is fairly comprehensive negotiation process that will continue which might take several weeks based on past experience. The challenge is those negotiations moving forward in conjunction with the Downtown Master Plan. It's not implausible that the timetable could work together. But quite honestly, part of the timetable hinges on the developers who submitted the proposal. They are the ones who will determine how much more time and energy they feel is in their best

interests to commit as the City determines its best interests.

City Attorney Oast said that the City is not bound to sell their property until a contract is signed, but the risk is the same developers tonight with proposals in hand may not be here when the master planning process is complete. Since City does own the properties, they have the choice about whether to wait on the Downtown Master Plan or not.

Vice-Mayor Davis felt that the Eagle/Market Street properties plan is a nice proposal and he was appreciative to have that group at the table. Regarding the McKibbon group, he felt they have met the criteria and have come to Council with a product that achieves Council's goals. He didn't see how proceeding with this process would be in conflict with the Downtown Master Plan.

In response to Councilwoman Cape, Mr. Taylor explained the timeline for negotiations moving forward as it relates to the Downtown Master Plan, noting that they have worked closely with the downtown master planning team. In fact, they interviewed more than 30 stakeholders at the beginning of the process last March, and many of them are in that process as well. Even though the downtown master planning process started a little late, expectation is that this summer they will have preliminary findings for the Master Plan. He felt it's a balance that you have to strike between planning indefinitely or proceeding with a \$37 Million private development. It may not be the people you decide to go forward with, but they are interested and are willing to invest in the community plus they live here. Again, they are trying to be consistent with the downtown master planning process, and he didn't see a contractual agreement being in front of Council before some preliminary work has been done this summer on the Master Plan. Per the RFP timetable, the development agreement is to be brought back to Council for consideration in August of this year.

Mayor Bellamy said when this was originally brought up for City-owned land to be considered for this type of initiative, one of the main reasons was affordable housing. The goals were expanded by Council as the Council's minutes of the May 22, 2007, meeting read: "The City's goals and objectives are (1) workforce housing; (2) enhanced tax base; (3) smart growth; (4) realistic market opportunities; (5) attract innovative developers; (6) path to redevelopment next 2 to 4 years; (7) focus City efforts to be results-oriented; (8) transparent process; (9) best use of public assets; (10) economically and environmentally sound; (11) potential public space; (12) involve local businesses; (13) support City's Minority Business Plan; (14) cost-benefit of relocating municipal facilities; (15) limit impact on taxpayers; and (16) promote live-work-play downtown."

Mayor Bellamy said that in addition, from the May 22, 2007, minutes that were formally adopted, a portion reads "Councilman Mumpower didn't think it was fair to put out RFQ's unless we can provide reasonable assurances to the developers that will allow them to do what we are proposing the options are. He supported moving forward, but only with the understanding that we are going to be good partners and try to bring them to life. Councilman Newman asked for financial information on the cost of building a new Transit Operations Center and the costs associated with the relocation of such a facility. He also asked for more detailed information on what properties the City actually owns around the Civic Center. In response to Mayor Bellamy, Mr. Taylor explained the timeline for proceeding with Phase Two. After a brief discussion, Councilman Newman moved to approve the issuance of the RFQ for the Eagle-Market Street properties. This motion was seconded by Councilman Freeborn and carried unanimously. After a brief discussion, Councilman Mumpower moved to approve the issuance of the RFQ for the Haywood Street properties at the Civic Center, subject to the City functioning as a good partner in this process. This motion was seconded by Councilman Davis and carried unanimously. Vice-Mayor Jones confirmed that being a good partner doesn't mean that the City has to agree to what a developer proposes. The City is not a bad partner if we don't accept a project. Councilman Freeborn moved to approve the issuance of the RFQ for the Office of Economic Development. This motion was seconded by Councilman Mumpower and carried unanimously. Councilman Newman moved to approve the issuance of the RFQ for the Park Maintenance properties. This motion was seconded by Councilwoman Cape and carried unanimously." She explained that she is mentioning this to show what has happened to get us to where we are today. She read the following process, which part of it began January 20, 2006, into the record as follows: January 20, 2006 (City Council retreat - Agenda Item: Individual Council Member's goals); February 21, 2006 (City Council Worksession - Agenda Item: Follow-up from City Council's Retreat); March 1, 2006 PED meeting (Agenda Item: City-owned property - the Block); April 12, 2006 PED meeting (Agenda Item: Eagle/Market Street Redevelopment); April 18, 2006 (City Council Worksession - Agenda Item: Planning & Economic Development Committee); June 14, 2006 PED meeting (Agenda Item - Agenda Item: Eagle/Market Street Redevelopment); July 18, 2006 City Council meeting (Agenda Item: City Land Redevelopment and Facilities Planning); September 13, 2006 PED meeting (Agenda Item: Eagle/Market Street Redevelopment); October 11, 2006 PED meeting (Agenda Item: Staff Analysis of Eagle/Market Street Redevelopment Proposal); October 24, 2006 City Council meeting (Agenda Item: Resolution to Commit Federal and Loan Grant Funds for the Redevelopment of Property on Eagle and Market Streets); November 14, 2006 City Council meeting (Agenda Item: Addition of Properties on Eagle and Market Streets to the Larger City-owned Property Initiative Requests for Qualifications); November 21, 2006 City Council Worksession (Agenda Item: Request for Qualifications for Disposition of City-owned Property in the Downtown Area); February 13, 2007 PED meeting (Agenda Item: Request for Qualifications for Development of City Properties); May 9, 2007 PED meeting (Agenda Item: Update on City-owned Property, Phase II); May 22, 2007 City Council meeting (Agenda Item: Resolution authorizing the issuance of the Request for Qualifications); July 24, 2007 City Council meeting (Agenda Item: Progress Report on the Redevelopment Plan for City-owned property); August 15, 2007 (certified letter mailing to property owners within 500 feet); August 21, 2007 City Council Worksession (Discussion of Council Goals and Criteria for the City-owned Property Request for Proposals); August 30, 2007

(mailing to adjacent property owners); September 6, 2007 (Public information open house); September 12, 2007 PED meeting (Agenda Item: City-owned Property Process Update); October 1, 2007 (Request for Qualifications stakeholder meeting); October 2, 2007 (Request for Qualifications stakeholder meeting); October 3, 2007 (Request for Qualifications stakeholder meeting); October 10, 2007 PED meeting (Agenda Item: City-owned Property Request for Qualifications); November 20, 2007 City Council meeting (Agenda Item: Informal discussion and public comment); January 9, 2008 PED meeting (Agenda Item: City-owned Property Process Update; and February 19, 2008 City Council meeting (Agenda item: Resolution Authorizing the City Manager to Amend an Agreement with Real Estate Research Consultants.” She read those dates into the record to show that each meeting was noticed, open to the public and public input was allowed. To say that we have not integrated the public into this process is flawed. We certified the mailings to property owners to ensure their inclusion in the process if they wished. To say that we have not looked at the Downtown Master Plan as part of this process is also flawed as specific Council members have brought up several times during the course of the discussion. Council knew they were adopting this process as part of the overall initiative to meet Council's goals. Her only question is how much of that land (\$1.75 Million) on the Haywood Street properties is going towards affordable housing. Council originally said when they were looking at the process that affordable housing was the goal. She wanted a commitment to affordable housing that we will see a large share of that money go for affordable housing in our community. The proposal for the Eagle/Market Street area has been vetted into the community. We have been open and transparent in every step of this process. All of Council didn't agree on every step, but to start the Request for Qualifications process, the prior Council unanimously approved the Request for Qualifications process for this to move forward.

Since this matter has had over 20 minutes of debate and every Council member has been asked to speak once, Councilwoman Jones moved to call the question. This motion was seconded by Councilman Newman and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting “no.”

Councilman Mumpower felt the motion to call the question is an effort by Council to suppress discussion of Council actions. He believed that in shortcutting this conversation is setting up additional opportunity for abuse of dollars.

The original motion made by Councilman Newman and seconded by Vice-Mayor Davis to support the next steps outlined by staff carried on a 5-2 vote, with Councilwoman Cape and Councilman Mumpower voting “no.”

As we move forward, Councilman Newman moved to give direction to the City to (1) emphasize the creation of affordable housing as Council is willing to utilize some of the proceeds of the sale of properties where we can't create affordable housing to invest in the creation of affordable housing on some of the other properties; and (2) explore ways to create a modestly sized civic space between the new development and the Basilica. He supported the public parking, green building aspects of the projects, recouping the taxpayer's investments in these properties, and putting the land back on the tax rolls, noting that a lot of design work still needs to be done. When he looks at some of the projects the McKibbon group has done in historic downtown areas, he was impressed. He believes there is opportunity for great design outcomes in this as well. He agreed with Mayor Bellamy that one of the things we are not seeing is affordable housing. He wanted to support the idea that as we negotiate around the various properties that we utilize some of the investments from the Haywood Street properties to look at ways to further incentivize affordable housing where it is best suited. Because Council has talked about how the Basilica is one of the most beautiful architectural significant building inside the City, and while he supports the development concepts, there may be some very good opportunities to create some beautiful public space between a new development and the Basilica. And, we will continue to work with neighboring property owners and the community at large to really look at ways to create a modestly sized civic space. He hoped those opportunities will be explored. This motion was seconded by Councilwoman Cape.

Councilman Mumpower felt Council is being arbitrary by adding other layers to the RFQ/RFP process and he felt it is wrong.

Councilwoman Cape wanted staff and the City Manager to recognize that City Council members are amateur representatives of the citizens of this community and they don't walk in with the knowledge bank that City staff has. For example, several times over the years Council has said that they would be willing to incentivize the property or subsidize the property or sell it at a loss, but not until this week did she learn that there was a legal North Carolina law that prevented the City from selling properties at less than market value in order to achieve strategies. That would have been helpful to have known. Therefore, she offered a friendly amendment to Councilman Newman's motion that City staff does a better job of letting City Council where they are not giving clear direction. City Council also needs to make sure they are giving clear direction. She heard over and over that a hotel is not our highest and best use for the Haywood Street properties site. All the time when Council is told that we have to go along with the development because these people are spending so much money on interest on their land - this is a City-owned land and we aren't paying that much interest on that land. She did not know a single developer who doesn't take the risk to try a project periodically and maybe not go through with the project.

The friendly amendment made by Councilwoman Cape to Councilman Newman's motion was accepted by Councilman Newman.

Councilwoman Jones was pleased to move forward on the Eagle/Market Street project and she was excited about the potential for the park maintenance properties. She did have some concerns regarding the Haywood Street properties and will discuss those with the developer. Personally, she does think they have incorporated some tremendous strategic goals that are worthy of consideration, but as a steward of the property of the citizens, this is a process. As we move forward, her support is not a formal vote for the development agreement. There have been some bad things said about the process, but she can see some positives that can unfold.

Vice-Mayor Davis said Council has good intentions and he would like to know that this is the beginning of another phase in the process. He too wasn't aware that the City can't discount its land to achieve their goals. He hoped we can do innovative things, e.g., a ground lease.

Councilman Mumpower encouraged the developers to proceed with great caution so they are not set up for failure. He stressed that Council has not heard from the people who are very much anti-development.

Mayor Bellamy wanted to be clear to both developers that her request is for affordable housing. She is not asking the developer to put affordable housing in the hotel, but is asking Council to keep their commitment for affordable housing in this process.

Mayor Bellamy moved for a friendly amendment to Councilman Newman's amended motion instructing the to write a letter to the Basilica asking them to consider a true public/private partnership with the City of Asheville of their annex building and the parking they own next to the Battery Park for a nice green space. Councilman Newman and Councilwoman Cape both accepted the friendly amendment.

Mayor Bellamy then responded to an earlier question asked about how the McKibbon proposal affects Battery Park and the Vanderbilt Apartments. It doesn't. It's no longer a desire to have a building right next to the Battery Park Apartments.

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

At 9:17 p.m., Mayor Bellamy announced a short break.

D. BIKE ACTION PLAN SHORT-TERM STRATEGIES

Director of Transportation & Engineering Cathy Ball said that this is the consideration of staff plan to proceed with implementation of the City of Asheville Comprehensive Bicycle Plan, adopted February 26, 2008.

Ms. Ball explained the overall implementation strategy includes the following: (1) continue public participation; (2) budget for specific projects each year as well as for placeholder projects that can take advantage of other activities; (3) coordinate with other City of Asheville plans and projects; and (4) seek outside funding, but do not rely on such sources of funds for all projects.

Short-term plan: (1) bicycle lanes (a) Asheland Avenue; (b) Broadway (north of I-240)*; (c) Coxe Avenue; (d) Haywood Road (from Riverside Drive to Beverly Road West)*; (e) Hilliard Avenue; (f) South Charlotte Street*; and (f) Southside Avenue*; (2) shared lane markings (a) Charlotte Street (north of I-240); (b) Haywood Road (in downtown West Asheville)*; (c) Chestnut Street; (d) Montford Avenue; and (e) South French Broad Avenue; and (3) climbing lanes (a) Clingman Avenue; and (b) Lexington Avenue.
* = NCDOT - maintained

She reviewed a chart that indicated the estimated fiscal impact of implementation of the plan's short term recommendations.

Regarding the Strategic Operating Plan, implementation of plan recommendations supports the green city strategic operating plan goal of promoting emissions-reducing transportation options.

Pros:

- Improves bicycle transportation system in Asheville
- Begins visible implementation of the adopted plan
- Provides a mixture of strategies for improving bicycling conditions

Cons:

- Involves expenditure of funds

- Delays immediate improvements on NCDOT-maintained streets and roads

Staff's recommendation is as follows: (1) Staff would recommend that we implement the installation of twenty bike racks in the Rankin Avenue Parking Garage (or other locations) from the Parking Enterprise Fund. (We will be applying for a grant that may cover this cost.) The cost for this project would be \$25,000 and a fee would be charged to recover some of the costs. Staff also recommends that the climbing lanes on Lexington Avenue be installed at a cost of \$18,000 and the shared lane markings on South French Broad Avenue for \$10,000. The money from this project would come from the managed savings in the Transportation and Engineering Department; (2) Implement the projects as current funds allow; and allocate funding in Fiscal Year 2009 and subsequent year budget for remaining projects on both city-maintained and NCDOT-maintained roads; or (3) Some hybrid of (a) and (b), allocating additional funding for one or more projects this year, and subsequently granting funding and budget authority for continuing improvements recommended in the plan, pursuing both stand alone projects and opportunities presented by city resurfacing programs; (3) pursue policy changes; (4) seek early involvement with repaving and other projects, both with Public Works and with the N.C. Dept. of Transportation; and (5) make sure the Bicycle Plan is made available and considered in other planning efforts.

Upon inquiry of Vice-Mayor Davis, Ms. Ball said that we would not lose any parking spaces.

Mr. Michael Soule, representing the cycling community, asked Council for their continued investment.

Mr. Fred English felt that since our citizens can't afford this, especially with the budget deficit this year.

Ms. Ball responded to Mayor Bellamy's questions relative to where the funding was coming from for the short-term recommendations and coordinating activities to correspond with N.C. Dept. of Transportation and Public Works projects.

In response to Mayor Bellamy, Ms. Ball said that there is coordination to use this opportunity to stripe Kimberly Avenue.

Councilman Mumpower felt that Council did adopt a Bicycle Plan and we need some responsible effort to implement that Plan; however, he disagreed with the timing of the efforts due to our budget deficit this year.

Councilwoman Cape was supportive of this effort. Many bicyclists spend a lot of money on their bicycles as their vehicle and providing a locker for them in a climate where we are moving toward \$4.00 a gallon for gas could be a good thing to do for our community. We spend \$20,000 for a parking space for cars and we make these investments all the time. She was excited we might find a grant for the lockers and if not, she liked the idea for them to be rental lockers. Since parking spaces take 25 years to recoup the money, the City could recoup their money for the lockers in 5-7 years. She liked staff looking ahead so we can piggy-back these re-pavings on projects in order to save significant amount of money.

Councilwoman Jones moved to approve the Bicycle Plan's short-term recommendations. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

E. RECONSIDERATION OF TRAFFIC CALMING MEASURES ON MAXWELL STREET

Mayor Bellamy asked that this item be placed on Council's agenda since we have heard time and time again from the residents affected by truck traffic on Maxwell Street. She wanted Council to reconsider some opportunities to mitigate the large truck traffic that drive through Maxwell Street and allow us to look at options that are available to us since we are not hearing much movement for reconfiguration of current Greenlife property.

Assistant Director of Transportation and Engineering Ken Putnam briefly reviewed the following report he presented to Council on August 28, 2007, as follows:

Greenlife Grocery is currently served by two loading dock areas, one with a direct access onto Maxwell Street and one with access on-site. Although, the larger trucks that use the on-site loading dock area arrive and leave via US 25 (Merrimon Avenue), they typically use part of Maxwell Street to maneuver into position. In addition, the smaller trucks that access the loading dock area with the direct access onto Maxwell Street typically stage along Maxwell Street to wait their turn to maneuver into the loading dock area. Some of the drivers of these trucks will go ahead and unload before they can maneuver into the actual loading dock area.

A conceptual traffic calming plan has been prepared to minimize truck activity along Maxwell Street. It should be noted that if this plan is approved to move forward to the design and construction stages, it will be crucial to accommodate emergency (*fire and ambulances*) vehicles as well as sanitation vehicles (*private and city*).

The conceptual plan includes four options; specifically, a "*blocking*" option and three "*restricting*" options. These options

are further described as follows:

1. The “*blocking*” option is the most restrictive since it would revise the existing access point onto Maxwell Street to serve right turn egress movements only and it would prevent the larger trucks from using Maxwell Street to maneuver into the on-site loading dock. Although the smaller trucks would still be able to use Maxwell Street to gain access to the loading dock area that has direct access onto Maxwell Street, their movements would be restricted due to the proposed islands. The estimated cost to construct this option with City forces is \$35,000 to \$40,000.
2. Option A, which is one of the “*restricting*” options, would enable the larger trucks to use Maxwell Street to maneuver into the on-site loading dock but it would prevent these trucks from using Maxwell Street to enter or leave the immediate area. The effect on the smaller trucks trying to access the loading dock area with direct access onto Maxwell Street would be the same as in the “*blocking*” option. The estimated cost to construct this option with City forces is \$25,000 to \$30,000.
3. Option B, another “*restricting*” option, is very similar to Option A and it would produce the same results as Option A. It uses a different island treatment on the eastern end of Maxwell Street. The estimated cost to construct this option with City forces is \$25,000 to \$30,000.
4. The third “*restricting*” option is the least restrictive and it simply uses additional on-street parallel parking to restrict truck traffic. The estimated cost to construct this option with City forces is less than \$1,000.

Mr. Putnam said that he felt for the most part the large trucks do come in off Merrimon Avenue through the Greenlife property, pull out into Maxwell Street and back into the loading dock itself. That is the area we have restricted parking on one side of the road. In September, at Council's direction, staff added two parking spaces on the side of the road next to Greenlife Grocery, between the loading dock and the driveway entrance just north of that. We kept these spaces in place for about one month and were notified that GDS (Greenlife's private trash hauler) was having difficulty in backing into the loading dock to empty the dumpsters. Our Sanitation Division spoke with GDS to see if there would be a way to accommodate their concern. The best course of action was to remove the two parking spaces just put in. We also added a sign that prohibited anyone from loading or unloading a vehicle from that spot. He travels out there at least once a week and he has never seen a truck now parked in this area. He couldn't say that it doesn't happen on occasion, but he has not witnessed it. He met with GDS today to see if we could put back one of the parking spaces and they are in full agreement. Right now GDS comes off Merrimon, through the Greenlife parking lot onto Maxwell, and then they back all the way down into the loading dock. An option for GDS is allow them to go in along Marcellus Street.

Vice-Mayor Davis was concerned that the GDS trucks come early in the morning and when they back down Maxwell Street, it's probably noisy for the neighbors due to the beeping.

Mr. Putnam felt it would be the least disturbing to the neighbors for GDS to come off of Marcellus, swing around and then back in. That way their backing exposure would be less. He said that effectively just recently GDS has changed the delivery to service the two dumpsters only once a week.

Councilwoman Cape was concerned that we might be replicating problems for the people on Marcellus Street and wondered if we could ask GDS not to come before 6:00 a.m. for this one specific area.

Mr. Putnam said he would at least ask GDS not to come early. He said that on one side of Marcellus the property is zoned Community Business II and on the other side is Neighborhood Corridor District. City Attorney Oast said it sounds to him like there is no residential component on either side of Marcellus Street.

Mayor Bellamy said it seems like we have gotten the large trucks off Maxwell Street and asked Council if they would be supportive of (1) allowing GDS to use Marcellus to cut down on the amount of back-up noise; (2) putting back one parking space; and (3) asking GDS to not service the area before 6:00 a.m.

Mr. Putnam then responded to Councilwoman Cape's questions regarding five additional parking spots and truck hoods sticking out of the loading dock onto the sidewalks.

Councilwoman Cape moved to put back one parking space. This motion was seconded by Councilwoman Jones.

Mr. Fred English felt the problems on Maxwell Street could be addressed with additional police officers. In addition, he felt that Greenlife should be forced to move their loading dock.

Ms. Brandy Boggs, Maxwell Street resident, noted that Maxwell Street has already lost a minimum of 8 parking spaces and the four options above will mean more loss of parking spaces. She felt Council is only dealing with the symptom of the problem which is traffic on a residential street - not the root, which is Greenlife Grocery. Long-term Council must address the issue of the location of the loading dock. She felt the one parking space to be added will be used by Greenlife patrons. In addition, the new

Pioneer Building is already two spaces short and they will park on Marcellus Street. She said that GDS should not be allowed to back down Maxwell Street because they come between 6-7:00 a.m. every Thursday morning and it takes them 2-4 hours to empty the dumpsters leaving the stench for hours. She felt the City is using taxpayer dollars to address corporate neglect. She asked that the Police officers be consistent in ticketing, whether it be truck drivers or residents. She felt a solution would be to invite the community, Greenlife and the Traffic Engineer to work through the concerns.

Mr. Reid Thompson, Maxwell Street resident, said that in 2004 he was told by John Swann that "the Mayor is my attorney and it's going to be this way from now on and you better get used to it." He said that on October 18, 2005, five members of Council were involved in a closed session meeting which lasted from 9:07 p.m. to 10:20 p.m. Charles Worley was in that closed session meeting. He felt the real issue is what has gone on behind closed doors. He asked how could he get one hour with Council behind closed doors because Greenlife's representative had that. He said that the Unified Development Ordinance was adopted in 1997 and questioned how the City could grandfather something that was built in 2004. He cited a report that said the plumbing, electric and refrigeration was 80% of the cost. That means they added 2,000 square feet to the building and they renovated the entire building for less than \$2.00/sq. ft. He maintained that those numbers are not realistic. He felt the way to solve a problem is to issue a notice of violation.

In response to Councilman Mumpower, Mr. Putnam said that it would be less than \$100 to put the one parking space back in.

The motion made by Councilwoman Cape and seconded by Councilwoman Jones carried unanimously.

Mayor Bellamy said that she has made a formal request to Mr. Swann for a list of their vendors so we can write a letter to them about driving on Maxwell Street.

Upon inquiry of Councilman Mumpower to stimulate movement by Greenlife, City Manager Jackson said that the City has contacted them via letter, phone call and staff has met with their representatives. He said that staff will continue to report to Council on this matter, with another update in one week. Staff is looking for Greenlife's design professionals to come forward with plans.

Councilwoman Cape maintained a poor planning decision got us into this mess and we want to make sure we are not duplicating this in the future. We have planning departments to be the eyes and ears of our citizens and as the process moves forward in hiring a new Planning & Development Director; this is an expectation that we have.

Mayor Bellamy said that Mr. Thompson spoke about the "Mayor." She was not sure whether former Mayor Charles Worley was the attorney of record for Greenlife at that time. She was not the Mayor.

F. RESOLUTION NO. 08-86 – RESOLUTION APPROVING THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN WHICH ALLOCATES COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAM FUNDS TO SPECIFIC PROJECTS FOR FISCAL YEAR 2008

Community Development Director Charlotte Caplan said that this is the consideration of a resolution approving the Consolidated Action Plan for Fiscal Year 2008-09 and authorizing the City Manager to enter into funding agreements to implement the Plan.

The City expects to have \$1,427,076 in Community Development Block Grant (CDBG) funds and \$1,366,938 in HOME funds to allocate for housing and community development activities in the fiscal year beginning July 1, 2008. The City's Housing and Community Development Committee and the Asheville Regional Housing Consortium have made recommendations for allocating these funds to 37 projects, throughout Asheville and the four-county Consortium area.

A summary of the draft Action Plan was published on March 23. A public hearing was held on April 8. With the end of the required 30-day comment period, staff asks that Council take action to approve the plan. The plan is due to be submitted to HUD by May 12.

The Plan directly addresses the following Strategic Operating Plan goals:

- Affordable: the Plan includes direct assistance for 206 affordable housing units Consortium-wide and will benefit over 5000 low-income Asheville residents in other ways that enhance their housing, economic opportunities, and quality of life.
- Green: most new housing development will meet at least Energy Star standards; also includes Transit improvements.
- Safe: sidewalk construction supports Safe Routes to School.

- Sustainable: supports infill housing development; partners with at least 18 non-profits, citizen groups, and other local government entities.

Pros:

- Allocates \$2,794,014 in compliance with federal regulations, enabling the City to utilize these funds to benefit our community
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium
- Leverages other funding in the ratio of \$3.23 for every \$1 of CDBG and HOME funds

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. New assisted housing units in Asheville will add at least \$2,000,000 to the City's tax base.

Staff recommends approval of the resolution approving the Consolidated Action Plan for Fiscal Year 2008-09 and authorizing the City Manager to enter into funding agreements to implement the Plan.

Councilman Mumpower felt this was borrowed money that our children and grandchildren will have to repay and would therefore speak against the motion

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

Councilwoman Cape moved for the adoption of Resolution No. 08-86. This motion was seconded by Councilwoman Jones and carried on a 4-3 vote, with Vice-Mayor Davis, Councilman Mumpower and Councilman Russell voting "no."

RESOLUTION BOOK NO. 31 – PAGE 149

G. RESOLUTION NO. 08-87 – RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH JLS COMPANY, LLC, FOR THE PROJECT KNOWN AS GROVE PARK NEIGHBORHOOD TRAFFIC CALMING PROJECT

ORDINANCE NO. 3613 – BUDGET AMENDMENT FOR THE PROJECT KNOWN AS GROVE PARK NEIGHBORHOOD TRAFFIC CALMING PROJECT

Assistant Director of Transportation and Engineering Ken Putnam said that this is the consideration of a resolution authorizing the City Manager to sign a contract with JLS Company, LLC in the amount of \$320,743, for the project known as Grove Park Neighborhood Traffic Calming Project; and the associated budget amendment.

This project generally consists of the construction of traffic calming devices/measures in the Grove Park Neighborhood. The traffic calming devices/measures include 14-foot and 22-foot asphalt speed humps, a mountable traffic separator, lateral shift islands, median islands, intersection re-alignments, signage, and bicycle lanes.

The Transportation & Engineering Department received and publicly opened one bid on Thursday, April 3, 2008 at 3:00 p.m. The bid was received from JLS Company, LLC in the amount of \$320,743. After a thorough review of the bid documents by the Transportation & Engineering Department, JLS Company, LLC, was found to be the lowest responsible bidder with a total bid of \$320,743. All contract work was solicited using the "informal bidding procedures" in accordance with State guidelines and as a result, there was no requirement to receive a minimum number of bids. Bids for this project were solicited on three separate occasions; with no bids received on the first occasion and a bid of \$412,000 on the second occasion.

The total anticipated cost to complete the project including the sidewalk portion that will be accomplished by the Public Works Department is \$474,950 and is itemized as follows:

Design	\$49,157
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Sidewalk Easements	\$4,950
Traffic Calming Devices Construction	\$320,743
Sidewalk Construction	\$100,100
Total =	\$474,950

The anticipated cost for the sidewalk construction is for material cost only since this work will be accomplished by the Public Works Department.

The project will primarily be financed with monies received from the Grove Park Inn as one of the conditions of approval for the Grove Park Inn Master Plan. As a condition of approval (*City Council Meeting on November 23, 2004*), the Grove Park Inn agreed to submit a total of \$375,000 to the City prior to any land disturbing activities occurring. This funding has been received by the City. The \$4,950 in funding for the sidewalk easements will come from the current Traffic Engineering operating budget.

The remaining \$95,000 in funding needed to complete this project will come from the budget amendment. Staff recommends transferring \$15,000 in savings from the Yorkshire Street widening project, which has been completed, and \$80,000 from the Patton Avenue pedestrian signals project, which will not be completed this year. The Patton Avenue pedestrian signals project was set up to coincide with the Patton Avenue sidewalk project and that project is still in the design and review stage, therefore the \$80,000 for the pedestrian signals will not be needed this fiscal year. Funding for the Patton Avenue pedestrian signals will be requested in future capital improvement budgets.

JLS Company, LLC, has demonstrated in a satisfactory manner that she has satisfied all of the requirements as stated in the contract documents including evidence that she will adhere to the requirements of the City of Asheville's "DRUG FREE WORKPLACE".

The construction time for the project is identified as not more than 180 calendar days from the written notice to proceed as stated in the contract documents. The work to be performed shall commence from the written notice to proceed as stated in the contract documents. The contractor will be required to pay the sum of \$250 as liquidated damages for each and every calendar day that he shall be in default after the time stipulated in the contract.

Pros:

- The execution of this contract will allow the City to move forward with one of the conditions of approval for the Grove Park Inn Master Plan.
- The execution of this contract will satisfy the wishes of the Grove Park Neighborhood community as indicated in the verified 60% petitions.
-
- The bid amount of \$320,743 for the construction of the Grove Park Neighborhood Traffic Calming Project is equitable, as compared to the engineer's estimate of \$201,683, considering current economic conditions.
-

Con:

- The only foreseeable disadvantage of adopting a resolution authorizing the City Manager to execute this contract is that up to 40% of the affected community members might be opposed to the recommended traffic calming devices/measures.

-

The total financial impact for the subject project is \$474,950 including \$375,000 provided by the Grove Park Inn, \$95,000 from the budget amendment, and \$4,950 from the current Traffic Engineering operating budget. In addition, the Public Works Department will furnish labor and equipment to construct the sidewalk portion of the project along Macon Avenue.

-

Staff recommends that City Council adopt a resolution authorizing the City Manager to sign a contract with JLS Company, LLC in the amount of \$320,743, for the project known as Grove Park Neighborhood Traffic Calming Project; and the associated budget amendment.

Ms. Linda Burgin, Grove Park Inn Neighborhood Association representative, spoke about the process since 2004 and supported the solutions. She asked for Council's support as well.

Councilman Mumpower felt that \$500,000 for traffic calming for one neighborhood represents our traffic calming budget for 10 years, but Council did give their word and the neighborhood went through the elaborate traffic calming process, so he would support the motion.

Mayor Bellamy noted that the Grove Park Inn contributed \$350,000 towards this effort because of their major renovation

and expansion.

Councilwoman Cape wondered if Council would be interested in encouraging staff to look into best practices of combining traffic calming with stormwater mitigation.

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

Councilwoman Jones moved for the adoption of Resolution No. 08-87. This motion was seconded by Vice-Mayor Davis and carried unanimously.

RESOLUTION BOOK NO. 31 – PAGE 150

Councilwoman Jones moved for the adoption of Ordinance No. 3613. This motion was seconded by Vice-Mayor Davis and carried unanimously.

ORDINANCE BOOK NO. 24 – PAGE

H. RESOLUTION NO. 08-88 – RESOLUTION ENDORSING LEGISLATIVE REQUESTS FOR THE 2008 SESSION OF THE NORTH CAROLINA GENERAL ASSEMBLY

City Attorney Oast said that this is the consideration of a resolution adopting the City's legislative agenda for the 2008 "short" session of the N. C. General Assembly

The 2007 N. C. General Assembly convenes for its "short" session on May 13. As pointed out in previous staff reports, there are limitations on the matters that are appropriate for consideration during that short session.

Based on the staff presentations on March 18 and April 15, and information received from Council, a resolution has been drafted with the following issues. Council may act on it all together, or consider it item by item.

1. Completion of action on HB 758 regarding the adjustment of the municipal boundaries of the Town of Woodfin and the City of Asheville.

Councilman Mumpower moved to include this legislation in the legislative agenda. This motion was seconded by Councilwoman Jones and carried unanimously.

2. Support HB 274 and SB 1358, the "North Carolina Street Gang Prevention Act," and other legislation that will assist State and local officials in dealing with the troubling increase in gang activity in the State.

Council unanimously supported including this legislation in the legislative agenda.

3. Support Senate Bill 1068 to increase the distribution to local governments of the sales tax on telecommunications and video programming services.

Council unanimously supported including this legislation in the legislative agenda.

4. Support increased and appropriate funding of the State's criminal justice system, including, without limitation: additions to law enforcement, prosecutorial, and judicial personnel; improved facilities, including courts and detention facilities; improved programs for crime prevention and abatement, and post-conviction monitoring.

Council unanimously supported including this legislation in the legislative agenda.

5. Support increased and appropriate funding of the State mental health service delivery system, including, without limitation: additions to State and local office personnel; improved facilities; and improved programs to provide assistance to persons suffering from mental illness.

Council unanimously supported including this legislation in the legislative agenda.

6. Introduction or support of legislation that will permit local governments to prohibit smoking in public parks.

Council unanimously supported including this legislation in the legislative agenda.

7. Introduction of legislation that will permit the City of Asheville to require that property with respect to which water service is requested be incorporated into the City, consistent with the laws of voluntary annexation in the State of North Carolina, or other reasonable limitation.

Council unanimously supported including this legislation in the legislative agenda.

8. Introduction or support of legislation that would increase the age for compulsory school attendance to 18.

By a vote of 6-1, with Councilman Mumpower voting “no”, this legislation would be included in the legislative agenda.

9. Introduction or support of legislation to regulate or prohibit the sale, use and distribution of salvia divinorum.

By a vote of 6-1, with Councilwoman Cape voting “no”, this legislation would be included in the legislative agenda.

10. Introduction or support of measures to provide for the study of municipal incorporation, especially as to the thresholds (population density, level of development) for qualifying areas for incorporation, and the minimum level of urban services that municipal governments are expected to provide in order to qualify for incorporation.

By a vote of 6-1, with Councilman Mumpower voting “no”, this legislation would be included in the legislative agenda.

11. Introduction or support of legislation to monitor, track, and appropriately dispose of illegal firearms or firearms used in the commission of a crime.

Council unanimously supported including this legislation in the legislative agenda.

12. Support HB 933 (“Jessica’s law”) and other legislation to strengthen the laws protecting children from sexual predators.

Council unanimously supported including this legislation in the legislative agenda.

13. Mayor Bellamy asked that the issue of children’s identify theft be included. She explained that parents use their children’s names and social security numbers to get credit.

Council unanimously supported including this legislation in the legislative agenda.

City Attorney Oast said that the revised resolution will be transmitted to the members of the local delegation with appropriate supporting information, and we will, of course, supply additional information upon request or as we learn of it.

As other matters of interest come to Council or staff’s attention, Council may take appropriate action to supplement this resolution. As always, informal communication with our legislators is strongly encouraged.

RESOLUTION BOOK NO. 31 – PAGE 151

VI. NEW BUSINESS:

A. CONSIDERATION OF MODIFICATIONS TO THE SOLID WASTE MANAGEMENT ORDINANCE TO BRING THE ORDINANCE UP-TO-DATE AND TO CONSIDER ALTERNATIVE ENFORCEMENT POLICIES TO FACILITATE MORE EFFECTIVE COMPLIANCE ACTIONS

Mayor Bellamy said that the modifications to the Solid Waste Management Ordinance will be revised on May 27, 2008.

B. ORDINANCE NO. 3614 – ORDINANCE ADOPTING THE FISCAL YEAR 2008-09 FEES AND CHARGES

Budget Director Tony McDowell reviewed with Council the list of the Fiscal Year (FY) 2008-09 fee adjustments that were proposed by staff and reviewed by the Revenue & Finance Committee. Staff is seeking Council’s approval of this FY 2008-09 fee package, with any adopted changes to be effective July 1, 2008.

The Finance Committee met on March 13, 2008, and again on April 1, 2008, to review the FY 2008-09 fee adjustments proposed by staff. He reviewed the summary of the proposed fee changes along with the Committee’s recommendations on each

proposal. For the most part, the Committee endorsed the proposals made by staff, with the one key exception being the household recycling fee. Staff proposed reinstating the household recycling fee to a level that would provide 100% cost recovery for the recycling program. The Committee, however, endorsed keeping the fee at its current level, and recommended looking at the possibility of completely eliminating the fee in the future.

The chart below summarizes the additional revenue that is expected to be generated by the proposed fee adjustments. To facilitate final preparation of the FY 2008-09 revenue budget projections, staff is seeking Council's approval of this fee package prior to the presentation of the Manager's FY 2008-09 Recommended Budget. Approval of the fee package now will also provide staff with more time to effectively communicate any changes to our customers prior to the July 1, 2008, implementation date.

The noted that staff is requesting that Council not consider the fees under the Fire Department. The Fire Department is working on revamping its inspection fees and staff will bring Council information in May with the budget.

Fund	Revenue Increase
Water Fund	\$804,000
General Fund	\$281,833
Parking Fund	\$248,151
Festivals Fund	\$64,476
Golf Fund	\$96,000
Stormwater Fund	\$18,600
Civic Center Fund	\$16,000

Staff recommends that Council review the fee package and adopt the FY 2008-09 proposed fee adjustments.

Councilwoman Cape said that the recycling fee was brought up at the Sustainable Advisory Committee on Energy & the Environment. They were concerned that deleting the \$400,000 recycling fee would really affect our ability to have some funds to spend on green initiatives. They sent a letter to Council asking that the recycling fee be reinstated, increasing it, or keeping it the same and utilizing some of that money for green initiatives or to offset some of Council's other strategic goals.

Councilwoman Jones felt this is not the year to eliminate the recycling fee entirely, but would support keeping the fee the same for regular household people. She believes that the citizens of Asheville deserve a little break. She hoped that Council will look at other fees where we can give Asheville citizens some relief.

Councilwoman Cape suggested that in the next year we look at our entire comprehensive waste/recycling efforts and see if we are really managing it appropriately. We have one of the best communities in terms of water conservation and recycling, so we need to review if we are giving them the kind of waste service they want and need.

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

Councilman Newman moved to adopt Ordinance No. 3614, to approve the fee package presented by City staff and keep the recycling fee at its current level. This motion was seconded by Councilwoman Cape and carried on a 4-3 vote, with Vice-Mayor Davis, Councilwoman Jones and Councilman Mumpower voting "no."

In response to Vice-Mayor Davis, Mr. McDowell explained what the transaction fee is under General Administration.

Vice-Mayor Davis felt the 4% water rate increase was reasonable.

Mayor Bellamy questioned the increase of 3-cents per CCF to wholesale customers compared to the increase of 13-cents per CCF to residential customers. She felt the wholesale rate increase should be similar to the residential and commercial customers. Councilman Newman responded that the Finance Committee agrees and they have asked Water Resources Director David Hanks to do some additional research on that specific question.

Mayor Bellamy felt that the City has been generous to wholesale customers for the last few years to the point of hurting commercial and residential customers and she believed it was time to change that.

Mr. Hanks said that all the contracts with the wholesale customers don't limit what the rate increase could be. It is Council's purview to change that rate. He would personally not recommend it at this time because we need to give them notice as they are in their budget process as well. City staff will be bringing back to the Finance Committee a more detailed analysis of the wholesale customer rate and a comparison of what other cities are doing throughout the state regarding their wholesale customers.

Mayor Bellamy supported the additional research on this issue.

Director of Transportation and Engineering Cathy Ball responded to questions raised by Vice-Mayor Davis regarding the Parking Fund.

Vice-Mayor Davis said that every year we go through the fee process and work hard to keep property taxes low. Every year we see the fees being raised and felt that fees are taxes too.

Councilwoman Jones felt that these fees are user fees (getting something for their money) and people living outside the City are paying too. From the Finance Committee discussion, she thought the water wholesale rate was still being discussed and felt it sends the wrong message to our wholesale customers if we put a number out that may change. It is the same percentage increase but it assumes our current base is correct and that is what Council needs to feel like is right.

Councilwoman Jones moved to announce that the wholesale rates are to be negotiated. This motion was seconded by Councilman Newman.

Councilwoman Cape said that the wholesale customers are in the process of making their budgets as well and they need to know what the rate will be. She wanted to be mindful of the long term relationships.

Councilwoman Cape offered a friendly amendment to start looking at the wholesale rates in the fall and notify our wholesale customers in winter or early spring as to what the wholesale rate will be for the next fiscal year.

Councilwoman Jones felt that everyone, including the City of Asheville, adjusts to market rates. Gas and electricity go up and we have to modify. She wants to be fair.

Councilman Newman said that the motion doesn't mean that we will change the wholesale rates, but it just means that we want to be clear to them as soon as possible that this might be changing. He didn't know if we will be ready to do this in this budget cycle or not, but this is important and we need to let people know this is something on the table so they can be aware of that.

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

ORDINANCE BOOK NO. 24 - PAGE

VII. OTHER BUSINESS:

Mayor Bellamy said that a lot of youth in our community would like to have a skating rink (ice and roller) in downtown and asked that the Civic Center Commission discuss that possibility.

Mayor Bellamy and Councilwoman Cape announced their short-term travel plans in which they would be representing the City of Asheville.

The following claims were received by the City of Asheville during the period of March 28 - April 17, 2008: Robert Weed (Water), Heather Loudermilk (Sanitation), Janice Gray (Water), Tony/Charlotte Boggs (Water), Chad Parker (Water), Saeid Dehkordi (Fire), Lisa Mathews (Water), John Berglund (Water), AT&T (Parks & Recreation), N.C. Dept. of Administration (Fire), James M. Pleasants Co. (Sanitation) and Lewis Calvin Young (Water). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaromonte spoke about problems the homeless are encountering in Pritchard Park.

Ms. Donna Bateman spoke in support of the Pritchard Park warden and noted that the warden cites people for outrageous behavior in the Park or standing in the walkways.

Mayor Bellamy asked that wheelchairs be accessible to the podium. City Clerk Burleson said that she would make sure that the police officers direct wheelchairs to the front row.

Closed Session

At 10:58 p.m. Mayor Bellamy announced that City Council will continue with their closed session.

At 11:33 p.m., Councilwoman Jones moved to come out of closed session. This motion was seconded by Councilman Newman and carried unanimously.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 11:33 p.m.

CITY CLERK

MAYOR