

Regular Meeting

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

Absent: Councilman William A. Russell Jr.; and Vacant Council Seat

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Newman gave the invocation.

I. PROCLAMATIONS:

A. OSOGBO SISTER CITY FROM NIGERIA

Mr. Carroll Hughes, Past President of Asheville Sister Cities Inc., briefed the Council on the six Asheville Sister cities.

Councilwoman Cape then explained the Sister City program and gave a brief report on her visit to Osogbo, Nigeria. She, along with Ms. Valerie Watson-Doost, presented City Council with token gifts for Mayor Bellamy and Council members from the government in Osogbo.

Mayor Bellamy thanked Ms. Watson-Doost for bringing this Sister City to Asheville.

II. CONSENT AGENDA:

At the request of Councilman Mumpower, Consent Agenda Item "B" was removed from the Consent Agenda for discussion and/or an individual vote.

A. ORDINANCE NO. 3666 - BUDGET AMENDMENT TO ESTABLISH THE TRAFFIC SAFETY PROJECTS FUND

Summary: The consideration of a budget amendment, in the amount of \$100,000, to create an annual Traffic Safety Projects Fund that would be used to design and construct various traffic safety related improvements throughout the City of Asheville, excluding traffic calming projects.

Traffic Safety Projects can be defined as traffic-related projects that when completed would improve public safety and/or efficiency to the various transportation users including vehicles, bicycles, pedestrians, and Transit. Typical projects include new traffic signal installations including pedestrian signals, upgrades to existing traffic signals including pedestrian signals, emergency vehicle pre-emption, new warning flasher installations, upgrades to existing warning flashers, left and right-turn lanes, radii improvements at intersections, bicycle lanes, and pedestrian crossings. The potential projects would have a total estimated cost of \$75,000. Projects with a total estimated cost of less than \$25,000 are generally funded through the Transportation & Engineering Department's operating budgets. When these types of projects are identified and determined to be needed as a result of a proposed development, the potential improvements are typically funded by private sources. Traffic calming projects would ***not*** be included since there is a separate policy and an account code already established for traffic calming projects.

These projects are typically identified as Traffic Engineering staff responds to various requests from citizens throughout Asheville. Once identified and reviewed in depth, many of these projects would then move into the design and construction stage if funding was available. According to our records, these types of projects have been approved in the past through the Capital Improvement Program including the widening of Yorkshire Street and emergency vehicle pre-emption at the intersection of College Street and Charlotte Street. Privately funded projects that have been constructed in the past include a double left-turn lane along NC 81 Swannanoa River Road at its intersection with US 74-A (South Tunnel Road) and a new traffic signal at the intersection of River Hills Road and the access for Pier One/Dick's Sporting Goods.

During September 2008 action was taken to approve funds from the General Capital Reserve Fund in the amount of

\$50,000 to install a traffic signal at the intersection of Fairview Road and Third Street in the Oakley community. This project is a good example of the type of project that should be funded through a Traffic Safety Projects Fund. During the ongoing construction of the Grove Park Inn Traffic Calming Project, a traffic signal was determined to be warranted at the intersection of Charlotte Street and Edwin Place. This project is another good example of the type of project that should be funded by the subject means.

This action complies with the City Council 2008-09 Strategic Operating Plan by protecting the traveling public by making traffic safety related improvements to the existing street infra-structure including intersections.

Pro:

- This action would provide a means to address traffic-related safety issues within a timely manner thereby reducing potential risk to the City.

Cons:

- This action would reduce the total amount of Capital Improvement Program Funds available on an annual basis.
- The total estimated annual cost is \$100,000.

The total estimated annual cost is \$100,000. \$48,000 is proposed to come from savings from the Yorkshire Street widening project and \$52,000 from the General Capital Reserve Fund. Currently, the balance in the General Capital Reserve Fund is \$238,316 and after reducing it by the proposed amount, the new balance would be \$186,316. Funds would only be spent on an as-needed basis as the various needs are identified.

Staff is carefully monitoring the approved budgets of the New Haw Creek Road sidewalk project and the Grove Park Inn Traffic Calming project to identify possible savings. At this time, staff is confident that after all of the expenses for both projects are reconciled, we will be able to identify \$52,000 in savings that could then be transferred back to the General Capital Reserve Fund.

Staff recommends that City Council approve a budget amendment in the amount of \$100,000 to create an annual Traffic Safety Projects Fund that would be used to design and install various traffic safety related improvements throughout the City of Asheville, excluding traffic calming projects.

ORDINANCE BOOK NO. 25 – PAGE

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS FOR THE BUSINESS TECHNOLOGY IMPROVEMENT PROJECT WITH TYLER TECHNOLOGIES, INC., AS WELL AS OTHER VENDORS FOR A CITY-WIDE SOFTWARE MIGRATION AND IMPLEMENTATION

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

Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

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 Mumpower and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION NO. 08-237 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS FOR THE BUSINESS TECHNOLOGY IMPROVEMENT PROJECT WITH TYLER TECHNOLOGIES, INC., AS WELL AS OTHER VENDORS FOR A CITY-WIDE SOFTWARE MIGRATION AND IMPLEMENTATION

Summary: The consideration of a resolution authorizing the City Manager to enter into contracts for the Business Technology Improvement Project (BTIP) with Tyler Technologies, Inc, as well as other vendors in total amounts not to exceed \$2,000,000 for a city-wide software migration and implementation.

Review:

- During a financing discussion with Council on June 10, 2008, staff also discussed benefits and planned efficiency improvements
- Council approved a budget of \$2,000,000 and allowed staff to proceed

As part of Request for Proposals (RFP) process, staff has made the decision to enter into negotiations with Tyler Technologies

Pros:

- Prioritize a reasonable level of business technology as a means to make staff operations more efficient
- Meets multiple city council objectives
- Enhances ability to engage in process re-engineering

Con:

- Any software implementation causes some degree of organizational turbulence during implementation

This action ties into Council's "Green" goal by implementation of processes (i.e. contracting) that will require significantly less paper. It also ties into Council's "Sustainable" goal in several meaningful ways: (1) This project will better enable staff to fulfill the specific action item of "Ensure financial accountability by matching resources with strategic initiatives," specifically enhancing systems so that "creating meaningful performance measures" can be better accomplished; (2) In the same manner, the specific action item of "Strengthen efforts to create measurable goals, accountabilities, and outcomes for all city policies and operations" will also be enhanced by this project; and (3) This project will provide a foundational system so that the rollout of a modern development services system is possible, allowing staff to pursue the specific action item of "Reform and streamline the development review process to improve the ease and efficiency of the customer's experience without compromising the quality of standards or other strategic goals (affordability, environment, etc.)" through deployment of better, greener, more online technology.

Fiscal Impact:

- Per the June 10, 2008, Council meeting, financing has been secured at \$2,000,000
- RFP bids came in at up to \$3.1M, even without taking into account supplementary costs such as hardware
- Of the qualified bids, the Tyler bid was the lowest
- Staff's original estimates included contingency, but current estimates of all relevant project costs are at \$2M without contingency

Typically, these types of projects have 10-20% budgeted for contingency. Staff would like to make Council aware that, based on bids received, we do not have contingency budgeted.

We will keep Council updated in quarterly reports as to cash flows and project success, and make significant effort to closely manage the project to avoid change orders.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into contracts for the Business Technology Improvement Project (BTIP) with Tyler Technologies, Inc, as well as other vendors in total amounts not to exceed \$2,000,000 for a city-wide software migration and implementation.

Information Services Director Jonathan Feldman responded to various questions from Councilman Mumpower, some being, but are not limited to: is the timing for this venture ideal under current and anticipated budget restraints; in the face of the current economic realities may we not anticipate a reduction in the cost of technology upgrade services and software; since the \$2 Million budget does not factor in normal contingency cost considerations of 10-20%, are there are other costs (hardware, staff training time, etc.) that will represent a future budget consideration around this system upgrade; and can we ask staff to go back to the vendor and explore renegotiation of the contract.

Mr. Feldman explained why this project is important now, noting the following examples of how this project is important to organizational re-engineering: (1) we anticipate that paper usage will decrease by at least 80,000 sheets per year; (2) finance is expected to save 900+ hours/year in increased efficiencies; (3) utility billing anticipated to save 1100+ hours/year in increased efficiency; (4) employee self-service functions are expected to save 700+ hours/year across the organization; and (5) contract tracking will become an automated and accountable process and is expected to significantly improve current paper and inter-office mail based processes.

Chief Financial Officer Ben Durant also responded to questions from Council regarding debt service; is this a sound long-term investment; and what is the dollar figure associated with the number of man hours saved.

Mayor Bellamy supported the action noting the following software purchases are sound core and central components for the City: general ledger and financial reporting; budgeting; fixed assets; project and grant management; payroll & personnel; miscellaneous billing & accounts receivable; utility billing; cash receipting; purchasing and requisitions; inventory management; contract management; accounts payable; bank reconciliation; land management & GIS integration; job cost/work order; fleet &

equipment; facilities management; parking tickets; and business licenses/miscellaneous permitting. She did ask, however, that as negotiations take place, that Mr. Feldman try to get a lower rate.

Councilman Newman moved for the adoption of Resolution No. 08-237. This motion was seconded by Vice-Mayor Davis and carried on a 4-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 31 – PAGE 385

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING A PORTION OF WALLACK STREET

Mayor Bellamy opened the public hearing at 5:42 p.m.

Assistant Public Works Director Richard Grant said that this is the consideration of a resolution permanently closing a portion of Wallack Street. This public hearing was advertised on October 31, November 7, 14 and 21, 2008.

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

Pursuant to this statute, Patsy Brison, representing property owners Asheville-Buncombe Community Christian Ministry Inc. and Robert and Joan Ledford, have requested the City of Asheville to permanently close an unopened portion of Wallack Street.

He has received two communications from Bill Goacher, owner of 202 Asheland Avenue, and Beacon Properties, owner of 200 Asheland Avenue, who support the closure.

The Greenway Commission reviewed the closure of the unopened portion of Wallack Street at their meeting on November 13, 2008, and strongly advised to deny approval of the Wallack Street closure as part of this section is on the Greenway Master Plan.

Regarding the Strategic Operating Plan, this closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use.

- Pros:
- There will be no future compromise of ingress/egress to other property
 - The closure would allow for more effective use of the existing adjacent properties.

- Con:
- The closure will impact the greenway master plan.

There will be no fiscal impact related to this closure.

In consideration of the impact to the Greenway Master Plan and the recommendation from the Greenway Commission, City staff cannot support the request for the closing of a portion of Wallack Street.

Rev. Scott Rogers, Executive Director of the Asheville-Buncombe Community Christian Ministry, spoke in support of the closure. He said that they were not aware of the meeting with the Greenway Commission and didn't have the opportunity to explain the reasoning behind the closure. He explained that due to the topography of the bank, a greenway is not appropriate for that area. He said the reason for the street closing request is so they can clean up their boundary lines since the property is for sale. He suggested that the Greenway Commission didn't have all the relevant information on the request when they voted to recommend denial.

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

Vice-Mayor Davis, who was very familiar with the site, explained why he didn't think the greenway would be placed in that area, and supported the closing.

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

Vice-Mayor Davis moved to permanently close a portion of Wallack Street. This motion was seconded by Councilman Mumpower.

Councilwoman Cape could not support the motion to close but supported sending the request back to the Greenway Commission for further evaluation, with the petitioners present. She felt that greenways typically reduce crime as they invite more people to walk on them. The Greenway Commission has been tasked with the responsibility of reviewing the Greenway Master Plan and after hearing the petitioner's request, they may recommend the Plan be altered or that the area still remain on the Plan.

Councilman Newman agreed it may be difficult for a greenway to be constructed on that property but we do rely upon the Greenway Commission to give Council recommendations. He would support sending this back to the Greenway Commission and that the petitioners be given the opportunity to explain their request.

Upon inquiry of Vice-Mayor Davis, Parks & Recreation Director Roderick Simmons stated that the Greenway Commission did not walk or visit the site, but looked at the Greenway Master Plan and once it was determined that it was on the Plan, they recommended denial.

Councilman Mumpower felt the Greenway Commission did not do their due diligence in this action. The topography and realism of the property far exceeds the potential of a greenway.

Mayor Bellamy asked that the Greenway Commission be advised that City Council very much respects and honors their opinions, and may not always agree with them, but that they consider all factors when a request is brought to them, not just checking to see if the property is on the Greenway Master Plan.

Councilwoman Cape agreed with Mayor Bellamy in that the role of the Greenway Commission has a great impact on our community as we look for alternative routes to move around the City.

Vice-Mayor Davis withdrew his motion to permanently close a portion of Wallack Street. He then moved to continue this matter until January 27, 2009, in order to give the Greenway Commission an opportunity for further evaluation of the request with the petitioners being given an opportunity to be heard at the meeting. This motion was seconded by Councilwoman Cape and carried unanimously.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF THE PROJECT IDENTIFIED AS CONGRESS AT GASTON, LOCATED AT CONGRESS STREET, GASTON STREET AND CHOCTAW STREET, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN RESIDENTIAL DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A ONE MULTI-FAMILY BUILDING WITH 27 UNITS

ORDINANCE NO. 3667 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY CONGRESS AT GASTON, LOCATED AT CONGRESS STREET, GASTON STREET AND CHOCTAW STREET, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN RESIDENTIAL DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A ONE MULTI-FAMILY BUILDING WITH 27 UNITS

Mayor Bellamy opened the public hearing at 6:00 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to conditionally zone the project identified as Congress at Gaston, located on Congress Street, Gaston Street and Choctaw Street, from RS-8 Residential Single-Family High Density District to Urban Residential District/Conditional Zoning for the development of a one multi-family building with 27 units. This public hearing was advertised on November 21 and 28, 2008.

She said the subject property, currently owned by the City of Asheville, consists of .94 acres in the RS-8 zoning district. It is located within the city limits at the corner of Congress and Gaston Streets in the East Riverside community. The property is under negotiation for purchase by Mountain Housing Opportunities in accordance with the City's goal of making city-owned land available for development where appropriate and in accordance with other goals of the City. The transfer of property will come before Council for consideration at a later date.

The property is part of a larger parcel (5.92 acres total) that is currently vacant and divided by the Town Branch stream valley. The property was acquired by the City as part of the East Riverside Redevelopment Plan implementation in the 1960s and 1970s.

Directly to the west and north of the subject property are the residual parts of the city-owned property zoned RS-8 and Office II District (OII) . Further west, across the Town Branch stream valley and taking access from South French Broad Avenue, is a property in the OII zone containing medical offices. Properties to the north, above Choctaw Street, are also zoned RS-8 (Residential Single-Family High Density District) and contain single-family homes or are vacant. To the west, is another city-owned property zoned RS-8 containing public tennis courts. To the immediate south is a property zoned RM8 containing a residential quadruplex.

The proposal, by Mountain Housing Opportunities, is for a single building containing 27 dwelling units. The building is proposed to have an 8,133 square foot footprint and be 31 feet tall (three stories with covered parking underneath). In addition to the covered parking, surface parking and the creation of on-street parking are also shown in the plans. The developer is proposing a mix of one-, two-, and three-bedroom units for a total residential density of 28.72 units per acre. Thirty (30%) percent or 8 units are proposed to meet the City's requirements for affordable housing. Access to the parking areas is off of Congress Street. The buildings are being designed to meet "Healthy Built Homes" standards. Town Branch runs northwest of the property on which the development is proposed. This stream corridor is proposed for greenway development in the City's Greenway Master Plan. Discussions are underway with the developer concerning the development of the greenway in this area.

The applicant sought two modifications from the City's development standards for this project.

- The first request was for a design variance concerning the entrance spacing requirements in Section 7-8-25(f)(12)b. of the Unified Development Ordinance (UDO). This variance would waive the requirement that all buildings in the Urban Residential District include a well-defined, operable entrance at regular intervals not exceeding 45 feet on each primary façade. Due to the topography of the site, the need for extended slope for the required handicapped ramping at the additional entrances would create a problem with access to the sidewalk. This variance had to be granted by the Planning and Zoning Commission (Sec. 7-8-25(f)(12)g.). This variance was unanimously approved by the Commission their November 5, 2008, meeting.
- The second modification seeks allowance for two of the required street trees along Congress to be spaced more than sixty-five feet apart (proposed to be seventy feet apart). This modification is necessitated by the location of an existing sewer line, the entrance into the development, and the setback requirements in URD. Council must approve this modification.

Staff is supportive of both of these modifications.

The larger parcel (5.92 acres) is split zoned; part of the property is RS-8 and the other portion is zoned Office II. The City of Asheville Planning staff is initiating a rezoning of the remaining RS-8 portion of the lot to URD. This process is running concurrently with the conditional zoning request.

At a meeting on October 20, 2008, the City of Asheville Technical Review Committee (TRC) reviewed the conditional zoning request and made a positive recommendation (with conditions) that the project be forwarded to the Asheville Planning and Zoning Commission. The developer has resubmitted since that time, addressing the bulk of the conditions.

This conditional zoning request was recommended to City Council for approval by a 5-0 vote of the Asheville Planning and Zoning Commission at their meeting on November 5, 2008. The only speakers on this matter were staff and representatives of the developer.

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, if approved, must meet all the technical standards set forth in the City's UDO and Standards and Specifications manual. The developer has been working closely with City staff to ensure compliance.
- 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 developer, in proposing a URD development, has worked, in designing this project, with the topography of the land which slopes down approximately 25 feet toward Town Branch. The developer is in discussions with the Parks and Recreation Department concerning the development of the greenway in this area.
- 3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting**

property.

Although in a predominately single-family residential area, the development is located directly opposite tennis courts and a multi-family building. It is a small project (27 units) in an area with large streets so traffic should not be greatly impacted by 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.

Although the project presents a greater density than development in the immediate area, it is in close proximity to numerous office, institutional, and multi-family developments. The project is designed so that balconies are facing the street (with parking in the rear) to provide a relationship between the dwellings and surrounding properties. The proposed development meets the stated purpose of the Urban Residential District in complementing "existing residential neighborhoods by providing an improved diversity of housing types, scale, affordability, and character in areas where they can best be served....."

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 proposed use supports the 2025 goals and vision as follows:

- Increasing the supply of affordable housing.
- Promoting compatible infill development.
- Making surplus City-owned land available for development.
- Permitting and encouraging transit supportive density (8-16 units per acre minimum) at transit nodes.
- Supporting green building.

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 along Transit Route 18 and on streets with large rights-of-way that lead to several major roadways. Infrastructure and services are available to serve this development.

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

Because the development is small (27 units), a traffic impact study was not warranted. As previously stated, the development is proposed to be located on streets with large rights-of-way that lead to several major roadways.

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

Pros:

- The project offers affordable units, aligning with City Council's goals.
- The proposed development provides housing in a transit-served area near numerous institutional and employment centers in Asheville.
- Higher density infill development furthers the goals and objectives of the comprehensive plan.
- The project takes surplus City-owned land and puts it back on the tax rolls.
- The project is being designed to meet "Healthy Built Homes" standards.
- Helps to further the City's greenway master plan.

Con:

- The project presents a density that is greater than found in the immediate vicinity.

Planning Staff and the Asheville Planning and Zoning Commission recommend this conditional zoning application to City Council. This conditional zoning request was recommended to City Council for approval by a 5-0 vote of the Asheville Planning and Zoning Commission at their meeting on November 5, 2008. At that meeting, the Commission approved a variance for this project, allowing fewer entrances on the façade facing Gaston Street than are required by the ordinance.

Mr. Mike Vance, representing Mountain Housing Opportunities, said that this is a first phase of a multi-year project which started over 1.5 years ago. They went through a large neighborhood process in the summer of 2006 and this is the result. There will be a mix of 1, 2 and 3 bedroom condominiums. They have committed to 30% affordable, but their target numbers are that 11 of those 27 will be affordable by City standards and will also be sold to families with incomes below 80% of area median income. The price ranges proposed are from \$125,000 up to the low \$200,000, with a mix of affordable and market rate units. They have

also been working with the plans for a future greenway. He noted that location is key as it follows their model of placing homes near services and employment. He asked for Council's support as they are continuing their goals of sustainable development.

Mayor Bellamy closed the public hearing at 6:11p.m.

Mr. Vance and Ms. Jane Mathews, architect for the project, responded to Councilwoman Cape regarding the community input into the project.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3667, to conditionally zone the project identified as Congress at Gaston, located on Congress Street, Gaston Street and Choctaw Street, from RS-8 Residential Single-Family High Density District to Urban Residential District/Conditional Zoning for the development of a one multi-family building with 27 units, subject to the landscape modification requested, the design variance, and subject to the following conditions: (1) Uses shall be limited to the 27 residential units proposed; (2) The project shall include 30% (8) units complying with the City of Asheville's affordable housing standards; (3) The project will be designed and constructed to meet Healthy Built Homes standards; (4) The project shall comply with all conditions outlined in the TRC staff report; (5) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures or full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (6) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (7) 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 (8) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Councilman Newman and carried unanimously.

ORDINANCE BOOK NO. 25 - PAGE

C. PUBLIC HEARING TO CONSIDER THE REZONING OF PROPERTY LOCATED ON CONGRESS STREET AT GASTON STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN RESIDENTIAL DISTRICT

ORDINANCE NO. 3668 - ORDINANCE TO REZONE PROPERTY LOCATED ON CONGRESS STREET AT GASTON STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO URBAN RESIDENTIAL DISTRICT

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

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to rezone property located on Congress Street at Gaston Street from RS-8 Residential Single-Family High Density District to Urban Residential District (URD). This public hearing was advertised on November 21 and 28, 2008.

Ms. Cogburn said that the 3.65 acre subject property, owned by the City of Asheville, is located off of Choctaw, Gaston, and Congress Streets in the East Riverside neighborhood. It is part of a larger parcel of 5.92 acres that is split zoned (RS-8 and Office II). The property, currently vacant, was acquired by the City as part of the East Riverside Redevelopment Plan implementation in the 1960s and 1970s. Another .94 acres part of this property is the subject of a separate conditional rezoning under concurrent review.

The property is bordered on two sides by property that is zoned RS-8 and on the others by property zoned RM-8 and Office II. The land uses in the area are varied. To the north is an area largely comprised of single-family homes. To the west are offices and vacant land. Offices are found immediately south of the property as well. To the east, is additional city-owned property containing public tennis courts and vacant land.

Planning and Development Staff initiated this rezoning after receiving application for a conditional rezoning to URD for the .94 acre portion of the parcel. The staff believes that that this City-owned property is a good location for development meeting the goals of the Urban Residential District. The stated purpose of the URD is "to complement existing residential neighborhoods by providing an improved diversity of housing types, scale, affordability, and character in areas where they can best be served by City services and infrastructure." Rezoning this prior to receiving a development application requiring conditional zoning makes the process simpler for the applicant without jeopardizing City oversight of the project. City review of any proposed project would be a part of any sale. It should be noted, however, that only a small portion of this property is actually realistically developable to any extent. The site is bisected by the fairly steep stream valley of Town Branch, leaving two separated developable areas.

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

Pros:

- The proposed zoning would provide land for dense, infill housing in a transit-served, mixed-use area near numerous institutional and employment centers in Asheville.
- Higher density infill development furthers the goals and objectives of the comprehensive plan.
- Rezoning the property could make the property more attractive for purchase, thus taking surplus City-owned land and putting it back on the tax rolls.

Con:

- Although the surrounding area contains a mix of uses, the density allowed in URD is greater than what is found in the immediate vicinity of this property.

This rezoning petition was recommended for approval by a 6-0 vote of the Asheville Planning and Zoning Commission. No one spoke on the matter.

The Planning Staff and the Asheville Planning and Zoning Commission both recommend that this rezoning be approved.

Mayor Bellamy closed the public hearing at 6:18 p.m.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3668. This motion was seconded by Councilwoman Cape and carried unanimously.

At Mayor Bellamy's request, City Attorney Oast said that in the future, when appropriate, the development agreement would be brought before Council prior to the project consideration.

ORDINANCE BOOK NO. 25 – PAGE

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REFLECT THE CURRENT PRACTICES AND RESPONSIBILITIES OF THE TECHNICAL REVIEW COMMITTEE

ORDINANCE NO. 3669 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REFLECT THE CURRENT PRACTICES AND RESPONSIBILITIES OF THE TECHNICAL REVIEW COMMITTEE

Mayor Bellamy opened the public hearing at 6:19 p.m.

Urban Planner Kim Hamel said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to reflect the current practices and responsibilities of the Technical Review Committee (TRC). This public hearing was advertised on November 21 and 28, 2008.

Ms. Hamel said that Article III of the UDO as it relates to the duties and responsibilities of decision making bodies has remained virtually unchanged since the UDO was adopted in 1997. This amendment will modify the UDO to reflect the current practices and responsibilities of the TRC as they have evolved in practice.

In August 2008, the TRC adopted a new and improved set of Rules of Procedure that reflects a number of improvements established for projects and applications being reviewed by the Committee. This amendment will bring the UDO into accordance with the recently adopted Rules of Procedure. The following items provide a summary of the proposed changes:

- Updating the types of development proposals and applications the committee is responsible for reviewing;
- Clarifying the type of action required by the committee for specific types of development review (approval, denial, or recommendation to another advisory body);
- Updating membership to reflect the current structure of the committee;
- Updating the meetings schedule to reflect the number of meetings held per month in accordance with the current meeting schedule (from one meeting per month to two meetings per month)

This ordinance supports the *Asheville City Development 2025 Plan* by improving communication and coordination for a

development review process that requires public participation. Additionally, the ordinance supports the *Asheville City Council's Goals and Vision* by completing UDO amendments to improve clarity and address community goals.

Pros:

- The amendment brings the UDO in line with the established Rules of Procedure adopted by the TRC
- Reflects current procedure and practices of the TRC
- Simplifies the information to improve clarity and comprehension

Con:

- None identified

City staff recommends approval of the code amendment as proposed.

Mayor Bellamy closed the public hearing at 6:20 p.m.

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

Councilman Mumpower moved for the adoption of Ordinance No. 3669. This motion was seconded by Vice-Mayor Davis and carried unanimously.

ORDINANCE BOOK NO. 25 - PAGE

E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING ANIMAL CEMETERIES AND ANIMAL CREMATORIES

Mayor Bellamy opened the public hearing at 6:21 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) concerning animal cemeteries and animal crematories. This public hearing was advertised on November 21 and 28, 2008.

Ms. Cogburn said that the Planning and Development Department recently received an inquiry about the development of a pet cemetery and crematory. Presently, the UDO contains no reference to animal cemeteries or crematories. As a result, such uses would be allowed only in the River District, where all uses are permitted unless specifically prohibited. Staff feels that the ordinance should address such uses specifically, and, therefore, proposes the following amendment to the UDO to establish fair and reasonable standards for such uses in the City of Asheville's zoning jurisdiction. In drafting this ordinance, staff conducted research on animal cemetery and crematory operations and regulations and also looked at ordinances from other communities. The proposed ordinance changes:

- Establish definitions for "animal cemeteries" and "animal crematories."
- Allow animal cemeteries as a Use by Right Subject to Special Requirements in all residential districts, and the CBI, CBII, Institutional, HB, RB, River, CBD, CI, and Industrial Districts. These are the same districts that allow cemeteries for humans. The special requirements would require that the cemetery be operated by an incorporated entity and that no internment occur within ten (10) feet of a property line or within a required setback, whichever is greater.
- Allow animal crematories as a Use by Right Subject to Special Requirements in the Institutional, HB, RB, and River Districts. The conditions would address emissions, other potential nuisances, and buffering, and would require that the use be accessory to an animal cemetery, veterinary clinic, or animal shelter.
- Allow animal crematories as a Use by Right Subject to Special Requirements in the CI and other Industrial Districts. The conditions would address compliance with applicable state and federal regulations.

This ordinance was recommended for approval by a 6-0 vote of the Asheville Planning and Zoning Commission. No one spoke on the matter.

This ordinance supports the *Asheville City Development Plan 2025* goal of reviewing and modifying development regulations to be responsive to technological and social changes and economic development in the community.

Pros:

- Adds language to address uses not presently referenced in the UDO.
- Adds fair and reasonable standards for the establishment of animal cemeteries and crematories.

Con:

- Objections may be raised to allowing animal cemeteries and crematories in the City of Asheville.

City staff and the Asheville Planning and Zoning Commission recommend that City Council adopt the ordinance.

Mayor Bellamy closed the public hearing at 6:23 p.m.

Councilman Newman moved to approve an amendment to the Unified Development Ordinance to add development standards for animal cemeteries and crematories. This motion was seconded by Councilman Mumpower.

Due to a concern raised by Vice-Mayor Davis regarding the allowance of animal cemeteries as a Use by Right Subject to Special Requirements in all residential districts and a concern raised by Councilwoman Cape regarding clarification of the definition of animal cemeteries, Councilman Newman withdrew his motion to approve, and moved to continue this matter until January 13, 2009. This motion was seconded by Councilman Mumpower and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. INTERVIEW DISCUSSION FOR CITY COUNCIL VACANCY

Mayor Bellamy explained the interview process and announced that public comment would not only be taken at this meeting, but also prior to the actual voting on the vacant seat at the December 9, 2008, meeting.

Mr. William Meredith felt the process should have been a special election than appointment. He appreciated Council's consideration of his application.

It was the consensus of Council to narrow the field of applicants to six 30-minute interviews.

Mayor Bellamy thanked all the candidates for their response to the City Council vacancy. Applicants include: Catherine Alter; Charles W. Archerd; Malcolm F. Arthur; Randall Barnett; Dana W. Bierce; Keith V. Blankenship; Cecil Bothwell; Jenny G. Bowen; Brian Bradley; Bill Branyon; Claude Jeffery Chandler; Anthony Alan Coxie; Abigail Emison; Sylvia E. Farrington; Clifford O. Feingold, DDS; Linda S. Fowler; Bryan Freeborn; Phillip H. Gray; Lisa-Gaye Hall; Spencer Ellis Hardaway; Phillip Hardin; Ed Hay; Rebecca Hecht; Jan Howard; Charlie Hume; George E. Keller; Michael R. Kerr; Kathryn Liss; Esther Elizabeth Manheimer; Jay Marino; Catherine S. Martin; Barber H. Melton; William C. Meredith; Kelly Miller; Suzanne Molloy; Duane Nix; John M. Noce; James W. Oglesby; John Quinn; Jason Rector; Richard Sandoval; David Schulman; Gordon D. Smith; Glenda P. Weinert; Linda Carol Williams; Brian P. Woods; and John R. Yarnall.

Each Council member (Councilman Russell submitted his names prior to the meeting) submitted their names to be considered for an interview, with the top six being interviewed. After tallying the votes, the following resulted: Charles W. Archerd (3 votes); Sylvia E. Farrington (4 votes); Clifford O. Feingold (1 vote); Linda S. Fowler (2 votes); Bryan Freeborn (2 votes); Spencer Ellis Hardaway (2 votes); Ed Hay (1 vote); Charlie Hume (4 votes); George Keller (1 vote); Esther Manheimer (4 votes); Jay Marino (1 vote); Kelly Miller (4 votes); Gordon D. Smith (1 vote); Linda Carol Williams (2 votes) and Brian P. Woods (1 vote). After a brief discussion, it was the consensus of Council to narrow the field of interview applicants to the following 5 that had received either 3 or 4 votes: Charles W. Archerd, Sylvia E. Farrington, Charlie Hume, Esther Manheimer and Kelly Miller.

On behalf of City Council, Mayor Bellamy thanked all the individuals who applied for the position. From reviewing the applications, she noted we have some outstanding individuals in our community who are willing to serve.

It was the consensus that during the appointment process of the meeting on December 9, 2008, City Council members will have the opportunity to express their preference prior to a motion being made.

Mayor Bellamy said that all pre-arranged 30-minute interviews (with a 5 minute break between each) would be held beginning at 1:40 p.m. on Tuesday, December 9, 2008, in the Council Chamber. She urged the public to attend. In addition, all interviews would be live on Charter Channel 11.

Mayor Bellamy said that the City's Charter provides that in the event a seat becomes vacant that this body decides who will fill that seat. There have been times where Council has chosen names without any application process. There have also been times where Council has chosen the next highest vote-getter from the last election. We are in our statutory authority to fill the

vacancy in this way. We have tried to be as transparent as possible, with applications being submitted to the media or public daily as they came in. As soon as the deadline closed, we placed on our website all applications and supporting materials. We have an open process and want to work and move forward together.

VII. OTHER BUSINESS:

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. William Meredith asked Council to consider a rule in the future where a current seated Council member must fulfill their term prior to running for a different office.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 6:52 p.m.

CITY CLERK

MAYOR