

Tuesday – October 12, 2010 – 3:00 p.m.
Worksession
1st Floor North Conference Room

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

Unified Development Ordinance amendments according to the recommendations of the Downtown Master Plan.

Urban Planner Alan Glines said that this is the consideration of an amendment to Chapter 7 of the Code of Ordinances to amend the Central Business District (Section 7-8-18).

Two years ago City Council approved a contract for planning services to develop a master plan for downtown to capture the community's goals for growth, redevelopment and continued vitality. The master plan consultants held numerous public meetings and forums to gather community input for downtown's future and the master plan was approved by City Council in May 2009. The Council directed the staff to work with stakeholder groups to prepare the changes to the UDO necessary to implement the plan recommendations, and other implementation strategies.

With that direction from Council, staff and stakeholder task groups have been studying the master plan and developing strategies for implementation. The Urban Design Action Committee began meeting in the fall of 2009 to evaluate the impacts of the master plan on parcels in downtown and to determine the best way to implement the recommendations in the plan. After over 20 meetings they concluded their work, and their final proposals for the Central Business District were presented to the Downtown Commission. At their June 2010 meeting, the Commission voted to approve the changes as recommended by the Committee. The Planning and Zoning Commission, after a series of meetings to review the proposals, voted on September 1, 2010, to approve the wording amendment. Other stakeholder groups continue to work on implementation elements that do not require UDO changes.

The proposed UDO text amendment replaces the current development standards for the Central Business District (CBD) with new text and maps that reflect the goals of the Asheville Downtown Master Plan. Changes to the UDO are directly related to *Strategy 4: Shape building form to promote quality of place* and *Strategy 5: Update downtown design guidelines* from the master plan.

The master plan introduces regulations that are form-based rather than use-based. They focus on the basic building design elements to strengthen compatibility, ensure pedestrian orientation, and enhance the character of the skyline. The existing ordinance provides minimal direction to ensure that new building construction is compatible with neighboring properties and with downtown in general. The plan introduces concepts for the CBD that include new definitions for how height is measured, building height maximums based on location in downtown, a context transition edge adjacent to residentially zoned properties, shadow protections for certain parks, a street wall requirement, and building step-backs. The plan also provides new development requirements for the portions of new structures that exceed 75 feet in height including a maximum floor plate, and a limit on the longest dimension of the tower portion of a building. All structures will be required to include a building cap, a primary entrance along a frontage line, and requirements for windows and other openings at the ground level and upper stories.

The charge of the Council to the Urban Design Action Committee was to study how each master plan concept would work and realistically function in downtown, and to avoid any “unintended consequences” from implementation. With that charge, some changes are proposed that slightly modify the master plan recommendation while maintaining the goals of the plan. The changes recommended for the master plan are summarized below:

Front Setback – The master plan suggested averaging front setbacks based on street context. The Committee instead recommends retaining current requirements in the CBD for zero-foot setback from the right-of-way-line with limited exceptions to emphasize urban form in new construction and not allow master plan suggested setback averaging because many areas in downtown currently have a suburban form.

Measurement of Building Height – The Committee found that there are practical difficulties with the master plan recommendation to re-measure/re-assess the height of a building based on the grade change across the site and instead recommended establishing a single height reference point at the primary pedestrian entrance.

Height Zone Locations – The Committee suggested adjustments to the height zone maps to reduce the locations of the tallest height zones based on compatibility with the traditional downtown core. Specifically, this reduction is in three locations – surrounding the Grove Arcade and areas below Hilliard Avenue along Church Street and Biltmore Avenue.

Applicability – The Committee recommends applying the master plan requirements and standards only to areas zoned Central Business District and not to other zoning districts surrounding downtown, as is shown on several maps within the plan. This will simplify implementation and aligns with community expectations to focus on downtown regulations.

Context Transition Edge – The Committee recommends that the Context Transition Edge be adjusted to apply only to the CBD areas most sensitive to changes in height (immediately adjacent to residentially-zoned properties) and limiting the application of the height buffer to 100 feet wide (instead of 300-400 feet wide as proposed in the plan).

Shadow Restrictions – Due to continuing concern about the impact of shadow requirements on building near very small parks, the staff proposed adjusting the building shadow limitations for parks and open spaces to only apply to larger park areas and exclude small pocket parks, private parks and plaza spaces, with definitions created for these uses. Additionally, the Committee recommended removing the shadow limitations on historic structures because other protections could be developed for them involving input from preservation professionals.

Street Wall – Because of its complexity, the committee recommends maintaining the street wall concept but reworking it to simplify understanding and provide some additional options that more completely reflect the historic fabric of downtown.

Air Rights – The Committee, reflecting a staff recommendation, recommend removing the air rights option for side step-backs for upper stories of buildings because of legal concerns.

Building Cap – The Committee included clarification of the building cap requirements to measurable standards. Originally the master plan provided a number of subjective design recommendations that will be more appropriate in the Downtown Design Guidelines rather than placed in this ordinance.

Key Pedestrian Streets – The Committee suggested some modifications of the Key Pedestrian Streets map and requiring the primary pedestrian entrance to be placed on these streets if the option is available.

Tower Floorplate – The plan recommended limiting the allowable floorplate dimension for towers over 75'. The Committee agreed with this recommendation but suggested increasing the allowable square footage to 8,000 square feet or 40% of lot area as a more practical number.

The new amendment will include a type of form code that is similar in look to the other ordinances in the UDO but which introduces building envelope concepts and appropriate illustrations to convey the new standards. Maps will also be a part of the ordinance to easily identify boundaries for specific requirements in the ordinance.

Mr. Glines then went into a little more detail regarding a few new concepts and then reviewed some maps that moderated the height of a structure. He points he reviewed are as follows:

- (1) Key Pedestrian Streets – the existing concept in the UDO for downtown has been expanded;
- (2) Height is defined differently in the CBD measure from the primary pedestrian entrance to the highest occupied floor, the remaining occupied area, attic, rooftop features will be required to occupy no more than 50 additional feet;
- (3) Primary pedestrian entrance will be accessed from a key pedestrian street if one is along the site;
- (4) Traditional Downtown Core – defined by a map and corresponding to the historic core of downtown;
- (5) Context transition edge – moderates the heights of buildings when they are adjacent to and impacting residential zones;
- (6) Height zone map recommended for downtown – some adjustments were made upon recommendation of the Downtown Commission to remove the taller height zones east of O.Henry and east of Church Street and a small area along Biltmore Avenue;
- (7) Some limitations on public parks and plaza spaces, providing new definitions for these but excluding pocket parks and private park type spaces.
- (8) The street wall is a new concept that was developed to preserve the experience along the street for pedestrian, coinciding with the traditional building principle of taller structures for providing a base, middle and cap. The street wall is the base portion of the building. A step back along the front or side is expected and in a few circumstances other alternatives could be provided. For example, in the traditional downtown core, the street wall will be between 2 and 4 stories. In the areas outside the core, it will follow a 1:1 relationship with the width of the right-of-way. This concept was given a lot of consideration by the Urban Design Action Committee to make it effective, but also to simplify it. Associated with the street wall is a step back from front or side by 10 feet or in certain circumstances a clear change of materials could also be sufficient to illustrate the point of the street wall. He used maps to illustrate the street wall concept.
- (9) 75-foot height delineation. Specific requirements for projects that are high-rise structures in the NC State Building Code. Using drawings, he described how above 75-feet several things will happen.
- (10) Tower size is limited to 40% of the lot area or 8,000 square feet which is smaller.
- (11) No dimension in the tower portion of a building can be longer than 145-feet and this is in relation to the longest side of the Flat Iron Building.
- (12) External Vista Points – He showed images of proposed building project areas from each location surrounding downtown as a tool to evaluate the structure in the skyline.

- (13) Public view corridors – If a project lies within a public view corridor a photo image from the vantage point will be required and if possible the building oriented to least disrupt the long view shed.

He said that a few additional items that all projects must provide include: a building cap regardless of scale of building, some termination of the building is required, and a roof feature or cornice line is required. He said that the primary pedestrian entrance along a frontage line is to be placed along a key pedestrian street if one is available to the site. Regarding fenestration required, more along the street and a limited amount along upper facades. This has been reviewed with a few additional scenarios.

West Asheville UDO Changes to CBD Zone

A related amendment has been finalized that proposes wording changes that will apply to the west Asheville CBD areas. There are two CBD sections along Haywood Road that cover about 60 parcels totaling approximately 18 acres. The proposed changes recommend a substantial height reduction for west Asheville, as there appears to be a general belief that very tall buildings are not appropriate along Haywood Road, and should be limited to the downtown CBD. Landscape buffer options are also proposed for the west Asheville CBD areas based on the scale of a specific development adjacent to residential areas. If these buffer options are adopted, these could provide a useful alternative for other areas in the city where commercial zones are directly adjacent to residential zones. These changes were worked out with the west Asheville property owners and interested residents at a series of meetings. Since they have met with property owners and some property owners along the corridor, they would like to propose that the height be capped at 75 feet to the highest floor level with 30 additional feet for the final living space and roof top features. In the current code for the CBD, there is no buffer required between a project site and neighboring residential zones. Along Haywood Road there are residential neighbors surrounding the CBD (and really all along Haywood Road) and some limited buffer would be helpful to reduce the impacts of the CBD areas. We would like to propose several options that would be available to a developer according to the scale of the proposed project. Based on the master plan proposal to buffer the height but allow a 2-story structure, a limited planting strip would be provided along that property edge. For a medium scale project, perhaps at 4 stories, a 15-foot planted buffer would be provided; and finally if a full size buffer was provided according to the table in Article 11, then there would be no requirement to buffer the height of the project. So, 75-feet could be developed. This proposal was reviewed with the group who thought this could be a reasonable compromise. Also the same information was presented to the Coalition of Asheville Neighborhoods and they felt this was workable and the idea of buffers size based on the scale of the commercial development could work along other corridors. We also expect to start a corridor study for Haywood Road and bring back that to City Council late next year.

There are also three other isolated Central Business District-zoned parcels in Biltmore Park in south Asheville. In the past the area for rezoning when development plans have been proposed, Urban Village has been the most frequently used zoning district. They would also be affected by the height limit of 75 feet like in the west Asheville districts. There are no development plans for these parcels and future development will likely require rezoning as a part of a new development plan, so there is no plan for modifying them, although they will be affected by the changes to the CBD district.

The Urban Design Action Committee identified a number of items that they felt should receive additional attention but which were beyond the specific scope of their work, and not essential for the implementation of the majority of the master plan recommendations. They asked that this list be presented as unfinished items that may be studied by the Downtown Commission or other appropriate groups:

1. View Corridors to be reviewed again for specific locations

2. External Vista Points ("Vista Trail") development providing vistas into downtown
3. Expansion of the CBD along Ashland and Biltmore Avenues
4. Incentives or trade-offs for new parks, green features, etc.
5. Shadow Impacts on sunlight-dependant historic resources or sunlight-dependant "green" features
6. Transfer of Development Right possibilities
7. Protection for historic structures

The Planning and Zoning Commission considered the following clarifications based on public comments received during the review and recommended their inclusion into the proposal:

1. The ordinance will apply to all new construction and/or changes that modify the exterior walls and/or roof of an existing building. There was additional clarification that the ordinance will not apply to routine maintenance, repair or replacement of the same or similar materials on existing buildings.
2. Requests for variances will rest with the official or agency responsible for project approval and with all variance requests, the Downtown Commission will provide a recommendation as a part of the process.
3. The descriptions of several sections were edited to clarify the meaning and requirements.

The wording amendment being considered is in direct support of the Asheville Downtown Master Plan adopted by City Council on May 26, 2010 (Resolution 09-102) The wording amendment represents the implementation of Strategies 4 and 5 focusing on the character and scale of the built environment. Some minor changes have been proposed by the reviewing committee but the goals and intentions of the master plan are preserved. The adoption of the wording amendment is also in alignment with the goals of the Strategic Plan 2010-11 which emphasize fiscal responsibility by implementing an approved master plan. The plan has represented a strong partnership with supporters and stakeholders of downtown who were heavily involved in developing the strategies in the master plan and continue to meet to implement the plan.

Pros:

1. Implements a community developed master plan.
2. Provides a recommended form-code framework for designing new structures.
3. Assures adequate air and light at the sidewalk level and promotes compatibility with the existing historic context.
4. Encourages views between tall buildings and enhances the skyline vistas of downtown.
5. Improves the compatibility for the two areas of Central Business District zoned property located along Haywood Road in west Asheville with the single-family neighborhoods that adjoin that property.

Cons:

1. The code is more complex and may be difficult to explain and understand for the layman.
2. Developable area per lot is reduced above the height of 75 feet (may be considered a pro).
3. As with any change to the UDO regulations, the impact of the new ordinance may not be fully understood until new developments are proposed.

The Planning and Zoning Commission voted 6-0 to recommend approval of the wording amendment at their meeting on 9-1-10. The wording amendment was reviewed with the Commission over four meetings to carefully consider the details of the ordinance. The Commission recommended some clarifications to the ordinance which have already been reviewed in this staff report and are part of the proposed ordinance being considered by City Council.

The Urban Design Action Committee endorsed the wording amendment and sent it forward to the Downtown Commission for consideration. The Downtown Commission after adjustments to the height map voted to approve the amendment on June 10, 2010 and recommend it moving forward to the Planning and Zoning Commission.

This proposal has also been shared with interested stakeholders along Haywood Road and with Biltmore Farms and new concepts for landscape property-line buffers were reviewed with the Coalition of Asheville Neighborhoods (CAN).

The Planning and Development Department staff recommends approval of this wording amendment.

Throughout Mr. Glines' presentation, he responded to various questions/comments raised by the Council. Council requested (1) more input from builders or architects on the building step-backs, so building do not look like pyramids; and that (2) Mr. Glines contact the Bowers, Ellis & Watson, the architecture firm that is a major property owner along the Patton Avenue corridor into downtown, to discuss the street wall concept due of the width of the road on Patton Avenue.

Unified Development Ordinance Amendments regarding Review Process Elements

Urban Planner Julia Fields said that this is the consideration of an amendment to Chapter 7 of the Code of Ordinances which would alter the review process for development occurring in the Central Business District.

With that direction from Council, staff and stakeholder task groups have been studying the master plan and developing strategies for implementation. The Urban Design Action Committee began meeting in the fall of 2009 to evaluate the impacts of the master plan on parcels in downtown and to evaluate the processes for the review of downtown projects. The proposals on processes have been on a different track from those for design standards. All ordinances are being presented to the Asheville City Council at the same time.

The ordinance presented details the necessary changes to the Unified Development Ordinance (UDO) concerning processes for development occurring on parcels zoned Central Business District (CBD) and located within the boundaries of the Design Review Overlay District.

This proposed UDO text amendment adds a new section to Article V ("Development Review Procedures") to outline the procedures for reviewing projects proposed on parcels zoned CBD and located within the boundaries of the Design Review Overlay District (CBD/DDR). Changes that are recommended reflect the goals of the Asheville Downtown Master Plan (DTMP) and the recommendations of the Urban Design Action Committee. These changes are directly related to Strategy 6 of the plan: *Make downtown project review, transparent, predictable, and inclusive of community input.*

The new section in Article V sets forth the procedures for Level I, II and III project review in the CBD/DDR. These procedures differ from the procedures in other parts of the City's jurisdiction as follows:

- The project level thresholds for development review in the CBD/DDR are different. Level III review will apply to those projects above 175,000 square feet or above the Intermediate Height Zone (145 feet). Level II review will apply to those projects between 20,000 and 175,000 square feet in size and up to the Intermediate Height Zone. All other projects are subject to Level I review.
- The order and format of the review process is different in the CBD/DDR except for Level I projects which are handled at staff level. Level III projects that are in the traditional downtown core go to the Technical Review Committee (TRC), the Downtown

Commission (DTC), the Planning and Zoning Commission (P and Z) and to Asheville City Council through a conditional zoning process. Level III projects outside of the core follow the same review process except Council is only considering these projects for compliance with applicable standards and regulations. Level II projects go to the TRC, DTC, and P and Z for approval.

- Early developer sponsored meetings are required for the Level II and Level III projects. Such meetings are strongly recommended for Level I projects.
- All meetings where project proposals in the CBD/DDR are reviewed shall provide notification through publication in a newspaper, mailed notice and posted notice.
- Level II project approvals are valid for two (2) years.
- Large phased developments must submit a master plan.
- Variance requests for projects proposed in the CBD/DDR shall be granted by the Planning and Zoning Commission (acting as the Board of Adjustment) with a recommendation from the Downtown Commission except for landscaping requests. Alternative landscaping requests must be reviewed and approved by the Asheville Tree Commission. Planning and Development Department staff may flex up to 10% on standards concerning openings and expanses of wall.
- Appeals from decisions of the Planning and Development Department or the Downtown Commission shall be heard by the Planning and Zoning Commission (acting as the Board of Adjustment). Appeals from the decisions of the Planning and Zoning Commission shall be heard by the Asheville City Council.

At their meeting on September 1, 2010, the Asheville Planning and Zoning Commission reviewed and unanimously (6-0) recommended approval of this ordinance to Asheville City Council.

This wording amendment reflects proposals set forth in the Asheville Downtown Master Plan adopted by the Asheville City Council on May 26, 2009. Specifically, it implements elements of Strategy 6 of the plan. Some changes have been proposed by the reviewing committee but the goals and intentions of the master plan are preserved.

Pros:

- Implements a community developed master plan.
- Sets forth a process that provides greater certainty to developers on projects in the CBD/DDR.
- Provides for a more transparent review process for projects in the CBD/DDR.

Cons:

- Some may be concerned over the elimination of City Council discretionary approval for all but the largest of projects.
- Some may be concerned that the requirement for developer sponsored meetings for Level II and Level III projects is burdensome.
- Some may feel that City Council review of Level II projects outside of the traditional downtown core (only reviewing for compliance with standards) is an unnecessary step as this review has already been conducted by the Planning and Zoning Commission.

Additional cost associated with notification of property owners for projects being considered by the Asheville Downtown Commission. First class postage for property owners within 200 feet is the proposed requirement. Actual amount will be dependent on the number of Level II and Level III projects proposed and the number of property owners to be notified.

City staff recommends approval of this wording amendment. At their meeting on September 1, 2010, the Asheville Planning and Zoning Commission reviewed and unanimously (6-0) recommended approval of this ordinance to Asheville City Council.

There was considerable discussion throughout Ms. Fields' presentation with each Council member ultimately outlining their view on the proposed amendments. Ms. Fields responded to various questions/comments raised by the Council, some being, but are not limited to: what is the appeal process from the Tree Commission; who can appeal decisions; request for pictures to show what a 175,000 building would look like, or any comparable building in Asheville; what is the additional time for projects to be reviewed by City Council outside the core area; is it possible to put some Council goals (e.g., affordable residential component – if in project - and green elements) in the ordinance and if a developer includes those components (and meets all other criteria) then there is a high degree of predictability that the project can be approved without moving forward to City Council; will a slender building still require a step-back; and how do other cities handle conditional zonings or conditional use permits for buildings of 175,000 square feet in their downtown area; the public process has proved useful to City Council in the past.

It was the consensus of Council to not schedule a public hearing before City Council on these amendments on October 26, 2010, but instead continue this worksession until November 9, 2010, and set the City Council public hearing on November 23.

At 4:32 p.m., Mayor Bellamy recessed the worksession to go into the formal meeting.

Tuesday – October 12, 2010 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burseson

Absent: None

PLEDGE OF ALLEGIANCE

Ms. Laura Degroat and representatives from Girl Scout Troop 30017, 30513, 30502 and 30585 from the Carolinas Peaks to Piedmont Council led City Council in the Pledge of Allegiance.

INVOCATION

Mayor Bellamy gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF GIRL SCOUT TROOPS 30017, 30513, 30502 and 30585 FROM THE CAROLINAS PEAKS TO PIEDMONT COUNCIL

Mayor Bellamy recognized representatives from Girl Scout Troops 30017, 30513, 30502 and 30585, Lora Degroat, Kendra McIntosh, Katherine Podraza, Julianne Moore, Natalie Benson-Greer, Kaylee Hutsell, and Georgia Foster from the Carolinas Peaks to Piedmont Council for painting fire hydrants.

She thanked them for their volunteer efforts with the City of Asheville. In particular I want to recognize Lora Degroat who worked with Chief Barry Hendren of Asheville Fire and Rescue to develop the Fire Hydrant Painting project. Lora led the effort to make a great idea a reality in our community by choosing this project for her Girl Scout Silver Medal project. As a part of her project she designed a brochure and worked with city staff to produce a Public Service

Announcement. These materials will be used to recruit volunteers to partner with the city to help maintain the more than 3,600 fire hydrant in the city limits.

In addition, these Girl Scouts and other members of their Troops held 2 workdays this fall and painted 25 hydrants and will hold other work days in the spring to paint more hydrants. Because of Lora's work, this great volunteer opportunity with the city is available to other groups.

Chief Barry Hendren said that had the City had to pay someone to do this work, it would have cost approximately \$800-\$1,000 in labor. Chief Hendren then introduced a brief Public Service Announcement that gave more information on the project and how to get involved.

B. RECOGNITION OF AWARDS

City Manager Jackson was pleased to announce that the City of Asheville was honored with two awards last month at the North Carolina American Planning Association Conference.

He recognized Ms. Sasha Vrtunski, Project Manager for the Downtown Master Plan, and said that the first award presented at to the City was the 2010 Sustainability Award for the City's Sustainability Management Plan. The judging committee provided these comments, "The Awards Jury was impressed with the Plan - - very original document and at the forefront of work on sustainability principles. The Jury further considered this to be a highly replicable initiative, and hopes to spread awareness of this model to other communities in North Carolina."

He then recognized Ms. Maggie Ullman, the City's Energy Coordinator, and said that the second award presented to the City was the 2010 Marvin Collins Outstanding Planning Award for Comprehensive Planning in a large community award for the Downtown Master Plan. The judging committee provided these comments, "The Awards Jury was impressed with the inclusive process used to develop the plan, the quality of the plan and its graphics, and the use of the "air rights" concept, among other things." In addition to the NC-APA award, the Downtown Master Plan received a Merit Award from the International Downtown Association at their annual conference in Fort Worth on October 1st.

C. PROCLAMATION PROCLAIMING OCTOBER 2010 AS "NATIONAL ARTS & HUMANITIES MONTH"

Vice-Mayor Newman read the proclamation proclaiming October, 2010, as "National Arts & Humanities Month" in the City of Asheville. He presented the proclamation to Cultural Arts Superintendent Diane Ruggiero who accepted the proclamation on behalf of the local Public Art 360 Committee and the members of the Public Art Board.

D. PROCLAMATION PROCLAIMING OCTOBER 15, 2010, AS "WHITE CANE SAFETY DAY"

Mayor Bellamy read the proclamation proclaiming October 15, 2010, as "White Cane Safety Day" in the City of Asheville. She presented the proclamation to Ms. Karen Harrington, on behalf of the Mayor's Committee for Citizens with Disabilities, and Ms. Joanne Baker, on behalf of the Buncombe County Chapter of the National Federation of the Blind of North Carolina. Ms. Baker thanked City Council for their support and then showed a brief Public Service Announcement.

II. CONSENT AGENDA:

At the request of City staff, Consent Agenda Item "B" was removed from the Consent Agenda to be considered on a subsequent agenda.

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 28, 2010**
- B. ORDINANCE AMENDING THE FEES & CHARGES MANUAL TO ESTABLISH A NEW PRIVILEGE LICENSE FEE FOR ELECTRONIC GAMING OPERATIONS**

This item was removed from the Consent Agenda to be considered on a subsequent agenda.

- C. ORDINANCE NO. 3903 - ORDINANCE CONCURRING IN A SPEED LIMIT CHANGE ON SR 1455 (CROWELL ROAD) FROM 35 MPH TO 25 MPH**

Summary: The consideration of an ordinance concurring in a speed limit change on SR 1455 (Crowell Road) from 35 mph to 25 mph.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, when an engineering and traffic investigation determines that a speed limit other than the statutory 35 mph speed limit would be reasonable and safe along a state-maintained street that is inside municipal corporate limits, a concurring ordinance from the municipality is needed. Typically, these investigations are done by municipal staff but it is not unusual for the North Carolina Department of Transportation (NCDOT) to do the investigations along their streets.

The Division 13 Traffic Engineer for NCDOT recently completed an engineering and traffic investigation and determined that a 25 mph speed limit would be reasonable and safe on SR 1455 (Crowell Road) from a point 0.12 mile west of Old Haywood Road eastward to Old Haywood Road. The subject street serves a mixture of residential and commercial properties that are located near a heavily used interstate interchange.

This action complies with the City Council Strategic Operating Plan in the Safety focus area by improving the "street experience" for all users including pedestrians, bicycles, and motorists in a medium commercial corridor.

Pros:

- The North Carolina Department of Transportation did the engineering and traffic investigation to determine the reasonable and safe speed limit.
- Since the subject street is a state-maintained street, the North Carolina Department of Transportation will install and maintain the appropriate signs.

Cons:

- There are no known cons with the subject action.

There is no fiscal impact with the subject action. The North Carolina Department of Transportation will be installing and maintaining the appropriate signs.

City staff recommends City Council approve an ordinance concurring in a speed limit change on SR 1455 (Crowell Road) from 35 mph to 25 mph.

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- D. ORDINANCE NO. 3904 - BUDGET AMENDMENT TO UPGRADE LIGHTING FOR THE DEVELOPMENT SERVICE CENTER PUBLIC AREA**

Summary: The consideration of a budget amendment, in the amount of \$7,307, utilizing Progress Energy Carolinas' Energy Efficiency for Business program sustainable rebate for work performed in the Development Service Center to upgrade the lighting for the Development Service Center public area.

The City of Asheville Building Safety Department coordinated the remodel of the first floor of the Public Works Building creating space for personnel from five development departments creating the Development Service Center or One-Stop-Shop. This facility grand opening was held on September 25, 2009. All existing light fixtures within the building were changed out to more efficient fixtures meeting Progress Energy Carolinas' Energy Efficiency for Business program thereby receiving a rebate from Progress Energy in the amount of \$7,306.63. Progress Energy recognized our commitment to fiscal and environmental stewardship. These funds were deposited into an associated revenue account for the project. As part of the project, additional lighting is necessary for the public area in the atrium. An evaluation for the amount of lighting necessary during all seasons and weather conditions was conducted during the past year. The type of lighting to meet these demands while meeting the energy efficiency standards of Progress Energy's program has been determined. The use of these funds will allow the appropriate energy efficient lighting to be installed in this area improving the customer experience. The addition of these lights will close out the remodel of the Development Service Center.

This budget amendment supports the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities.

Pros:

- Improves the lighting in the Development Service Center public area for customers and staff
- Utilizes energy efficient fixtures.
- Does not use Fund Balance or General Fund dollars to complete the project.
- Allows the remodel of the Development Service Center to be closed out upon the addition of the lighting fixtures.

Con:

- None

This budget amendment is funded with the rebate revenue from Progress Energy; therefore there is no financial impact to the City's General Fund.

City staff recommends City Council approve the budget amendment for \$7,307 to add lighting in the Development Service Center public area.

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E. ORDINANCE NO. 3905 - BUDGET AMENDMENT FOR THE WALNUT COVE RESERVOIR SITE REPAIR

Summary: The consideration of a budget amendment, in the amount of \$35,940, in the Water Resources Capital Improvement Projects (CIP) Fund for the Walnut Cove Reservoir Site Repair.

The Walnut Cove Reservoir site located in the Cliffs of Walnut Cove Subdivision in south Asheville off Avery's Creek and Brevard Road is in need of repair. The work involves all efforts required to repair a wall and attached fence that are in danger of failing due to a slope failure. The work shall include, but is not limited to: permanent wall stabilization and repair of failed areas of existing pavement and subgrade between the fence and the water storage tank.

Water Resources solicited four (4) quotes on September 14th, 2010, from the following firms with only two (2) contractors submitting bids:

1. David Burnette, Inc. – Leicester, NC (bid)
2. Fletcher Grading Contractors – Arden, NC (bid)
3. T & K Utilities, Inc. – Asheville, NC (did not bid)
4. Huntley Construction Company, Inc. – Asheville, NC (did not bid)

Of the two contractors that submitted bids, only David Burnette, Inc., was considered responsive in an amount of \$29,950. A construction contingency was not figured into the cost, so Water Resources added a 20% contingency for an amount not to exceed \$35,940.

This project is part of City Council's strategic plans to maintain city infrastructure.

Pro:

- Approval of the bid award will allow the City to complete the necessary repairs to the reservoir site to ensure its stability and functionality.

Con:

- Not awarding the bid may result in failure of the slope around the reservoir, which may jeopardize the integrity of the water tank.

The Water Resources Department has a Pump Stations capital project in which funds are specifically reserved for pump station and reservoir maintenance. To date, there is a balance of \$368,109.80 in that project. The funds needed for the Walnut Cove Reservoir Site Repair in an amount not to exceed \$35,940 will be moved out of the Pump Stations reserve project into a separate Walnut Cove project.

Pump Stations Capital Project	\$368,109.80
Walnut Cove Reservoir Site Repair	<u>\$ 35,940.00</u>
Amount Remaining in Pump Station Reserve	\$332,169.80

City staff recommends City Council adopt the budget amendment, in the amount of \$35,940, in the Water Resources Capital Improvement Projects Fund for the Walnut Cove Reservoir Site Repair.

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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.

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

III. PRESENTATIONS & REPORTS:

A. BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY UPDATE

Mr. Kelly Miller, Executive Director of the Buncombe County Tourism Development Authority (TDA), updated City Council on the Authority's mission, accomplishments and goals.

An overview of Buncombe County tourism includes (1) critical economic driver (a) generates nearly \$1.9 Billion in direct and indirect economic impact; and (b) compared to \$200

Million in 1983; (2) more than 2.9 Million overnight leisure visits annually; and (3) direct employment impact of more than 22,000 jobs (a) direct labor income impact is more than \$473 Million.

He said that more than 22,200 people are employed in Leisure and Hospitality related jobs in the Asheville MSA area.

Regarding tourism dollars impact on residents in Buncombe County, more than \$25 Million is generated for local government through retail and property taxes annually. Without tourism revenues, each Buncombe County household would pay approximately \$300 more in taxes each year.

Using a chart, he showed the overnight leisure visitation to the Asheville area is more than 2.9 Million. A typical visitor to Asheville is in their 50s with an income of \$100,000+, has a college or post-graduate degree, no children in the home, more than half employed full-time (1/3 retired), is married and traveling as a couple, and has internet access. Top points of origin markets include Charlotte, Raleigh-Durham, Atlanta, Greenville-Spartanburg, Tampa-St. Petersburg, Greensboro-High Point-Winston-Salem; Orlando-Daytona Beach, New York City, Washington, D.C., and Nashville. Using a pie chart, he described the main reasons for visits, which top reasons are outdoor activities, mountains/scenery, and downtown Asheville.

Using charts, he showed the historical snapshot of the numbers of the Buncombe County hotel sales by calendar year and fiscal year; hotel occupancy by calendar year, calendar year – 2005 – 2010 year to date, and fiscal year; and average daily rate (fiscal year).

The lodging forecast is (1) Smith Travel Research revises 2010 national forecast upward – to a project a 4.4% increase in occupancy to 57.1% with average daily rate expected to be flat; (2) in 2011, occupancy should climb to 57.9% with average daily rate expected to rise to \$101.55; and (3) TDA is forecasting a 5% increase in hotel sales in 2010-11. He also used a chart to show the growth in hotel rooms in Buncombe County.

Despite knowing the exact location of the rock slide on I-40, nearly a third of markets east of the rock slide expected delays and traffic issues on their normal or alternate route to the North Carolina mountains.

The Presidential visit created a higher profile for the mountain region and generated more than \$2 Million in publicity.

Regarding advertising effectiveness, (1) the TDA spends nearly half of its budget on net advertising – more than \$2 Million each year; (2) for every \$1 an estimated \$55+ is returned to the community.

He said that studies show editorial converts at a higher rate than advertising. Editorial generated through media outreach from the Conventions & Visitors Bureau includes coverage from Good Morning America, the Associated Press, New York Times, MSNBC, and multiple magazines, blogs and broadcast outlets. In 2009-10, publicity value exceeded \$5 Million.

Regarding green and sustainability efforts, the Asheville Offset Program focuses on direct sustainability of the area as a host City; volunteerism opportunities such as the river clean-up and partnership with Warren Wilson College's Insulate Program.

He said that \$14,183,500 Million has been awarded in tourism product funding through 2010. In 2010, the TDA awarded the largest single Tourism Product Development Fund grant (\$2 Million) to the City of Asheville for renovations to the Asheville Civic Center. This brings the total number of projects funded through this innovative program to 14. The total worth of these community assets total nearly \$100 Million.

Significant initiatives include (1) overhaul www.ExploreAsheville.com to inject additional video, social media efforts and interactive components (site gets approximately 2 million unique visits each year); (2) new creative advertising elements; (3) Asheville-Buncombe Regional Sports Commission; (4) Hilton Head Island partnership; and (5) DMAI accreditation.

On behalf of City Council, Councilman Davis thanked Mr. Kelly and the TDA for their initial work and follow-up work on the wayfinding signs. He also thanked them for their assistance in bringing the Southern Conference back to Asheville, along with the Product Development Fund's \$2 Million for upgrading the Civic Center.

In response to Mayor Bellamy, Mr. Miller explained how the room tax is distributed, along with the Product Development Fund application process.

On behalf of City Council, Mayor Bellamy thanked Mr. Miller and the entire TDA Board for their efforts on behalf of the City.

B. HUB ALLIANCE UPDATE

Dr. David Brown, Executive Director of the HUB Community Economic Development Alliance (HUB), updated City Council on the HUB's mission, accomplishments and goals.

He said that Mayor Bellamy, Councilman Smith, and City Manager Jackson have each attended over 75% of our 3rd Tuesday board meetings and have been significant contributors to our deliberations. In addition, all 5 of your city appointees have equal records of attendance & participation. Thank you for your trust and for our meeting place.

He said their mission is to take a longer view, to stimulate community leaders to think about what we need to be doing today in order for AVL-BC to be even better 5 years out and beyond, and to catalyze actions that will get us there. This means 3 things: (1) This means spotting opportunities for the future. Our current emphases are in creating new jobs in Climate Change, in Integrative Health, in Green industries, and in the Creative Arts; (2) This means creating systems to monitor our community's advances in jobs, economic well being, social well being, education, the environment, and cultural vitality; an (3) This means breaking down the barriers among silos --- buncombe/wnc, allopathic & CAM, business & non-profit communities, city/county, artists/performers, etc. We must work toward a consensus agenda because our resources are limited and our opportunities are manifold!

Our board and staff are entirely voluntary. Our office is virtual. Our general expenses are under \$100 per month. Currently we have no general budgetary support from either you (the city) or the county. Yet, by bringing leaders together, by highlighting emerging opportunities, by monitoring our progress --- we believe that we have had and are continuing to have substantial impact.

He hoped that Council would advise them if there are there issues or opportunities that Council would like them to pursue.

Councilman Smith explained the make-up of the HUB Alliance and explained their importance to the community.

On behalf of City Council, Mayor Bellamy thanked Dr. Brown and the entire HUB Board for their efforts on behalf of the City.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE A NEW AIRPORT ZONING DISTRICT

ORDINANCE NO. 3906 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE A NEW AIRPORT ZONING DISTRICT

Mayor Bellamy opened the public hearing at 5:48 p.m.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending the Unified Development Ordinance to create a new Airport Zoning District. This public hearing was advertised on October 1 and 8, 2010.

In March of last year, the City of Asheville received a copy of a signed resolution and cover letter from the Asheville Regional Airport Authority requesting that the City adopt specific land use/zoning ordinances for the airport property at the Asheville Regional Airport.

The Asheville Regional Airport Authority was established in 1979 as a joint governmental agency organized and created by the City of Asheville and Buncombe County, pursuant to General Statutes, for the purpose of maintaining, operating, regulating and improving the Asheville Regional Airport. The majority of the property is zoned Industrial (IND) which generally accommodates the uses associated with the airport functions; however, as a general zoning designation, it is subject to basic development standards that are designed for a wide variety of land uses occurring throughout the city. In recent years, the airport has submitted a number of modest development projects where applying basic development standards proved challenging, particularly for the aviation related projects.

Regional airports are generally recognized to be a very specialized and unique land use and it is not unusual for municipalities to apply special land use designations and standards to airport properties. There are a variety of tools that the City and the Airport Authority could consider including:

- 1) Develop and Adopt a Master Plan
- 2) Create a New Airport Specific Zoning Designation
- 3) Establish a New Authority by Special Act of the NC General Assembly
- 4) Allow the Airport to Develop their own Zoning Establish an Airport Overlay

Some of these actions require special legislation or other significant efforts. After some consideration, City staff generally agrees with the airport management that an airport specific zoning designation may be the best option available that satisfies the majority of the airports concerns while alleviating the burden of unnecessary detailed reviews applied to relatively modest projects. Both parties also recognize that the creation of an airport overlay applied to properties in proximity to the airport may also be necessary at some point in the future; however, the unique location of the airport would necessitate multi-jurisdictional cooperation that the airport would coordinate and that in which the City will participate.

Among the City Council's top priorities for the new Strategic Operating Plan was continuing to forge intergovernmental and community partnerships to implement initiatives during economically challenging times. This amendment is a joint request from the Airport Authority and City staff and will satisfy key goals for both parties. Specifically, as it relates to the City of Asheville's adopted goals and plans, this effort will help satisfy transportation and economic development goals by supporting and facilitating a healthy regional airport operation.

Pros:

- Addresses the unique needs of aviation operations while preserving standards for non-aviation uses.
- Alleviates the need for detailed reviews for relatively modest projects.

Cons:

- An overlay zoning applied beyond the airport properties is not being proposed at this time.
- Adds a new zoning district when there is interest in reducing the total number of zoning districts.
- Design review responsibilities remain with City staff expending City resources (as opposed to other options that would allow the airport to assume those responsibilities) – could be viewed as “pro” by some.

In May 2009, this item was reviewed by the Council's Planning & Economic Development Committee who supported the pursuit of an airport specific zoning designation and the participation in a multi-jurisdictional collaboration for establishing an airport overlay (at a future date yet to be determined).

The Planning & Zoning Commission reviewed this proposal at their February and March 2009 meetings where the proposal was introduced and generally supported. Final consideration was delayed to accommodate other requests to follow-through on several city-airport initiatives that could influence the final draft. This revised ordinance was reviewed and unanimously approved at the September 1, 2010, Commission meeting.

There is no direct fiscal impact to the City; however, modest reductions in time dedicated to the review of airport projects would result in minor relief to city resources.

City staff recommends City Council adopt the wording amendment creating a new airport zoning designation.

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

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

Councilman Russell moved for the adoption of Ordinance No. 3906. This motion was seconded by Councilman Smith and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER REZONING 61 TERMINAL DRIVE FROM INDUSTRIAL DISTRICT, COMMERCIAL INDUSTRIAL DISTRICT AND HIGHWAY BUSINESS DISTRICT TO AIRPORT DISTRICT

ORDINANCE NO. 3907 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REZONE 61 TERMINAL DRIVE FROM INDUSTRIAL DISTRICT, COMMERCIAL INDUSTRIAL DISTRICT AND HIGHWAY BUSINESS DISTRICT TO AIRPORT DISTRICT

Mayor Bellamy opened the public hearing at 5:55 p.m.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending the Unified Development Ordinance to rezone 61 Terminal Drive from Industrial District, Commercial Industrial District and Highway Business District to Airport District. This public hearing was advertised on October 1 and 8, 2010.

The Asheville Regional Airport Authority was established in 1979 as a joint governmental agency organized and created by the City of Asheville and Buncombe County, pursuant to General Statutes, for the purpose of maintaining, operating, regulating and improving the Asheville Regional Airport. The large majority of the property is zoned Industrial (IND) which generally accommodates the uses associated with the airport functions; however, as a general zoning designation, it is subject to basic development standards that are designed for a wide variety of land uses occurring throughout the city. In recent years, the airport has submitted a number of modest development projects where applying basic development standards proved challenging, particularly for the aviation related projects.

Regional airports are generally recognized to be a very specialized and unique land use and it is not unusual for municipalities to apply special land use designations and standards to airport properties. The creation of a new Airport zoning designation and related standards has been simultaneously proposed in order to create a more appropriate and efficient designation for the airport operations.

The purpose and intent of the new Airport zoning is stated as, "It shall be the intent of this district to encourage and support the continued operation and vitality of the Asheville Regional Airport by allowing certain airport-related commercial/industrial and recreational uses in accordance with this ordinance, state law, and Federal Aviation Administration regulations." Clearly, a specialized zoning district designed to address specific aviation needs will accomplish this more than a general use zoning district.

This rezoning was unanimously approved by the Planning and Zoning Commission on September 1, 2010, there has been no opposition to the proposal and no communications from the public regarding this rezoning.

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

Pros:

- Proposed zoning district is generally compatible with the surrounding area and does not change the allowable uses.
- Addresses the unique needs of aviation operations while preserving standards for non-aviation uses.
- Rezoning could encourage development and further job growth.

Cons:

- Requires the creation of a new specialized zoning district.

The staff recommends approval of this rezoning request.

Mayor Bellamy closed the public hearing at 5:55 p.m.

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

Councilman Russell moved for the adoption of Ordinance No. 3907. This motion was seconded by Councilman Bothwell and carried unanimously.

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C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ADD A NEW APPLICATION PROCESS TO

**ALLOW THE CONSIDERATION OF DEVELOPMENT INCENTIVES FOR
PROJECTS MEETING KEY STRATEGIC CITY GOALS**

**ORDINANCE NO. 3908 - ORDINANCE AMENDING THE UNIFIED
DEVELOPMENT ORDINANCE TO ADD A NEW APPLICATION PROCESS TO
ALLOW THE CONSIDERATION OF DEVELOPMENT INCENTIVES FOR
PROJECTS MEETING KEY STRATEGIC CITY GOALS**

Mayor Bellamy opened the public hearing at 5:56 p.m.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending the Unified Development Ordinance to add a new application process to allow the consideration of development incentives for projects meeting key strategic city goals. This public hearing was advertised on October 1 and 8, 2010.

This proposal is an outgrowth of the *2008 Affordable Housing Plan for the City of Asheville* which reflects a six-month planning effort by a diverse group of volunteers and advocates dedicated to exploring values and practices that help citizens access and maintain affordable housing. In June of 2008, the Asheville City Council reviewed and accepted this report with a recommendation for more work to continue in identifying high priority areas and possible measures that could be implemented to help accomplish recommendations included in the report and reduce barriers to affordable housing.

Following up on the direction from the Council, a smaller “working group” composed of members of the original task force was formed in the fall of 2008 and planning staff was assigned to work with them on the Plan recommendations. That effort turned out to be complicated by the divergent views of those on the working group. Because of this complexity, the group began by tackling one recommendation of the Affordable Housing Plan, a proposal that would directly address:

Recommendation #6 – for all proposed developments under 50 units, density bonuses for affordable housing should be a use-by-right, subject-to-special-requirements, not a conditional use. The special requirements should be developed with community input and should not be prohibitive or onerous.

Preliminary work on this proposal was reviewed with the Housing and Community Development (HCD) Committee in February 2009. At that time, the HCD members recognized that the Sustainable Advisory Committee on Energy and the Environment (SACEE) was similarly tasked with developing an amendment that would allow additional density in exchange for sustainable building practices. Recognizing that the two goals were very similar with strong areas of overlap, the HCD members requested that staff work with SACEE and the Affordable Housing Working Group (AHWG) combined, to develop a single application process that would satisfy both goals. After nine months work and substantial discussion, a conceptual draft was prepared.

With a few exceptions, the amendment included with this report is the agreed upon product of the AHWG and SACEE. The primary point of divergence between the two groups is where the additional density should be located. Most, although not all, members of the AHWG preferred that the density bonus application be available to all projects and potentially realized on any parcel within the City’s jurisdictional limits, while SACEE felt that density is most appropriately located within a certain proximity to transit lines and, in areas where density is part of larger vision plan such as the River District. A minority of members of the AHWG, representing neighborhood groups, strongly disagreed with the majority decision. Staff returned to HCD in September 2009 to seek policy direction and, to aid in the discussion, had produced several maps illustrating the coverage associated with distances from primary corridors (generally capable of supporting a transit line with a 30 minute frequency) and all transit lines. After reviewing the maps, the HCD

recommended moving forward with limiting the density bonus applications to those properties within ¼ mile of any transit line, not just 30 minute lines.

This proposal was reviewed by SACEE during meetings in: July 15, 2009 and June 16, 2010; and by the Planning and Zoning Commission at their meetings of July 22, 2010, and September 1, 2010. Both bodies recommended further modifications to the proposal, as discussed after the staff review.

SACEE recommended that the proposal be limited to properties within ¼ mile of road corridors with high frequency transit lines proposed. After review, this position was not supported by the AHWG or the HCD and was not included in the original amendment which included an applicability area of ¼ mile from any transit corridor.

At their July 22, 2010, meeting the Planning & Zoning Commission (after substantial public comment) requested the staff to prepare a modification to the proposal limiting the area of applicability to multi-family and commercial zoning districts, specifically excluding the single family zoning districts; and limiting applicability to areas within 1/8 mile of all high frequency transit lines. The first draft was ¼ mile of any transit line in the City of Asheville. After careful consideration, the area was significantly reduced to 1/8 mile from key transit lines. Those key transit lines include those that were identified to be high frequency lines in the City's Transit Master Plan and some of our other major corridors. Even though the high frequency may end closer to the City's core, because it's such a key corridor we extended the coverage to the end of the corporate limits. The entire total area in the City is 45.5 square miles. The areas within 1/8 mile of all high frequency transit lines (within our jurisdiction) cover 10.8 square miles. It's also important to note that the 1/8 mile also includes zoning districts that are not eligible for this application, e.g., urban zoning districts, Central Business District, specialty districts, and single-family districts are not included. That further reduces the area to 7.5 square miles, or 16.5% of the total City. The area of applicability gets narrowed significantly. Of that 16.5%, 70% is commercially zoned property. The majority of the area where these applications will be considered are developable, commercial properties within close proximity to major transit lines.

The Planning & Zoning Commission also requested staff analysis of opportunities to add pedestrian, bike and greenways plans as alternative transportation routes where additional density could be considered, and options for public notification. On September 1, 2010, the Commission reviewed the revised draft and staff analysis and approved the proposal unanimously (6:0) with the additions of portions of Broadway, Riverside and Amboy Road. The Commission was also generally supportive of the options for very light notification as described by staff but did not to include this as a requirement, preferring that this recommendation be reviewed and considered by City Council.

The proposed Unified Development Ordinance (UDO) text amendment replaces the existing Conditional Use Permit (CUP) process titled "Development standard bonuses for residential zoning districts" (commonly referred to as "density bonus" applications) with a use-by-right with standards (USSR) process applicable in all residential and commercial districts. The new proposal, dubbed "Sustainable Development Projects", in addition to changing this process from a CUP to "by right" approval includes density and other building incentives available to projects that address key City adopted goals. Such projects must, however, meet a number of basic requirements. Additionally, a menu of desirable features is included with each feature being assigned a relative value (points). Higher scoring projects are eligible for larger density bonuses and other flexible development options that allow reductions or waivers of other development requirements such as minimum lot size, setbacks, open space and height limitations. A separate, more simplified, option is offered for green building projects based on LEED (or NC Healthy Built) certification. When combined, special projects that meet both strategic goals are offered even larger bonuses. The proposed draft and menu were tested on a number of former development proposals (all approved through other applications) to determine

whether the extent of the resulting bonuses offered were relatively consistent with previous requests.

The proposed UDO amendment replaces only the conditional use permit procedures and standards for density bonus standards for development proposals of 5 or more dwelling units. This category establishes criteria under which proposals in this size category can be approved with additional density. There are other CUPs for smaller scale infill development that include duplex, triplex, and quadraplex structures. While a development proposal in this category of 5 or more dwelling units may include structure types such as a duplex, triplex, or quadraplex; no changes are proposed at this time to the CUP process for duplex, triplex, or quadraplex construction in single family zoning districts.

Some of the key differences between the new proposal and the existing process, and major elements of the current requirements and process that are being maintained in the new proposal are compared in the table below:

Existing Standard	Proposed Standard
Applications require public hearing and approval by City Council, regardless of size (projects larger than 50 units also requires review by the Planning & Zoning Commission)	Most applications reviewed administratively with no public hearing and approval by staff
Public hearing regardless of size	Public hearing only if base density is higher than a Level III threshold (50 units) or is a project larger than 70 units, regardless of base density.
Applicable only in residential districts	Applicable in multi-family residential and commercial districts
No relationship to transit proximity	Must be within 1/8 mile of a transit line, with additional points if site has frontage on corridor
No relationship to parking availability	Reductions in off-street parking when on-street parking is available, or the majority of units are 1 bedroom or efficiency size
No requirement to create good relationship with surrounding residents	"Good Neighbor Agreement" proposed, although not enforceable; but no separation requirements
No compatibility requirements other than what may be required through CUP	Compatibility requirements established in residential districts (height, size, orientation, architecture, materials, etc.)
Minimum project size 5 dwelling units	No change
Can be proposed in single-family residential districts	Not permitted in single family districts
No architectural and design requirements other than what may be required through the CUP	Very basic pedestrian oriented design and mixed use building features required.
Flexibility for off-street parking allowing it to be located in front of structures (if certain criteria are met)	No change other than the process for approval
Extent of density bonuses offered	Re-worked per committee recommendations – cutoff's are slightly different and now can combine additional bonuses for meeting both goals (affordable + green)
Relief from other basic development standards (setbacks, open space, minimum lot size, height, etc.)	No change other than the process for approval
Exceptional development and design features included	No change other than the process for approval

To summarize, the proposed wording amendment provides additional density and other incentives and eliminates the public review process for many projects to encourage the development of affordable and/or green building in the City of Asheville. Special standards are also proposed to help ensure that sustainable development projects are compatible with the surrounding areas. Again, this proposal addresses Recommendation #6 in the *2008 Affordable Housing Plan for the City of Asheville* (and a similar recommendation from SACEE), and while it indirectly supports other goals in the plan, it is not intended to:

1. Provide opportunities for smaller infill projects such as duplex, triplex, or quadraplex construction by right (Recommendation #9), or
2. Provide the structure or urban form that may be achieved through a Transit Corridor Overlay (Recommendation #22)

While not an officially adopted plan, the proposal is the result of work directly related to implementing recommendations in *The 2008 Affordable Housing Plan for the City of Asheville*. Additionally, if adopted, this proposal would help reduce barriers to affordable housing in the City as supported by the *City Development Plan 2025* (comp plan) and the *Consolidated Strategic Housing and Community Development Plan*.

Pros:

- Provides density and other incentives for residential or mixed use projects meeting key strategic city goals.
- Provides additional flexibility and relief from basic development standards.
- Allows for an administrative review of eligible projects (no public hearing); although this can also be viewed as a “con”.
- Includes compatibility requirements to help ensure the project is compatible with the surrounding area.

Cons:

- Area of applicability in residential areas is more restrictive than the current CUP process.
- Removes public notification from review process, no opportunity for public input.
- Does not address small multi-family infill projects (although other application options exist)
- Does not directly address transit corridor development.

The Housing and Community Development Committee reviewed this proposal during meetings in: February 2009, September 2009, and May 2010. The HCD recommended that it move forward to the Planning & Zoning Commission at their May 2010 meeting.

The Sustainable Advisory Committee on Energy and the Environment reviewed the proposal during meetings on July 15, 2009 and June 16, 2010. As previously noted, in 2009 SACEE recommended a restriction that sustainable projects seeking additional density be limited to those properties within ¼ mile of road corridors with high frequency transit lines proposed; but that recommendation was not supported by the AHWG or the HCD and was not included in the original amendment.

The Planning & Zoning Commission reviewed the proposal at their July 22, 2010, meeting, and directed the staff to prepare modifications to the proposal, as discussed previously. On September 1, 2010, the Commission reviewed the revised draft and approved the proposal unanimously (6:0). The Commission was supportive of options for very light notification but chose not to include this as a requirement, preferring that this be reviewed and considered by City Council.

This proposal and subsequent revisions have also been shared with a variety of interested stakeholders, the Coalition of Asheville Neighborhoods (CAN), the Council of Independent Business Owners and others included in the Planning and Development Department listserve. Opposition has developed primarily from members of CAN and individual residents of single family neighborhoods. Their initial concern was the inclusion of the single family zoning districts in the proposal; which the Planning and Zoning Commission recommended modification would alleviate. Their remaining major concern is the elimination of public notice and approval by an appointed or elected body.

Community Concerns Expressed: In the weeks preceding the writing of this staff report, a number of letters, e-mails, phone calls and voice messages from concerned citizens have been received by the planning and development office. Those comments are summarized below along with response and other considerations offered by staff (additional comments have been added as a result of the revisions generated from the Planning & Zoning Commission; some concerns and considerations are now less applicable):

1) Removal of public notification, need for staff interpretation

Response: *The specific direction given to staff was to make density bonus projects an option by-right where there would be no public hearing process. The standards proposed are intended to as objective as is practicably possible but need for staff interpretation is sometimes unavoidable and can occur in all types and ranges of applications, not just density bonus projects.*

Consideration: *A requirement for a developer sponsored meeting and/or notification of neighbors by the developer would accomplish some outreach and notification while minimizing the burden on staff resources.*

See memo dated September 1, 2010.

2) Loss of character in single family neighborhoods, inability to rely on zoning

Response: *The existing CUP process allows consideration in single family neighborhoods which is proposed to be maintained in the new by-right proposal. The new proposal requires compatibility (height, size, orientation) with the existing structures in an effort to minimize impact on the physical character of the block. Increased density; however, could result in increased activity which can affect the social character or harmony of the neighborhood.*

Consideration: *Separation requirements could be considered between projects in single family neighborhoods to help disperse projects and their impacts. This would only be recommended for single family zoning districts.*

The effects of the amendment have been further reduced through the actions of the Planning & Zoning Commission to remove single family districts from consideration.

3) Effect of, and propensity for, poorly maintained rental property

Response: *Lack of maintenance or poorly maintained properties is an occasional problem throughout all of Asheville and is not limited to rental properties. The proposed amendment would allow equally for owner-occupied units as well as rental units.*

Consideration: *There is little that can be done to address maintenance of property beyond what is required for public health, safety and welfare. However, this proposal does require the development of a "Good Neighbor Agreement" which, while not binding, has been shown to be effective in communicating reasonable expectations for new residents.*

4) On-street parking and special exceptions detracting from character/harmony of block

Response: *The City requires minimum road surface widths on roads where on-street parking is allowed. The general City position is that on-street parking is allowed anywhere where “no parking signs” are not posted and is considered a good and effective means of calming traffic on residential streets. On-street parking is public parking and will remain so with these applications. The proposed amendment does not eliminate off-street parking requirements but does allow reductions in situations where the reliance on fewer vehicles is more likely (affordable housing and 1 bedroom or efficiency units).*

Consideration: *This amendment could be modified to allow reductions only in those areas within a certain distance of a major transit corridor where reliance on alternative modes of transportation may be more realistic.*

5) Ineffectiveness and/or legal concerns over “Good Neighbor Agreement”

Response: *Legal concerns should be minimal as the Agreement is not intended to be a legally binding agreement but rather, a means of communicating reasonable expectations to new residents. Agreements are to be posted in areas where residents may see them and should be distributed to each new resident upon their entering the community.*

Consideration: *It may be possible to make these Agreements legally binding; however, this appears to be fraught with concern over legality and effective enforcement and is not recommended. Informal (non-scientific) information suggests that non-binding agreements are almost as effective as legally binding ones.*

6) Desire/need for additional public review and input, request for proposal to go to Planning and Economic Development subcommittee prior to P&Z and Council

Response: *This proposal has been discussed in two key Committees staffed by citizen volunteers for more than 12 months where significant opportunity for review and input has been offered. It has more recently been shared with other community groups who were afforded more than a month to review and provide feedback/input. Numerous comments and considerations have been offered and are reflected in this analysis and have resulted in several modifications to the draft ordinance being presented. This input has been extremely valuable and helpful. Additional time may provide the community an extended opportunity for comment; however, it is uncertain whether this additional time will result in new information or improvements that have not already been received and considered.*

Consideration: *A formal request for this item to be reviewed by PED has been requested by the community; however, this request was denied (2 of the 3 members of the HCD also belong to PED and it was felt that there had been enough review already). Nevertheless, the community may request that the Planning & Zoning Commission delay consideration to have specific issues examined and/or reconsidered.*

7) Cumulative effect of bonuses offered

Response: *Staff tested the draft ordinance on six (6) former development proposals that had all been approved through other means. To summarize, those projects did not result in significantly larger bonuses than what had already been afforded to them. Additionally, it is important to recognize that in many situations, other limitations such as building height, mass, or off-street parking requirements also effectively limit development potential of a site and just because a project is eligible for a large bonus, does not mean that they can effectively realize that bonus.*

Consideration: To better understand the cumulative effect of multiple bonuses will require additional staff time to test the effect on additional sites. The Council could direct staff to undertake such research.

8) Loopholes that will be difficult to prevent and enforce against

Response: Loopholes are something that is difficult to protect against. Even when an ordinance appears to be extremely comprehensive, the most creative and motivated individual may work very hard to find a way to avoid certain requirements.

Consideration: It is recommended that if concern over loopholes is substantiated, then an appropriate response would be to invest time in identifying the specific "loopholes" and amend the ordinance to close them. Staff is not aware of any specific loopholes that are not intentional.

9) Lack of separation requirements

Response: A separation requirement mandates a minimum distance between like projects. The current CUP application does not include a separation requirement but this can be reviewed by the staff as part of the applications on a case by case basis. The usefulness of a separation requirement is that it ensures dispersal of higher density uses, preventing a concentration of a particular use or development form in one area. The primary consequence of a separation requirement is that it can greatly limit the available land that could be considered; and the greater the separation required, the greater the limitation.

Consideration: A separation requirement could be considered but staff would recommend limiting it to single-family residential districts with a careful analysis of the minimum distance necessary to achieve the desired outcome.

Consideration of separation requirements may not be necessary now that single family zoning districts have been removed from the proposal.

10) Need for better definitions of terms

Response: Some terms are easier to identify than others. Staff agrees that the ordinance would benefit from the addition of some definitions that members of the community found confusing, and will incorporate those into the draft.

Consideration: The Community and Commission are welcome to assist with the identifying of terms in need of definitions and/or offer basic definitions for consideration.

11) Need for ties to economic development and job creation

Response: Numerous affordable housing reports for Asheville identify an enormous deficit in the amount of affordable housing needed presently. While the need for economic development and job creation is not in dispute, the need for affordable housing is just as great and imminent.

Consideration: Staff would not recommend any changes to the amendment that would tie economic development or jobs to this proposal. Also, conceptually it would be very challenging to successfully do so.

12) Impact of large projects (size and density) is not mitigated by affordability or sustainability

Response: This is not in dispute. The basic premise of the amendment is that a density incentive would be offered for projects meeting the definition of sustainable that is to be established. Such projects would be supported despite their impacts to the neighborhoods where they would be built.

Consideration: This is a philosophical and policy question that does not lend itself to alternate options.

13) Impact on the new Shiloh Neighborhood Plan

Response: Shiloh is a predominately single family neighborhood and will be largely exempt from this application. Properties within 660 feet (1/8 mile) of the Hendersonville Rd. corridor may take advantage of the new application process; however, the very large majority of this area is commercially zoned property.

Consideration: Staff has met separately with the Shiloh community and has shared with them a customized map showing the area of applicability as it specifically relates to the Shiloh Community.

14) Density should be concentrated on major corridors

Response: The 2008 Affordable Housing Plan for the City of Asheville included numerous recommendations including one calling for the creation of a transit corridor overlay that could incentive density and affordable housing through the creation of mixed use, sustainable, transit oriented development. The current proposal is not intended to accomplish the effect of a transit corridor overlay but is extended to those corridors until such a time that an overlay may be developed.

Consideration: 1) This proposal could be amended to not exclude those commercial corridors and the Commission may direct staff to initiate the development of a transit corridor overlay, or 2) This proposal could be abandoned in favor of a transit corridor overlay, or 3) These projects could be limited to areas within a specific distance of the transit corridors.

The changes as a result of the Planning & Zoning Commission's revisions appear to follow recommendation #3 to a great extent.

15) The proposed architectural and design standards can require lower quality materials and designs in some instances when that is a character defining feature of the existing homes.

Response: This was discussed with the AHWG where an option to consider alternative designs and materials was debated. To summarize, the majority opinion was to require that the existing character be maintained even if that meant sacrificing the opportunity for "higher design".

Consideration: An option could be added to the proposed ordinance for alternative materials and designs to be approved by the Planning & Zoning Commission.

The design requirements related to building materials were limited to single family zoning districts which have now been removed from consideration.

16) Enforceability of LEED Certification or Affordability requirements.

Response: The most common enforcement mechanism is to withhold a CO until a project has demonstrated full compliance. Occasionally, however, projects are discovered to be out of compliance after occupancy. When this occurs, typical enforcement action includes

providing a period to correct the violation; if the responsible party fails to correct the violation by the end of the due process period, the City will move forward with other enforcement action. The City has, depending on the circumstances, a variety of enforcement options available to them including:

- Revoking Certificates of Occupancy
- Fines and penalties for non-compliance (compliance could include a Conditional Zoning which would allow for public notification and input)
- Other legal action (suing developer for violating deed restrictions, etc.)

If for some reason we find that that the project fails to meet the commitment that was originally offered, there a number of avenues to consider, however, the course staff would take would depend largely how out of compliance the project is. If a project fails to meet its silver LEED certification by 2 points or something relatively negligible, staff may ask them to pursue a conditional zoning in front of Council to explain the challenges and see if there is support for the project standing under the level it did ultimately achieve. If it's grossly out of compliance, they would still come before Council for a conditional zoning and at that time Council can consider a wide variety of factors. There is also the normal punitive enforcement action that includes fines that could be assessed.

Consideration:

Some features are easier to enforce than others. LEED certification is not completed until the project has been completed and occupied for a period of time. In these instances, the City could consider requiring a performance bond until such a time that certification is achieved.

Staff concurs with the Planning & Zoning Commission and recommends adoption of the Ordinance proposed as it accomplishes the goals of Recommendation #6 of the *Affordable Housing Plan for the City of Asheville*, and the objectives of the majority of the Affordable Housing Working Group and Sustainable Advisory Committee on Energy and the Environment, that the staff was tasked to assist. The proposal provides development incentives for projects meeting key strategic goals.

The following individuals are opposed to excluding public comment, lack of notification to adjoining properties, including a concern that the ordinance is an illegal delegation of zoning authority:

Mr. Mike Lewis, representing the Coalition of Asheville Neighborhoods
 Ms. Teddy Jordan, resident on Normandy Road
 Mr. Jack Westall, Asheville resident
 Ms. Valeria Hoh, resident on Finalee Avenue
 Mr. David Rogers

The following individuals spoke in total support of the ordinance as presented, noting that if the development includes affordable housing, sustainable development, transit-oriented development, and other goals City Council wants to promote, then each development does not necessarily need to have a public hearing:

Mr. David Nash, member of the Mayor's Affordable Housing Task Force and member of the Affordable Housing Working Group
 Ms. Julie Mayfield, Executive Director of the Western North Carolina Alliance
 Ms. Robin Merrill, member of the Mayor's Affordable Housing Task Force
 Mr. Dane Barrager, representing the Sustainable Advisory Committee on Energy & the Environment

At 6:33 p.m., Mayor Bellamy closed the public hearing.

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

Councilwoman Manheimer moved to adopt Ordinance No. 3908 to amend the Unified Development Ordinance to add a new application process to allow the consideration of development incentives for projects meeting key strategic goals. This motion was seconded by Councilman Smith.

Councilwoman Manheimer said that this ordinance has been reviewed and revised by several committees and that is why she is comfortable with it. She reiterated that the density is increasing from 50 to 70 units so long as green building and/or affordability is provided on the project. And, she noted that these projects will not be allowed in single-family zoning districts. She would be open to (1) to consider whether or not we should exempt this ordinance from any properties subject to the slope development ordinance; (2) publicly interviewing Planning & Zoning Commission applicants to make the process of appointment more transparent; (3) requiring some kind of neighbor notification; and (4) reviewing the ordinance in a year to see how effective or ineffective it is. She believes that this ordinance will encourage green-building and building affordable housing. She liked that if the developer wants to proceed with this application, they have to comply with some design requirements for projects that we don't currently have any control over. She felt that the developer has to follow stricter rules and in exchange they get a process that is more secure for them.

Vice-Mayor Newman felt this ordinance is a positive step forward in achieving some of Council's goals of (1) growth and redevelopment on our major commercial corridors; (2) inclusion of some degree of affordable housing for projects that have major residential components; and (3) green-building. Regarding public hearings for every project, he felt public input is extremely important, but for him the question is does it make sense that the City have the same threshold for triggering a public hearing in every single part of the City. What makes sense in the terms of the threshold for triggering a formal public hearing in the Central Business District and in a low density residential area doesn't make sense to have the same standards. You can put a very significant development in the downtown or in the commercial corridor and it will blend right in. If you take that same type of development and you put it in a residential area, it would be completely out of context and would warrant a public hearing for that type of proposal. To say that the types of thresholds that should trigger a public hearing on our commercial corridors should be the same thing as in low-density residential areas, doesn't make sense from a planning standpoint.

Councilman Smith wholeheartedly supported the ordinance said that this has been a culmination of four years work. He explained how this meets some broad community values. Regarding Councilwoman Manheimer's comments, he (1) felt the slope development ordinance concern should be reviewed at a different time; (2) was supportive of the Planning & Zoning Commission interview process being expanded similar to the School Board appointment process; (3) supported notification to adjacent property owners; and (4) he preferred to see a two-year review of the ordinance.

Councilman Davis regrettably could not support the ordinance as it has a lot of good potential, however, he did not want to eliminate public comment. He felt that people elect Council to hear them and make a decision based on those opinions.

Councilman Bothwell supported the intent of the ordinance, except for eliminating public comment.

Councilman Russell agreed that we need higher density on our commercial corridors. He felt there are some corridors we need moderate price housing and wondered if this will have the long-term unintended consequence of pushing moderate and/or upscale housing out of the corridors.

When Councilman Russell asked if there was any discussion of expanding density along the commercial corridors to non-affordable housing developments, Ms. Tuch said that to be eligible for this application you either have to include some amount of affordable housing or get one of the certified greenbuilding levels. There is the possibility of having mixed housing where some is affordable and some is not.

Vice-Mayor Newman said that the City Council Boards & Commissions Committee has discussed the expanded Planning & Zoning Commission interview process. He said that if this ordinance is adopted and the UDO recommendations regarding the Downtown Master Plan are adopted, there will be definite elevated roles of the Planning & Zoning Commission in the City's planning process. The Committee discussed the interview process be similar to the School Board appointment process where specific questions are asked of the candidates and interviews are conducted in an open session. The Committee will be seeking City Council approval on this new process in the near future.

In response to Vice-Mayor Newman regarding notice requirements, Ms. Tuch said that we do have a precedent for notification. We presently require that developers notify directly adjacent property owners when alternative compliance requests for landscaping are being considered. How that works is we require that the developer send a letter to each of the directly adjacent property owners. We ask the developer to provide the City with a copy of the list of all the people who were notified as well as a copy of the letter. The letter has to include their contact information and the City's contact information. We also ask for additional information in the letter, e.g., the approximate timing of the project, basis elements of the project. etc. The property owners would receive notification before the developer makes application.

At the request of Vice-Mayor Newman, Councilwoman Manheimer and Councilman Smith agreed to the friendly amendment to include the notification requirements as outlined above by Ms. Tuch.

Mayor Bellamy said that this concept did originate out of the Mayor's Affordable Housing Task Force and she is a strong supporter of affordable housing. However, she believes in public input because they provide Council with valuable information that sometimes Council doesn't think of. If there is an outstanding project, it should stand in the midst of community review. She felt we should have density bonuses but not as a use by right at this time. She felt this is a good policy but felt we should do it in smaller steps to gain community support. She felt we could proceed with this ordinance with projects downtown, but not in our neighborhoods.

Councilman Davis moved to call the question. This motion was seconded by Councilman Russell and carried unanimously.

The amended motion made by Councilwoman Manheimer and seconded by Councilman Smith carried on a 4-3 vote, with Mayor Bellamy, Councilman Bothwell and Councilman Davis voting "no."

City Attorney Oast said that due to the vote, this ordinance will need to come back to Council at their next meeting for a second reading.

ORDINANCE BOOK NO. 26 – PAGE

Closed Session

At 7:18 p.m., Councilman Smith 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 location of the

properties are (1) Eagle Street and (2) Shelburne Road. The statutory authorization is contained in G.S. 143-318.11(a)(5); (2) 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); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Davis and carried unanimously.

At 7:45 p.m., Councilman Russell moved to come out of closed session. This motion was seconded by Councilwoman Manheimer and carried unanimously.

ANNEXATION PUBLIC HEARINGS

Urban Planner Blake Esselstyn said that this is the consideration of public hearings to obtain comment on the following two annexation areas: Coopers Hawk area and the Royal Pines area.

On July 27, 2010, the Asheville City Council passed Resolutions of Intent beginning the annexation process for the Coopers Hawk Drive and Royal Pines areas. The Annexation Services Plan for these areas was approved on August 10, 2010, and a public information meeting was held on September 13, 2010. Approximately 95 persons attended this meeting. The meeting consisted of a video presentation defining annexation in general and providing a description of the proposed annexation areas and how each meets the standards required for annexation by the State of North Carolina. The video also detailed the specific services that the City would provide to the proposed annexation areas and outlined the financing and revenue sections of the services plan. Staff members from various City of Asheville departments were on hand at the meeting to respond to questions about proposed services.

Prior to the public hearing, staff will make a brief presentation concerning each area; the Mayor should then open the public hearing for each area. As part of the presentation for the Royal Pines Area, Cathy Ball, Public Works Director, will provide Council with information concerning corrections to the approved Plan for Services. Council should hear from the public separately on each area, and the order of comments should be (1) residents of the defined area and residents of the City; (2) and then any other commentators. The staff will bring forward annexation ordinances for Council consideration at the October 26, 2010 meeting. The proposed effective date for these annexations is June 30, 2011.

Pros:

- Supports the City of Asheville's Smart Growth Annexation Program (regular program of annexations) as set forth in the City's 2025 Plan.
- Provides for an urban level of service for developed and developing areas adjacent to the existing city limits and includes those benefitting from existing City services in participation in the costs of such services.

Cons:

- There are mixed reactions from residents of proposed annexation areas, including objections for financial and other reasons.
- Phasing in services to achieve the service plans will involve skillful organization and management.

The fiscal impact of these annexations is contained in detail on pages 29-35 of the Plan for Services. General fund impact is enumerated on pages 33 and 34.

Staff will make a brief presentation concerning the annexation areas and the Mayor should then open the public hearing for the area. Council should hear from the public separately on each area. The staff will bring forward annexation ordinances for Council consideration at the October 26, 2010, meeting.

**PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE AREA
COOPERS HAWK AREA**

Mayor Bellamy opened the public hearing at 7:50 p.m.

Urban Planner Blake Esselstyn said that this is the public hearing to consider the annexation of the Coopers Hawk area. This public hearing was advertised on September 3 and 10, 2010.

He then made a brief presentation concerning the Services Plan for the Coopers Hawk area – (a) 31 parcels (or portions of parcels); (b) 41.8 acres; (c) 16 dwellings; (d) approximately 35 people; (e) residential land use; and (f) meets development test.

City Attorney Oast said that the City Clerk is required to perform certain functions under N.C. Gen. Stat. sec. 160A-49 with respect to notification of property owners, investigation of tax listings, filing of plans, delivery of certain information to the Buncombe County Board of Commissioners, etc. In addition, she has notified volunteer fire departments and solid waste haulers in the affected area. City Clerk Burleson and Urban Planner Blake Esselstyn have provided that certification for this area.

The following individuals spoke against the annexation of the Coopers Hawk area for various reasons, some being, but are not limited to: there will be no reductions in homeowners insurance premiums; there is no subsidy of water delivery to remote customers by Asheville citizens; there will be a slower fire response due to increased travel distance; they are losing a higher degree of emergency response; there is no better refuse service for new residents; certain areas will not receive trash collection; their taxes will increase by 57%; they already receive and pay for water and sewer services at the same rates as City residents; Asheville should not use annexation as a means to meet current budget problems; the City should manage the capital and operating budgets prudently; annexation public hearings should be scheduled separately so as not to have to have a long wait for their item to appear before Council; City should not forcibly annex; request for moratorium on forced annexation; and people are already financially unstable:

Mr. Mike Parentice, resident of Coopers Hawk Drive
Ms. Betty Jackson, Buncombe County resident
Mr. Alan Ditmore, Buncombe County resident
Ms. Nancy Grace, friend for resident in Coopers Hawk

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

Mayor Bellamy said that annexations are set by statutes and there is not a lot of flexibility in setting dates.

Mayor Bellamy said that consideration of the ordinance to annex the Coopers Hawk area will be held on October 26, 2010, which is also set statutorily as well.

**PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE ROYAL
PINES AREA**

**MOTION TO WITHDRAW FROM THE CURRENT PLANS FOR ANNEXATION
OF THE ROYAL PINES AREA**

Mayor Bellamy opened the public hearing at 8:12 p.m.

Urban Planner Blake Esselstyn said that this is the public hearing to consider the annexation of the Royal Pines area. This public hearing was advertised on September 3 and 10, 2010.

He then made a brief presentation concerning the Services Plan for the Royal Pines area – Royal Pines area (a) 682 people; (b) 388.7 acres; (c) 670 dwellings; (d) approximately 1,595 people; (e) residential land use; and (f) meets population density test, subdivision test and development test.

City Attorney Oast said that the City Clerk is required to perform certain functions under N.C. Gen. Stat. sec. 160A-49 with respect to notification of property owners, investigation of tax listings, filing of plans, delivery of certain information to the Buncombe County Board of Commissioners, etc. In addition, she has notified volunteer fire departments and solid waste haulers in the affected area. City Clerk Burleson and Urban Planner Blake Esselstyn have provided that certification for this area.

Public Works Director Cathy Ball clarified some inconsistencies in the Plan for Services for the Royal Pines area. In the initial Plan for Services there was some indication that we would not be providing solid waste collection or street maintenance on some of these streets. After further review, staff went back and re-looked at those areas. There are only two streets that we would not propose to do solid waste pick-up on unless the owners of the property are willing to sign an agreement, because the right-of-way does not exist for us to be able to access the property. The Plan for Services will be amended. In addition, we have sent 145 letters to all the affected property owners last week that are impacted by this change. There is no change in the cost of the Plan for Services as a result of this clarification.

The following individuals spoke against the annexation of the Royal Pines area for various reasons, some being, but are not limited to: the area will no longer contain affordable housing; additional taxes will place a financial burden on the already financially-strapped residents; don't balance the City's budget by annexing people; people can't find jobs and will not be able to pay the increase in taxes; don't annex due to current economic conditions; people in area are living in poverty or just above poverty levels; don't impose new local taxes because federal and state taxes will probably also rise; area has a lot of elderly on fixed, low and continually declining incomes; the law allows annexation, but it's not the right thing to do; this is taxation without representation; wait to consider annexation until economic times improve; City needs to take care of their current City residents before annexing more; street light burns day and night at the corner of Battery Park Avenue and Wall Street and residents don't want to have to pay for that waste; annexing some streets in the area will kill the ability for others to sell their homes; it's unfair to make some residents in the area pay City and County taxes and people on the other side of the road do not; some residents will not receive solid waste collection; annexing will cause a substantial hardship on residents; annexation is a violation of individual rights; not annexing the entire area will cause service delivery problems; will the City provide sewer service to each home; will streets be brought up to City standards; annexation will not benefit the area residents;

Ms. Deryn Blackmon, resident on Cedar Lane

Ms. Belle Reina, resident on Royal Pines Drive (presented petition "We, the citizens of Royal Pines, Arden, North Carolina, who live within the boundaries set forth in Buncombe County, stand in opposition of the proposed annexation" with over 650 names)

Mr. Mike Hinman, resident on Rathfarham

Ms. Diane LeBeau, resident on Fox Hollow Court

Mr. Tim Navaille, resident on Walnut Street

Mr. Charles Lewis, resident on Appian Way

Mr. Robert Cheek, resident on Chestnut Place
 Ms. Amy Churchill, resident on Spring Cove Court
 Ms. Joanne Watson, resident on Weston Road
 Mr. Gerald Mozian, resident on Tree Top Drive
 Mr. A.B. Wexler, resident on Pinehurst Circle
 Ms. Jane Bilello, representing the Asheville Tea Party
 Mr. Wilson Davis, resident on Sycamore Drive
 Mr. Tim Moffitt, resident on Sweeten Creek Road
 Mr. Hugh Murphy, resident on Locust Court
 Ms. Michelle Rippon, resident on Rippon Court
 Ms. Linda Murphy, resident on Locust Court (read letter from Patty Dalton who was
 unable to attend the public hearing)
 Ms. Agnes Cheek, resident on Appian Way
 Ms. Lisa Fruchtman, resident on Fox Hollow Court
 Ms. Nichol Hazzard, resident on Royal Pines Drive
 Mr. Rocky Hollifield, resident on Cedar Lane
 Mr. Larry Carter, Acting Secretary for the Rosscraggon Wood sanctuary on Sweeten
 Creek Road
 Mr. Andrew Euston, resident on Weston Road

Mayor Bellamy closed the public hearing at 9:40 p.m.

City staff responded to various questions/comments from Council, some being, but are not limited to: which roads are private and which roads will the City take over for maintenance; explain the street maintenance repair schedule; what is the City's procedure in extending sewer lines; are there any water line extensions planned for this area; what is the criteria for areas to be considered for annexation; since the City is not annexing all of the properties in the Royal Pines area, will there be confusion regarding service delivery and if not, why; explanation of the reasoning behind the boundaries in the Royal Pines annexation area; and if the area was annexed how, could the annexation take effect five years from now.

Councilman Russell moved that we withdraw from the Coopers Hawk annexation area and the Royal Pines annexation area and impose a 12-24 month moratorium on annexation plans and policies, which would allow the City to get a grasp on their own finances and give the people an opportunity to get back on their feet.

When Councilwoman Manheimer asked if the motion would be for a 12 month moratorium, she said that she would second it. Therefore, Councilman Russell amended his motion (keeping the withdrawal of the two annexation areas) that there be a 12-month moratorium on annexation plans. Councilwoman Manheimer then seconded the motion.

When Vice-Mayor Newman questioned if a motion is in order at this meeting, City Attorney Oast said that although a vote is scheduled in two week, he felt that Council can direct staff to cease pursuing the annexations thereby stopping the process. He felt Council has the authority to consider the motion at this meeting, but if it turns out that Council can't he will advise them and schedule the vote for October 26.

Councilwoman Manheimer explained that she is not interested in placing a moratorium on all annexations, but she is interested in ceasing the process on this one area. She believed there are better annexations for the City to pursue, other than these two areas.

When Vice-Mayor Newman clarified that the motion that the withdrawal was for both annexation areas, Councilman Russell said that he would be willing to amend his motion to withdraw just the Royal Pines annexation area.

Councilman Davis explained why he supported withdrawing from the Royal Pines annexation area.

Councilman Russell clarified his motion to withdraw the current plans for annexation of the Royal Pines area. This motion was seconded by Councilwoman Manheimer.

Vice-Mayor Newman doesn't agree with any of the concerns or sentiments expressed, but from a City Council standpoint this is probably the toughest issue we are charged with. The implicit opposition of people to go through an annexation is understandable. The state does go through a democratic process to set the annexation process, so he disagrees to some extent that people do not have a voice in it. However, at a local level it feels that way. In every other city around the state when areas received city water services, they are basically automatically incorporated in to the City. That is how most cities grow. Involuntary annexations happen in other parts of the State, but they are relatively rare. However, in Asheville, that process has not been used. Asheville has been urbanized, but the City limits have stayed relatively fixed for a long period of time. The City of Asheville has had by far the least annexation of any city in North Carolina over the last two-three decades. In the long-run he does not believe it is a tenable position for the City to say that we are not going to grow. He felt the City will have to do some annexations and he doesn't enjoy it, but he feels it's the right thing for the City and the right thing for the region as well. He felt that City Council needs to have a focused discussion on what our approach is on annexations and give some type of clarity to City staff. We are all aware of the financial dynamics that we are in and that the costs and services on our City are growing every year but our revenue base to support them are not.

Mayor Bellamy agreed that Council needs to re-visit our annexation policy via a worksession and provide City staff direction. The next round of annexations are scheduled to begin in January and it would be good to give staff direction on whether to proceed with that schedule or not.

Councilman Bothwell noted that he received a letter from the community association in Coopers Hawk stating that some percentage of people want to be annexed. He still believes there are good reasons for the City to annex. However, it's clear that there are a lot of affordable housing in this community, and for us to give tax incentives for builders to create affordable housing and then turn around and raise taxes for people who have affordable housing is not logical.

Councilman Smith felt that if we had more choices to grow the City, we would not use annexation. He urged the community to contact their state legislators to provide Asheville more tools to grow their City. We are stuck with a litany of bad choices in order to maintain the infrastructure in the City. He explained that cities create wealth. Eighty-three percent of North Carolina's gross domestic product is created in urban centers. That money fans out across the State to be a part of all our lives, whether we live in those urban centers or not. It's important to acknowledge that we have to maintain those urban infrastructures if we are going to keep those economic engines. That is one of the reasons why cities are important. Asheville is unique because we have well over one million tourists come into our city every year. Asheville takes more calls for emergency services per capita than any other city in North Carolina. We have 178 calls for emergency service for every 1,000 residents. The City of Charlotte receives 126 calls per 1,000 people. We have an enormous responsibility to take care of people that don't live here. The money from hotel and motel taxes does not come into the City. It goes to the Buncombe County Tourism Development Authority, which does a great job marketing to get more tourists here. However, if we have some of the same tools as other cities in North Carolina we would have a percent or two of those taxes to be able to maintain the infrastructure used by people visiting the City. We have 40,000 people who daily come into work into Asheville. Buncombe County grew by about 150,000 residents between 1950 and 2000. The City of Asheville grew by about 16,000. The City of Asheville creates about 75% of the sales taxes for Buncombe County and we are returned about 19.6% of those sales taxes. We do have a lot of infrastructure

responsibilities to maintain. He understood that people that live outside the City's limits don't want that to be their responsibility, but City Council has the responsibility to figure out a way to keep up that infrastructure. Council cut over \$6 Million from the budget in the last two years and they are belt-tightening. We provide water for customers across Buncombe County and we should be able to charge what it costs to do that. There are rules that prohibit us from doing that – uniquely to Asheville. He felt if we had some occupancy tax, or some more flexibility regarding our water system and more of our sales tax returned to us, we wouldn't have to annex.

Vice-Mayor Newman said that there are other ideas to change the rules regarding annexation, such as instituting a policy for areas involuntarily annexed that their taxes do not automatically go up to the full amount that would be paid under city taxes, but phased in over a period of time. City Council will be discussing their legislative agenda soon and he supported the idea of encouraging our legislators to support that idea. He was not sure that that middle class neighborhoods not be considered for annexation was the right thing to do for the City. If we take that tool out, then it leaves the City with few options to address long-term financial realities

Councilman Russell moved to call the question. This motion was seconded by Councilman Davis and carried unanimously.

The motion made and seconded by Councilman Russell to withdraw the current plans for annexation of the Royal Pines area carried on a 5-2 vote, with Vice-Mayor Newman and Councilman Smith voting “no.”

Mayor Bellamy said that she would schedule a worksession regarding the City's annexation policy.

At 10:18 p.m., Mayor Bellamy announced a short recess.

V. UNFINISHED BUSINESS:

A. MOTION TO REQUIRE METER ACTIVATION BY ALL ON-STREET PARKING SPACE USES IN CONJUNCTION WITH OPTIONS FOR HANDICAPPED DOWNTOWN RESIDENTS TO PARK DOWNTOWN

City Attorney Oast said that this is the consideration of options for addressing handicapped parking issues in downtown Asheville.

Earlier this year, staff began reviewing the City's policies and practices regarding parking by vehicles displaying handicapped placards or license tags (herein “handicapped vehicles”) in downtown Asheville. That review has disclosed that this is an issue with many different aspects, and differing points of view, and that addressing it will involve consideration of multiple options. This report covers only regular parking spaces, which are available for use by any vehicle, including handicapped vehicles. It does not cover designated or restricted handicapped spaces. This report also does not cover abuses and improper usage of handicapped placards. The determination of a handicap condition and the issuance of placards is done by State agencies, based on medical information.

I. Issue: Handicapped vehicles have been observed parking in on-street metered parking spaces for long periods of time - - sometimes days and weeks - - without activating the parking meters. Anecdotal information suggests that, at any given time, approximately 10 percent of the 740 metered spaces in downtown Asheville are occupied by handicapped vehicles. This use is concentrated in the northwest quadrant of downtown where there is a high concentration of downtown residents, and where business activity in downtown, including the Grove Arcade, has been growing in recent years. However, the issue is not confined to this area, and the phenomenon occurs throughout downtown.

II. Law: The law regarding handicapped parking is summarized in his Staff Report of July 27, 2010. In essence, the law allows handicapped vehicles to park in a time-limited on-street parking space for an unlimited time. If that space is a metered space, however, the law does not expressly relieve the handicapped vehicle from the requirement of activating the meter. The law is not clear, however, and there have been conflicting interpretations of it. The practice in Asheville has been to allow handicapped vehicles to park in on-street spaces, but not to require activation of the meters. Other cities in North Carolina have followed a similar practice but some, notably Raleigh and Charlotte, require that handicapped vehicles pay to occupy the space, whether by activating a meter or by inserting money in a central "pay station."

Even though maximum times have been established for parking in downtown, ranging from 30 minutes in some areas to three hours in others, this maximum limit is not well understood and has not been consistently enforced. The purpose of having time-limited spaces (metered or not) is to ensure regular turnover of the spaces, making them available for use by transitory parkers, who may only need a short time to conduct their business. Metering is a way to keep track of the time, and to generate revenue to defray the cost of administering and enforcing traffic and parking regulations. Vehicles not displaying handicapped placards are allowed to remain in a parking space for as long as the meter is activated. While revenue is generated by such use, however, a space occupied in this way is just as unavailable for on-street parking by transitory users as a space occupied by a handicapped vehicle that does not activate the meter.

The City's zoning ordinances play a part in this equation. In most areas of the City, any development projects (even single family homes) need to provide sufficient off-street parking to accommodate their anticipated uses. For developments in or (for residential uses) near downtown, however, there is no requirement that off-street parking be provided. There are several reasons for this, including (a) that the urban pattern of development (lot line to lot line) does not allow for off-street parking; (b) parking is available in the decks; (c) it encourages in-fill development and increased density, and (d) facilitates alternate modes of transportation. Despite there being no requirement for off-street parking, however, many newer developments have supplied their own parking for their building occupants.

III. Observations. These policies, practices and ordinances have combined to produce several effects:

(a) Handicapped persons who live in downtown, especially those in assisted housing who are on fixed incomes, have come to depend on the availability of free on-street parking. Similarly, handicapped individuals who visit downtown for various services (legal, medical, etc.) some times need to leave their vehicles for several hours. For individuals with handicaps, mobility is frequently an issue, and parking on the decks presents practical problems. While many handicapped individuals are willing to and can afford to activate the meters, getting back and forth to the meters is difficult and time consuming. Some individuals have dexterity challenges, and depositing a coin or token in a meter is difficult for them.

(b) Extended use of on-street parking - - on-street vehicle storage - - makes the space unavailable for businesses that depend on frequent turnover of spaces to generate business traffic.

(c) Occupancy of an on-street space by a non-handicapped vehicle for long periods of time, even if a meter is activated, reduces turnover and makes the space unavailable for transitory use.

(d) The City loses some parking revenue when a space is occupied for long periods by vehicles that do not pay. This amount is difficult to ascertain, but has been estimated at more than \$100,000 per year.

(e) Equipment and methods are available to enable handicapped vehicles to pay for extended periods of parking at metered spaces, but the equipment is expensive.

(f) A review of parking ordinances for other North Carolina cities reveals that Asheville's ordinances, while adequate, are not nearly as detailed as ordinances from other cities, which regulate more aspects of parking, such as the practice of "meter feeding," and include detailed parking schedules that are reviewed and revised regularly.

IV. Process: In reviewing this matter, my office has worked with the Transportation and Engineering Department. That process has included: (a) Several meetings and conversations with business owners, including the Asheville Downtown Association. The issue was also taken up at a meeting of the Mayor's Task Force for Persons with Disabilities. The Downtown Commission has reviewed this matter on several occasions, and Council has received an update; (b) Review of the applicable law, including State law, the Americans with Disabilities Act, and City Codes. This included a review of practices in other cities in North Carolina; (3) Exploring options for addressing the issue, including requiring meter activation in all cases, establishing zones where handicapped vehicles may park without activating the meter, making City-issued handicapped placards available for a fee, clarifying ordinances, setting aside spaces in decks and surface parking lots, and working with the operators of downtown residential facilities.

V. Options: Our research and review has revealed several options for addressing the issue. They are listed below, along with some considerations associated with the implementation of each.

- a. Require meter activation by all on-street metered parking space users.
 - This would require handicapped vehicles to pay for parking at the same rate as other vehicles, or to locate off-street or non-metered parking.
 - There would be some hardship - - financial and mobility - - on those low/fixed income handicapped individuals who have come to depend on the availability of this parking.
- b. Enforce time-limited parking as to all.
 - This should be done in any case, but especially if meter activation by handicapped vehicles will be required.
 - Will ensure more turn-over in on-street spaces, and more availability for transitory parking.
 - Will require the posting of clear information as to applicable time limits.
 - Should involve some review of parking patterns in downtown, and adjustments to the parking schedule, as needed.
- c. Establish times every day during which no on-street parking is available (for instance, 2:00 a.m. to 5:00 a.m.). This is done in larger cities to allow for trash collection, street cleaning, and snow removal, and to ensure that vehicles are not stored on the street.
 - This ensures that streets are not used for vehicle storage.
 - Disruptive to vehicle owners who need on-street parking at those times.

- d. Make City-issued handicapped parking placards available (at a cost) for handicapped residents downtown.
- Cost could approximate parking in decks, or on-street
 - This would generate some revenue.
 - This would address the mobility and dexterity issues experienced by some handicapped individuals.
 - This would obviate requirement to deposit coin or token in parking meter.
- e. Establish areas or zones on the periphery of downtown where handicapped vehicles may park in metered spaces without activating the meters.
- Areas would be “non-exclusive” - - anyone could park there, but handicapped vehicles would not have to activate the meter.
 - Require meter activation everywhere else.
 - Could be used in combination with handicapped parking placard described in Paragraph 4 above.
- f. Make reduced cost spaces available on the tops of the parking decks or in surface parking.
- This may be impractical for some handicapped individuals with mobility challenges.
 - There are not many spaces available.
- g. Ensure availability and convenience of adequate designated handicapped spaces.
- May require metering of spaces.
 - May require more action enforcement.
- h. Work with the owners/managers of downtown residential facilities to assist in providing off-street parking.
- This would likely be an added cost for the facilities.
 - This would allow exploration of non-public parking options.

VI. Public education: Any one or any combination of these options should include substantial efforts to educate the public, including businesses and handicapped vehicle operators, as to the new policies and practices. There are several resources available for doing this, including the owner/operators of the residential facilities, community organizations, warning tickets, etc.

VII. Timing for Implementation. Some of these options can be implemented almost immediately. These include a requirement for all users to activate meters, and enforcement of time limits for non-handicapped vehicles. If this is the policy direction of Council, it is recommended that there be a phase-in period so that affected parties and groups can be notified.

Some of these options will take a short time (30 to 45 days) for implementation. These include establishing non-exclusive on-street handicapped vehicle zones, and identifying the availability of spaces in the parking decks and surface lots.

Some options will take longer. These include implementation of a City of Asheville handicapped parking placard program, and reviewing and revising (if necessary) the parking schedules.

VIII. Summary and next steps. No one of these options is likely to address the issue completely, but a combination of some or all of them is likely to have some effect. There are many competing interests involved in this issue; no one group will be completely satisfied with any particular policy directive, but Council may continue making adjustments as needs dictate. Our review and suggestion of options has been with the following goals in mind.

- a. Ensuring regular turnover in on-street parking spaces, making them available for transitory parking.
- b. Making on-street parking available - - at a cost - - for those handicapped individuals (including downtown residents) who really need it, but not allow for on-street vehicle storage.
- c. Increasing utilization of off-street parking.
- d. Regular review and consistent enforcement and application of City parking ordinances.
- e. Generation of some revenue to defray administrative costs.

The ordinance structure already exists to implement some of the options listed above. Depending on Council's policy direction, staff can quickly come back with more detailed implementation information.

Mayor Bellamy said that regardless of which option(s) Council chooses to implement, staff will need to develop an education package and work to see how the option(s) can be implemented in coordination with each one.

In response to Councilman Bothwell, Transportation Director Ken Putnam said that the monthly parking rate at the Civic Center Parking Garage is \$70 a month and Vanderbilt Apartment residents are offered a monthly rate of \$35 a month. Mayor Bellamy was interested in seeing how many Vanderbilt Apartment residents take advantage of the reduced offer in the deck.

Councilman Bothwell said that it appears that Battery Park residents are the parkers who are most affected. He asked if there has been any discussion with the management of the Basilica parking lot. Mr. Putnam responded that the City has not made contact with the property managers for Battery Park or the Basilica. He noted the Battery Park Apartments do have their own lot across the street from Haywood Street tucked in between a couple lots owned by the Church.

Mayor Bellamy said that the surface lot next to the Flying Flog that the City owns is technically just as close to Battery Park as the on-street parking is that they are currently utilizing. Mr. Putnam said that there are several monthly parkers in that lot but that is a City surface lot.

Mayor Bellamy was interested in looking at a permit only section on O. Henry Avenue (close to the AT&T lot) for Battery Park residents, similar to what we do on Woodfin Street. That would provide some additional guarantee of parking for residents of the Battery Park Apartments,

as well as some revenue for the City. She did talk to some Battery Park residents that supported that idea in that it would meet their needs.

Mr. Putnam said that there is also a permit-only section on Grove Street. The City works with the management of the residential unit and they determine how many spaces they need and it's up to them to hand it out to their residents.

Vice-Mayor Newman pointed out that we don't want to use high demand on-street parking for long-term car storage. He felt that some of those spaces on O.Henry would have heavy turnover.

Mayor Bellamy felt that in order to address the needs, there needs to be a combination of options. She suggested we look at all the options for a good package. In addition, she felt there should be additional accessible parking spaces in our decks for those who are handicapped.

In response to Councilman Russell, Mr. Putnam said that handicapped spaces in the parking decks are not a problem and we do follow the Building Code requirements. He said that the City does have the appropriate designated handicapped spaces close to the door. He said that he would look at creating more spaces in those areas. He noted that the Civic Center Parking Garage does not fill up on a day-to-day basis. The difference is if you park in the deck, they will have to pay to get out. There is no distinction made between someone who may have used a handicapped parking space inside the deck.

Councilman Smith was interested in reduced rates, if not in the parking garages then on the surface lot next to the Flying Frog, if it is currently available. If someone in the future ends up owning that lot, he hoped we could continue to work with them to continue that sort of parking for people in the Battery Park Apartments. He does not support long-term car storage at metered spaces, but around the high traffic business area we need to provide some parking proximity. He hoped to be able to use the existing parking meter enforcement personnel to make this work. He suggested staff consider a seasonal parking plan, e.g., January-March when sidewalks would be icy people could park closer to their homes.

Councilman Davis supported meter activation by all on-street metered parking space users. He felt that option was equitable. It is important, however, to look for alternative spaces for those Battery Park residents, but he noted that there are other handicapped parkers around town who use metered parking spaces for long-term storage as well. All parking spaces are valuable to the merchants and residents and they should not be used as storage. He did want to make sure that there are adequate handicapped spaces.

Councilman Russell agreed with Councilman Davis.

Councilwoman Manheimer moved to require meter activation by all on-street parking space users (option a). This motion was seconded by Councilman Russell.

In response to Councilman Russell, City Attorney Oast suggested a 30-day period to begin implementation as he understands that the merchants are anxious to have the parking available during the holidays.

Councilman Smith offered a friendly amendment to not begin implementation until we also have a deck or surface lot solution for disabled residents. Mayor Bellamy suggested we postpone taking action on this friendly amendment until all the options have been discussed.

Councilman Manheimer and Councilman Russell re-stated their motion to require meter activation by all on-street parking space users (option a) no sooner than 30 days of its adoption.

Vice-Mayor Newman offered a friendly amendment that option (a) be implemented with some combination of option (e) (establish areas or zones on the periphery of downtown where handicapped vehicles may park in metered spaces without activating the meters) and option (f) (make reduced cost spaces available on the tops of the parking decks or in surface parking). Councilwoman Manheimer and Councilman Russell accepted the friendly amendment.

Mayor Bellamy suggested that Council also consider, in combination with the other options (a), (e) & (f), option (d) (make City-issued handicapped parking placards available at no cost for handicapped residents downtown).

Councilman Russell felt that option (a) is pretty simple instructions and suggested we have staff work on the other options and report back to Council.

Mayor Bellamy felt that option (a) focuses on meeting the needs of the merchants and not really meeting the needs of the handicapped. She just wanted to make sure that we have places for the disabled to park.

Councilman Russell felt the property managers need to take a lead on this since this is their property and their residents. He felt the City should work with the property managers on solutions.

Mayor Bellamy felt there is a conflict in our policies, in that, we have a policy of no required parking for residential developments in our Central Business District, and now we have a policy about how we are handling people with disabilities who have a handicapped placard. She felt we need to offer solutions to people who have disabilities that live downtown full-time and can't afford the current monthly rates for our parking decks.

In response to Councilwoman Manheimer, City Attorney Oast explained option (d). He said that in order to address the issue of some people who have mobility or dexterity challenges and can't go back and forth to feed a meter, which they are allowed to park at all day as long as they activate the meter, you could have a City-issued placard for downtown residents that would come at a cost, which would allow them to park on the street in a metered space.

Councilwoman Manheimer withdrew her motion.

Councilwoman Manheimer then moved to require meter activation by all on-street parking space users no sooner than 30 days of its adoption; and to allow a City-issued handicapped parking placard be issued, pursuant to an application, to downtown handicapped residents to park in parking decks at a less than full rate; and to include the establishment of areas or zones on the periphery of downtown where handicapped vehicles may park in metered spaces without activating the meters. This motion was seconded by Vice-Mayor Newman.

Mr. Clarence Gray, resident of Battery Park Apartments, said that the Battery Park is the only building that has zero parking facilities that you don't have to pay for. There is a parking meter every ten feet. We have one street that doesn't have meters on it and it has no parking signs on it. We surveyed our building and talked to 80% of our residents - 49% of the residents have vehicles, 43% are disabled, 37 have handicapped placards, and 33 said they need to park close to the building. For many of the handicapped residents they cannot walk to the Civic Center Parking Garage. He said that all of the Battery Park vehicles have their sticker in their vehicle window. When the lease is signed and you have a vehicle, you get a sticker. He said there are 7-9 vehicles that are Battery Park residents who park on the streets.

Ms. Shirley Early, resident of Battery Park Apartments, said that she is in a wheelchair most of the time and cannot walk to and from the Civic Center Parking Deck. The Apartments have too many cars and not enough spaces allotted for them. People will have no choice but to move from Battery Park if they cannot park their vehicles close-by. She felt that a lot of the

spaces are taken up by people who work in the vicinity of Battery Park and feed the meter all day long.

Ms. Holly Stiles, staff attorney representing the Disability Rights of North Carolina, said that Disability Rights of North Carolina did an accessibility survey on August 18, 2010, of the Wall Street, Rankin Avenue and Civic Center Parking Decks and none of the City decks currently meet Americans with Disabilities Act guidelines.

Ms. Rose Logan Weaver Walker, resident of Battery Park Apartments, urged Council to provide parking for the Battery Park residents as they cannot move their car every hour or two.

Ms. Raelin Hanson gave a brief history of the Battery Park Apartments and felt that now since the Grove Arcade has been renovated they want the residents gone. She hoped Council would proceed with the surface lot next to the Flying Frog option and presented Council with some sketches of how to use that lot. She felt this would address the issue of parking for handicapped downtown residents and also address additional green space downtown.

Mr. Joe Minicozzi, Executive Director of the Asheville Downtown Association, said that this conversation stated approximately 4 years ago. They performed a study and found that 10% of cars are being stored on the downtown streets, which represent approximately \$160,000 in lost revenue. He said this is not just about the Battery Park Apartments, but in several areas throughout downtown. He asked that if the City chooses the City-issued placard system, that they find a way to close the door on abuse. He urged City Council to move forward on option (a) as recommended by the Downtown Commission.

Mr. Bill Griffin, representing the Grove Arcade Merchants Association, explained that they have tried to be a good neighbor (as does the Battery Park Apartment residents) but the parking issue around the Grove Arcade is important to everyone. Downtown merchants have had a rough time during the past two years and every shopper that they can get to downtown, they want them to have an opportunity to park and shop. They asked Council to find a solution that would both free up spaces on the street for short-term metered parking, while at the same time finding adequate parking for the residents of Battery Park and Vanderbilt Apartment residents and others with handicapped placards downtown.

Ms. Karen Harrington, Chair of the Mayor's Committee for Citizens with Disabilities, thanked Council for inviting them to be a part of this discussion regarding handicapped parking in downtown Asheville. She felt it was a very passionate subject for both sides and trusted Council will do the fair thing for both sides.

After a short discussion, Mr. Putnam said that he would work toward bringing a report to Council within 30 days of how he will implement meter activation by all on-street parking space users no sooner than 30 days of its adoption, in conjunction with allowing a City-issued handicapped parking placard be issued, pursuant to an application, to downtown handicapped residents to park in parking decks at a less than full rate; and including the establishment of areas or zones on the periphery of downtown where handicapped vehicles may park in metered spaces without activating the meters

The motion made by Councilwoman Manheimer and seconded by Vice-Mayor Newman carried unanimously.

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

RESOLUTION NO. 10-221 – RESOLUTION APPOINTING AN ALTERNATE MEMBER TO THE BOARD OF ADJUSTMENT

The following individuals applied for a vacancy (Alternate) on the Board of Adjustment: Diane Meek, Jeffery Quick, Eugene Britton, Bill Branyon, Richard Fort, Eric Rainey, Nelda Holder and Ron King

Vice-Mayor Newman said that the Boards & Commissions Committee recommended appointing Richard Fort.

Vice-Mayor Newman then moved to appoint Richard Fort to serve the unexpired term of Kristy Carter, term to expire January 21, 2013, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 229

RESOLUTION NO. 10-222 – RESOLUTION APPOINTING MEMBERS TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

The following individuals applied for vacancies on the Homeless Initiative Advisory Committee: Allison Browne, Jeff Paul, Christopher Winebrenner and Laura McIlvanie.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Scott Rogers, David Nash and Gerald Hixson. Since Mr. Rogers' attendance was below the 75% attendance requirement, it was the consensus of the Committee that in the reappointment letter that Mr. Rogers be made aware of the attendance requirements. In addition, City Clerk Bureson was instructed to write a letter to Chairman Nash to explain that Mr. Rogers' attendance will be reviewed in one year to see if his attendance increases and if not, City Council will consider replacement.

At Mayor Bellamy's suggestion, it was the consensus of Council to include in Mr. Rogers' reappointment letter that since his organization's involvement with the Committee is so valuable if he is unable to attend a meeting that he send a proxy.

Councilman Smith then moved to reappoint Scott Rogers, David Nash and Gerald Hixson to each serve a three-year term respectively, terms to expire November 1, 2013, or until their successors have been appointed. This motion was seconded by Councilman Russell and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 230

RESOLUTION NO. 10-223 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART BOARD

The following individuals applied for a vacancy on the Public Art Board: Shad Marsh, Kathleen Lyons, Jeanna Maines, William Meller and Nancy Sokolove.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended appointing Nancy Sokolove.

Councilwoman Manheimer then moved to appoint Nancy Sokolove to serve an three-year term, term to expire June 30, 2014, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 231

RESOLUTION NO. 10-224 - RESOLUTION APPOINTING A MEMBER TO THE RIVER DISTRICT DESIGN REVIEW COMMITTEE

The following individuals applied for vacancies on the River District Design Review Committee: Philip A. Ellis, Michael McDonough, Stuart Smith and Darren Green.

Vice-Mayor Newman said that the Boards & Commissions Committee recommended reappointing Marty Black (owner of property within the River District) and re-advertising for the second vacancy of an owner of property within the River District.

Councilwoman Manheimer moved to (1) reappoint Marty Black (owner of property within the River District) to serve an three-year term, term to expire September 1, 2013, or until his successor has been appointed; and (2) re-advertise for the second vacancy of an owner of property within the River District. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 232

RESOLUTION NO. 10-225 – RESOLUTION APPOINTING A MEMBER TO THE SOIL EROSION/STORMWATER REVIEW COMMITTEE

The following candidate applied for the positions on the Soil Erosion/Stormwater Review Committee: Ter MC Spinner.

Vice-Mayor Newman said that it was the recommendation of the Boards & Commissions Committee to appoint Ter MC Spinner (City resident or an individual who resides in the extra-territorial jurisdiction area)

Councilman Russell moved to appoint Ter MC Spinner (as a City resident or individual who resides in the extra-territorial jurisdiction area) to serve a three-year term, term to expire November 1, 2013, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 33 – PAGE 233

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

The following claims were received by the City of Asheville during the period of September 17-30, 2010: Frontier (Water), Mary Avery (Streets), Eric Edwards (Water), Steve Brown (Parks & Recreation), Pinecliff Condos (Water), Progress Energy (Water), Cody D. Moliterno (Police), Robert D. Gaddy (Police), Tom Reynolds (Streets) and Georgia Miles (Parking Services). These claims have been referred to Asheville Claims Corporation for investigation.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 11:28 p.m.

CITY CLERK

MAYOR