

Tuesday - May 5, 1998- 3:00 p.m.

Worksession

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr.; Councilman M. Charles Cloninger; Councilman Earl Cobb; Councilwoman Barbara Field; Councilman Thomas G. Sellers; and Councilman O.T. Tomes; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Mayor Sitnick announced that City Council has a 5:30 p.m. tour of the Hillcrest pedestrian walkover bridge and a 6:00 p.m. Hillcrest community meeting scheduled so City Council will be on a tight timeframe during the worksession.

### **CONSENT:**

#### **Budget Amendment and Awarding of Bids for Cab & Chassis for Fire Department**

Summary: Pursuant to N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish a cab and chassis for the Fire Department. The new cab and chassis will be a replacement for the 1980 Ford cab and chassis portion of the hazardous material rig. The following two bids were received as follows:

Carolina Truck Center, Hickory, NC \$32,968

Matthews Ford Inc., Asheville, NC \$33,400

Bids have been reviewed for technical compliance to specifications by the Fire Department and the Fleet Management Division, and their concurrence received in the following recommendation.

In addition to determining compliance to specifications, the evaluation of bids also considers the time specified in the proposals for the performance of the contract. The low bidder, Carolina Truck Centers, Hickory, N. C., is not recommended to receive award because of the length of time they require for delivery. The recommended award is to the second low bidder with the best delivery.

The budget amendment authorizes a transfer of funds from the Fire Department's appropriations for fleet management charges to a capital outlay account in the Capital Reserve Fund.

Subject to Council's approval, it is recommended that the bid be awarded to the second low bidder, Matthews Ford Inc., Asheville, N. C., in the amount of \$33,400.00 for the purchase of a 1999 'Ford' model F800 cab and chassis and adoption of the budget amendment.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

#### **Public Hearing Set to Demolish 22 Sulphur Springs Road**

Summary: The consideration of a resolution setting a public hearing for the demolition of 22 Sulphur Springs Road for May 26, 1998.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the

City Manager to place this item on the next formal City Council agenda. -2-

### **Grant Co-Application to the Economic Development Administration to Renovate 1st Floor of Grove Arcade Building**

Summary: The consideration of a resolution authorizing submission of a grant application to the U.S. Economic Development Administration ("EDA") for \$1,000,000 to renovate the First Floor of Grove Arcade Building as a public market.

The City of Asheville and the Grove Arcade Public Market Foundation will be co-applicants in applying to EDA for \$1,000,000 through the Public Works Impact Program. The funds will be used to renovate the First Floor of the Grove Arcade building into a public market. The EDA funds will be matched by \$1,000,000 City of Asheville Certificates of Participation to fund a portion of the renovation of the First Floor area of the Grove Arcade.

City Manager Westbrook responded to various questions from Council relating to the grant application.

Councilman Cloninger said that he has a conflict of interest on this item and requested that it be placed on the regular agenda at the next formal City Council meeting.

### **HUD CONSOLIDATED PLAN**

Mr. Marvin Vierra, Community Development Director, said that the City will be applying for \$1,537,000 in CDBG and \$1,047,000 through the HOME program for the coming year. Anticipated program income will increase available revenue for CDBG activities by \$303,400.

Council action will authorize submittal of Consolidated Plan to HUD. Deadline for submittal is May 15, 1998. The Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs.

The City's Housing and Community Development Committee has reviewed applications from Agencies for CDBG funds and recommends CDBG funding allocation as described on the proposed project listing. The Asheville Regional Housing Consortium has reviewed applications from Agencies and local governments for HOME funds and recommends HOME funding allocation as described on the proposed project listing.

A summary of the proposed Consolidated Plan was published in the Asheville-Citizen Times on March 27, 1998 requesting public comment to be submitted to the Community Development Division by April 30, 1998. Three community public hearings have been conducted by the staff on the Consolidated Plan.

Council briefly discussed the home ownership zone application process.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

### **WNC REGIONAL AIR POLLUTION CONTROL AGREEMENT**

Fire Chief John Rukavina said that Buncombe County Manager Wanda Greene has requested that the City of Asheville to terminate its agreement with the Western North Carolina Regional Air Pollution Control Agency in favor of Buncombe County's offer to assume management of air pollution control services in Asheville.

Western North Carolina Regional Air Pollution Control Agency (WNCRAPC) is an agency established by an interlocal agreement between the City of Asheville, Buncombe County and Haywood County. The agreement is a continuing agreement, providing for termination on 120 days' notice on the part of any of the parties to the agreement.

Buncombe County is proposing the elimination of WNCRAPC as an interlocal-agreement agency, and to assume management responsibility for delivery of WNCRAPC services in all of Buncombe County (including Asheville) and Haywood County.

Staff has reviewed the WNCRAPC rules and regulations as currently applied in Asheville, and believes that there will be no substantial difference in the rules and regulations that would be forced—and the manner of their enforcement—if the entity providing enforcement services is a department or division of Buncombe County government, rather than an agency created by interlocal agreement. Based on this assessment, staff has recommended to the City Manager that the City of Asheville accept Buncombe County's offer to assume management of air pollution control services in Asheville as currently furnished in WNCRAPC.

The agreement provides for 120 days notice of withdrawal from the present agreement, but Buncombe County proposes that all parties agree to a waiver of the 120 day notice requirement.

The Fire Chief, in consultation with the Director of Building Safety, recommends that the City Council adopt the resolution to provide notice to withdraw from the current WNCRAPC effective July 1, 1998.

Mayor Sitnick was concerned that the lines of communication might not exist since the City would lose their ability to appoint members to the Board. She wanted to be assured that the City would continue to have the opportunity to get reports on the number of permits issued, problems with enforcement within the City, etc.

County Manager Wanda Green said that they would send Council minutes of the Board meetings and quarterly reports of the permits issued. She said that she would make sure that one Buncombe County appointee on the Board will be a City resident. She stressed that they are trying to make this administratively easy and they are looking to start a regional approach to air pollution control.

Upon inquiry of Councilwoman Field, Ms. Greene said that the City would not see a change in how the Board (after it is re-worked) interacts with the City's one stop permitting process.

Upon inquiry of Mayor Sitnick, Ms. Greene said that they do not want the function to go back to the State because they want to keep the local influence here because you might not get as much attention as you might like to have with the State.

When Mayor Sitnick asked what the City's fiscal impact would be, City Manager Westbrook said that there would be none - that the only impact would be the two appointments City Council makes to the Board.

Councilwoman Sitnick asked if the Boards and Commissions Committee could look into the possibility of City Council making the County's appointments (of County residents) to the Planning & Zoning Commission and the Board of Adjustment, since the County is willing to make one of their appointments to the new Board a City resident.

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Mayor Sitnick and Vice-Mayor Hay both felt that since the City is being asked to relinquish input on the Board, they would like the opportunity to think about the issue a little more.

It was the consensus of City Council that this issue be tabled until the Boards & Commissions Committee could discuss it. After the Committee meets, they will come back to Council with a report and their

recommendation.

## **REQUEST TO APPROVE OPTION TO PURCHASE PROPERTY LOCATED OFF TOLULA LANE**

Mr. Ed Vess, Field Services Coordinator, said that this is consideration of a resolution approving an option to purchase an approximate two acre parcel of property along Town Branch tendered by Victoria Investment Company ("VIC").

Victoria Investment Company has tendered an Option To Purchase a 2.0 +/- portion of East Riverside Park along Town Branch.

The subject parcel is located off Tolula Lane at the rear of and adjacent to a medical office facility owned by VIC and occupied by Mountain Neurological Center, P.A. The proposed Option will allow VIC to explore the feasibility of purchasing the property for construction of additional parking for its current property. It will be necessary for VIC to petition for a change in zoning from RS-8 to Institutional. The Option will make it possible for VIC to initiate the process.

The stated purchase price in the Option is \$45,000.00; however, the purchase price shall not be less than the appraised value and is subject to City of Asheville's Real Property Disposition Policy and the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269. The Option is also subject to VIC being the successful bidder.

Approval of the resolution will authorize the Mayor to sign the Option To Purchase and initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

City of Asheville Parks and Recreation Department's and Community Development Division's staff recommend adoption of this resolution.

Mayor Sitnick asked who pays for the appraisal. Mr. Vess explained that they City pays for the appraisal and the other party pays for the survey of the property. Mayor Sitnick felt that is the City is approached by someone to sell a piece of property, perhaps they should pay for the appraisal or maybe a share of the cost. Mr. Vess said that whoever pays for the appraisal gets to choose the appraiser and the City would like to have that control. He said that an appraisal of this property would cost approximately \$700.

Councilman Cobb felt that the \$45,000 might be too low for that piece of property. Mr. Vess said that he met with the Parks & Recreation Director and that figure is based on previous sales of property in the area, the amount of property, the limited access and the topography of the property. He stressed that this is only a starting point - noting that the purchase price shall not be less than the appraised value and also subject to the upset bid process.

At the request of Councilman Cloninger, City Attorney Oast was asked to investigate a possible conflict of interest in this matter.

Mr. Phil Carson, attorney representing VIC, spoke in support of Council approving the Option to Purchase. -  
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It was the consensus of Council, and agreed upon by Mr. Carson, that the City and VIC share in the cost of the appraisal with Mr. Carson stating that they would be happy to let the City choose the appraiser.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

## **LEGISLATIVE PROGRAM**

City Attorney Bob Oast said that reviewed the following several items that Council may want to include in their 1998 legislative program:

1. Enactment of legislation that would enable the Asheville-Buncombe Community Relations Council to handle local employment discrimination complaints currently handled by the EEOC in Charlotte;

He explained that complaints alleging discrimination in employment on the basis of race, color, religion, sex, national origin, disability or age are currently filed with the Charlotte office of the EEOC.

The Asheville-Buncombe Community Relations Council is seeking to obtain a designated EEOC status, which would give it the same powers on the local level as the federal agency in Charlotte. ABCRC feels that this would take some of the burden off the EEOC office and help clear the backlog of complaints, enable local employer/employee disputes to be resolved much more quickly, and provide an additional source of funding to ABCRC and thereby decrease its dependency on the city and county.

The draft legislation would authorize Asheville to adopt an ordinance providing for the handling by ABCRC of EEOC complaints in Asheville.

Mr. Bob Smith, Executive Director of ABCRC, spoke in support of this legislation.

2. Amendment of G.S. 136-27.1 to provide for payment of relocation costs of water and sewer lines belonging to water or sewer systems organized pursuant to G.S. 160A-462 (local modification for Buncombe and Henderson counties);

He explained that G.S. 136-27.1 requires the state Department of Transportation to pay the nonbetterment cost for the relocation of water and sewer lines of certain entities when the lines are located within an existing state highway right-of-way and must be relocated for a state highway improvement project. These entities include nonprofit water or sewer associations or corporations, as well as water or sewer systems organized pursuant to G.S. 162A.

The Asheville-Buncombe Water Authority, which was organized pursuant to Article 20 of G.S. 160A rather than G.S. 162A, does not fall in any of the categories for which DOT is required to pay relocation costs. Therefore, when a state highway improvement project requires that its lines be relocated, the Water Authority does not receive reimbursement for this expense.

The draft legislation, which is written as a local bill for Buncombe and Henderson counties, would add a new category to G.S. 136-27.1, requiring DOT to pay relocation costs for lines constructed by a water or sewer system in those counties which was organized pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes.

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3. Amendment of Section 8 of the Charter (Meetings generally; member's oath) to delete the requirement that city council meetings be held no less frequently than once each week;

He explained that Section 8 of Asheville's charter contains a requirement that the city council meet no less frequently than once each week. Without this charter provision, Asheville would be able to follow G.S. 160A-71, which permits city councils to decide for themselves how often they need to meet. The draft legislation would amend Section 8 to delete this requirement.

4. Amendment of Section 18 of the Charter (Ordinances and resolutions – Revision or amendment) to make it apply only to ordinances, not resolutions, and to remove the requirement that the original ordinance be

specifically repealed.

He explained that Section 18 of Asheville's charter contains the procedure for amending ordinances and resolutions. The draft legislation would amend this section to refer only to ordinances, not resolutions, and would remove the requirement that the original ordinance be specifically repealed.

The General Assembly will convene on May 11. The deadline for submitting local bills for drafting will be May 20, and the last day to introduce local bills will be May 27.

Mayor Sitnick asked if the City could introduce some type of legislation to regulate the towing of cars by a local towing company from private parking lots. She said that the City is currently working on creating a provision in our ordinance that requires standardization signage on privately owned lots, i.e., placement, size and information on the sign.

City Attorney Oast explained that there are some state laws that regulate the towing industry and he would investigate that and report back to Council. However, he didn't think the setting of towing fees is possible because that can only be enacted through state-wide legislation.

Councilman Cloninger felt that we should concentrate on what we know we can regulate and that's adequate signage.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

## **REPORTS FROM BOARDS & COMMISSIONS**

Vice-Mayor Hay, Chairman of the Boards & Commissions Committee reported on the following:

### **River District Design Review Committee**

After the deadline application of May 13, 1998, the Boards & Commissions Committee will meet and make further recommendations to City Council.

### **Asheville Film Board**

The Committee recommends the vacancies on this Board be placed on the next quarterly appointment process.

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### **Planning & Zoning Commission**

The Committee recommends that the vacancy left by Jim Torpey be placed on the next quarterly appointment process. However, Councilman Sellers (liaison to the Commission) will talk with the Chairman and the Planning & Zoning Director to see if a replacement will need to be appointed prior to that time.

### **Downtown Commission**

The Committee recommends that the vacancy left by Beth Lazer be placed on the next quarterly appointment process.

### **Bele Chere Commission**

The Committee recommends not making appointments at this time. The Parks & Recreation Director will be

reporting back to the entire Council on what form the Commission should take.

### **City Business & Development Commission**

The Commission has not met since November 1997. Since City Council will be reviewing the Economic Development Plan in the future, the Committee recommends waiting for the consultant's recommendation relative to the structure of the Commission.

### **Housing Authority**

This appointment will be made by the Mayor.

### **Residency requirements for Board applicants**

Discussion surrounded whether the City should continue to proceed with the written guidelines that all appointees should be residents of the City or the extraterritorial jurisdiction or own property in the City.

It was the consensus of Council to have staff bring back an alternative to the policy that City Council intends to appoint City residents, except in extenuating circumstances that will be determined on a case-by-case basis.

### **BOARDS & COMMISSION INTERVIEWS NEEDED**

It was the consensus of Council to instruct the City Clerk to arrange interviews with Michael Hootstein and Nelda Holder for the WNC Regional Air Pollution Control Board; with Charles Parker, Marilyn Nason, Linda Snyder, Albert Anderson, Clay Dover, Bill Moore and Marion Todd for the Airport Authority; with Charles Lemak, Betty Budd and Fairfax Arnold for the Citizens/Police Advisory Committee; with Bill Fulp and Wendell Craig for the Civil Service Board; and Joyce Dorr, Christopher Slusher, Scott Fowler, Murial Gomez and Paul Hornyak for the Civic Center Commission.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to appoint Forrest MacGregor, Kasty Lavten, Regina Lusk and Philip Ackerman to the Tree & Greenway Commission.

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It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Deanna Kraft and Linda Wiggs to the Carriage Permit Advisory Committee.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Stephanie Cooper, Michael Keleher and James Lewis to the Police Officers and Firefighter's Disability Review Board.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Brian Peterson, Betty Lawrence and Chris Knorr to the Asheville-Buncombe Historic Resources Commission.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Carl Mumpower and Laverne Laney to the Civic Center Commission.

### **I-26 CORRIDOR BRIEFING**

City Manager Westbrook suggested that City Council be briefed by the N.C. Dept. of Transportation (NC DOT) now and then again in November when their Environmental Impact Statement is complete on the I-26

Corridor.

Councilman Cloninger asked that at the meeting that the NC DOT provide the City with a timeline of when certain decisions have to be made. That way, if the City wants input on a particular item, they can't say that the City is too late in making their request.

Mayor Sitnick requested that the NC DOT have available at the meeting the consolidated map. She also understood that RiverLink has the ability to show alternate routes of the I-26 Corridor and asked Mr. Ron Fuller to contact RiverLink to see if that can be made available at the meeting.

It was the consensus of Council to meet with the NC DOT as part of a worksession in the William F. Wolcott Jr. Building.

### **TOUR OF THE URBAN AREAS AROUND THE CITY**

Councilwoman Field said that because there has been a verbal commitment not to look at annexations for a year from when the discussions started, she recommended canceling the tour of the urban areas around the City that was scheduled for Tuesday, May 12, 1998, from 1:30-5:00 p.m.

Councilwoman Field moved to cancel the tour of the urban areas around the City that was scheduled for Tuesday, May 12, 1998, from 1:30-5:00 p.m. and reschedule it in late fall. This motion was seconded by Councilman Sellers and carried unanimously.

### **RESIGNATION OF TRAFFIC ENGINEER**

City Council suggested that the new Traffic Engineer be innovative and familiar with some of the things City Council is committed to, e.g., traffic calming and walkable communities.

### **CITY COUNCIL MEETINGS**

Mayor Sitnick asked City Council to think about some ideas about how Council might cut down on the length of their meetings, without cutting down on public participation. She said that staff is moving forward with ways to consolidate staff and consultant reports. -9-

### **RALPH BISHOP**

Mr. Ralph Bishop questioned the Council's authority to amend the City Charter. City Attorney Oast responded that he would be happy to provide Mr. Bishop with the appropriate statute.

Mr. Bishop also questioned comments from the public at worksessions. Mayor Sitnick explained that she does allow people to speak at worksessions for points of clarification and if they have questions. At this particular worksession, however, she noted that at the beginning of the meeting that City Council has a tour scheduled at 5:30 p.m. and they would be on a tight timeline. She stressed that the meeting is very open.

At 4:50 p.m., Mayor Sitnick adjourned the meeting until a 5:30 p.m. tour at the Hillcrest Apartments pedestrian walkover bridge at 100 Atkinson Street. Following the tour, at 6:00 p.m., City Council will be holding a community meeting at the Carl Johnson Hillcrest Community Center located at 100 Atkinson Street.

### **HILLCREST COMMUNITY MEETING**

At 6:00 p.m., City Council held a community meeting at the Carl Johnson Hillcrest Community Center. Mayor Sitnick said that the Asheville City Council wanted to meet with the residents of the Hillcrest Apartments to



discuss the status of the pedestrian walkover bridge. She then gave the following brief background on this issue as the City Council understands it.

In November 1994 at the request of the residents of Hillcrest, the Housing Authority and the City of Asheville, the Hillcrest pedestrian walkover bridge was closed by the North Carolina Department of Transportation ("NC DOT"). The reason for the closure, as requested by the residents of Hillcrest, was to prevent the walkover bridge from being used as an entrance by drug dealers into the Hillcrest neighborhood. With the closure of the bridge, walk-in, street-level drug transactions on the south end of the complex were all but eliminated. Many people feel closure played a large part in helping stem the flow of drug sales in the development. With the recent pedestrian fatality, as a result of an individual attempting to cross I-240 going into Hillcrest, the Housing Authority and the Asheville Police Department met with the residents' association of Hillcrest Apartments to reconsider the bridge closing. The residents' association agreed to survey the residents of the community to determine what their opinion would be regarding reopening the bridge.

She said that the City does not control the entrance or exit to the walkover bridge, nor does it maintain Interstate Highway I-240. This is the responsibility of NCDOT. City Council, however, can make recommendations to NCDOT concerning such issues.

The Hillcrest Apartments are owned and managed by the Housing Authority, a separate legal entity from the City and Council would also like to hear from this agency concerning the pedestrian walk over.

Comments from the public in favor of re-opening the bridge included the convenience of family members and residents; need for two ways in and out of the Complex; some people don't have cars or other transportation and need they need to be able to walk; closing the bridge has not stopped the flow of drugs but it has curbed it; and opening the bridge would save lives in that people would not have to try to cross I-240.

Comments from the public in favor of keeping the bridge closed included people have been killed in that area before the bridge was closed so why use that as an excuse to re-open it now; keeping the bridge closed is a way to curb drugs; with the bridge closed, it provides for a -10-

safe community; children are not safe if the bridge is reopened in that drug needles, etc., are found lying on the ground; unsupervised children will cross the bridge; there is a way in and out of the Complex; Clingman Avenue is sometimes just as bad as the Interstate traffic; surveillance cameras cost money; adults should not complain about being inconvenienced by the bridge closing if it will protect the children; if the bridge is re-opened, it will make it easier for people to vandalize apartments (especially apartments near the bridge) and then flee over the bridge; people still jumped the fence when the bridge was open; you can see a noticeable difference in the area since the bridge has been closed; and if the bridge is re-opened, residents will need to be committed to clean up their own yards and participate in a citizen-on-patrol program.

Suggestions included a monitoring of the bridge, patrolling the bridge, employ youth who are trained and paid to keep a portion of their area clean; opening the bridge up only during daylight hours; have a gate with a punch-code; and purchase a guardhouse with each group (Residents Association, NC DOT, City of Asheville and Housing Authority) contributing money for the guardhouse and then hire a private security guard.

Mr. Michael Godwin, representative of the Housing Authority, said that they are ready to support whatever the residents want to do. He noted that a survey taken revealed the residents suggested re-opening the bridge for a six month trial period.

Police Chief Will Annarino said that the Asheville Police Department will continue to work with the community if the bridge is re-opened or kept closed. If the bridge is re-opened, they will try to come up with other solutions to try to curb drugs in the Complex.

Upon inquiry of Councilwoman Field, Police Chief Annarino said that the person that was most recently killed on I-240 was legally intoxicated.

Mayor Sitnick said that with the upcoming I-26 Corridor project, there will be construction, more dirt, more noise and more activity in that area. As we work on concerns and solutions, she felt the NC DOT needs to be involved in the dialogue from the very beginning. She felt they will need to work with the City on some solutions.

It was the consensus of the residents present that children should be supervised and taught to go to a responsible adult when they find drugs, drug needles, etc. Perhaps someone from the AIDS Project could come in and do a program for the children.

Mayor Sitnick said that this is a multi-faceted community problem and needs to be addressed with the community working with the NC DOT, the Housing Authority and the City to secure the Complex and still provide proper safe access. She suggested a summary be created of concerns raised and potential solutions and be presented to City Council as soon as possible.

Mr. Godwin said the Housing Authority would be happy to work with the residents and the Police Department to come up with some alternatives.

At 7:20 p.m., Mayor Sitnick adjourned the meeting until 7:40 p.m. in Room 209 of the City Hall Building to conduct a closed session.

### **CLOSED SESSION**

At 7:40 p.m., Vice-Mayor Hay moved to go into Closed Session to consider the qualifications, competence, performance, character, or fitness of an individual public officer or employee - statutory authorization is G.S. 143-318.11 (a) (6). This motion was seconded by Councilman Cobb and carried on a 6-1 vote, with Councilman Sellers voting "no".

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At 9:12 p.m., Councilman Cobb moved to come out of Closed Session. This motion was seconded by Councilman Clonger and carried unanimously.

### **ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 9:12 p.m.

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CITY CLERK MAYOR

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