

Tuesday - June 22,1999 - 5:00 p.m.

## Regular Meeting

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

## **INVOCATION**

Vice-Mayor Hay gave the invocation.

At the request of Mayor Sitnick, Vice-Mayor Hay moved to add the consideration of an ordinance establishing public transit as a public enterprise to the agenda. This motion was seconded by Councilman Cobb and carried unanimously.

## **I. PROCLAMATIONS:**

### **A. WELCOME TO THE SPECIAL OLYMPICS ATHLETICS**

Councilman Cloninger read a proclamation proclaiming June 21-25, 1999, as "1999 Special Olympics Host Town Week" in the City of Asheville. He presented the proclamation to Mr. Bill Cook, who outlined some activities that would be taking place during the week. Mr. Cook then introduced the South African Special Olympics delegation.

### **B. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD**

Mayor Sitnick presented Finance Director Bill Schaefer with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. The City of Asheville is proud to have received this award for the 19th year.

She also presented Joseph D. Elkins, Account Senior, with the Award of Financial Reporting Achievement. Mr. Elkins was designated the individual primarily responsible for preparing the award-winning comprehensive annual financial report.

Ms. Pat Leckey, Ms. Wynelle Hornsby, and Ms. Barbara Smith were also recognized for their work in achieving the awards.

### **C. PROCLAMATION PROCLAIMING SATURDAY, JUNE 26, 1999, AS "RIDE FOR KIDS DAY"**

Vice-Mayor Hay read the proclamation proclaiming Saturday, June 26, 1999, as "Ride for Kids Day" in the City of Asheville. He presented the proclamation to Allen Hughes who briefed City Council on some activities taking place during the day.

### **D. RESOLUTION NO. 99-90 - RESOLUTION SUPPORTING OUR NEXT GENERATION INC. YOUTH CENTER IN BUNCOMBE COUNTY**

-2-

Mayor Sitnick read the resolution supporting Our Next Generation Inc. Youth Center in Buncombe County. She said that our young people need a drug free, alcohol free, and smoke free place to assemble for entertainment on the weekends. "Latch Key Students" need a safe place to reside after school between 3:00 p.m. - 6:00 p.m. daily. A Youth Center will provide citizens the opportunity to counsel and mentor young people who need assistance with school assignments and personal problems. She stated that Our Next Generation Inc. believes that youth centers can provide opportunities for young people with entrepreneurial skills to operate entertainment rooms, game rooms, cafes, and other business activities of their choosing under the guidance of mentors. Our Next Generation Inc. is dedicated to opening youth centers that will offer recreational and entertainment opportunities for young people who tend to be neglected in our society such as the developmentally disabled and minorities.

Resolution No. 99-90 was adopted by acclamation.

## **RESOLUTION BOOK NO. 25 - PAGE 232**

### **II. CONSENT:**

#### **A. RESOLUTION NO. 99-91 - RESOLUTION ADOPTING THE CITIZEN PARTICIPATION PLAN FOR COMMUNITY DEVELOPMENT PROGRAMS**

Summary: The consideration of a resolution approving the Citizen Participation Plan for the City's community development programs.

The N.C. Dept. of Housing & Urban Development's (HUD) regulations require the City to develop and follow a Citizen Participation Plan, detailing how it will involve residents, particularly those in low-income groups and organizations representing them, in the planning and implementation of its housing and community development programs, including the allocation of Community Development Block Grant and HOME funds.

The existing Citizen Participation Plan dates from 1995, with minor revisions in 1997. It does not satisfy quite all of HUD's requirements and no longer describes all the steps that are being taken to involve and consult residents. The revised plan provides a fuller description, and, in particular, sets out a new framework for developing the Five-Year Strategic Plan which the City must revise and update in 2000.

The plan proposes that a Steering Committee be set up to oversee and guide the Strategic Planning process, with membership open to anyone who is prepared to participate consistently and constructively as well as invited representatives of key agencies and community groups. Subcommittees will act as focus groups to examine in detail the four main areas of the Plan: Housing, Homelessness, Public Housing, and Non-Housing Community Development. The process will draw and build upon other relevant planning processes such as the Asheville-Buncombe VISION.

Staff recommends that Council approve the revised Citizen Participation Plan.

## **RESOLUTION BOOK NO. 25 - PAGE 233**

#### **B. ORDINANCE NO. 2582 - BUDGET AMENDMENT TO APPROPRIATE NEW FEDERAL FUNDS RECEIVED FOR THE FAIR HOUSING ASSISTANCE PROGRAM**

-3-

Summary: The consideration of a budget amendment, in the amount of \$25,000, to appropriate new federal funds received for the Fair Housing Assistance Program for FY 1998/99.

The City has been carrying out its fair housing program under contract with the Asheville-Buncombe Community Relations Council and Fair Housing Commission since January 1988, using HUD Fair Housing Assistance Program (FHAP) funds. The City's Community Development Division serves as Lead Entity and monitors the program. On November 24, 1998, City Council approved a 1998/99 budget of \$18,400, equal to the HUD FHAP grant for the twelfth year of this program.

The City has now received a revised grant agreement from HUD, increasing the FHAP grant amount by \$25,000, for a total grant of \$43,400. A budget ordinance is needed to appropriate the new funds.

Community Development staff recommends City Council adopt the budget amendment.

**ORDINANCE BOOK NO. 17 - PAGE 351**

**C. ORDINANCE NO. 2583 - BUDGET AMENDMENT TO APPROPRIATE GRANT FUNDS FROM THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA TO FUND OUTDOOR ADVENTURE ACTIVITIES IN THE SUMMER TEEN PROGRAM**

Summary: The consideration of a budget amendment, in the amount of \$1,950, to appropriate grant funds from the Community Foundation of Western North Carolina to fund outdoor adventure activities in the Summer Teen Program.

The Summer Teen Program is designed to provide recreation activities for teens ages 13-16 for eight weeks during the summer. The program is located at six locations throughout the City in community centers. The Teen Program will offer a wide variety of recreation activities and hands-on job training. Grant funds will be used to implement the outdoor enrichment activities including a challenge ropes course, rock climbing, rollerblading, and mountain biking. The Parks and Recreation Department's in-kind match of \$26,708 will be in labor, administration, transportation, supplies, and training for the overall Summer Teen Program. The funds are budgeted in the Recreation Division.

The Parks and Recreation Department recommends the City of Asheville to accept the grant funds on behalf of the Parks and Recreation Department into the Recreation Division operating budget for outdoor enrichment activities in the Summer Teen Program.

**ORDINANCE BOOK NO. 17 - PAGE 353**

**D. RESOLUTION NO. 99-92 - RESOLUTION SETTING A PUBLIC HEARING ON JULY 27, 1999, TO CLOSE AN UNNAMED ALLEYWAY OFF HENRIETTA STREET**

**RESOLUTION BOOK NO. 25 - PAGE 234**

**E. MOTION SETTING A PUBLIC HEARING ON JULY 13, 1999, TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REQUIRE A CONDITIONAL USE PERMIT FOR ADULT ESTABLISHMENTS**

**-4-**

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

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

### **III. PUBLIC HEARINGS:**

#### **A. PUBLIC HEARING RELATIVE TO CONSIDERING THE INITIAL ZONING OF CITY-OWNED PROPERTY LOCATED OFF FERRY ROAD (BENT CREEK AREA) TO RS-2 RESIDENTIAL SINGLE FAMILY LOW DENSITY DISTRICT**

Mayor Sitnick opened the public hearing at 5:30 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this is the consideration of an ordinance to initially zone recently annexed City-owned property in the Bent Creek area to RS-2 Residential Single Family Low Density District.

The City of Asheville annexed 139 acres of vacant, city-owned property earlier this year (PIN Nos. 9635.01-07-6456 and 9636.03-10-3854). Requirements dictate that all property within the City limits of Asheville be zoned. Since this property lies along the French Broad River in a rural residential setting, the most appropriate zoning classification would be RS-2 Residential Single Family Low Density District.

The Planning staff reviewed the rezoning request and recommended approval. At their June 2, 1999, meeting, the Planning & Zoning Commission voted unanimously to recommend approval of the initial zoning of 139 acres of vacant land located off Ferry Road to RS-2 Residential Single Family Low Density District.

Councilman Cloninger said that the City has a good faith obligation to transfer ownership of this property to Henderson County with a zoning classification that will allow them to do what the Water Agreement restricts them to do. He felt it would not be appropriate to transfer property to Henderson County telling them they can only use this for a wastewater treatment facility, but at the same time transfer it with a zoning designation that forbids that.

Upon inquiry of Vice-Mayor Hay, City Attorney Oast explained that as with any rezoning, considerations of a proposed use should have no bearing on the appropriate zoning; the zoning issue should be considered on the basis of appropriate planning and land use concerns. The Council is not, nor could it be, contractually bound to zone the property to one classification or another. Similarly, the zoning adopted now cannot be binding on future Councils.

Councilwoman Field questioned why the property was not zoned River District which would allow a MSD treatment facility and seems like a more gentle classification than an industrial classification. Mr. Ownbey responded that staff looked at the surrounding neighborhood and zoned it the best classification they felt matched the surrounding land uses.

Mayor Sitnick asked what procedures would have to be followed if City Council did not zone the property to RS-2. City Attorney Oast said that if the recommendation is to zone it something other than residential classification, he would suggest that City Council continue the matter for readvertisement of a public hearing to a different classification. He felt that the -5-

advertising could include language that the proposed transfer to Henderson County would limit the use to a wastewater treatment facility only.

Upon inquiry of Councilman Sellers, Mr. Ownbey said that zoning classifications that would allow a wastewater treatment facility include the River District, the Commercial Industrial District or the Industrial District.

Vice-Mayor Hay was concerned that that if the property were zoned to RS-2 with the idea that City Council would rezone it if Henderson County asked them to, the property owners in the area would rely on RS-2 as

being the zoning in that part of the county. He would hate to build that reliance on an RS-2 that we didn't mean to keep in effect.

City Attorney Oast said that pursuant to the Water Agreement, City Council authorizing the conveyance of this property to Henderson County. The Water Agreement provides that Henderson County shall convey the property to MSD for construction of a wastewater treatment facility, or to another water authority of which Henderson County and the City are a part. If Henderson County fails to do either within 10 years, the property is to be reconveyed to Asheville.

Councilman Cloninger emphasized that although he supports giving the property a zoning classification that will be consistent with the Water Agreement, the deed that transfers the property to Henderson County will limit Henderson County to make only one use on that property and if they don't make that use within 10 years, the property reverts back to Asheville.

Upon inquiry of Councilwoman Field, City Attorney Oast said that the City Attorney's Office is preparing a deed for the property that will impose restrictions on the use of the property consistent with the Water Agreement. He said that they are aiming to have the deed ready to convey the property on July 1, 1999.

City Attorney Oast said that since the zoning process has been initiated, he thought it was possible to transfer the property with the deed restrictions and proceed with the zoning.

Councilman Cloninger moved to continue this matter until the next formal meeting, July 13, 1999, and if legally permissible, to include in the advertisement language that the proposed transaction will restrict the land use for a wastewater treatment facility only. This motion was seconded by Councilman Tomes and carried unanimously.

## **B. PUBLIC HEARING RELATIVE TO CONSIDERING A MODIFICATION FROM THE SUBDIVISION STANDARDS FOR PROPERTY LOCATED OFF OF SAND HILL SCHOOL ROAD**

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

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this is the consideration of a request for modification from the subdivision standards to permit the subdivision of a 2 acre tract of land not abutting a public street to be subdivided into 2 lots for property located off of Sand Hill School Road.

The area was annexed in 1994 and the lot configuration has not changed since that time. The property owner (David Buckner) resides on the 2 acre parcel and, until just recently, his son lived in a manufactured home on the lot. The son has moved and now the owner wishes to sell -6-

half of the lot to allow for another buildable tax lot. The owner installed a private water service line along the existing unopened road to serve this property. The private road has a 30 foot right-of-way.

The Technical Review Committee (TRC) reviewed the request for a subdivision modification at their May 17, 1999, meeting. After presentation by staff, the TRC voted not to recommend the request for modification of the subdivision requirements for this lot. However, after the staff presentation and public comment at their June 2, 1999, meeting, the Planning and Zoning Commission voted 4-3 to recommend approval of the subdivision modification based on the information received that a physical hardship did exist based upon a concern that a neighboring home had expanded into the 30 foot right-of-way and construction of a street to publicly access the lots would be difficult.

Upon inquiry of Mayor Sitnick, Mr. Ownbey said that the TRC was not aware at the time they made their

recommendation that a neighboring home had expanded into the 30 foot right-of-way and construction of a street to publicly access the lots would be difficult.

Mr. David Buckner urged City Council to allow this modification.

Mayor Sitnick closed the public hearing at 6:06 p.m.

Councilman Tomes moved to waive the subdivision standards for property located off of Sand Hill School Board. This motion was seconded by Councilwoman Field and carried unanimously.

**C. PUBLIC HEARING RELATIVE TO CONSIDERING AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ELIMINATE ACCESSORY STRUCTURES AS A PERMITTED USE IN ALL RESIDENTIAL DISTRICTS**

**ORDINANCE NO. 2584 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ELIMINATE ACCESSORY STRUCTURES AS A PERMITTED USE IN ALL RESIDENTIAL DISTRICTS**

Mayor Sitnick opened the public hearing at 6:06 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this is the consideration of an amendment to the Unified Development Ordinance to eliminate accessory structures as a permitted use in all residential districts.

On August 11, 1998, Ordinance No. 2506 was adopted which changed accessory structures from being permitted uses in all residential districts to being a use by right, subject to special requirements. This ordinance change failed to remove accessory structures from the list of permitted uses in all residential districts. The Planning and Development staff discovered this error during staff reviews of the Unified Development Ordinance.

The Planning and Development staff recommended the proposed wording amendment to the Planning and Zoning Commission at their June 2, 1999, meeting. After staff presentation, the Commission voted unanimously to recommend to City Council the adoption of this wording amendment. -7-

Mayor Sitnick closed the public hearing at 6:10 p.m.

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

Councilman Tomes moved for the adoption of Ordinance No. 2584. This motion was seconded by Councilman Cobb and carried unanimously.

**ORDINANCE BOOK NO. 17 - PAGE 355**

**IV. UNFINISHED BUSINESS:**

**V. NEW BUSINESS:**

**A. ORDINANCE NO. 2585 - ORDINANCE AMENDING THE REGULATIONS FOR PUSHCARTS AND OUTDOOR DINING AREAS AND ADOPTING REGULATIONS FOR OUTDOOR MERCHANDISE AREAS**

**RESOLUTION NO. 99-93 - RESOLUTION AMENDING THE FEES ASSOCIATED WITH PERMITS FOR USE OF SUCH RIGHT-OF-WAY AND OTHER PUBLIC SPACES**

Ms. Terry Clevenger, Downtown Development Manager, said that this is the consideration of approving revised changes to the ordinance regulating pushcarts and outdoor dining areas and adding regulations for outdoor merchandise.

At the May 18, 1999, worksession, the Sidewalk Usage Team recommended changes to the ordinance permitting outdoor dining, pushcarts, and outdoor entertainment in the Central Business District and Biltmore Village. At City Council's direction, the team gathered community input regarding the recommendations. She then summarizing the community's comments and the changes the team recommended to address concerns.

As downtown continues to thrive, pedestrian traffic and the demand on public space has increased. Given these dynamics, the City should clearly define pedestrian passageways and establish boundaries of private use of public space. In addition to the changes in the ordinance, the team also studied the use of A-frame (sandwich board) signs, currently prohibited by the current sign ordinance, and recommends the City continue not to permit this type of sign.

Upon adoption, with an effective date of July 1, 1999, staff will communicate and begin enforcing the following changes:

#### Encroachment agreements vs. permits:

- Requirement that merchants/vendors apply for and obtain an encroachment agreement authorizing structures, large dining areas or merchandise on the sidewalk or public space.
- Requirement for permits for pushcarts, sidewalk entertainment, and small dining or merchandise areas.
- Recommend issuing one encroachment agreement for one fee to a facility wanting to take responsibility for managing the vendors occupying the sidewalks adjacent to their building. (Grove Arcade and the Asheville Art Museum are interested in pursuing this).

-8-

#### Fees:

- Implementation of fees associated with permits for use of such right-of-way and other public spaces.
- Based on community input, we are recommending new fees

#### Biltmore Village:

- A certificate of appropriateness must be required for pushcarts, merchandise and outdoor dining requests in the Biltmore Village Historic District.

#### Pushcarts

- Recommended measurements to be no greater than 4'6"H x 4' W x 6"L , having an overall footprint no larger than 24 square feet, excluding any trailer hitch.
- Recommended approved locations for pushcarts: 1) Pritchard Park; 2) Pack Square; 3) next to Asheville Community Theater; 4) College Street sidewalk, near BB&T garage; 5) in front of City Hall; 6) Triangle Park at Eagle and Market Streets; 7) City County Plaza; 8) Vance Monument; 9) Circular area in front of Pack Place; 10) sidewalk in front of Thomas Wolfe House; 11) corner of Battery Park and Wall Street; 12) in front

of the Courthouse.

#### Outdoor dining:

- Change the recommended definition of small dining area from 2 tables or less to less than 30 square feet.
- Change the definition of a large dining area from more than 2 tables to greater than 30 square feet.

#### Outdoor merchandise:

- Recommend allowing merchandise to be permitted on the sidewalk. Currently merchandise is not permitted.
- Defined a small merchandise area as a space less than 30 square feet and a large merchandise area as a space greater than 30 square feet.

Staff received public comment regarding a category being created for "art/display." The Team will pursue this if given direction by City Council.

#### Outdoor entertainment:

- No changes at this time. A task force is being created to review.

#### Space requirements:

- Require a 6 foot pedestrian passageway for pushcarts, outdoor dining and merchandise areas.

#### Design procedures:

- Recommend a design procedure for pushcarts and outdoor dining areas.

#### Enforcement procedures:

- Recommend that police enforce issues requiring immediate response (safety issues) and Zoning Administration enforce all other issues.

#### Misc. items:

- All signage for such uses must comply with the Sign Ordinance (Article XIII of Chapter 7).
- Structures and merchandise can not be place on the roadways.

-9-

#### A-frame

- Although not addressed by this ordinance, the team was asked to make a recommendation about A-frame/sidewalk/sandwich board signs. They are not allowed by the sign ordinance. The team recommends no changes be made.
- Begin communicating and enforcing July 1.

Ms. Clevenger then explained the resolution which would amend the Fees and Charges Manual regarding



fees associated with permits for use of such right-of-way and other public spaces. She said the current fees for pushcarts, outdoor dining and outdoor entertainment are all \$25. There is not a current fee for outdoor merchandise because it is not permitted at this time.

The proposed fees are based on a conservative estimate of staff time necessary to administer the program. After receiving community input, we are proposing changing the fees as outlined below:

#### Application Renewal

Pushcarts \$ 125 \$125

Outdoor Dining/Merchandise Permit, <30 sq. ft \$ 175 \$ 25

#### Outdoor Dining/Merchandise Encroachment

31-50 sq. ft. \$ 250 \$ 50

51-100 sq. ft. \$ 350 \$ 75

101-200 sq. ft. \$ 500 \$100

201-500 sq. ft. \$1,000 \$200

501 + sq. ft. \$2,000 \$400

Most of the staff time is involved in the initial application process. This explains why the fee for the application is higher than the renewal fee.

We received community comments asking for fees for merchandise to be more consistent with outdoor dining. In response, they defined a small merchandise area, requiring only a permit be issued, and a large merchandise area requiring an encroachment agreement. An encroachment agreement takes more time to process, therefore the fees are higher.

Comments were also received from non-profit facilities asking if they could apply for one encroachment and pay one fee to manage the vendor space adjacent to their building. They would be responsible for the vendors complying with the ordinance. The proposed fees are based on size because staff feels the larger the area, the more staff will need to spend during the application process ensuring adequate space and safety measures for pedestrian access.

Upon inquiry of Councilwoman Field, Ms. Clevenger said that the people who have permits will still have to pay for the first time application fee because of the many new changes and because they have not been reviewed in the past 4-5 years.

Councilman Tomes felt that if the City is trying to continue to support entrepreneurs in business, the City needs to be flexible and perhaps raise the fees incrementally.

Ms. Suzanne Molloy, Assistant Director of Public Works, said that in the past the City has never charged for an encroachment agreement and the current fees have been \$25 for probably 10 years. She stressed that the proposed fees are based on a conservative estimate of staff time necessary to administer the program.

When Mayor Sitnick suggested subtracting \$25 for current application owners from the initial fee application, Councilman Cloninger felt that could be a possibility, however, he didn't think the original owners are the same for any of the businesses on Pack Square.

-10-

Councilwoman Field recommended that City Council review this matter in six months or a year.

Councilwoman Field wondered if it might be possible to have some scholarship for people who may have a good idea but cannot afford the initial application fee.

City Attorney Oast said that it is important to remember that these are not rental fees, but fees based on the average amount of time that staff spends processing the applications. The fees are intended to reimburse the City for expenses that they incur in processing the applications.

Ms. Martha Fawbush, speaking as a representative of several blind food service operators, read the following statement: "In recent days a problem has arisen that, if it is not dealt with, will cause severe difficulties for two groups of hard-working people - mobile vendors, those who try to make a living by selling fast food items such as hot dogs from pushcarts, and two small business food-service operators who happen to be blind. One of these food service businesses is located in the County Courthouse, the other in City Hall. Poor people have it tough making a decent living any time, let alone a living which will lift them above the poverty line. I know a pushcart vendor is not going to break the bank with his earnings. Neither is a blind food-service operator. Therefore, I see a great disservice done to both when one is in direct competition with the other. The present City recommendation that pushcart operators can set up shop in front of the Courthouse or the City Hall does exactly that. If a pushcart operator sets up his business in front of either of these public buildings, every dollar he makes he has taken from the hands of a blind man. The food-service operator in the County Courthouse says that he loses approximately \$100 every day the pushcart operators are in business on his doorstep. I heard that one person has suggested that this is just good competition. But I find it hard to believe that anyone knowing these circumstances could have dismissed the blind food-service operator's losses so easily. I cannot condone a situation proposed by the City which makes it right that one poor man should be able to take business away from another poor man who happens to be blind. Also, consider this: if pushcart vendors wanted to move their operations away from City Hall and the County Courthouse, all they would have to do is close up shop and move. But the blind food-service operator has no mobility. If he is losing half to two-thirds of his daily bread to pushcart vendors on his doorstep, he is unable to move to a more lucrative place. Why should the City of Asheville make a recommendation which pits one worthy group of hard-working people against another group, large or small, which is no less worthy? Why can there not be a recommendation which encourages pushcart vendors to set up their businesses away from the County Courthouse and the City Hall? Such a recommendation would not do any harm to the pushcart vendors who would seem to have a number of other locations where they can operate - locations in which their presence would not threaten the economic survival of a blind food-service operator. I do not wish to appear unfeeling to the situation which pushcart vendors face. I know what it means to have to earn a living by the sweat of my brow. I know they work hard, I know that theirs is an uphill climb. I wish them all the success that their hard work can earn for them. But I do not feel that it must come at the expense of the working blind in our community. Let us ask the City Development Office to do some careful re-thinking on their recommendation on site locations for pushcart vendors. As a legally blind person married to another legally blind person who is a food service operator, and as a working professional woman who has until very recently found it next to impossible to acquire a teaching position because of my lack of vision, I think you all for this opportunity to speak on this matter."

Mr. Jim Hit, on behalf of the blind vendors in the Asheville area, explained that the blind food service vendors have to go through a lot of training and hoped City Council will not let the blind vendors lose their jobs to a sighted person who is capable of going down the road to another location.

-11-

Mr. Donald Ball, blind vendor in the County Courthouse, urged City Council to not allow pushcarts in front of

the City Hall, the County Courthouse or City/County Plaza.

Upon inquiry of Mayor Sitnick, Ms. Cloninger stated that the pushcart locations were based on space and safety, not what they would be near. She said the Team did not feel it was appropriate for the City to make decisions on regulating competition.

Mr. Vic Alonzo, Business Enterprise Counselor for the Services for the Blind, urged City Council not to allow the pushcart locations in front of the City Hall, the County Courthouse or City/County Plaza.

Mr. Anderson Davis, pushcart vendor who operates in front of the County Courthouse, was concerned about the fees and some of the requirements of pushcart vendors.

City Council expressed their sympathy with the plight of the blind food service vendors, however, City Council cannot make their decisions based on competition in the marketplace.

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

Councilman Cloninger moved (1) for the adoption of Ordinance No. 2585; (2) to give City staff direction to investigate an "art/display" category being created; and (3) that the ordinance being reviewed in one year to see if it is working for the vendors and the City. This motion was seconded by Councilman Sellers and carried unanimously.

#### **ORDINANCE BOOK NO. 17 - PAGE 359**

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

Councilman Cobb moved for the adoption of Resolution No. 99-93. This motion was seconded by Councilman Cloninger and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 235**

At 7:14 p.m., Mayor Sitnick announced a break.

#### **C. ORDINANCE NO. 2586 - ORDINANCE ADOPTING THE 1999-2000 ANNUAL OPERATING BUDGET**

#### **ORDINANCE NO. 2587 - ORDINANCE ESTABLISHING PUBLIC TRANSIT AS A PUBLIC ENTERPRISE WITHIN THE CITY OF ASHEVILLE**

Mayor Sitnick said that the public hearing on this matter was held on June 8, 1999.

Budget Director Ben Durant explained that the Fiscal Year 1999/2000 proposed budget as presented to City Council during the budget work sessions included a recommended appropriation from fund balance of \$101,244. During the worksessions, Council agreed to appropriate additional funding in the amount of \$250,000 for the first year of an installment purchase for the Royal Pines property. The Royal Pines purchase was supported by an additional appropriation from fund balance which brought the total appropriated fund balance for FY 1999/2000 to \$351,244.

-12-

At the budget worksession on June 15, 1999, City Council made the following additions and reductions to the proposed Fiscal Year 1999/2000 budget:

**Reductions:**

Center City Plan and City Center Director \$105,656

Public Information Officer 41,617

Parking Signage 45,000

Comprehensive Plan Update 50,000

Total Deletions: \$242,273

**Additions:**

Institute of Government \$ 6,800

Cable Equipment 50,000

Pedestrian Coordinator 18,000

Total Additions: \$ 74,800

**Net Reductions:** \$167,473

Based on net reductions of \$167,473 recommended by Council, appropriated fund balance was reduced from \$351,244 to \$183,771. Further reductions to appropriated fund balance were made due to Parking Fund changes.

**Parking Fund Changes**

*General Fund Transfer*

Further reductions were made to appropriated fund balance based on changes to parking fund revenues. Staff initially projected that if Council adopted the full rate increases for parking as proposed by staff, a **\$239,180** transfer from the General Fund to the Parking Fund would be required to balanced the Parking Fund operating budget. This amount was thus included as part of the initial proposed budget. Updated revenue estimates, however, showed adoption of full rate increases would produce more revenue than originally anticipated, and thus, the required General Fund transfer to the Parking Fund could be reduced to \$113,980.

City Council actually approved smaller rate increases than the full rate increases recommended by staff. Based on the Council approved rate increases, the required General Fund transfer to the Parking Fund rose from \$113,980 to \$170,980, which is the amount currently budgeted for Fiscal Year 1999-2000.

*Effect on Appropriated Fund Balance*

As noted above, the initial proposed General Fund Transfer to the Parking Fund was \$239,180. Based on updated revenue estimates and Council approved rate increases, the current General Fund transfer to parking is \$170,980, which represents a \$68,200 reduction from the original transfer amount. This \$68,200 reduction in General Fund expenditures allowed for a comparable reduction in appropriated fund balance. The current appropriated fund balance included in the Fiscal Year 1999-2000 Annual Budget Ordinance is \$115, 571:

Appropriated Fund Balance \$183,771

(after additions & reductions)

Less Reduction in General Fund

Transfer to Parking Fund - 68,200

**Current Appropriated Fund Balance \$115,571**

Councilwoman Field wanted to make sure that the opportunity is there fairly quickly to hire a Center City staff person after the new Planning & Development Director starts. She stressed how important it was for the City to make a commitment to fund this position. She said that downtown is the seat of a lot of activity and a coordinator is essential to help solve the problems of downtown because it is an incredibly important economic generator.

Councilman Cobb was disappointed with the amount of money for streets and sidewalks and stated that our infrastructure has serious needs. He hoped that if additional funds are found that they be spent on streets and sidewalks.

Councilman Tomes felt that if the City is going to have sustainable economic vitality, they will need to deal with some infrastructure deficiencies. He felt that if the City does some long range planning, we may be able to achieve those goals.

Vice-Mayor Hay said that this year the City is making some good new efforts in economic development to take the City forward and we need to make sure that we are doing everything we can to foster that vitality.

Mayor Sitnick was concerned that within the water budget, the non-betterment costs to the City are going to add such a burden to the City ratepayer. She felt it was great that the City has not had to raise taxes in ten years and that we've cut our expenses by such a significant amount. She was grateful to staff for the work they have done to improve the dip into the Fund Balance, however, she felt that what's left in our Fund Balance is woefully inadequate. She said we have not annexed in five-six years, not raised taxes in ten years, and we have mini-governments that are setting policies and rates for many of the services that our citizens benefit from, e.g., Water Authority, MSD, Transit Authority, Housing Authority. While she praises the fact that the City has not raised taxes, we have raised other rates, fees and charges. She thinks that this Council, at some point in the near future, is going to have to take a substantive look at what our expenses are going to be leading us into the next two to three decades. She said we should look to increasing the tax base, continuing to be as efficient as we can be, looking at other sources of revenue, look harder for federal and state funding, look at future bonds, look at more public/private partnerships, look to the private community and increase our efforts to apply for and win grants from foundations and private funds. At some point we will have to look at things like taxes, as hard as that's going to be. We will have to do it in such a way that the Asheville taxpayer is treated as fairly as we possibly can and spread the cost out, e.g., appealing to our state delegates to increase the sales tax to fairly spread out that burden across the board. She said that Council has worked hard on making sure we have a good budget and we were able to continue our services at an appropriate level, but we will need to look a little deeper and a little harder as our costs go up and the needs of this wonderful, yet 200-year old, community continue to mount.

Mayor Sitnick said that members of Council have previously received a copy of the ordinance adopting the 1999-2000 Annual Operating Budget and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2586. This motion was seconded by Councilman Tomes and carried unanimously. -14-

**ORDINANCE BOOK NO. 17 - PAGE 381**

City Attorney Oast said that at the City Council retreat in August, 1998, staff was given direction to explore the possibility of taking transit back in-house. Urban Planner Bruce Black then presented City Council with information showing that there was no significant downside to bringing that function back in-house. City Council then directed staff to proceed in that direction during the budget process.

City Attorney Oast explained that it is necessary to repeal Ordinance No. 586, adopted on November 16, 1967, creating the Asheville Transit Authority. However, in recognizing the value of having the experience and advice of the Authority who has operated the transit operation, the ordinance does reconstitute the Asheville Transit Authority as the Asheville Transit Commission. He said that because the City of Asheville owned all the property used by the Asheville Transit Authority, there is no necessity for a lot of complicated legal transactions transferring the property to the City. The General Statutes provide that if a transit authority is abolished or ceases to exist, that the contracts are automatically assignable to the city. He has directed in the ordinance that the Asheville Transit Authority undertake those steps in deliberate speed.

On behalf of City Council, Mayor Sitnick thanked the Asheville Transit Authority for all their help with this transaction.

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

Vice-Mayor Hay moved for the adoption of Ordinance No. 2587. This motion was seconded by Councilman Sellers and carried unanimously.

Vice-Mayor Hay said that one benefit will be that it will give the City more latitude and freedom to be creative. He was pleased to report that Mr. Black is already building on a partnership to bring bus service out to the Asheville Regional Airport.

Mayor Sitnick said that she and the City Manager have talked briefly with the mayors of the other municipalities in Buncombe County and they are interested, at some point in the future, in creating a bus service between the cities.

**ORDINANCE BOOK NO. 17 - PAGE 391**

**C. RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABLE ECONOMIC DEVELOPMENT TASK FORCE**

Vice-Mayor Hay said Economic Development Director Mac Williams presented City Council with a list of candidates for consideration as the Economic Development Task Force. However, some of the candidates on the list have not responded and confirmed their willingness to serve, if asked. Therefore, the Boards & Commissions Committee has requested, and it was the consensus of City Council, that City Council postpone consideration of appointing members to this Task Force until their next formal meeting on July 13, 1999.

**D. RESOLUTION NO. 99-94 - RESOLUTION REAPPOINTING MEMBERS TO THE CARRIAGE PERMIT ADVISORY BOARD**

**-15-**

Vice-Mayor Hay said that the terms of Sally Rhoades, Susan Dodson and Michael Hyatt expire on June 25, 1999. This resolution will reappoint Ms. Rhoades, Ms. Dodson and Mr. Hyatt to each serve a three year term

respectively, terms to expire June 25, 2002, or until their successors have been appointed.

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

Councilman Cloninger moved for the adoption of Resolution No. 99-94. This motion was seconded by Councilman Sellers and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 237**

#### **E. RESOLUTION NO. 99-95- RESOLUTION APPOINTING MEMBERS TO THE CITIZENS/POLICE ADVISORY COMMITTEE**

Vice-Mayor Hay said that the terms of John Ingersoll, Jimmy Hungerford, Lonnie Blair and Janice Van Dine, as members on the Citizens/Police Advisory Committee, expire on June 30, 1999. This resolution will (1) reappoint Mr. Ingersoll (North representative), Mr. Hungerford (West representative), and Mr. Blair (East representative); and appoint Ms. Betty Budd (South representative) to each serve a three year term respectively. All terms will expire on June 30, 2002, or until their successors have been appointed.

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

Councilman Cloninger moved for the adoption of Resolution No. 99-95. This motion was seconded by Councilman Tomes and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 238**

#### **F. RESOLUTION NO. 99-96- RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION**

Vice-Mayor Hay said that the terms of Robert Swan, Richard Bowman and Tom Muncy, as members on the Civic Center Commission, expire on June 30, 1999.

On June 1, 1999, it was the consensus of City Council to reappoint Mr. Swan and Mr. Bowman to each serve an additional three year term. Their terms will expire on June 30, 2002, or until their successors have been appointed.

On June 8, City Council interviewed Denise Goodson. Peter Crosa was interested in the position, however, due to a business trip, he was not able to come in for an interview. John Leander was unable to be contacted by phone or letter for an interview.

Councilman Cobb moved to (1) appoint Denise Goodson to serve a three year term, term to expire June 30, 2002, or until her successor has been appointed, and (2) reappoint Mr. Swan and Mr. Bowman to each serve an additional three year term, terms to expire on June 30, 2002, or until their successors have been appointed. This motion was seconded by Councilman Cloninger and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 239**

**-16-**

#### **G. RESOLUTION NO. 99-97 - RESOLUTION APPOINTING A MEMBER TO THE CIVIL SERVICE BOARD**

Vice-Mayor Hay said that the term of Nancy Kauffman, as a member of the Civil Service Board, expired on

May 21, 1999. This resolution will appoint Mr. Gene Bell to serve a two year term, term to expire May 21, 2002, or until his successor has been appointed.

Vice-Mayor Hay also said that City Council will need to appoint a Chair to the Civil Service Board. It was the consensus of City Council to make that appointment at their next formal meeting on July 13, 1999.

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

Mayor Sitnick moved for the adoption of Resolution No. 99-97. This motion was seconded by Councilman Sellers and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 240**

#### **H. RESOLUTION NO. 99-98 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS BOARD**

Vice-Mayor Hay said that the terms of Councilman Tommy Sellers, Mr. Steve Curtis and Mr. Grant Osborne, as members on the Crime Stoppers Board of Directors, expire on June 30, 1999. This resolution will (1) reappoint Councilman Sellers for an additional three year term, and (2) appoint Josefine Matty and Leslie Hennessee to each serve a three year term. All terms will expire on June 30, 2002, or until their successor has been appointed.

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

Councilman Cloninger moved for the adoption of Resolution No. 99-98. This motion was seconded by Councilman Cobb and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 241**

#### **I. RESOLUTION NO. 99-99 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE FILM BOARD**

Vice-Mayor Hay said that Ashley Siegel and Curtis Gaston have resigned as members on the Asheville Film Board.

On June 8, 1999, City Council interviewed Yvette Logan and Cindy Pomeroy. Anne Watkins is interested, however, was out of town on the date scheduled for interviews. Celeste Fletcher could not be reached by telephone and did not respond to interview letter written.

Councilman Cloninger moved to appoint Anne Watkins and Cindy Pomeroy to the Film Board to each serve an unexpired term, said terms to be determined at the next meeting of the Film Board. This motion was seconded by Councilman Tomes and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 242**

-17-

#### **J. RESOLUTION NO. 99-100 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION**

Vice-Mayor Hay said that the terms of Mr. Jody Kuhne and Mr. Fred Eggerton, as members on the Asheville-Buncombe Historic Resources Commission, expire on July 1, 1999. This resolution will reappoint Mr. Kuhne



and Mr. Eggerton to each serve an additional three year term, respectively. Their terms will expire July 1, 2002, or until their successors have been appointed.

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

Councilman Tomes moved for the adoption of Resolution No. 99-100. This motion was seconded by Councilman Cobb and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 243**

#### **K. RESOLUTION NO. 99-101 - RESOLUTION ENDORSING APPOINTMENTS OF MEMBERS TO THE HOUSING AUTHORITY**

Mayor Sitnick said that the terms of Mabel Hoskins and Cleatus Tate, as members on the Housing Authority Board of Directors, expired on June 11, 1999. Peggy Cook has resigned as a member, effective September 1, 1999, thus leaving an unexpired term until June 11, 2000.

On June 17, 1999, Mayor Sitnick interviewed T. Bentley Leonard, Mary Robertson, Minnie Jones, Helen Branson, and Adam Fetterman.

Vice-Mayor Hay moved to endorse the following appointments by Mayor Sitnick: (1) reappointing Cleatus Tate to serve an additional five year term, term to expire June 11, 2004; (2) appointing Minnie Jones to serve a five year term, term to expire June 11, 2004; and (3) appointing Helen P. Branson to serve the unexpired term of Ms. Cook, term to begin on September 1, 1999, and expire on June 11, 2000. All appointments will be until their successors have been appointed. This motion was seconded by Councilwoman Field and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 244**

#### **L. RESOLUTION NO. 99-102 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD**

Vice-Mayor Hay said that the terms of William Estes, Lewis Isaac and Charles Bullman, as members on the Recreation Board, expire on June 30, 1999.

On June 1, 1999, it was the consensus of City Council to reappoint Mr. Bullman to serve an additional three year term, term to expire June 30, 2002.

On June 8, 1999, City Council interviewed Susan Sparboe. Derek Weekly could not be reached by telephone and did not respond to interview letter written. Additional candidates not scheduled for interviews include Ann Babcock, Susan Roderick and Barbara Weinkle.

Councilwoman Field nominated Ann Babcock and Barbara Weinkle.

Councilman Cloninger nominated Susan Roderick and Susan Sparboe. -18-

After Vice-Mayor Hay asked if anyone in the audience would like to comment on this matter and hearing none, each Council member voted. Ann Babcock received 4 votes, Barbara Weinkle received 3 votes, Susan Roderick received 6 votes and Susan Sparboe received one vote. Therefore, the resolution will (1) reappoint Charles Bullman to serve an additional three year term, term to expire June 30, 2002; and (2) appoint Ann Babcock and Susan Roderick to each serve a three year term, terms to expire June 30, 2002, or until their successors have been appointed.

**RESOLUTION BOOK NO. 25 - PAGE 245**

**M. RESOLUTION NO. 99-103 - RESOLUTION APPOINTING MEMBERS TO THE TREE/GREENWAY COMMISSION**

Vice-Mayor Hay said that the terms of Peter Loewer, Margaret Tinkler, Ann Babcock and Jerry Bailey, as members on the Tree/Greenway Commission, expire on July 1, 1999.

On June 1, 1999, it was the consensus of City Council to reappoint Ms. Tinkler, Ms. Babcock (contingent upon her consideration of appointment to the Recreation Board), and Mr. Bailey to each serve an additional three year term, terms to expire July 1, 2002.

On June 8, 1999, City Council interviewed Sofia Mannos and Ginger Mahler. Leonard Pardue could not be reached by telephone and did not respond to interview letter written.

Ms. Babcock has been appointed to the Recreation Board, thus requiring City Council to fill her term.

Councilman Tomes moved to appoint Sofia Mannos and Ginger Mahler to each serve a three year term, terms to expire June 30, 2002, or until their successors have been appointed. This motion was seconded by Mayor Sitnick and carried unanimously.

Councilman Tomes moved to reappoint Margaret Tinkler and Jerry Bailey to each serve an additional three year term, terms to expire on June 30, 2002, or until their successors have been appointed. This motion was seconded by Councilman Sellers and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 246**

**VI. OTHER BUSINESS:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 8, 1999**

Councilman Tomes moved for the adoption of the minutes of the regular meeting held on June 8, 1999. This motion was seconded by Councilman Sellers and carried unanimously.

**B. CLAIMS**

The following claims were received by the City of Asheville during the week of: June 4-10, 1999: April Brown (Water) and Mack Moore (Parks & Recreation).

These claims have been referred to Asheville Claims Corporation for investigation.

-19-

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

**Waste Reduction and Technology Transfer Program (WRATT)**

City Manager Westbrook updated City Council on their request concerning an environmental excellence initiative for internal operations within the City of Asheville. City staff has received a proposal and a scope of work which could begin as early as September, 1999. His only concerns include the amount of staff time that may be involved and any costs to implement recommendations, which are not in the budget.

**Sidewalk Waiver Request**

A representative of residents on Beaucatcher Road affected by the development of the Road House Grill that will be built on Kenilworth Road and Beaucatcher Road, urged City Council to preserve the buffer of white pine trees on Beaucatcher Road. The developer is required to install a sidewalk, however, because of the required buffer, they are concerned that the roots of the trees will be damaged. The residents do want a sidewalk on their road, however, they also want a solid buffer. She asked City Council waive the sidewalk requirement if they can't guarantee them that the buffer will be protected.

With the use of a map/plan, City Engineer Cathy Ball explained that the cost to the contractor to build the sidewalk on the other side of the street on Beaucatcher Road, which the City could not require him to do, would be very expensive because of drainage problems and he would have to go over three-four driveways. She said that this road is on the Pedestrian Thoroughfare Plan and up further on Beaucatcher Road there is a sidewalk on the side of the road that has the trees. She has talked with the City's Arborist and asked him to look at the site to see if he felt that putting in this sidewalk would jeopardize those trees. He felt that the trees would be fine if it was put in according to this plan. However, he did suggested putting up some type of fence or something to keep them physically off of the 8-9 foot area in the plan.

Ms. Ball recommended City Council not waive the sidewalk requirement. She is prepared to meet with the contractor, along with representatives of the Tree/Greenway Commission, in order to preserve the trees and suggest materials to be used for the sidewalk.

It was the consensus of City Council for Ms. Ball to meet with the contractor and representatives of the neighborhood to see if the sidewalk could be installed with preservation of the trees.

#### **VIII. ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 8:50 p.m.

---

CITY CLERK MAYOR

---