

Tuesday - October 12, 1999 - 5:00 p.m.

## Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr.; 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: M. Charles Cloninger

## **INVOCATION**

Councilman Tomes gave the invocation.

## **I. PROCLAMATIONS:**

### **A. PROCLAMATION PROCLAIMING OCTOBER 25-NOVEMBER 1, 1999, AS "EARTH RELIGIONS AWARENESS WEEK"**

Mayor Sitnick read the proclamation proclaiming October 25-November 1, 1999, as "Earth Religions Awareness Week" " in the City of Asheville. She presented the proclamation to Rev. Bryon Ballard, who briefed City Council on some activities taking place during the week.

### **B. ANNOUNCEMENTS**

Mayor Sitnick recognized Ms. Janet Sword and her 6th grade class from Carolina Day School.

Mayor Sitnick thanked Mr. Glen Holbert from the Asheville Firefighters Association for their extremely generous donation of the fire safety house to educate children about fire prevention.

Councilman Sellers invited City Council members and the public to attend the October 21, 1999, 2:00 p.m. grand re-opening of the new West Asheville Police Resource Center at 970 Haywood Road.

On behalf of the City of Asheville, City Manager Westbrook expressed his deep sorrow over the passing of William F. Wolcott Jr. on October 9, 1999. Mr. Wolcott served the City of Asheville for over 45 years until his retirement as Associate City Manager/City Clerk on December 31, 1994. A resolution in memory will be presented to Mr. Wolcott's family.

On behalf of City Council, City Manager Westbrook expressed his deep sorrow over the passing of Councilman Cloninger's father Rowell C. Cloninger.

## **II. CONSENT:**

### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 28, 1999, AND THE WORKSESSION HELD ON OCTOBER 5, 1999**

### **B. RESOLUTION NO. 99-157 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE DONATION OF A FIRE SAFETY HOUSE TO THE CITY OF ASHEVILLE BY THE ASHEVILLE FIREFIGHTERS ASSOCIATION -2-**

Summary: The consideration of a resolution accepting a trailer-mounted "fire Safety House" donated by the Asheville Firefighters Association.

The Asheville Firefighters Association, a voluntary association that represents Asheville firefighters, conducts periodic fundraising activities, the funds from which are used to help promote community safety from fire. Over the past ten years, the Association has purchased literally hundreds of smoke detectors for free distribution to people who couldn't otherwise afford them.

The Association has acquired a "Fire Safety House"--a reduced-size mock-up of a house mounted on a trailer--that is used to help train children in fire safety techniques, like "Get Low in Smoke," "Stop, Drop and Roll" and "Learn Not to Burn." The Association would like to donate this Fire Safety House to the City of Asheville for use by the Asheville Fire Department in expanding its public fire safety education outreach activities.

Because the Fire Safety House was designed and built for this purpose, maintenance costs are expected to be nominal. No new vehicles would be required--the Fire Department has a vehicle with sufficient towing capacity to convey the Fire Safety House from school to school.

If the City were to pursue acquiring a Fire Safety House on its own, acquisition cost would be approximately \$25,000.

The Fire Chief recommends that the City Council adopt a resolution authorizing the City Manager to accept the donation of a Fire Safety House to the City of Asheville by the Asheville Firefighters Association.

**RESOLUTION BOOK NO. 25 - PAGE 323**

**C. RESOLUTION NO. 99-158 - RESOLUTION SETTING A PUBLIC HEARING ON NOVEMBER 9, 1999, TO CLOSE A PORTION OF SPRUCE STREET FROM EAGLE STREET TO SOUTH MARKET STREET**

**RESOLUTION BOOK NO. 25 - PAGE 324**

**D. RESOLUTION NO. 99-159 - RESOLUTION MODIFYING THE CITY COUNCIL MEETING SCHEDULE**

Summary: November 2, 1999 worksession be rescheduled to November 3, 1999; November 9, 1999 - formal; November 16, 1999 - worksession; November 23, 1999 - formal; November 30, 1999 - community meeting at West Asheville Community Center; December 7, 1999 - formal; December 14, 1999 - worksession; December 21, 1999 - formal; December 28, 1999 - cancel; January 4, 2000 - cancel; January 11, 2000 - formal; January 18, 2000 - worksession; and January 25, 2000 - formal. The meeting dates thereafter will continue to be a worksession on the first and third Tuesdays of each month, formal meetings on the second and fourth Tuesdays of each month, and a community meeting on the fifth Tuesday of any month.

**RESOLUTION BOOK NO. 25 - PAGE 325**

**E. MOTION SETTING A PUBLIC HEARING ON OCTOBER 27, 1999, TO REPEAL ORDINANCE NO. 2480, SO AS TO REMOVE THE ORDER REQUIRING DEMOLITION OF THE STRUCTURE LOCATED AT 22 SULPHUR SPRINGS ROAD**

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**F. MOTION SETTING A PUBLIC HEARING ON OCTOBER 27, 1999, TO CONSIDER A REQUEST TO APPROVE A MODIFICATION FROM THE SUBDIVISION STANDARD REQUIRING THAT EACH LOT ABUT A PUBLIC STREET FOR A SUBDIVISION OF A 0.75 ACRE TRACT OF LAND LOCATED ON THIRD STREET INTO TWO LOTS**

**G. MOTION SETTING A PUBLIC HEARING ON OCTOBER 27, 1999, TO CONSIDER A REQUEST TO**

**APPLY THE PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT TO THAT LOT LOCATED AT 121 MERCHANT STREET WHICH HAS AN UNDERLYING ZONING OF RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT**

**H. MOTION SETTING A PUBLIC HEARING ON OCTOBER 27, 1999, TO CONSIDER THE INITIAL ZONING OF THE ROYAL PINES POOL AND PARK PROPERTIES LOCATED ON SWEETEN CREEK ROAD AND PEACH TREE STREET TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT**

**I. MOTION SETTING A PUBLIC HEARING ON OCTOBER 27, 1999, TO CONSIDER THE INITIAL ZONING OF PROPERTY KNOWN AS DEERFIELD EPISCOPAL RETIREMENT COMMUNITY LOCATED OFF OF HENDERSONVILLE ROAD TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT**

**J. MOTION SETTING A PUBLIC HEARING ON OCTOBER 27, 1999, TO CONSIDER THE REZONING OF A PORTION OF THAT LOT LOCATED ALONG GASTON STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE II DISTRICT**

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 TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO CONSIDER A NEW HEAD OF MONTFORD TRANSITION OVERLAY DISTRICT AND APPLICATION OF THAT DISTRICT TO NINE LOTS ON MONTFORD AVENUE, HILL STREET AND GUDGER STREET**

**ORDINANCE NO. 2622 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH THE HEAD OF MONTFORD TRANSITION OVERLAY DISTRICT**

**ORDINANCE NO. 2623 - ORDINANCE AMENDING ZONING OF NINE LOTS ON MONTFORD AVENUE, HILL STREET AND GUDGER STREET**

Mayor Sitnick opened the public hearing at 5:22 p.m.

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Mr. Mike Matteson, Urban Planner, said that this is the consideration of an amendment to the Unified Development Ordinance ("UDO") to consider the adoption of the Head of Montford Transition Overlay District as well as the application of this overlay district to nine lots at the "Head of Montford". This public hearing was advertised on October 1 and October 8, 1999.

In late July, the Planning and Development Department received a rezoning application from the Asheville Area Chamber of Commerce for a 4.3 acre site (including 9 individual tax lots) at the Head of Montford.

The initial request was to rezone the property, which is currently zoned a combination of Community Business I, Office and RM-8 to Community Business II.

After examining the rezoning request, staff felt that certain uses would be very appropriate for the site, but that some of the uses permitted in the Community Business II zoning district could be detrimental to the surrounding community. Therefore, staff suggested that the Chamber of Commerce amend its request to ask

that a Transition Overlay District be developed and applied to the site. The benefit of such an overlay district is that it can address the unique characteristics of a given area and define more clearly the type of development which will occur. The Chamber agreed to amend their rezoning request as suggested.

In developing the Transition Overlay District, staff first prepared a study of the area which documents its characteristics and describes how a Transition Overlay District can best address the issues.

The preparation of the overlay district involved significant input from both the Chamber of Commerce and the Montford community. A community meeting was held on September 15, 1999, at the Montford Center at which the overlay district was presented and additional input from the community was received.

The Head of Montford Transition Overlay District is designed to guide future development in a way that is beneficial to the immediate area, the Montford community and the City as a whole. The overlay district permits a relatively narrow range of uses and establishes development standards designed to promote compatibility with the historic context of the area and to minimize negative impacts of future development.

City Council is asked to first consider the ordinance amendment to create the Head of Montford Transition Overlay District and then to consider the application of the overlay district to the properties in question.

At their September 22, 1999, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of both the ordinance amendment creating the Head of Montford Transition Overlay District and the application of the overlay district to the properties in question.

The Planning and Development Department staff is also recommending approval of both the ordinance amendment and the application of the overlay district.

Mr. Jay Garner, President and CEO of the Chamber of Commerce, said that he was excited about this potential opportunity to partner with the Montford neighborhood and the Asheville community by remaining in downtown Asheville and developing a Chamber Visitor Center and Headquarters Building that is indicative of our community and in developing something that the neighborhood residents and the Chamber would be proud of at the Head of -5-

Montford. He said they have asked the Historic Resources Commission to partner with them in having a design team that will work with their architects that will develop a facility that everyone can be proud of.

Ms. Mary Jo Brezny, Montford resident, stated that the UDO requires that a neighborhood plan, a corridor plan, or an area plan be completed prior to the establishment of a transition overlay district. She said it was difficult to believe that a plan could be completed in the six weeks before it was presented to the Planning & Zoning Commission, especially since the Charlotte Street transition overlay district is taking months to complete. She said the residents of Montford are not aware of the Head of Montford Study, nor were they involved in it, except to the extent they were called for input into the transition overlay district. She was concerned that this procedure has not been carried forth as it should be according to the UDO. She was also concerned about the traffic that will be generated by the Chamber. She felt zoning this one piece of property was illegal spot zoning. She urged City Council to remand this matter back to the Planning & Zoning Commission for the property study that it deserves. Ms. Brezny also noted that the transition overlay district calls for allowing a 45,000 square foot building. She felt this large sized building will be out of proportion to the other commercial buildings in the neighborhood.

Mr. Matteson said that City staff did do a study looking at the property in question as well as the surrounding properties, documenting the characteristics and making recommendations, which included the establishment of a transition overlay district. The Planning & Zoning Commission was furnished a copy of that study well before they took action on the issue. City Council has also been furnished a copy of that study.

Planning & Development Director Scott Shuford said that they felt the transition overlay was a tool provided in our UDO that we could utilize to address the issues and concerns that were being raised by the community, as well as to meet the needs of the Chamber. He said it is a very small transition overlay district and they did look at the possibility of expanding it to include other areas, however, through that research they found no need to extend it further.

Ms. June Lamb, West Asheville resident, also felt that the UDO was not followed in this process with regard to a prior study.

Ms. Myra Fuller, Montford resident, said that many Montford residents are cautiously optimistic about the Chamber's proposed development on this property. They appreciate the Chamber's willingness to work with the neighborhood and the Historic Resources Commission from the very beginning. However, she said area residents are very concerned about the traffic situation that will be created by the Chamber development. She said the Chamber had done a cursory traffic study, however, they didn't take into consideration the Neighborhood Housing Services' ("NHS") gateway project that is due to break ground very soon. The residents, and possibility representatives of NHS, will be meeting with the City's Traffic Engineer to discuss traffic concerns which need to be ironed out prior to any construction. She said that no one in the neighborhood has seen any kind of study that the Planning & Development Department has prepared concerning this area. She said that while the Chamber is perhaps a very good use for this property and we feel like it's in their best interest to do a good development, they are still concerned about commercial encroachment in their neighborhood.

Mr. Jeff Kelly, Montford resident, agreed that the Chamber might be a good use for that property, however, the neighborhood is very concerned about the traffic.

Mr. Matteson said that Planning staff had an initial meeting with 8-10 Montford residents to get their concerns and issues. At that time, staff mentioned that a study was in the process of being done. Staff also mentioned and referred to the study in the community meeting on -6-

September 15 and the presentation to the Planning & Zoning Commission on September 22. He wasn't aware until now that some of the residents didn't know about the study. It certainly was communicated to them that a study had been done. He noted that this was not a full scale small area plan, but this was a study that documented the characteristics of the area and gave some guidance to the development of a transition overlay district.

Mr. Michael Moule, City's Traffic Engineer, said that after reviewing the Chamber study (which is a preliminary study), he noted that there will be a few things that he will be asking that they add to the study. Because the major concern was at the intersection of Hill Street and Montford Avenue, the City is currently having an independent consultant look into the possibility of signaling the Hill Street approach to that intersection. He hoped to have the recommendation from the consultant shortly. Besides that, he felt the preliminary study shows that even with the additional traffic generated, that the intersections in the interchange area should operate at an acceptable level of service.

Upon inquiry of Vice-Mayor Hay, Mr. Moule said that the existing zoning has a potential for ultimately more traffic than the proposed zoning.

Mayor Sitnick closed the public hearing at 6:03 p.m.

Upon inquiry of Councilman Cobb relative to the potential illegal spot zoning, City Attorney Oast said that other facts you need to look at, in addition to the size, are the consistency with the comprehensive plan, the degree to which the zoning is being proposed differs from the uses of the surrounding properties, and the purpose of the rezoning that is being requested. He felt that the record demonstrates that the staff has

carefully looked at these issues and that the zone being established is carefully tailored to fit the peculiarities of the area where it is being proposed. He said there will always be an issue with a small rezoning, however, he felt in this case, it is defensible. City Manager Westbrook also noted that the Planning & Zoning Commission, Planning & Zoning staff and the City Attorney would not have recommended approval if they felt this was an illegal spot zoning.

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

Vice-Mayor Hay was pleased with the good working relationship between the Chamber, the neighborhood and City staff in trying to find something everyone is satisfied with. The Montford residents he has talked with felt that this is a good choice for that very critical lot. He was glad to hear that the transition overlay will reduce traffic in that area. He liked the extra protection of extending the Historic Resources Commission's jurisdiction beyond the district. He felt this piece of property needs careful development and this process seems to represent to him exactly that kind of careful development.

After speaking in favor of having a transition overlay district tool, especially for this area, Councilwoman Field moved to adopt Ordinance No. 2622. This motion was seconded by Councilman Sellers and carried unanimously.

#### **ORDINANCE BOOK NO. 18 - PAGE 1**

City Attorney Oast reminded Council that this rezoning is not for any particular use.

Mayor Sitnick said that no matter what this property is used for, that the buffering standards, the landscaping standards and the traffic issues be addressed with the community as much as possible and at the very beginning of the process. -7-

Vice-Mayor Hay moved for the adoption of Ordinance No. 2623. This motion was seconded by Councilwoman Field and carried unanimously.

#### **ORDINANCE BOOK NO. 17 - PAGE 7**

Councilwoman Field noted that that not every study involves months of work. She suggested a possible amendment to the UDO to clarify what is meant by a transition overlay study, which is different from a small area plan.

#### **B. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH AS MINOR WORKS THOSE PROJECTS RELATED TO LOCALLY DESIGNATED HISTORIC LANDMARKS FOR THE PURPOSES OF DOWNTOWN DESIGN REVIEW**

#### **ORDINANCE NO. 2624 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH AS MINOR WORKS THOSE PROJECTS RELATED TO LOCALLY DESIGNATED HISTORIC LANDMARKS FOR THE PURPOSES OF DOWNTOWN DESIGN REVIEW**

Mayor Sitnick opened the public hearing at 6:12 p.m.

Mr. Mike Matteson, Urban Planner, said that this is the consideration of an amendment to the Unified Development Ordinance which establishes all work related to Local Historic Landmark buildings and properties as minor works for the purposes of downtown design review. This public hearing was advertised on October 1, 1999, and October 8, 1999.

This wording amendment is designed to streamline the review process for work related to Local Historic

Landmark properties which are also located within the Downtown Design Review boundaries.

The Historic Resources Commission (HRC) reviews all changes to Local Historic Landmark properties throughout the county for compliance with the Secretary of the Interior's Standards for Rehabilitation. HRC's design review process, and compliance with the standards, is mandatory. There are a number of Local Historic Landmark properties which are located downtown, and therefore are subject to review under the City's Downtown Design Review process as well as HRC review.

Downtown Design Review Major Works Projects are reviewed by the Downtown Commission while Downtown Design Review Minor Works Projects are reviewed by staff. Both major works projects and minor works projects are reviewed for compliance with the Downtown Design Review Guidelines.

This ordinance amendment establishes all work related to landmark buildings and properties as minor works projects for the purposes of Downtown Design Review, thus eliminating the need for review by two separate commissions.

At their September 1, 1999, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of this proposed wording amendment.

Mayor Sitnick closed the public hearing at 6:14 p.m.

Mayor Sitnick said that members of Council have previously received a copy of the ordinance and it would not be read. -8-

Councilwoman Field moved for the adoption of Ordinance No. 2624. This motion was seconded by Councilman Cobb and carried unanimously.

## **ORDINANCE BOOK NO. 18 - PAGE 10**

### **C. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO CHANGE THE AREA REQUIRED FOR PUBLIC NOTIFICATION FOR CERTIFICATES OF APPROPRIATENESS FOR PROJECTS**

#### **ORDINANCE NO. 2625 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO CHANGE THE AREA REQUIRED FOR PUBLIC NOTIFICATION FOR CERTIFICATES OF APPROPRIATENESS FOR PROJECTS**

Mayor Sitnick opened the public hearing at 6:15 p.m.

Mr. Mike Matteson, Urban Planner, said that this is the consideration of an ordinance to amend the Unified Development Ordinance to change the area required for public notification for Certificates of Appropriateness for projects. This public hearing was advertised on October 2, 1999, and October 8, 1999.

The Planning and Zoning Commission, at their September 1, 1999, meeting, reviewed and recommended approval of an amendment to the Unified Development Ordinance which would revise the notification requirements for public hearings held to receive input on requests for Major Work Certificates of Appropriateness. The public hearings are held by the Historic Resources Commission prior to making a decision regarding the issuance of the Certificate of Appropriateness. The current ordinance requires notification of all owners of property located within 400 feet of the property for which the Certificate of Appropriateness is requested. The proposed amendment would require the following notification:

- For public hearings to consider requests for Certificates of Appropriateness (CA) for new construction, owners of property located within 400 feet of the property for which the CA is requested shall be notified. (No

change)

- For public hearings to consider requests for all other major work Certificates of Appropriateness, owners of property located within 150 feet of the property for which the CA is requested shall be notified. (Change from current requirement of 400 feet)
- For the Biltmore Village and Albemarle Park Local Historic Districts, notification of public hearings to consider requests for CA's for major work (excluding new construction) shall be provided to all property owners in the local historic districts. (Currently no requirement for notification of all property owners in these historic districts).

No changes are proposed in the notification requirements for CA requests for new construction. The proposed changes would affect notification of public hearings for CA's for projects such as additions, major landscape projects, addition of windows and/or doors, construction of small outbuildings, etc. The proposed change in notification requirements was requested by the Historic Resources Commission.

The Asheville Planning and Zoning Commission voted 5-0 to recommend approval of the wording amendment. The Historic Resources Commission voted unanimously to -9-

recommend approval of the amendment. The Planning and Development staff recommends approval of the amendment.

Mayor Sitnick closed the public hearing at 6:17 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. 2625. This motion was seconded by Councilwoman Field and carried unanimously.

## **ORDINANCE BOOK NO. 18 - PAGE 13**

### **IV. UNFINISHED BUSINESS:**

#### **A. CITY COUNCIL/STAFF RETREAT**

Mayor Sitnick appointed herself, Vice-Mayor Hay and Councilwoman Field to work with the City Manager on the upcoming City Council/Staff Retreat agenda.

### **V. NEW BUSINESS:**

#### **A. ORDINANCE REQUIRING RECEPTACLES FOR DISPOSAL OF CIGARETTE BUTTS**

City Attorney Oast said that that this is the consideration of adoption of an ordinance requiring businesses to provide receptacles for the disposal of smoking material

The indiscriminate disposal of cigar and cigarette butts in the public areas of the City harms the appearance of the City, is contrary to the public welfare, and is not always adequately addressed by litter laws. The proposed ordinance would require businesses that open directly onto sidewalks or public areas to provide buckets or similar receptacles at or near their entrances for disposal of smoking materials.

If Council wishes to require receptacles for disposal of cigarette butts, cigar butts, or other smoking material, adoption of the ordinance is recommended.



Mayor Sitnick recommended that City Council not vote on this ordinance at this time so that we can have the opportunity for additional public input. She stressed that we are looking for a solution to the problem of disposing cigarette butts and other smoking material remnants on the ground. She said Council is willing to consider any possible solution to this problem. Personally she is appalled that we even have to consider passing an ordinance that would establish a way for people to properly dispose of their smoking material debris, rather than throwing them on the sidewalks. This does not, however, address the problem of people emptying their ashtrays from their cars at stop signs, etc. This ordinance was merely an attempt to find a way to ask businesses that had employees who smoke outside their entrances or exits to provide a receptacle for those employees' smoking debris. She is very open to further discussion on this. It is very difficult to enforce litter laws, especially when it only takes about 1 second to dispose a cigarette butt onto the ground and unless you see someone doing it, it is very difficult to enforce. She would like to solve the problem, create awareness of the problem, and implore our citizenry to not dispose of their smoking material debris on the ground. The purpose of introducing the potential ordinance was to open the discussion and find a solution.

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City Attorney Oast said that he had made changes to the ordinance as requested by City Council at their October 5, 1999, worksession.

Mayor Sitnick recommended, in addition to receiving more public comment on this issue, that we forward this problem along to the Downtown Commission and ask them to review it and come back to Council, as an advisory commission, within 60 days with any recommendation that they might have.

Councilman Cobb also suggested we obtain input from the Biltmore Village and West Asheville groups.

Councilwoman Field said that there was one point a business roundtable that included representatives from Biltmore Village, West Asheville, the Malls, etc. and maybe we can reconstitute that group into a subcommittee.

City Attorney Oast said that the Downtown Commission is an officially established commission of the City and so your direction to that commission to advise you is certainly appropriate. Whether the Biltmore Village or West Asheville group wishes to participate is up to them, but he will be glad to refer it to them.

Mayor Sitnick said that she would like this to extend to the N.C. Dept. of Transportation which is in some ways the overseer of many of the areas where some of the biggest problems regarding smoking material debris is concerned.

Councilwoman Field agreed that we need to stop the litter, however, she said that the way the ordinance is written, we are penalizing the business owner for someone else's bad habits. She felt there must be a way of putting the punishment where the crime is.

Councilwoman Field moved to continue this matter for 60 days. This motion was seconded by Councilman Sellers and carried unanimously.

Mayor Sitnick suggested that a press release be issued to let the community know that City Council is seeking ideas, thoughts and comments on this issue.

## **VI. OTHER BUSINESS:**

### **A. PRESENTATION BY THE CITIZENS FOR PROPERTY RIGHTS**

Mr. Albert Sneed, attorney representing the Citizens for Property Rights, addressed City Council with their position on the proposed Buncombe County zoning ordinance. In summary, he explained they are concerned

with the larger public policy issues: (1) zoning artificially increases the cost of affordable housing; (2) zoning is expensive (staff, cars, etc.) and the money will either have to come from cuts in services or a raise in property taxes; (3) zoning is extremely divisive and City residents should consider the fairness in telling people in the County what to do with their property; and (4) mandatory county-wide zoning will hurt industrial development. He felt there are better ways to deal with land use issues than to adopt the County's zoning ordinance. He urged the City residents to vote no zoning in Buncombe County.

## **B. PRESENTATION BY PRO-ZONING GROUP**

Mr. Neb Cabaniss, representing the Fairview Advisory Coalition and the Citizens for Buncombe's Future, addressed City Council with their position on the proposed Buncombe County zoning ordinance. With the use of a slide program, he explained that growth is the -11-

reason they support the implementation of zoning on a County-wide basis. He said that good growth can be beneficial to our community and the consequences of unplanned growth is what causes concern. Some concerns include: farm land can be consumed by urban sprawl, mountainsides can be scarred by unplanned development on steep slopes, sprawl can consume recreational land, strip development along highways increases accidents and slows traffic; and when your neighbor is one mile down the road what he does has little impact on your life; however, when he is next door what he does can radically impact the quality of your life as well as your property values. He stressed that planned and smart growth is the key to the future success of Buncombe County. He said that Buncombe County is the largest rural county in Western North Carolina without county-wide zoning. He urged City Council to publicly support the Buncombe County zoning ordinance.

City's Planning & Development Director Scott Shuford felt that the County zoning is a step in the right direction and is a necessary tool for an area undergoing the transition from rural to urban.

## **C. CLAIMS**

The following claims were received by the City of Asheville during the period of September 24-30, 999: Todd Kent (Finance), Vera Robinson (Streets) and Dearborn Movius (Water).

The following claims were received during the period of October 1-7, 1999: Blue Bird Cab (Police), Sandra Goodwin (Water), Tecora H. Young (Water) and Barbara Styles (Streets).

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

## **D. LAWSUIT**

The following lawsuit was received by the City of Asheville on October 12, 1999: Scott Alan Gaddy v. the City of Asheville. The nature of the proceeding is that he is seeking a trial de novo from his dismissal from employment with the City of Asheville. This matter will be handled in-house.

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

### **A. COMMENTS BY CAROL COLLINS RE: BUNCOMBE COUNTY ZONING**

Ms. Carol Collins was surprised that her request to allow the Citizens for Property Rights equal time for a presentation enlisted another opportunity for the pro-zoning message. Those concerned about going to a county-wide zoning plan are still behind with regard to the City's public education effort which is being aired on the government channel. With regard to infrastructure, she said the incentives for controlling growth in the county, with the incentive based voluntary land use plan that the County did adopt, did guide and direct growth and development in the county without going to a full-blown zoning plan.

## **B. COMMENTS BY MIKE CARROLL RE: STONER ROAD**

Mr. Mike Carroll, representing the Stoner Road Community Club, addressed Council with the following concerns: (1) speeding problem on Stoner Road; (2) need of sidewalks on Stoner Road; (3) tree limbs that need to be cut; and (4) litter.

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City Manager Westbrook said that he would contact Mr. Carroll and address his concerns.

## **C. CLOSED SESSION**

At 7:12 p.m., Councilwoman Field moved to go into closed session for the following reasons: To consult with an attorney employed by the City of Asheville in order to preserve the attorney-client privilege between the City and its attorney. The parties to the lawsuit about which the Council expects to receive advice are: Morris Communications, Inc., d/b/a Fairway Outdoor Advertising Co.; Outdoor Communications, Inc.; Maple Cove, Inc.; and City of Asheville. The statutory authorization is G. S. 143-318.11 (a) (3). This motion was seconded by Councilman Sellers and carried unanimously.

At 7:20 p.m., Councilman Sellers moved to go out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

## **VIII. ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 7:20 p.m.

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CITY CLERK MAYOR

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