

Tuesday - December 7, 1999 - 4:00 p.m.

ORGANIZATIONAL SESSION:

Mayor Sitnick welcomed everyone to the organizational session and introduced Dr. Buddy Corbin, Calvary Baptist Church; Rabbi Shmuel Birnham, Beth Israel Synagogue; Rev. L. C. Ray, Greater New Zion Baptist Church, and Mr. Howard Hanger, Jubilee Community Church, each who gave the invocation.

Mayor Sitnick then announced that Councilman-Elect Charles R. Worley was out of the country and would be administered the Oath of Office when he returns.

The Honorable Earl J. Fowler Jr., Buncombe County Chief District Judge, administered the Oath of Office to the following:

Councilwoman Terry M. Whitmire

Councilman Brian L. Peterson

RESOLUTION NO. 99-183 - RESOLUTION OF APPRECIATION FOR COUNCILMAN H. EARL COBB

Mayor Sitnick read the resolution.

Resolution No. 99-183 was adopted by acclamation.

Mayor Sitnick presented Mr. Cobb with the resolution, a plaque, his name plate and a City pen.

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RESOLUTION NO. 99-184 - RESOLUTION OF APPRECIATION FOR COUNCILMAN THOMAS G. SELLERS

Mayor Sitnick read the resolution.

Resolution No. 99-184 was adopted by acclamation.

Mayor Sitnick presented Mr. Sellers with the resolution, a plaque, his name plate and a City pen.

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RESOLUTION NO. 99-185 - RESOLUTION OF APPRECIATION FOR COUNCILMAN O. T. TOMES

Mayor Sitnick read the resolution.

Resolution No. 99-185 was adopted by acclamation.

Mayor Sitnick presented Rev. Tomes with the resolution, a plaque, his name plate and a City pen.

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ELECTION OF VICE-MAYOR

Vice-Mayor Hay nominated Councilman Cloninger as Vice-Mayor of the City of Asheville, stating that Councilman Cloninger is the most senior member on Council who has not been Vice-Mayor and that his service has been exemplary.

Councilwoman Field nominated Councilwoman Whitmire as Vice-Mayor of the City of Asheville, stating that traditionally the person who received the most votes during the General Election is appointed as Vice-Mayor.

There being no further nominations, by a show of hands, Councilman Cloninger was elected as Vice-Mayor on a 5-1 vote, with Councilwoman Field voting "no".

Mayor Sitnick announced that a recess would be held for approximately 15 minutes.

REGULAR MEETING

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Barbara Field; Councilman Edward C. Hay Jr. Councilman Brian L. Peterson; and Councilwoman Terry M. Whitmire; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman-Elect Charles R. Worley

City Manager Westbrook asked that a resolution be added to the agenda which would ratify the execution by the Mayor and Assistant City Attorney of a deed releasing a portion of the property described in a deed of trust granted to the City in order that one-half of the property identified as 100 Technology Drive may be sold.

PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF CONTIGUOUS PROPERTY LOCATED WEST OF OVERLOOK ROAD AND IDENTIFIED AS BURNSIDE PHASE III AT BILTMORE PARK

ORDINANCE NO. 2644 - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY LOCATED WEST OF OVERLOOK ROAD AND IDENTIFIED AS BURNSIDE PHASE III AT BILTMORE PARK

Mayor Sitnick opened the public hearing at 5:12 p.m.

Mr. Paul Benson, Urban Planner, said that this is the consideration of a resolution fixing the date of a public hearing on December 7, 1999, on the question of annexation of property located west of Overlook Road and identified as Burnside Phase III, Biltmore Park. He said that the public hearing was advertised on November 26, 1999.

Biltmore Farms, Inc. has submitted an annexation petition for Burnside Phase III, Biltmore Park. He said that this is the 15th section of Biltmore Park that has asked for voluntary annexation. This area, is west of and adjacent to Burnside Phase II, Biltmore Park which was annexed into the City last year. Biltmore Park is generally located west of Overlook Road and north of Long Shoals Road. This annexation is pursuant to an agreement between Biltmore Farms, Inc. and the City of Asheville. -3-

The area proposed for annexation consists of 15.5 acres and is platted for 14 single-family residential lots, and a small park area. The area will be accessed by Burnside Lane, White Ash Drive and Barbarry Lane.

Utilities and streets are being developed by Biltmore Farms Inc. City services will begin on the effective date of annexation. Biltmore Farms, Inc. has requested that the effective date of annexation be six months from the adoption of the ordinance.

City staff recommends City Council adopt an ordinance annexing of property located west of Overlook Road and identified as Burnside Phase III, Biltmore Park.

Mayor Sitnick closed the public hearing at 5:16 p.m.

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

Councilwoman Field moved for the adoption of Ordinance No. 2644. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON NOVEMBER 23, 1999, AND THE WORKSESSION HELD ON NOVEMBER 30, 1999

Vice-Mayor Cloninger moved adopt the minutes of the formal meeting held on November 23, 1999, and the worksession held on November 30, 1999. This motion was seconded by Councilman Hay and carried unanimously.

MOTION SETTING A PUBLIC HEARING ON DECEMBER 21, 1999, TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH SUPPLEMENTAL DEVELOPMENT STANDARDS FOR LARGE RETAIL STRUCTURES

Councilman Hay moved to set a public hearing for December 21, 1999, to consider an amendment to the Unified Development Ordinance to establish supplemental development standards for large retail structures. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

MOTION SETTING A PUBLIC HEARING ON DECEMBER 21, 1999, TO CONSIDER A CONDITIONAL USE PERMIT FOR SWEETEN CREEK CONDOMINIUMS (THE CARLYLE) LOCATED AT 3196 SWEETEN CREEK ROAD

Councilwoman Whitmire moved to set a public hearing for December 21, 1999, to consider a conditional use permit for Sweeten Creek Apartments located at 3196 Sweeten Creek Road. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION NO. 99-189 - RESOLUTION CONFIRMING AN APPOINTMENT ON THE MINORITY BUSINESS COMMISSION

Summary: On May 26, 1998, City Council adopted Resolution No. 98-63 adopting a City-County Minority Business Plan. -4-

The composition of the Minority Business Commission consists of 13 members from various groups.

Laura Todd Thompson, representing the American Institute of Architects, has resigned. The American Institute of Architects has endorsed Jacquelyn A. Schauer to represent them on the Minority Business Commission. The Commission has met and recommends to City Council the appointment of Ms. Schauer to serve the unexpired term of Ms. Thompson, term to expire August 1, 2001, or until her successor has been appointed.

City staff recommends City Council adopt a resolution confirming the appointment of Jacquelyn A. Schauer on the Minority Business Commission.

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

Councilwoman Field moved for the adoption of Resolution No. 99-189 This motion was seconded by Councilwoman Whitmire and carried unanimously.

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RESOLUTION NO. 99-190 - RESOLUTION RATIFYING THE EXECUTION BY THE MAYOR AND ASSISTANT CITY ATTORNEY OF A DEED RELEASING PROPERTY FROM A DEED OF TRUST GRANTED BY BILTMORE FARMS INC. TO THE CITY OF ASHEVILLE AS SECURITY FOR ADVANCING FUNDS FROM THE ISSUANCE OF CERTIFICATES OF PARTICIPATION FOR CONSTRUCTION OF A BUILDING AT BILTMORE PARK TECHNOLOGY CENTER

Assistant City Attorney Patsy Meldrum said that this is consideration of a resolution ratifying the execution by the Mayor and Assistant City Attorney of a deed releasing a portion of the property described in a deed of trust granted to the City in order that one-half of the property identified as 100 Technology Drive may be sold.

In 1997, the City of Asheville, Western North Carolina Regional Economic Development Non-Profit Corporation (hereinafter "Advantage West") and Biltmore Farms, Inc. entered into an agreement regarding the construction of a building to be located in a business park known as Biltmore Park Technology Center (hereinafter "1997 Agreement"). Biltmore Farms, Inc. owns the land on which the business park is located and on which the building was constructed. The 1997 Agreement provided that the City would issue certificates of participation in the amount of \$2,500,000 for construction of the building and the certificates of participation were issued in 1997. Under the 1997 Agreement, Advantage West was to market the lease or sale of the building.

In December of 1998, the parties entered into an Amendment and Restatement of Agreement (hereinafter "1998 Agreement") wherein the property where the building was constructed was reconfigured and certain terms and conditions were updated and clarified.

The building has been constructed and marketed and one-half of the building and property has now been sold. As security for the issuance of the certificates of participation, the City of Asheville was granted a deed of trust on the property where the building is constructed and was provided an irrevocable letter of credit also securing that financing. As part of the sale of one-half of the building, it was necessary for the City of Asheville to release one-half of the property from the description included in the deed of trust in exchange for payment of one-half of the principal amount advanced to Biltmore Farms, Inc., payment of interest and other costs of -5-

issuance for the certificates of participation and payment of one-third of the net proceeds of the sale of the property pursuant to the 1998 Agreement. The rest of the property remains subject to the deed of trust.

The resolution ratifies the execution of the deed releasing one-half of the property from the deed of trust granted to the City. As the closing occurred between City Council meetings, it is now necessary for that execution to be ratified.

Upon inquiry of Councilwoman Field, Ms. Meldrum said that this action benefits the City in several ways: (1) the property will be in an active use by a new buyer so there will be a tax base after February 2000; (2) there is more interest in the Technology Park which means more jobs and more economic development; (3) in exchange for the releasing this portion of the property from the deed of trust, the City received a payment on the principle of the Certificates of Participation - approximately \$1.8 million had been advanced for

construction of the building and about \$900,000 of that was paid back; (4) the City was repaid some interest and cost of issuance for the Certificates of Participation; and (5) because the property was sold instead of leased during the first two years after a Certificate of Completion was issued for the property, the City, along with Biltmore Farms and Advantage West shared in net proceeds from the sale of the property.

The City Attorney's Office recommends adoption of the resolution.

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 99-190. This motion was seconded by Councilwoman Field and carried unanimously.

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CLAIMS

The following claims were received by the City of Asheville during the period of November 19 - December 2, 1999: Laura Hale (Fire), Sally Carter (Fire), Sheri Gaffney (Civic Center), Dan Wilhelm (Civic Center), Shirley Pope (Police), Catherine Russell (Police), Dan Hughes (Police), Marvin Manning (Water), David Herbert (Water) and Emily Belcher (Water).

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

Mayor Sitnick adjourned the meeting at 5:23 p.m.

CITY CLERK MAYOR
