

Wednesday - March 15, 2000 - 5:00 p.m.

## Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger (participated by speaker phone at 5:50 p.m.); Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry M. Whitmire; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

## **INVOCATION**

Councilman Hay gave the invocation.

## **ADDITIONS TO THE AGENDA**

Mayor Sitnick stated that she would like to make a statement relative to the proposed zoning designation of a Parks and Open Space District.

Mayor Sitnick announced that the N.C. Dept. of Transportation is sponsoring their annual litter sweep and spring roadside cleanup on April 7-20, 2000. She encouraged everyone to keep in mind the impact of litter on our streets and highways and to not litter.

## **I. PROCLAMATIONS:**

## **II. CONSENT:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 22, 2000, THE COMMUNITY MEETING HELD ON FEBRUARY 29, 2000, AND THE WORKSESSION HELD ON MARCH 7, 2000**

**B. RESOLUTION NO. 00-41 - RESOLUTION AUTHORIZING A GRANT APPLICATION WITH THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA FOR THE OUTDOOR ADVENTURE PROGRAM**

Summary: The consideration of a resolution to apply for and enter into an agreement with the Community Foundation of Western North Carolina for a grant to implement outdoor adventure activities for youth in conjunction with the Summer Playground Program.

Outdoor adventure is designed to provide outdoor recreation activities for youth ages 8-11 during the summer in conjunction with the Summer Playground Program. The program will serve up to 100 youth with outdoor activities including overnight camping and whitewater rafting.

The Parks and Recreation Department is requesting \$1,995 in grant funds. The grant does not require matching funds.

The Parks and Recreation Department recommends the approval of the application for the grant funds through the Community Foundation of Western North Carolina through the Summertime Kids 2000 program.

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**C. RESOLUTION NO. 00-42 - RESOLUTION AUTHORIZING A GRANT APPLICATION WITH THE ASHEVILLE MERCHANTS ASSOCIATION TO ASSIST WITH FUNDING FOR THE CULTURAL PROGRAM PLAN FOR FIRST NIGHT ASHEVILLE 2000**

Summary: The consideration of a resolution to apply for and enter into an agreement with the Asheville Merchants Foundation to assist with funding the Cultural Program Plan for First Night Asheville 2000.

First Night Asheville is an alcohol-free New Year's Eve celebration of the arts that specifically targets families. First Night's mission is to broaden and deepen the public's appreciation of visual and performing arts through an innovative, diverse, and high quality New Year's Eve program which offers the community a shared cultural experience accessible and affordable to all. The Cultural Program Plan encompasses all of the cultural programming that will be presented at First Night including cultural performers, visual and demonstration artists and traveling exhibits, and production cost and supplies.

The Parks and Recreation Department is requesting \$20,000 in grant funds from the Asheville Merchants Foundation. The grant does not require matching funds.

The Parks and Recreation Department recommends the City of Asheville apply for and enter into an agreement for the grant funds through the Asheville Merchants Foundation to assist with funding the Cultural Program Plan for First Night Asheville 2000.

**RESOLUTION BOOK NO. 25 – PAGE 457**

**D. ORDINANCE NO. 2675 - BUDGET AMENDMENT TO AMEND THE WATER BOND CAPITAL IMPROVEMENTS FUND (35 FUND)**

Summary: The consideration of a budget amendment to amend Capital Project Ordinance 82-25 (35 Fund - Water Bond Capital Improvements Fund) to reprogram funds and set up funding for the Fiscal Year 1999/00 Water Distribution System Improvements in order to fund various projects.

By Resolution 82-25 dated October 5, 1982, the Regional Water Authority authorized and budgeted for various capital projects to be funded by Contribution From Other Funds and Appropriated Fund Balance.

There are excess funds of \$53,911 available in the following projects: Annexation I - Blackberry, CDM Mills Master Plan, North Fork/Bee Tree Dams, Reservoir Tunnel Repairs and NC DOT Projects for Haw Creek US 70/74. There are also funds of \$99,998 available in the Fiscal Year 1998/99 Distribution System Improvements as a result of transferring this project to the 30 Fund to be completed by our newly formed construction crew.

By reprogramming these funds and transferring the contribution to capital from the 30 Fund of \$568,081, the funding for the following projects can be increased or set up: additional engineering costs associated with the Bee Tree Dam Renovations; additional funding for NC DOT Projects including the second payment for the US 70/74 Haw Creek Project, the first payment for the Sweeten Creek Phase I Project, and an allotment for engineering charges associated with future NC DOT Projects; additional matching funds for the Critical Needs Projects; and the addition of the Fiscal Year 1999/00 Distribution System Improvements to include the Bond Administration and Feasibility Study and Water Line Oversizing Projects.

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The Regional Water Authority approved an amendment to Capital Project Ordinance 82-25 at the February 15, 2000, meeting to reprogram funds and reflect the transfer from the 30 Fund (Operating Budget) to fund

the following: Bee Tree Dam Renovations Project, the NC DOT Projects, the Critical Needs Contracts to include Matching Funds, and the Fiscal Year 1999/2000 Distribution System Improvements.

The Regional Water Authority recommends approval of a budget amendment for Capital Project Ordinance 82-25 to reprogram funds and set up funding for the Fiscal Year 1999/00 Water Distribution System Improvements in order to fund the various projects described above.

**ORDINANCE BOOK NO. 18 – PAGE 171**

**E. RESOLUTION NO. 00-43 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY A NON-WARRANTY DEED FOR A STRIP OF LAND AT 1 PARK AVENUE NORTH**

Summary: The consideration of a resolution authorizing the execution of a non-warranty deed to Mr. Whit Rylee for property located at 1 Park Avenue North, Asheville, N.C.

A request was received from Mr. Whit Rylee on October 6, 1999, requesting that the City execute a non-warranty deed to him, quit claiming all government interest in the portion of his property that encroaches onto City right-of-way. According to the Buncombe County tax records, the building built on PIN No. 9638-08-98-8871 is a one story block and frame building that was constructed in 1949. The building encroaches into the right-of-way approximately two feet. The date of the dedication of the right-of-way in this area is undetermined.

The Public Works Department staff recommends City Council execute a non-warranty deed, quit claiming all government interest in the portion of the property where the encroachment lies.

**RESOLUTION BOOK NO. 25 – PAGE 458**

**F. RESOLUTION NO. 00-44 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE BRUCE ROAD RAILROAD CROSSING**

Summary: The consideration of a resolution authorizing the Mayor to enter into a Supplemental Municipal Agreement with the North Carolina Department of Transportation (NCDOT) for the installation of a railroad-crossing signal at Bruce Road and associated budget amendment, in the amount of \$10,460, for the City's portion of the cost of the installation of the railroad crossing signal.

Each year the NCDOT reviews railroad crossings to determine their safety. The Federal Government funds these projects in priority order determined by NCDOT. The funding is a 90%: 10% match, with the Federal Government paying 90% of the costs and the City paying 10% of the costs.

In 1997, NCDOT recommended that a railroad-crossing signal be placed at the Bruce Road railroad crossing for safety reasons. A municipal agreement was approved by City Council on November 11, 1997, related to this project. Following the completion of the design, it was determined that it would be necessary to relocate the railroad crossing stop bars, repaint railroad advance warning pavement markings, install/replace railroad advance warning signs, add fill in the northeast quadrant and add fill and extend pipe in the southwest quadrant. Due to these

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changes the cost has increased from approximately \$90,000 to \$104,600. The increased cost for the City of Asheville will be from \$9,000 to \$10,460.

Additionally, the City will need to acquire a construction easement for the property off the right-of-way. City

staff will be required to perform the work off of the right-of-way. This work will consist of installing a pipe and adding fill. This work will be performed by the Public Works Department.

In addition to the \$10,460 required for the installation of the railroad-crossing signal, the City will be required to pay half of the maintenance of the railroad crossing each year. The City's portion of the maintenance cost is approximately \$1,300 per year. This cost will be budgeted as a part of the Engineering Department's operating budget.

Staff recommends that City Council authorize (1) the Mayor to sign a Supplemental Municipal Agreement with NCDOT to allow a railroad-crossing signal on Bruce Road; and (2) a budget amendment, in the amount of \$10,460, for the cost of the installation of the railroad-crossing signal.

**RESOLUTION BOOK NO. 25 – PAGE 460**

**G. ORDINANCE NO. 2676 - BUDGET AMENDMENT TO INSTALL A RAILROAD CROSSING ON BRUCE ROAD**

Summary: See Consent Agenda Item "F" above.

**ORDINANCE BOOK NO. 18 - 174**

**H. RESOLUTION NO. 00-45 - RESOLUTION APPOINTING A MEMBER ON THE EDUCATIONAL ACCESS CHANNEL COMMISSION**

Summary: Ordinance No. 2554 adopted on March 9, 1999, established an Educational Access Channel Commission. On May 25, 1999, members to the Commission were appointed.

On February 10, 2000, Susan C. Fisher, School Board Chair, requested that Dr. Patti Cutspec, Director of Community Relations/Development, be appointed as one of the representatives of City Schools to replace Ms. Carolyn Moore. Dr. Cutspec will be filling the unexpired term of Ms. Moore, whose term will expire on June 1, 2001, or until her successor is appointed.

Staff recommends City Council adopt the resolution appointing Dr. Patti Cutspec to the Educational Access Channel Commission.

**RESOLUTION BOOK NO. 25 – PAGE 461**

**I. RESOLUTION NO. 00-46 - RESOLUTION AUTHORIZING THE INSTALLMENT FINANCING OF AN ICE FLOOR AND RELATED HOCKEY AND ICE SKATING EQUIPMENT FOR THE CIVIC CENTER**

Summary: The consideration of a resolution authorizing the installment financing of an ice floor and related hockey and ice skating equipment for the Civic Center.

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By Resolution No. 99-143 dated September 14, 1999, the City Council previously approved the purchase, from Asheville Professional Hockey Ltd., of the ice floor and related hockey and ice skating equipment for the Civic Center.

The Finance Department has sought proposals from 16 firms to finance the purchase of the equipment. Five proposals were received, the best of which was submitted by Banc One Leasing Corporation - - 5.4192% for four years.

The proposed resolution authorizes an installment purchase contract between the City of Asheville and Banc One Leasing Corporation for the purchase and authorizes the City Manager, Finance Director and City Clerk to execute and deliver any and all necessary documents.

Council adopt the resolution and enabling budget amendment.

**RESOLUTION BOOK NO. 25 – PAGE 462**

**J. ORDINANCE NO. 2677 - BUDGET AMENDMENT RELATIVE TO FINANCING OF AN ICE FLOOR AND RELATED HOCKEY AND ICE SKATING EQUIPMENT FOR THE CIVIC CENTER**

Summary: See Consent Agenda Item "I" above.

**ORDINANCE BOOK NO. 18 – PAGE 176**

**K. MOTION SETTING A PUBLIC HEARING FOR MARCH 28, 2000, TO CONSIDER THE LOCAL HISTORIC LANDMARK DESIGNATION FOR THE PATTON/PARKER HOUSE LOCATED AT 95 CHARLOTTE STREET, ASHEVILLE, N.C.**

**L. RESOLUTION NO. 00-47 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO REFLECT THE ADDITION OF AN AUTOMATED CONTAINER FEE FOR CITIZENS/BUSINESSES WHO REQUEST ONE ADDITIONAL AUTOMATED CONTAINER**

Summary: The consideration of a resolution amending the Fees and Charges Manual to reflect the addition of an automated container fee for citizens/businesses who request one additional automated roll out container.

The Sanitation Division will be implementing the Automated Side Loader Pilot Program on April 3, 2000.

Automated collection equipment must use proprietary containers for maximum efficiency. Also, non-standard containers may be damaged or unserviceable by the equipment with subsequent liability to the City. As a part of the pilot program, citizens will be supplied one (1) 96-gallon roll-out container (at a cost to the City of \$40 each) which is equivalent to three (3) standard sized garbage cans. Only City authorized containers will be serviced.

In cases where a resident or business requests more than one (1) container, the City proposes to supply up to one (1) additional container at a cost to the resident of \$2.50 per month. Billing can be processed through the customers bi-monthly water bill.

Staff will encourage utilization of the recycling program to reduce refuse volumes. One (1) 96-gallon container will be one-half of the current limit of six (6) standard garbage containers;

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however, forthcoming proposed changes to Chapter 15 of the Code of Ordinances will reflect recycling and changes in service volumes (standard of 1 rollout, limit of 2 per household plus rental fee).

The proposed fee of \$2.50 per month will cover capital costs of supplying the container plus additional operational costs. The Sanitation Division will handle container requests and administration.

Staff recommends approval of the resolution to amend the fees and charges manual to allow a monthly fee of \$2.50 per month for one (1) additional 96-gallon roll-out container as requested by citizens with said fees to be added to customer water bills.

**RESOLUTION BOOK NO. 25 – PAGE 464**

**M. MOTION SETTING A PUBLIC HEARING ON MARCH 28, 2000, TO REZONE FIVE LOTS ON GLENDALE AVENUE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY 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 Worley moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

**III. PUBLIC HEARINGS:**

**A. PUBLIC HEARING RELATIVE TO APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A THIRD PHASE OF THE MEADOWS APARTMENT COMPLEX LOCATED OFF OF ASCENSION DRIVE IN WEST ASHEVILLE**

City Attorney Oast reviewed with Council the conditional use permit process by stating that City Council will first hear from staff who will describe the proposal and provide some background information. Then the applicant may make a presentation and then comments from the public will be taken. He said that there will be an opportunity for questions and rebuttal comments, as necessary. Following the hearing, Council will then debate the proposal and will take action on the request. It has been Council's practice to have two separate votes, one today to either grant or denial of the request. At the next formal meeting, staff would prepare a written Order summarizing the finding and conclusions either granting or denying issuance of the permit and there would be a separate vote on that written Order.

After hearing no questions about the procedure, Mayor Sitnick opened the public hearing at 5:12 p.m.

City Clerk Burluson administered the oath to anyone who anticipated speaking on this matter.

Mr. Dan Baechtold, Urban Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certificate of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report received by City Council on February 18, 2000).

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Mr. Baechtold said that this is the consideration of a motion approving a Conditional Use approval and permit as outlined in the Unified Development Ordinance (UDO) to construct a third phase of The Meadows apartment complex located off of Ascension Drive in West Asheville.

On December 16, 1999, Meridia Inc. submitted development plans for The Meadows Phase III, which is a 48 unit expansion of an existing apartment complex on property zoned RM-16 (City Exhibit 4). The project consists of two new apartment buildings of 24 units each (City Exhibit 5). The expanded parking area will provide a total of 81 parking spaces for the expansion.

On January 19, 2000, the Technical Review Committee (TRC) reviewed the plans and took action to approve with conditions. On January 24, 2000, the applicant submitted revised plans that satisfy the TRC requirements. This development is subject to conditional use review by City Council because it is an expansion of a previously approved Level III project. This project meets all of the City's development standards.

Staff recommends approval of the Conditional Use Permit for The Meadows Phase III with three additional

conditions. When the Meadows Phase II was approved, a gate was required at the Ector Street entrance to the apartment complex from Evelake Drive. At that time, specific requirements were not determined for operation of the gate. The details were to be worked out later with the City's Traffic Engineer. At this time, the Traffic Engineer recommends installation of a gate that will open automatically for traffic exiting the apartment complex. The gate will be exit-only. The first condition addresses this gate. The other two conditions address landscaping and transit. The recommended conditions are as follows:

1. The Developer shall install a gate at the Ector Street entrance to the apartment complex from Evelake Drive. The gate shall open on demand for exiting traffic. At all other times the gate shall remain closed. The gate must be placed on property under the control of the developer. In addition, a "Do Not Enter" sign meeting the standards of the Manual on Uniform Traffic Control Devices must be installed facing Evelake Drive at this entrance to the apartment complex. The gate shall be installed before any Certificates of Occupancy are issued for the Phase III expansion.
2. The Developer shall complete the landscaping required for previous development phases. The landscaping must be approved by inspection of the Planning and Development Department before a zoning permit will be issued for Phase III. Landscaping must contain, at a minimum, the correct number and species of plantings required by the UDO.
3. The developer shall purchase and install a transit shelter to be located within the apartment complex meeting the specifications of the Asheville Transit Authority. The Transit Services Director shall approve the design and location of the transit shelter. The shelter shall be installed before any Certificates of Occupancy are issued for the Phase III expansion. All costs associated with installation of the transit shelter shall be borne by the developer.

Mr. Baechtold asked that Condition No. 3 be amended as a result of discussions with the City's Transit Services Director and the developer:

3. The developer shall work with the Transit Services Director to determine if there is a suitable location for a transit shelter on property owned by the developer. If a suitable location is determined, the developer shall participate in the cost of installation of the shelter at a share proportionate to the number of units in Phases II and III of the Meadows Apartment Complex.

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In order to approve a conditional use permit, City Council must make seven (7) findings based on the evidence and testimony received at the public hearing or otherwise appearing in the record of the case. The findings are listed below and are found in Section 7-16-2(c) of the Unified Development Ordinance.

- (1) That the proposed use or development of the land will not materially endanger the public health or safety;

The project received technical approval from the Water Resources Department, the Fire Department, MSD, Engineering, and other City Departments. The project is required to meet the technical standards set forth in the UDO, the Asheville Standard Specifications Manual, the North Carolina Building Code and other applicable laws and standards which protect the public health and safety.

- (2) That the proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or the region;

- (3) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property;

The site plan shows a buffer meeting the technical requirements for landscaping and buffering in the UDO.

(4) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;

The property is zoned RM-16 which allows high density residential development. Adequate buffering and screening are necessary to separate this use from neighboring single-family residential development. The site plan shows a buffer meeting the technical requirements for landscaping and buffering in the UDO.

(5) That the proposed use or development of the land will generally conform with the comprehensive plan and other official plans adopted by the City;

The City's Comprehensive Plan and the Asheville City Plan 2010 identify this area for higher density residential uses. The proposed development is consistent with the zoning assigned to this location.

(6) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities;

The project received technical approval from the Technical Review Committee which includes representatives of the Water Resources Department, MSD, Engineering Department, the Fire Department, and Public Works Department.

(7) That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The project received technical approval from the City Traffic Engineer. A Traffic Impact Analysis is not required.

Planning and Development staff recommends approval of an ordinance granting a conditional use permit to Meridia, Inc. to construct a 48 unit expansion of The Meadows apartment complex, with the conditions outlined.

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Councilman Peterson questioned the reasoning behind the gate in Condition No. 1. Mr. Baechtold said that when The Meadows Phase II was approved, a gate was required at the Ector Street entrance to the apartment complex from Evelake Drive. At that time, there were no specific requirements determined for how the gate would operate and the details were to be worked out later with the City's Traffic Engineer. At this time, our Traffic Engineer is requiring the installation of the gate at the Ector Street entrance which would be an automatic exit only gate.

Upon inquiry of Councilman Hay about the Condition No. 2 landscaping requirement, Mr. Baechtold said that the landscaping for Phase II was not completed to the satisfaction of the Planning & Development Department. However, he believes that Condition No. 2 has been resolved recently. He did, however, recommend that City Council leave Condition No. 2 in because the City needs to do their final inspection of it to make sure that it does meet all the requirements.

Councilwoman Field felt that gated communities, as well as cul-de-sac communities, are not smart growth and questioned the rationale behind the gate. City Traffic Engineer Michael Moule said that it is his understanding of the previous conditional use permit is that the gate was required in order to reduce the amount of traffic coming from the apartment complex onto Evelake Drive. At that time it was not specified exactly how the gate would operate. He looked at the site and reviewed the Traffic Impact Analysis that was done during the Phase II development, which also included the traffic for Phase III. The compromise that he came up with was to have the gate be exiting traffic only.



Mr. John Crabtree, owner of Meridia Inc. (developer of the project), explained the delay in landscaping for Phase II and noted that he had a letter dated March 8, 2000, from Urban Planner Carl Ownbey confirming that all landscaping requirements have been met with respect to this specific project. He did note that they purchased the Phase II property and developed 168 apartments on it. They would like to develop another 48 units in two buildings similar in nature to the Phase II project.

Mr. Terry Simmons, 31 Evelake Drive, had a concern about water runoff onto his property and that of his neighbor's at 29 Evelake Drive. He said that they are getting water now which they didn't before the construction of Phase II took place. He passed out photographs (Public's Exhibit 1) which showed the runoff problems before he built a "dike" to hold the water out of a utility building on his property. He has talked with the City Engineer on this issue and he also said that Mr. Crabtree has agreed to meet with him next week regarding this concern.

City Engineer Cathy Ball said that she has reviewed the calculations in the site plan that were submitted and determined that the minimum requirements were met from what we have in our ordinance. They relayed that information to Mr. Simmons but told him that they would work with him to see if anything could be done additionally to lessen his problem of water runoff. On March 10, 2000, a meeting was held out in the field with Mr. Crabtree and some of his employees to get the issue resolved. It is her understanding now from talking with Mr. Crabtree that while he is not in violation of any requirement that the City has (because his plan does comply with our minimum requirements) he has stated that he would try to work with the property owners to try to at least reduce their problem. Our ordinance requires that the rate of runoff be controlled, not the volume.

Upon inquiry of Councilman Hay, Ms. Ball said that the water runoff from Phase III will not run to this location – it will run basically in the opposite direction of the Phase II development. She further explained other possibilities that have been discussed with regard to the water runoff concerns. In addition, she said that about a year ago they met on site with the developer and he did put in additional rip-rap along the ditch line in between the detention pond and the property

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owners to try to slow the water down. The detention pond now is grassed, stable and in good condition.

Councilman Peterson asked if Council can take into consideration the problems with Phase II on this phase. City Attorney Oast responded that there has to be some degree of connectiveness between the problem and the development. Since Phase III is not built, that is not causing the problem. To the extent that it might exacerbate the problem, he felt that Council could require appropriate conditions.

Mr. Crabtree said that Phase III will drain in the opposite direction from Mr. Simmons' property. He did state that they installed, at their expense, some remedial measures which Mr. Ernie Hewitt from the City Engineer's Department suggested which would hopefully alleviate the runoff problems. Since that time they had not heard anything else until a couple of weeks ago. Mr. Hewitt said that system was working fine and he could not find where their development was contributing at all to Mr. Simmons' runoff problem. He has agreed to meet with Mr. Simmons and try to come up with something to help them, however, he is not convinced at all that the water that is causing their problem is coming off of his property. (Vice-Mayor Cloninger has just come on line on the speaker phone at this time.) He did state that there is a building in Phase I, which is not part of his property, which is contributing to some of Mr. Simmons' problem.

Councilman Hay suggested a Condition No. 4 be added as follows: "The Developer be required to show to the satisfaction of the City Engineer that he has taken whatever steps necessary to ameliorate runoff problems caused by Phase II development for the residents on Evelake Drive."

Upon inquiry of Councilwoman Field, Ms. Ball felt that the runoff problem is caused by both Phase I and Phase II. She feels very comfortable with the additional condition suggested by Councilman Hay because the developer has already shown that he is willing to look into the problem. She didn't feel comfortable in telling them that he has to, because some of the things that he may have to do may require an easement, or things that property owners might not want to give him.

Vice-Mayor Cloninger stated that since he did not hear the entire public hearing on this issue, he would prefer not vote on this issue. City Council concurred.

Mayor Sitnick closed the public hearing at 6:11 p.m.

Councilman Hay moved to instruct City staff to prepare an order approving the conditional use permit to construct a third phase of The Meadows, subject to Condition No. 1, Condition No. 2, the amended Condition No. 3 and the addition of Condition No. 4, with said Order being brought back to City Council for approval on March 28, 2000.. This motion was seconded by Councilman Worley and carried unanimously.

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

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

#### **A. ORDINANCE NO. 2678 - BUDGET AMENDMENT TO FUND THE YES! 2000 (FORMERLY THE SUMMER YOUTH EMPLOYMENT PROGRAM)**

Mr. Irby Brinson said that this is the consideration of a budget amendment, in the amount of \$100,000, to fund the YES! 2000 (formerly the Summer Youth Employment Program).

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The YES! 2000 represents the City of Asheville's ongoing commitment to provide youth with valuable summer employment opportunities that have significant impact in their development and preparation to be employable members in our community. The Parks and Recreation Department is working in collaboration with the Community Foundation of Western North Carolina (Community Foundation), Job Link, Chamber of Commerce, Housing Authority, and community volunteers to provide employment and training opportunities for 50 youth, ages 14 to 19, during June-August 2000. The Parks and Recreation Department hopes to expand the program to serve 25 additional youth pending participation by the private sector, and a grant from the Community Foundation.

Staff has been working in conjunction with the above agencies since September 1999 to work collectively to enhance the program for 2000. The collaboration has resulted in a new focus for the program to provide necessary life experiences for youth as they prepare to face future responsibility and pressure. It is the desire of the group to use a portion of the City's contribution, and the Community Foundation grant for program administration, with additional resources for job placement coming from the private sector.

The Parks and Recreation Department is responsible for the management and operation of the program. Each year City Council has generously funded the program's operating budget.

The Parks and Recreation Department recommends City Council appropriate \$100,000 to establish an operating budget for Youth Employment Services 2000.

Mr. Marshall Logan explained how the summer youth program has evolved and explained his vision for this program in the future.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the ordinance and

it would not be read.

Councilman Hay moved for the adoption of Ordinance No. 2678. This motion was seconded by Councilwoman Field and carried unanimously.

**ORDINANCE BOOK NO. 18 – PAGE 178**

**B. RESOLUTION NO. 00-48- RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA KNOWN AS CHUNNS COVE ROAD/PINEY MOUNTAIN ROAD AREA (ALSO KNOWN AS AREA 2001-A) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION**

**RESOLUTION NO. 00-49 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA LOCATED NORTH OF U.S. HIGHWAY 70 BETWEEN RICEVILLE ROAD AND LOWER GRASSY BRANCH ROAD (ALSO KNOWN AS AREA 2001-B) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION**

**RESOLUTION NO. 00-50 - RESOLUTION STATING THE INTENT OF THE**

**CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA LOCATED NORTH AND SOUTH OF LONG SHOALS ROAD BETWEEN I-26 AND HENDERSONVILLE ROAD (ALSO KNOWN AS AREA 2001-C) AND**

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**DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION**

**RESOLUTION NO. 00-51- RESOLUTION STATING THE INTENT OF THE**

**CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA KNOWN AS RIDGEFIELD BOULEVARD AND OAK TERRACE AREA (ALSO KNOWN AS AREA 2001-D) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION**

**RESOLUTION NO. 00-52 - RESOLUTION STATING THE INTENT OF THE**

**CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA KNOWN AS NEW LEICESTER HIGHWAY AREA (ALSO KNOWN AS AREA 2001-E) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION**

**RESOLUTION NO. 00-53 - RESOLUTION STATING THE INTENT OF THE**

**CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA KNOWN AS THE ROCKY RIDGE ROAD/WEDGEFIELD DRIVE AREA (ALSO KNOWN AS AREA 2001-F) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION**

Planning & Development Director Scott Shuford said that on February 22, 2000, City Council adopted six Resolutions of Intent for the Phase I annexation areas. The Resolutions of Intent represent the first formal

step in the City-initiated annexation process. After review of the statutory requirements, City staff found that the adoption date of the Resolutions of Intent was too early based on State law which sets specific time periods between the Resolutions of Intent and the public information meeting and the public hearing.

The dates used were provided by our consultant who acknowledges the mistake. Fortunately, this is a correctable error that, once it has been fixed, has no consequences regarding the effective date of annexation or any other critical issues associated with the Phase I annexation process. The "cure" for this problem is to simply adopt new Resolutions of Intent for each of the six annexation areas.

City Attorney Oast said that language will be included in each ordinance that states that this resolution shall supersede and replace the appropriate resolution of the same title adopted on February 22, 2000.

Staff recommends the six Resolutions of Intent be adopted by City Council.

Mayor Sitnick said that members of Council have been furnished with copies of the resolutions and they would not be read.

Councilman Worley moved to adopt Resolution No. 00-48, the resolution of intent to consider annexation of the area known as Chunn's Cove Road/Piney Mountain Road area, also known as Area 2001-A, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilwoman Field and carried unanimously.

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#### **RESOLUTION BOOK NO. 25 - PAGE 466**

Councilman Hay moved to adopt Resolution No. 00-49, the resolution of intent to consider annexation of the area located north of U.S. Highway 70 between Riceville Road and Lower Grassy Branch Road, also known as Area 2001-B, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilwoman Whitmire and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 470**

Councilwoman Whitmire moved to adopt Resolution No. 00-50, the resolution of intent to consider annexation of the area located north and south of Long Shoals Road between I-26 and Hendersonville Road, also known as Area 2001-C, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilman Hay and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 474**

Councilman Worley moved to adopt Resolution No. 00-51, the resolution of intent to consider annexation of the area known as Ridgefield Boulevard and Oak Terrace area, also known as Area 2001-D, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilwoman Field and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 481**

Councilman Peterson moved to adopt Resolution No. 00-52, the resolution of intent to consider annexation of the area known as New Leicester Highway, also known as Area 2001-E, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on

May 23, 2000. This motion was seconded by Councilwoman Field and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 486**

Councilman Hay moved to adopt Resolution No. 00-53, the resolution of intent to consider annexation of the area known as the Rocky Ridge Road/Wedgefield Drive area, also known as Area 2001-F, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilman Worley and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 490**

**C. RESOLUTION NO. 00-54 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA KNOWN AS CHUNNS COVE ROAD/PINEY MOUNTAIN ROAD AREA (ALSO KNOWN AS AREA 2001-A) AND DESCRIBED HEREIN**

**RESOLUTION NO. 00-55 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA LOCATED NORTH OF U.S. HIGHWAY 70 BETWEEN RICEVILLE ROAD AND LOWER GRASSY BRANCH ROAD (ALSO KNOWN AS AREA 2001-B) AND DESCRIBED HEREIN**

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**RESOLUTION NO. 00-56 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA LOCATED NORTH AND SOUTH OF LONG SHOALS ROAD BETWEEN I-26 AND HENDERSONVILLE ROAD (ALSO KNOWN AS AREA 2001-C) AND DESCRIBED HEREIN**

**RESOLUTION NO. 00-57 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA KNOWN AS RIDGEFIELD BOULEVARD AND OAK TERRACE AREA (ALSO KNOWN AS AREA 2001-D) AND DESCRIBED HEREIN**

**RESOLUTION NO. 00-58 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA KNOWN AS NEW LEICESTER HIGHWAY AREA (ALSO KNOWN AS AREA 2001-E) AND DESCRIBED HEREIN**

**RESOLUTION NO. 00-59 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA KNOWN AS THE ROCKY RIDGE ROAD/WEDGEFIELD DRIVE AREA (ALSO KNOWN AS AREA 2001-F) AND DESCRIBED HEREIN**

Planning & Development Director Scott Shuford said that this is the consideration of approving the City of Asheville Plan for Services report for areas proposed for annexation.

The report setting forth the plans were reviewed at City Council's worksession on March 7, 2000.

Staff recommends the Plan of Services be approved and made available for public inspection.

Mayor Sitnick said that these are resolutions approving a plan to provide services to the six areas proposed for annexation. She stated that annexations and the services provided in those annexations are based upon the policy of the sitting Council at the time that annexation takes place. And there have been times in our history when the annexation policy was not terrific. This Council has made it our benchmark to make sure that staff knows that if we are going to annex an area, that we make sure that we give the best service to that annexed area that any other area in the City is getting. Our policy for annexation in those areas that will be annexed by this Council will receive all of the services that can benefit an area during an

annexation.

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

Councilman Worley moved to adopt Resolution No. 00-54, the resolution approving the report setting forth plans to provide services to the area known as Chunns Cove Road/Piney Mountain Road area, also known as Area 2001-A. This motion was seconded by Councilman Hay and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 494**

Councilwoman Whitmire moved to adopt Resolution No. 00-55, the resolution approving the report setting forth plans to provide services to the area located north of U.S. Highway 70

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between Riceville Road and Lower Grassy Branch Road, also known as Area 2001-B. This motion was seconded by Councilman Hay and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 496**

Councilwoman Field stated that she still had concerns regarding providing sewer service in Area 2001-C. She understands that the action today is making the report of plans available for public inspection and would not vote against it at this point, but would reserve the right to have serious considerations after public input on what some of our options are. At an MSD Board meeting today, this particular piece around Lake Julian, was discussed as an area that needs some work by MSD. She thinks that there is some possibilities here that we haven't really looked at. She will meet with Mr. Shuford and some members of MSD to review this. She is not opposed to the annexation, but she is opposed to not providing sewer service but taking over the septic systems that are there.

City Attorney Oast said that state laws says that you are required to provide services in the annexed area to the same degree that you provide them in the rest of the City. City Manager Westbrook pointed out that technically we don't have to provide that service because we are not the service provider in that area.

Councilwoman Whitmire said that Mr. Shuford's memo reads that state law allows the option of providing sewer service through a septic tank maintenance program and our consultant has recommended using that option.

Mr. Shuford stated that City staff is committed to carrying out Council's policy in this area in that the Council wants to provide the absolute top level of service that is feasible. They will also continue to pursue the issue with MSD that Councilwoman Field raised.

Upon inquiry of Councilman Peterson, Mr. Richard Flowe, President of Benchmark Inc., said that City Council can reduce the areas in size, provided that the subsequent area still meets and satisfies the qualifications to annex on an analytical basis. You can also revise the services report through two different mechanisms. One is an actual amendment of the report itself, or, at the time of the consideration of the annexation ordinance in June, there are provisions in that ordinance to make any amendments to the plan that you desire.

City Manager Jim Westbrook responded to a concern from Mr. Fred English, 17 Pressley Road, about his sewer system.

Councilman Hay moved to adopt Resolution No. 00-56, the resolution approving the report setting forth

plans to provide services to the area located north and south of Long Shoals Road between I-26 and Hendersonville Road, also known as Area 2001-C. This motion was seconded by Councilman Peterson and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 498**

Councilwoman Field moved to adopt Resolution No. 00-57, the resolution approving the report setting forth plans to provide services to the area known as Ridgefield Boulevard and Oak Terrace area, also known as Area 2001-D. This motion was seconded by Councilman Worley and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 500**

Councilman Peterson moved to adopt Resolution No. 00-58, the resolution approving the report setting forth plans to provide services to the area known as New Leicester Highway, also

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known as Area 2001-E. This motion was seconded by Councilwoman Whitmire and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 502**

Councilwoman Field moved to adopt Resolution No. 00-59, the resolution approving the report setting forth plans to provide services to the area known as the Rocky Ridge Road/Wedgefield Drive area, also known as Area 2001-F. This motion was seconded by Councilman Hay and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 504**

**D. RESOLUTION NO. 00-60 - RESOLUTION APPOINTING TWO ALTERNATES TO THE BOARD OF ADJUSTMENT**

Vice-Mayor Cloninger said that on February 22, 2000, City Council interviewed Tom Tarrant, Scott Fowler and Headlee Howard for two alternate positions on the Board of Adjustment.

Scott Fowler received seven votes, Headlee Howard received five votes and Tom Tarrant received two votes. Therefore, Councilman Worley moved to appoint Headlee Howard as an alternate to the Board of Adjustment to serve an unexpired term, term to expire January 21, 2001; and Scott Fowler as an alternate to the Board of Adjustment to serve a three year term, term to expire January 21, 2003. Both respective appointments are until their successors have been appointed. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

**RESOLUTION BOOK NO. 25 – PAGE 506**

**D. RESOLUTION APPOINTING A MEMBER TO THE GREENWAY COMMISSION**

Vice-Mayor Cloninger said that on February 22, 2000, City Council interviewed Crystal Pace and Phyllis Stiles for a vacancy on the Greenway Commission. Ms. Judith Hamill was very interested in the position but was out of town on the date scheduled for interviews. It was the consensus of City Council to instruct the City Clerk to arrange for an interview for Ms. Hamill and bring this matter back to City Council at their March 28, 2000, meeting.

**VI. OTHER BUSINESS:**

**A. CLAIMS**

The following claims were received by the City of Asheville during the period of February 18-24, 2000: Gene Davis (Civic Center) and Neal Owen (Water).

The following claims were received during the period of February 25 - March 2, 2000: Jerry Buckner (Water), Joel Belz (Water) and Tina Watson (Streets).

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

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## **B. LAWSUIT**

The City has received the following Complaint on February 16, 2000: Matter: Joanne Baker and Kenneth Baker v. City of Asheville, Asheville Transit Authority, Asheville Transit Commission, CCL Management Inc., Asheville Coach Lines Inc. and Sandra Imes. The nature of the proceeding is a complaint alleging bodily injury and expenses incurred.

The City Attorney has recommended that this matter be handled by an attorney outside the City Attorney's Office and he recommended Fred Barbour.

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

### **A. PARKS AND OPEN SPACE DISTRICT**

Mayor Sitnick said that when the Unified Development Ordinance was being discussed two years ago, her initial concept was to create a Parks and Open Space District. Her initial idea was never to zone a designation of parks and open space for private property. Her only consideration was to ascribe that zoning designation to City-owned property because City-owned parks are zoned according to the land use around them. We have a zoning designation for just about everything in this community and we accommodate just about everything in this community. She couldn't think of any designation that would preserve our park lands for our generations to come, especially since our Parks and Recreation Bond failed. She felt that it was important that at least the existing parks be preserved as parks or open space and not take a chance that some council in the future, if they find themselves in a financial crunch, as municipalities do when we get federally unfunded mandates, etc., to give a future council the thought that we could sell off our parks lands. We need our parks for our children to provide them with open space to have recreational opportunities. Again, she never intended for this to apply to private property. We gave away our sewer, we gave away our water and she didn't want to see us give away our park lands. She appreciates the idea of conservation easements and would certainly support that if it accomplishes the same thing.

### **B. NATIONAL LEAGUE OF CITIES**

Councilman Worley said that four Council members traveled to Washington, D.C., to attend the National League of Cities Conference. He stated that the conference was very beneficial and would be providing a more comprehensive report in the future.

#### **A. ASHEVILLE MOTOR SPEEDWAY**

Councilwoman Whitmire passed out a form stating that she wanted an idea of who attended this portion of the meeting and asked audience members to write down their names and addresses.

Mr. Mike Morgan said his vision was of a community united together and healing wounds.



Wounds caused unknowingly by the City of Asheville. As a new race fan, he was not capable of understanding the love for one sport, not until he began to understand the family atmosphere of auto racing. When, and only when, he began to talk to these people, these people are more than fans of a sport – they are a people of great diversity. A people who love one another as a large family. This large family that loves auto racing are perplexed and still in a state of shock that their sport is no longer a part of the City of Asheville and Buncombe County. A sport that originated here in these beautiful mountains that they call home. He does not believe that the City Council deliberately tried to target one group of people or show favoritism to another group of people, but this give of \$1 Million, this value of the property, is not true. The land can only be worth \$1 Million with the racing facility in operation. This land is in a floodplain and would be at its best worth \$4,500 an acre. But he was not here tonight to debate

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or argue this point. He is asking Council to take a leadership role. He knows that Council made an agreement but Council also made a larger agreement with this racing family and to the citizens of the City of Asheville. You represent us all. It is time tonight for park lovers and the racing family to come together. The racing family is asking for nothing more than to race at the new Asheville Speedway until another track is built. Some members of Council have said to be patient and to wait until the new track is built in Haywood County in two years. He has a question. What made any of you think that a track could be built in one year and why one year. It is Council's obligation to do for a community of people, a family of people who do not have the power to do themselves. We will not escape the history of your decision. The decision to unite or divide is yours. We are not asking for more than you can give. We are asking for a motion from one City Council person who can heal our community. A motion to continue racing at the new Asheville Speedway until a new track is built. Who would make this motion and let this healing process begin. The property is the property of the taxpayers of the City of Asheville. It is these taxpayers who have elected you. We are exercising our first amendment right. The right of the people to peacefully assemble, to address our local government with our grievances, and the freedom of speech. We have the Bill of Rights which protect the person's right to life, liberty and the pursuit of happiness. He respectfully ask that this City Council help this racing family achieve the happiness that they so deserve. Make that motion tonight. The healing of our community is in your hands.

Mr. Don Yelton, speaking on behalf of Racing 2000 and Beyond, said that "you have been asked to heal the wounds. You have been asked to take a leadership role and encourage the support ... The race cars and bicycles can exist together for two years. Everyone wins. All kinds of rumors have been flying around. John Huffman offered more for the track than they paid for it. The Biltmore Company wanted to offer to move the track - lock, stock and barrel. Roger Gregg wanted the deal the ... tax write-off. The property has asbestos on it. There once was a deed that stated only racing could occur at the site. The Airport caused problems in the past when Dr. Owens had it. The previous Mayor started the deal and the current City Council inherited the problem. Roger Gregg broke a verbal contract with the drivers by telling them to go out and spend \$60,000 on a different type of car. Add to these rumors the following facts. The local paper spelled out how to file an injunction on the track. The time has run out on that. The previous park donated by the City by RiverLink was a site for storage of electrical transformers with possible PVC contamination. The previous park required and donated to the City by RiverLink has required the addition of two full-time park wardens to make the park so that it could be used by the average person. The race track paid taxes while the park will cost money. The track paid over \$20,000 in property taxes

alone, I believe. The racing season put over \$9 Million in the economy by building 150 cars at \$60,000 a piece. That's equal to \$500,000 at 6% sales tax. The taxpayers will have to support the park while the race track funded itself. If you look at the take at the gate of that track, it's about \$1.2 Million a year and an economic analysis says that multiplied by 10 by the time that money is passed through the community. So we are looking at an economic impact of the gate alone of \$12-15 Million plus the \$9 Million equals a \$24 Million impact on this community. Yes, you can sit there and pretend that the public doesn't care about racing and you may not want the noise and some people tell me this will hurt me in my run for Chairman of the Buncombe County Board of Commissioners, by being for the race fans. And you may feel that racing is a red-neck sport. I don't know and you don't know, but look at the Council now how it has changed based on this past decision. Remember that everyone in the City understands tax dollars and we are just going to say no to millions of dollars in revenue. The City doesn't keep all that money, but a percentage of it does go to you. But I guess that you feel an annexation will give you the funds to keep up the park. With every annexation will come more irate voters that will observe your every decision. Think this through. You will take away a sport of 40 years. You will take away a site of family recreation. You will take away a place that produced revenue. You have an attitude that you are surprised at how irate race fans are, but yet you tell them to go away and play with themselves for two years while the track in Haywood is built. I'm surprised that these folks think that you can do something. But

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you can do something. You can shut it down, so if you can shut it down, you can open it up. Right now you can make a move or a motion to work your fanny off in the next two weeks to let racing occur at the track to give the neighboring county time to build the track. You always say that so goes Asheville, goes the rest of the western North Carolina counties. You always say you're asked to provide services such as the Civic Center that nobody pays for. Does the Asheville City Council have the ability to show the leadership and persuade the givers of this Trojan horse to let my friends, the racing community, pay this \$500,000 in taxes for the next two years. That's a cool million, folks, and guess what they will pay the City. Another \$200,000 just to use the track and you can even work with the promoter to work other functions in, such as bike races, go-cart races, so that the park could be phased in while making money on the track. If the gift-giver really cares about Asheville, they would go along with this plan. But you have analyzed the votes, and I've been told that you have looked at those 17,000 petitions that were signed and only 6% were registered to vote – well, I'm going to tell you right now. The racing community is here tonight and they will vote. We signed up over a dozen people today outside this City Hall to be registered to vote. Has the racing community been singled out as the red-neck sport and to be shut down – removed from the hearing distance of a new hotel. If this Council does not work to make this happen, you are sending a message to all of the locals, all of the red-necks, and yes, I consider myself one of them, and all the locals that have moved in here that want to become red-necks, that if your hobby gets in the way of a greenway or a high dollar hotel, bye-bye – you're gone. Can this Council have the leadership. Is there one to stand up and say, wait a minute. We are fixing to open up a belly of a Trojan horse. A belly that may contain asbestos. A broken contract with the drivers that is a possible lawsuit. Lost tax revenues. Increased burden on the taxpayers and maybe misplaced deeds. And maybe even possibly a question of 501-C status of RiverLink as they pledge in their Articles of Incorporation to care about everyone – all of the people, not just a select few. This Council has a chance to make this decision. I urge you to carefully look at the message you're sending to the people. When this same Council says, we won't let a businessman drill at the

Airport to look for a raceway and evaluate the property. When that information would be extremely valuable to you. I think any businessman in Asheville if someone walked in his door and said I will do something for you and give you the information for free, they would take it. So, with that action and the action that you are possibly going to take to shut racing down – does that not send a message that yes, you have the power to shut racing down. And folks, if you have that power, you have the power to let it continue. Think about what leadership role you have.

Mr. Clyde Flowers said that he has raced off and on for 33 years at the speedway. He questioned why City Council took 40 years of racing heritage away from the racing community behind closed doors and leave them with no where else to go.

Mayor Sitnick said that "there is nobody on this Council who doesn't understand how you feel, all of you. There was a private property owner, and all of you are private property owners, who decided five years ago to sell the Asheville Motor Speedway. The Asheville Motor Speedway was advertised in in-City and out-of-City newspapers. I have been told this by dozens of race fans. I don't know all of the history that involved Mr. Gregg's feelings about the race track and his desire to sell it. I do know that for four years nobody bought it. And then a group of private developers came along, private donors – they decided to buy it. Mr. Gregg came to the City and told us that he had a donation to give to us. A gift. He wanted it kept confidential because he wanted to honor his father by naming part of it in his father's name. I am telling you what happened. Don Yelton has been in my office many times. I have known Don Yelton for years. Don has always told me, he believes in my honor and he trusts me. I am telling you the truth as best I know it. We agreed that it was a very nice gesture for Mr. Gregg to honor his father and he wanted to surprise his father by naming the Roger Gregg Sr. Greenway after him. We never held a secret meeting. We held one legal closed session in order to discuss the acquisition of land, which is allowed by North Carolina state statute. During that meeting, we discussed the possibility of this gift and the fact that there would be an easement that would be

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turned over to the North Carolina Clean Water Trust Fund. We never discussed the acquisition of this property in closed session again. So there was no secret meeting. Last year a number of racing fans came to this Council and, I have all of the minutes and would be happy to provide you with copies of these minutes, of all of the meetings where all of you and those not here tonight, requested of this Council that we do all in our power to get one more season of racing for you. To get one more year for the Asheville Motor Speedway while you-all worked on creating another track. There were even discussions between our City Attorney and several potential developers, some of whom continue today looking for another track, and some who came, made promises and kind-of disappeared during the process. This Council bent over backwards and went to the donors and went to RiverLink and begged for another year – which is what you-all asked us to do. We did exactly as you requested. In order to get that year, we had to promise that we would not ask again. So in order to get that year, which is what you-all requested of us, we did that. But it was more than a promise, it was an agreement. And, I would venture to say that if any of you had asked any of us when we were candidates, if we would break an agreement when we got elected, and we said yes, you would not have voted for us. And anybody who asks an elected official to break an agreement, is not asking a proper thing. We did it last year and we got the year for you. At my own personal risk, even though we promised and signed an agreement not to ask again in order to get that year, two weeks ago I picked up the phone

and made the calls that Don Yelton asked me to make and requested the possibility of allowing racing at the race track. I was told no. Final answer. I was told even asking could get us sued. But I took the risk and I asked exactly what you're asking us tonight. And I was told no. I'm sorry about what happened to the speedway. I'm sorry about the history that has been cut off. We all are. We didn't know what Mr. Gregg's intentions were but he was a private property owner. The restrictions that we placed on the Asheville Motor Speedway to not allow racing there anymore were placed on it by Mr. Gregg. Not by the City of Asheville. When you use terms like we shut you down, it's not so. We accepted the gift on behalf of the taxpayers of this City. We're sorry about the wounds, but they were not caused by the City of Asheville. In the newspaper, Mr. Yelton was quoted as saying, and if this is not what you actually said Don, I apologize to you, because sometime things are quoted in the newspaper and they come out a little different than real, so correct me if I'm wrong. You said that the City Council took an oath to serve everybody. I feel we did that. We received the gift on behalf of the taxpayers of the City. We did everything we could to have one more year of racing at the speedway. We took an oath to be truthful, to be honest, to abide by our agreements. And you are now asking us to break that agreement. You say that we broke it one year. We didn't break it one year. We did exactly as you requested. We went to the donors and to RiverLink and we begged for one more year. One more season. Time and again, in the minutes of those meetings, that's what you asked for. And that's what we got. I don't know what more we can do at this point. This has been a very difficult episode in Asheville's history. Frankly, speaking for myself, if I had known the pain that it would have caused when I was asked to keep in confidence this gift, I would have said no thank you. It is my hope that a race track is built, and built quickly. I don't know that it will be built in time to satisfy everybody. I don't know whether the track in Canton is going to be built. I don't know whether the Youngs are going to build one – I certainly hope one is built as soon as possible. But the Asheville City Council and the City of Asheville did not shut down the speedway."

Mr. Yelton asked "if we can raise the money to pay Roger Gregg his share of that track and you can refund that money to him, would the City possibly consider doing that and letting him remove his deed covenant and then we would work with the City so that we could pay the City, and we would actually increase the price of each race ticket by \$1 and let that money go to the City and toward construction of the park."

Mayor Sitnick said that "I will suggest to you now what I have suggested to you in my office. If you want to go and ask all of the parties involved, and follow the line, and get that done, I welcome you to do it."

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Councilman Worley suggested Mr. Yelton look at the deeds and the other restrictions that were put on record – not only were the deeds which contain restrictions, there was a conservation easement also placed on the property. The holder of that conservation easement would also have to be contacted. The restrictions were placed on the deed from Roger Gregg to RiverLink. The same restrictions were also placed on the deed from RiverLink to the City of Asheville. He felt both organizations would need to be involved in releasing those restrictions.

Several other speakers made comments as follows: who did the Mayor talk to that said no more racing, let the Planning & Zoning Department and the Economic Development Division find a place to locate a race track, are the Young's still trying to find a location to build a track, why didn't the City give permission to the Young's to do soil borings on the

property near the Airport, and there are a lot of arrests at the park on the corner of Amboy Road.

Mr. Charlie Crawford said that he is building a raceway in the outskirts of the City of Canton and he believes that it will be open sometime in 2001.

**B. COMMENTS BY MS. SHIRLEY DOZIER**

Ms. Shirley Dozier passed out a hand delivered letter dated January 25, 2000, to Mayor Leni Sitnick and stated that she has not had any response to that letter. She felt that no response reflects the lack of responsibility for the damages that the City has caused her family as taxpayers of the City of Asheville. She urged the City to stop the harassment of the Dozier family.

**VIII. ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 7:45 p.m.

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CITY CLERK MAYOR

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