

Tuesday - May 23, 2000 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; 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 Burlison

Absent: None

INVOCATION

Councilman Hay gave the invocation.

ADDITIONS TO THE AGENDA

At the request of City Manager Westbrook, it was the consensus of City Council to add the following items to the Consent Agenda: (1) resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville Downtown Association's 2000 events, and (2) resolution authorizing the City Manager to enter into an agreement with Candler Concrete Works Inc. to install sidewalks along Cumberland Avenue and Chestnut Street.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 25, 2000, AS "OLDER AMERICANS DAY" IN THE CITY OF ASHEVILLE

Mayor Sitnick read the proclamation proclaiming May 25, 2000, as "Older Americans Day" in the City of Asheville. She presented the proclamation to Mr. Dick Patzfahl, Executive Director of the Buncombe County Council on Aging, who briefed City Council on some activities taking place during the day.

II. CONSENT:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 9, 2000, AND THE WORKSESSION HELD ON MAY 16, 2000**
- B. MOTION GRANTING THE REQUEST OF THE ASHEVILLE-BUNCOMBE VISION TO (1) CONTINUE USING DONATED CITY SPACE AT 29 HAYWOOD STREET, (2) USE OF EXISTING LEVEL OF SUPPORT SERVICES, AND (3) TWO PARKING PASSES TO THE RANKIN STREET PARKING GARAGE FOR USE BY THE VISION STAFF**

Summary: The consideration of a request to allow the continued use of City office space for the VISION.

The City of Asheville has provided office space to the VISION of Asheville-Buncombe County, hereafter referred to as "VISION", since Spring 1996. The office space is located in the City Development Office at 29 Haywood Street and has been provided at no cost. The City also provides funding to the VISION through "outside agency" funding.

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On March 30, 2000 from VISION Board Chair Albert L. Sneed, Jr., requested the City continue to

grant an in kind donation of office space and existing support services for Fiscal Year 2000/01. The VISION Board has expressed gratitude to the City and the "ideal location" for the office space. Additionally, a separate request was received to grant continued use of the Rankin Street parking garage at no charge by providing two parking passes.

In looking at the upcoming year, City staff is not aware of any changes in the City Development office layout or staffing levels that will require the space currently utilized by the VISION. Therefore, the current space arrangement is recommended to be granted for the upcoming Fiscal Year 2000/01. Likewise, Staff recommends providing two parking passes to the Rankin Street parking garage for use by the VISION staff.

Staff recommends that Council grant the request of the VISION by a motion to approve the request thereby providing the continued use of donated office space, the existing level of support services and two parking passes to the Rankin Street parking garage for FY 2000/01.

C. RESOLUTION NO. 00-83 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR A GRANT AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR A GRANT TO ASSIST WITH THE DEVELOPMENT OF THE FRENCH BROAD RIVER PARK PHASE IV

Summary: The consideration of a resolution to apply for and enter into an agreement with the N. C. Department of Transportation, Transportation Enhancement Program for the Transportation Equity Act for the 21st Century (TEA21) to assist with the construction of the French Broad River Park Phase IV (FBRPIV).

FBRPIV represents the City of Asheville's next phase of a major greenway and park system being developed along the French Broad River on Amboy Road. The park will include greenways, bicycle facilities, lawn bowling, volleyball and soccer complex, softball field, playground, restrooms, roller hockey, open space, picnic shelter, parking, and a welcome center. Phase IV will also connect to a planned NC DOT funded greenway from Hominy Creek on the west, and eventually to the Amboy Road trail to the east.

The Parks and Recreation Department and RiverLink are in partnership to implement an ambitious fundraising plan to raise approximately \$2 million to build the park. To date, \$50,500 has been raised, and \$770,000 to \$820,000 in grant proposals are pending.

The Parks and Recreation Department is requesting \$200,000 to \$250,000 in grant funds from TEA21 which will be used to construct neighborhood and park connections to the new park. One neighborhood segment will bring a sidewalk and safe pedestrian crossing to Michigan Avenue and across Amboy Road to the park entrance. The second crossing will provide a pedestrian connection at Riverview Drive at French Broad River Park to the Amboy Road trail using a safe street crossing and ramp into the park. The final sidewalk connection will link Amboy Road trail and FBRPIV along Amboy Road at Edaco Salvage. The grant requires a 20% cash match, which will be available through current fundraising efforts by Parks and Recreation and RiverLink.

The Parks and Recreation Department recommends the City of Asheville apply for and enter into an agreement for grant funds with the N. C. Department of Transportation, Transportation Enhancement Program for TEA21 to assist with the construction of the French Broad River Park, Phase IV.

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RESOLUTION BOOK NO. 26 – PAGE 30

D. ORDINANCE NO. 2697 - BUDGET AMENDMENT TO INCREASE APPROPRIATION OF THE PRINT SHOP REVENUES AND EXPENSES

Summary: The consideration of a budget amendment, in the amount of \$22,700, to increase the appropriation of the Print Shops revenues and expenses.

The City's Print Shop has performed more services this fiscal year than it has in the past, requiring additional labor and materials. In addition, the Print Shop is paying for copier leases this fiscal year that were budgeted in departmental budgets rather than that of the Print Shop. This budget amendment for the increase of \$22,700 in expenses is offset by the same increase in revenues.

The Finance Department recommends the City of Asheville approve the budget amendment for the Print Shop in the amount of \$22,700.

ORDINANCE BOOK NO. 18 – PAGE

- E. MOTION SETTING A PUBLIC HEARING ON JUNE 6, 2000, AT 5:00 P.M. RELATIVE TO THE 2000-01 ANNUAL OPERATING BUDGET AND CAPITAL IMPROVEMENTS PROGRAM**
- F. MOTION SETTING A PUBLIC HEARING ON JUNE 13, 2000, TO CONSIDER THE REZONING OF 23 CONGRESS STREET FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)**

G. RESOLUTION NO. 00-84 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE DOWNTOWN ASSOCIATION'S 2000 EVENTS

Summary: The consideration of a resolution making provisions for the possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine for the 2000 events of the Asheville Downtown Association at the locations and times specified.

For many years, the Asheville Downtown Association has co-sponsored with the City of Asheville events to bring both the public and visitors to the Downtown area. These events include: *Moonlight Over Downtown*, *Honda Hoot Downtown After Five*, and three *Downtown After Five* activities. The Asheville Downtown Association has requested permission to allow possession and consumption of beer and wine during these events as they have been allowed in the past.

The Asheville Parks and Recreation Department recommends approval of the resolution.

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H. RESOLUTION NO. 00-85 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CANDLER CONCRETE WORKS INC. FOR THE INSTALLATION OF SIDEWALKS LOCATED ALONG CUMBERLAND AVENUE AND CHESTNUT STREET

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Candler Concrete Works Inc. for the installation of sidewalks located along Cumberland Avenue and Chestnut Street.

The City is in need of a contractor to provide sidewalk installation services for sidewalks along Cumberland Avenue and Chestnut Street. In accordance with N.C. Gen. Stat. sec. 143-131, informal bids for sidewalk installation services were solicited and three responses were received. The bidders are listed below:

Company	MB Part	Drug Free	Bond	Bid
Candler Concrete Works Inc	100%	Yes	Yes	\$80,632.75
Asphalt Unlimited	0	Yes	Yes	No brick bid
Green Concrete Finishers	0	Yes	Yes	No brick bid

The approximate length of the five (5) foot wide sidewalk associated with this project includes 267 feet along Cumberland Avenue and 770 feet along Chestnut Street. The existing sidewalk material is brick which will be replaced with brick, as specified by the Asheville-Buncombe Historic Resources Commission and will have a concrete underlay. The time to complete the project as outlined in the informal bid request is 90 days. Based upon contract prices for similar projects, staff feels the responsive bid is competitive.

Funding for this project has already been allocated in the Public Works Department’s capital improvement budget.

The Public Works Department staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with Candler Concrete Works Inc. for the installation of sidewalks located along Cumberland Avenue and Chestnut Street.

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

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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.

Vice-Mayor Cloninger moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO THE APPEAL OF CROWELL FARMS MASTER PLAN

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Mayor Sitnick said that this hearing will be conducted as a quasi-judicial hearing and Council will limit their consideration to whether the Master Plan complies with the standards in the ordinance as set out in Section 7-9-1 (e) of the Unified Development Ordinance. Council will make their findings based on the evidence at this hearing.

Mayor Sitnick opened the public hearing at 5:15 p.m.

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

City Attorney Oast said that Mr. Tom Bell, attorney representing the West Oakview Park residents, has indicated that he may cross examine the applicant and staff, which he has the right to do.

Mr. Tom Bell, attorney representing the West Oakview Park residents, said that he does believe in quasi-judicial hearings and felt there are basic due process rights and fundamental fairness that include the right of cross-examination and the right to object to evidence. He said that he may make objections and it will be up to Council to determine how they want to handle those objections. And, he would like to cross examine the witnesses when they are finished.

Mr. Dan Baechtold, Urban Planner, submitted into the record the Affidavit of Publication (City Exhibit 1), the Certification of Mailing of Notice to Property Owners (City Exhibit 2), and the Staff Report dated May 23, 2000, including a location map and a copy of the Revised Site Plan dated 4/14/00 (City Exhibit 3).

Mr. Baechtold said that this is the consideration of an appeal of the action by the Planning & Zoning Commission on the master plan for the Crowell Farms Planned Unit Development (PUD) on West Oakview Road. The public hearing was advertised on May 12 and 19, 2000.

On April 26, 2000, City Council approved a PUD overlay designation for 71 acres in the extraterritorial jurisdiction. The master plan associated with this development was reviewed and approved by the Technical Review Committee (TRC) and the Planning & Zoning Commission by a vote of 6-1. The TRC and the Planning & Zoning Commission found that the master plan meets the development standards for a PUD master plan as outlined in the Unified Development Ordinance (UDO). Ordinarily, a PUD master plan does not come before City Council for approval unless the decision of the Planning and Zoning Commission is appealed. In this case, the decision of the Planning and Zoning Commission has been appealed.

The underlying zoning on the property would allow approximately 395 residential dwelling units on the property. This is a density of about 5.5 units per acre, and would have been allowed without a PUD approval. The PUD approval provides the opportunity for density bonuses, if a development provides certain beneficial elements such as affordable housing and preservation of environmentally sensitive areas. On this particular site, if all density bonuses were used, the theoretical density could be as high as 12 units per acre, or a total of 868 units.

In this case, the applicant is not asking for any density bonus at all. In fact, the applicant is proposing to develop the property at a reduced density, well below what would be allowed under the underlying zoning. The master plan for this development proposes a total of 288 dwelling units which translates to an overall density of about 4 units per acre. The master plan proposes 40 single-family lots, 98 townhomes, 70 units for co-housing, and 80 apartment units. The 80 apartment units are intended to be affordable housing for the elderly. By developing the property as a PUD, the developer gains some flexibility in lot size and structure size, and some streamlining of the approval process for the multi-family development.

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The plan designates 15.3 acres of common open space to be deeded to a property owner's association. In addition, the master plan shows a significant amount of open space to be associated with each individual multi-family development on the property. The deeded open space will provide a buffer around the perimeter of the property and preserve the steepest slopes. Some of the open space is centrally located to provide open space areas that are more accessible. The amount of open space

provided well exceeds the minimum amount of dedicated open space required in the UDO.

The PUD master plan establishes the number of units that can be built on the property, the amount of parking and dedicated open space, and the location of major access points. The exact arrangement of the buildings and configuration of the lots is subject to change. As the property is developed, the developer will be required to submit detailed site plans showing the building location, landscaping and buffering, and other site details that meet the requirements in the UDO. The UDO allows minor deviations from the master plan as long as they do not cause any of the following:

1. A 10% or greater increase in the overall site coverage by the structures.
2. An increase in the intensity of use. For example, an increase in density resulting from changing single-family residential to multi-family residential.
3. A 10% or greater increase in external traffic generation.
4. A 10% or greater increase in the demand for public utilities.
5. A 5% or greater reduction in the proposed open space.
6. A 10% or greater reduction in the number of parking spaces.
7. A change of an approved use.
8. An increase in the height of buildings.

As part of the PUD application, the developer prepared and submitted a Traffic Impact Analysis (TIA) as required by the UDO. The report analyzes the impact of the traffic generated by the proposed development. The report considers existing traffic and projected increases in area traffic, including the impact of the recently approved Home Depot development. The analysis shows that there will be increased delay at some of the intersections. The report concludes, however, that the impact is not enough to warrant improvements to the intersections. The City Traffic Engineer and the Division Traffic Engineer for the N.C. Department of Transportation have reviewed the TIA and concur with the findings. The TIA was considered by the City Council as part of the public hearing for the PUD overlay designation.

On April 5, 2000, the Planning & Zoning Commission voted to approve the master plan with the following conditions (City Exhibit 4).

1. Detailed site development plans for each phase of the multi-family development must be reviewed and approved by TRC. The detailed site plans must include all items normally required for Level II site plan review and must meet all applicable ordinances and City of Asheville standards. Especially note that requirements for fire lanes, turn-a-rounds to accommodate fire apparatus, fire hydrants, and minimum fire flow must be met as outlined by the TRC.
2. The City Traffic Engineer in cooperation with NCDOT will continue to review the traffic impact issue and will provide additional input and recommendation to City Council in their review of the PUD designation and master plan.
3. The developer shall shift multi-family, townhouse, co-housing building and parking areas to avoid existing tree locations in order to protect the existing tree canopy and to provide additional interior open space without in any way reducing the extent of the perimeter open space.
4. The developer shall re-examine the location of the walking trails to ensure that they are walkable for the average user and provide access to the new interior open space.

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Several commissioners expressed a desire to see more functional open space and usable walking trails, and conditions for approval were drafted that advance these interests. On April 17, 2000, the applicant submitted revised plans showing additional area for passive recreation and a re-configuration of the walking trails and open space. The Planning and Development staff reviewed the revised plans

and determined that the revisions meet the conditions of the Planning & Zoning Commission.

Planning and Development staff determined that this master plan is consistent with the purpose of the PUD District for the following reasons: 1) The plan proposes a mix of housing types; 2) The plan provides common open space with opportunities for active and passive recreation; 3) The plan retains natural features such as steep slopes, streams and drainageways; 4) The plan provides an opportunity for affordable housing; 5) The plan encourages pedestrian circulation within the development.

The Planning and Development staff recommends approval of the master plan for the Crowell Farms Planned Unit Development.

Upon inquiry of Councilman Hay, City Attorney Oast said that what is before City Council is an appeal of a master plan in the nature of a site specific kind of development plan. City Council's consideration is limited to whether the proposed master plan would satisfy the specific development standards contained in Section 7-9-1 (e) of the UDO (City Exhibit 5). He felt that since the neighborhood is the appellant in this case, it the burden of the neighborhood to point out what the deficiencies are, if any.

Mr. Bell said that he didn't exactly know what a quasi-judicial hearing is, but he knows it's something more than a legislative function – something different from that. He is of the opinion that fairness and the courts have said that that it does have certain requirements. He thinks the requirements include his clients' right to review the evidence that is presented against them, to confront the witnesses against them and to have them testify under oath. We have had them put under oath. He specifically objects to the City Council reviewing whatever they have in front of them which he has not seen, which has not been sworn to, which there has been no evidence presented to what it is, or why Council should consider it. He feels that whatever City Council has before them violates that. He also objected to what Mr. Baechtold testified to in the staff report because 100% of that is hearsay evidence, except that the Planning and Zoning Commission voted. He strenuously objected to the information about the TIA. He felt if Council is going to determine what the TIA revealed, then Council needs to hear from the people who performed it and he needs to be given the opportunity to cross-examine them to see if Council thinks what the conclusions Council has just heard is, in fact, conclusions that Council wants to adopt.

City Attorney Oast said that the development standards referred to are contained in the UDO as Section 7-9-1 (e). In addition, City Council does have a staff report which is a matter of record.

Mr. Bell stated that his objection is not just to the fact that he doesn't have a copy of what City Council has in front of them. His objection goes to the fact that the information in the report is hearsay that is not subject to cross-examination.

City Attorney Oast said that the case law that he is familiar with indicates that quasi-judicial boards are not bound by the formal rules of evidence. If there are problems that Mr. Bell thinks are connected with the hearsay nature of some of this evidence, he certainly is free to point that out. But, he doesn't think that means that City Council can't consider it.

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When Vice-Mayor Cloninger suggested that Mr. Bell wait until the conclusion of the presentation to state his objections, Mr. Bell was not agreeable to that. He said that he would prefer that the Council not hear inappropriate evidence and that they hear only appropriate evidence. The type of evidence that is appropriate evidence for a judicial hearing, but not for a legislative hearing.

Mr. Bell then cross-examined Mr. Baechtold on several items, some being, but are not limited to: how did the project first come to City staff; who can initiate rezoning requests; what development review

process did this project go through; who approves revisions to a site plan after the Planning & Zoning Commission approves it; how were the number of units determined; questions relative to the TIA and the information it contained; and questions relative to the greenspace.

Mr. Marty Kocot, representing Crowell Farms Property LLC, reviewed with Council the topography of the site. He said that this plan creates a smart growth community of four neighborhoods with different housing types. It protects the environment by clustering the buildings, preserves steep slopes and provides pedestrian connections between the four villages and around the perimeter of the property. This is only a master plan for the development and it is not uncommon for a plan to be changed or revised to avoid monumental trees, creeks or preserve some sort of special feature on the property that may or may not be discovered. This plan is the best fit for the property. He noted they did not have to go through this procedure for a zoning designation or this master plan approval – they could have built a similar plan with the same density and same styles of housing on the property. The only thing sacrificed would have been some of the common open space areas, trails and play areas that they have chosen to preserve. This plan meets all of the UDO requirements. The total common open space provided in the current plan is approximately 21.5 acres – over 30% of the site area. The common open space provided by this plan is more than 6-1/2 times what is required under the UDO. The plan has changed since the review by the Planning & Zoning Commission. It has been revised it to reflect the comments of the Planning & Zoning Commission and the Planning Department staff to provide more centrally located, less steep common open space and depict the individual parcel common open spaces. In addition, the neighborhoods have shifted around and subsequently their buffers that were along with each neighborhood have shifted at the same time. That is what has created the discrepancy between the reduction from 16.1 to 15.3 acres of deeded common open space. It has been their intent to create a close knit community. The best feature about the planned community is that it works to try to preserve the feel of the land, reduce grading and impacts to the environment.

Mr. Kocot then responded to several questions and comments from City Council which include, but are not limited to, minimum setback requirements on streets; maximum height of the buildings, parking standards; and how many acres are in the easement area.

When Councilwoman Field asked if Mr. Kocot has any documentation showing how the perpetual care maintenance of all the common open spaces will be provided for, he said that he did not have that documentation. However, it is the plan for the homeowners association that is established at Crowell Farms to own and maintain the open space. City Attorney Oast also noted that the final approval will not be given to the project until that kind of requirement is in place.

Mr. Bell then cross-examined Mr. Kocot regarding buffering in addition to questions relative to the affordable housing issue.

Ms. Kathy Tyler, resident of the Oakview neighborhood, submitted a letter to City Council with her concerns. She noted that since the developer shifted single family lots to the west side of the property where the green space and townhouses were located on the master

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plan submitted to the Planning & Zoning Commission on April 5, 2000, a road, traffic signal and seven single family lots are now located in existing tree and tree canopy areas referred to in Condition No. 3 of the Planning & Zoning Commission. In addition, to that shift by the developer, the perimeter space has been significantly reduced on the west side of the property. She questioned who determines if walking trails are "usable by the average person" and do they need to be accessible by the senior population living in the affordable housing units. She was concerned over the possible damage of the Tulip Poplar trees in the area on the west side of the property.

Mr. Bell urged City Council to reject the master plan because he did not think Council has appropriate evidence to approve it. He said that Council should not consider the evidence presented at the public hearing on the planned unit development for Crowell Farms because he hasn't been given the opportunity to cross-examine any of the people who performed the TIA. Council is supposed to hear sworn testimony and hear evidence that indicates that this is something Council should approve, and he doesn't think Council has it.

When Councilman Hay said the decision before City Council is whether or not the master plan is consistent with the planned unit development overlay, Mr. Bell disagreed. He felt City Council should consider whether the master plan is a good plan that a governmental body would want for this neighborhood because of the overall purposes involved in this kind of development.

Councilwoman Whitmire asked if this is the final master plan. City Attorney Oast responded that it is the master plan before City Council now. The way the City's Code is set up, if there are some changes that the Planning Director judges to be not substantial, then he may approve those, but there are certain limitations of what he can and cannot approve. In that respect, it is final in concept and the basic layout, but there may be some changes in the detail.

Councilwoman Whitmire asked what didn't the Planning & Zoning Commission see in this revised master plan. Planning & Development Director Scott Shuford said the plan before Council now is an effort to address many of the conditions that were imposed by the Planning & Zoning Commission and by the TRC. We have looked at that plan and it is our opinion that this plan has gone a long way toward meeting those conditions.

Mr. Shuford said that with regard to the ability of the plan to change sometime in the future, the Code does allow, under a planned unit development, that there be some potential for shifting of exact building locations and that sort of thing. That plan before Council now may not materialize exactly as shown on the ground, but if there are changes such as entry of a building into a setback area or something like that, then City staff will not allow that to happen. But if they need to shift a building over 10 feet to avoid a tree, then we will try to accommodate that within the bounds that are prescribed in the Code.

Upon inquiry of Mayor Sitnick, Mr. Bell explained that there are two kinds of testimony – lay and expert testimony. He was concerned that City Council has a lot of expert opinion, but no sworn testimony and he has been given no opportunity to cross-examine any of the expert opinion. He felt Mr. Baechtold has no knowledge about any of those things he testified to and he does not have any right to give testimony about opinions as to traffic analysis because he's not an expert in that field. Again, he didn't feel City Council has received any evidence.

Mr. Frank Pomeroy, resident of West Oakview Road, explained why there will most definitely be problems with traffic when this development is built. He felt the infrastructure in the area cannot absorb this kind of development.

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Upon inquiry of Councilman Worley, City Traffic Engineer Michael Moule outlined his credentials. It was the consensus of City Council to consider Mr. Moule an expert in the field of traffic engineering.

Mr. Moule said that a TIA was prepared in connection with this master plan and he has reviewed it. He said that it was his opinion that the TIA that was prepared meets the requirements of Section 7-11-5 of the City Code. The TIA was entered into the record. (City Exhibit 6)

Mr. Bell then cross-examined Mr. Moule on the TIA. As a result of the cross-examination by Mr. Bell,

Mr. Moule entered into the record some analyses of the five-way intersection traffic with a couple of different scenarios, some of which include the soccer traffic. (City Exhibit 7)

At the request of Mayor Sitnick, Mr. Shuford responded to the remaining questions outlined in Ms. Tyler's letter.

City Council accepted all the exhibits into the record.

Mayor Sitnick closed the public hearing at 7:00 p.m.

City Attorney Oast recommended City Council vote yes or no on the project and he will draft an appropriate Order to bring back to City Council for consideration at their next formal meeting on June 13, 2000.

It was the consensus of City Council to instruct the City Attorney to review the quasi-judicial process and how City Council should address the process in the future.

Councilman Worley moved to approve the master plan as approved by the Planning & Zoning Commission with the conditions imposed by the Planning & Zoning Commission and the revisions as stated by City staff. This motion was seconded by Vice-Mayor Cloninger.

Councilman Worley stated that his basis for voting in favor of the master plan is that based on careful review, it meets the requirements of the standards set forth in the UDO.

Councilman Peterson agreed with Councilman Worley in that the plan does meet the development standards.

Vice-Mayor Cloninger stated that the master plan is consistent with the purpose of a PUD.

Mayor Sitnick said that if the master plan is approved, she would like to suggest adding some further conditions: (1) a maximum effort to preserve trees during construction, including root systems and trunks so they are not hit by construction equipment; (2) if there is any shifting of the units, that the developer significantly make an effort to avoid the destruction of specimen trees; (3) wherever possible, the walking trails be made as accessible as possible to all ages, not only in the development but for the neighborhood as well; (4) buffering be given maximum attention; and (5) City staff conduct a broad review of the traffic conditions after the build-out and after the soccer field is constructed and do whatever it takes to make sure that the area is as safe and convenient as possible.

Councilman Peterson agreed with the conditions outlined by Mayor Sitnick.

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Councilman Worley and Vice-Mayor Cloninger amended their motion to include the conditions outlined by Mayor Sitnick. The amended motion carried unanimously.

Mayor Sitnick announced a brief break at 7:17 p.m.

CHANGE IN AGENDA

At the request of Mayor Sitnick, Vice-Mayor Cloninger moved to amend the agenda in order to hear a topic of unfinished business with regard to adoption of the Sustainable Economic Development Strategic Plan. This motion was seconded by Councilwoman Whitmire and carried unanimously.

RESOLUTION NO. 00-86 - RESOLUTION ADOPTING THE SUSTAINABLE ECONOMIC DEVELOPMENT STRATEGIC PLAN

Mr. Jack Cecil, Chair of the Economic Development Task Force, said that this is the consideration of a resolution adopting the Sustainable Economic Development Strategic Plan (SEDSP) as developed by the citizen-led Task Force in conjunction with the consulting firm of Lockwood-Greene Consulting, Inc.; and appointment of a citizen-led Task Force to provide advisory guidance and oversight in implementing the plan.

The SEDSP was developed by the Task Force, drafted by the consultant, submitted to Council, and subsequently the general public for review, comment, and input.

The draft Plan was initially submitted to Council by the Task Force chairman and the consultant on January 18, 2000. Since then, there have been 17 public presentations completed and one additional presentation scheduled for later this month. A public input meeting was held on February 23, 2000, which was taped and has been aired in its entirety on a continuous basis on the Public Access Channel. In addition, since February 7, 2000, on the City's website, there has been a synopsis of the process undertaken to create the plan, the complete set of plan documents, and an e-mail feature to receive feedback about the Plan. (Actually, the website about the Plan was started in August 1999 and was continuously updated throughout the process.) Finally, there have been at least five articles that have appeared in the local print media since the January 18, 2000, presentation to Council.

What little public comment that has been received has been positive with some additional general ideas being offered, such as initiating a "Green Building" program, better integration of transportation into planning, concentrate on developing high bandwidth infrastructure, develop an incubator for arts oriented businesses, and being more diligent in preserving existing industrial land for that continued use.

Other than these type of general comments and ideas, there have been no other specific challenges or changes to the Plan advocated. Therefore, the Plan is being submitted for final approval as originally drafted and submitted.

At this time, Council is also being asked to appoint a citizen-led Implementation Task Force (ITF) to work with staff to carry out the Plan's goals and objectives. It is proposed that the ITF operate as follows:

- o Membership would consist of no less than 15 and no more than 19 members at any given time. The proposed list below numbers 17.
- o All members would serve a single term of three (3) years beginning with their appointment and running through June 30, 2003. There may be circumstances that warrant people to be

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added either as new members or as replacements for existing members. In those cases, those terms would also expire on June 30, 2003, regardless of their length of service during this initial 3 year period.

- o Council will receive regular updates as to the progress of the implementation efforts. As this initial three-year period comes to a close, Council will evaluate the progress and determine further actions as warranted by conditions at that time.

- o The ITF will serve in an advisory capacity. The Plan has already provided our strategies. The ITF will prioritize those, work with staff on developing implementation options, and make recommendations to Council.
- o The proposed membership roster for the ITF is provided below. Most of the people listed were part of the original Task Force (as noted by an asterisk) which created the Plan. Several others are new to the process. Each person has been contacted and has expressed their willingness to serve if appointed.

*JACK CECIL (Biltmore Farms, Inc.) Mr. Cecil has accepted to continue as Chairman.; *K. RAY BAILEY (Asheville-Buncombe Technical Community College); *BOB ROBERTS (First Citizens Bank); *BRUCE TOMPKINS (Olde World Christmas Shoppe); *DR. JIM MULLEN (University of North Carolina – Asheville); *PATTI GLAZER (Glazer Architecture, PA); *CAROL KING (Carol King & Associates); *BENSON SLOSMAN (Benson Slosman, Inc.); *CHUCK TESSIER (Tessier & Associates); *PAM TURNER (Mills Manufacturing); *PAT WHALEN (Public Interest Projects); THEO PRITCHETT (T & E Technology); DAVID A. BROWN, M.D. (Mountain Allergy & Asthma Associates); DAVID SPILLERS (Mission St.-Joseph Health System); FRANK TAYLOR (Great Smokies Diagnostics Laboratories); *JAMES GETER (Eagle Market Street Development Corp.); and JEAN KEEN (Keen Impressions).

The City Manager will be an ex-officio member of the Task Force and the City's Economic Development Director will provide full-time staff support. In addition, other city staff may from time to time be asked to provide additional staff resources/input as required.

City staff recommends City Council adopt the Sustainable Economic Development Strategic Plan and appoint an Implementation Task Force to provide advisory guidance and oversight in implementing the Plan.

Mayor Sitnick spoke highly about the work of Mr. Cecil and of the plan itself.

Councilwoman Whitmire asked that the two remaining vacancies be filled with women, preferably minority women.

Councilman Hay felt this plan was very important for the City noting that the process represents a commitment by many people. He liked the plan in that it's self-implemented.

Councilwoman Field, along with Vice-Mayor Cloninger, also spoke in favor of the Plan.

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. 00-86 in order to adopt the Sustainable Economic Development Strategic Plan and appoint the members of the Task Force. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Peterson voting "no".

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RESOLUTION BOOK NO. 26 – PAGE 34

PUBLIC HEARINGS CONTINUED

B. PUBLIC HEARING RELATIVE TO REZONING A PORTION OF ONE LOT LOCATED AT 6 MOUNT CLARE AVENUE WHICH IS NOW ZONED RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO CB II COMMUNITY BUSINESS II DISTRICT SO THAT ALL OF THE LOT IS

ZONED CBII COMMUNITY BUSINESS II DISTRICT

ORDINANCE NO. 2698 - ORDINANCE TO ZONE A PORTION OF ONE LOT LOCATED AT 6 MOUNT CLARE AVENUE WHICH IS NOW ZONED RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO CB II COMMUNITY BUSINESS II DISTRICT SO THAT ALL OF THE LOT IS ZONED CBII COMMUNITY BUSINESS II DISTRICT

Mayor Sitnick opened the public hearing at 7:50 p.m.

Mr. Dan Baechtold, Urban Planner, said that this is the consideration of an ordinance to rezone a portion of one lot located at 6 Mount Clare Avenue which is now zoned RS-8 Residential Single Family High Density District to CBII Community Business II District so that all of the lot is zoned Community Business II District. This public hearing was advertised on May 12 and 19, 2000.

Marketplace Developments, LLC is in the process of renovating the historic structure known as the five points building at the intersection of Broadway Avenue, Chestnut Street, and Mount Clare Avenue. The structure was built in 1923 and has a small parking area next to the building off of Mount Clare Avenue. The building is on a parcel that is currently zoned CBII and the parking lot is on a parcel that is split-zoned between CBII and RS-8. This rezoning application intends to correct the split-zoning of the parking lot, so that the entire lot can be used for parking once the building renovation is complete.

The size of the lot where the parking lot is located is approximately one-eighth of an acre. The portion to be rezoned is approximately half of the lot or about one-sixteenth of an acre. The property is almost entirely occupied by the small parking lot (10 spaces). The parking lot is and always has been an integrated use with the structure. In order for the parking lot to continue as an integrated use with the structure, the entire lot must be zoned for commercial use. In a rezoning case such as this one, the City Council must consider all of the potential uses of the property that are allowed under CBII. As a practical matter, however, additional development on the site would probably not be possible because of limited room for off-street parking and buffering that would be required by the Unified Development Ordinance.

The Planning and Zoning Commission reviewed this request at their meeting of May 3, 2000, and voted unanimously (6-0) to recommend approval of the rezoning. No members of the public commented at the hearing. The Planning and Development staff recommend approval of the rezoning request as well.

Planning and Development staff recommends City Council consider the rezoning request to rezone a portion of one lot located 6 Mount Clare Avenue which is now zoned RS-8 Residential Single Family High Density District to CBII Community Business II District so that all of the lot is zoned Community Business II District.

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Mr. Dean Pistor, Marketplace Developments, LLC, spoke in support of rezoning this split-zoned lot and passed out copies of photographs taken several years ago to show that this property has always been a parking lot.

City Attorney Oast reminded City Council that if they rezone the property it can be used for any use allowable in that district.

Mayor Sitnick closed the public hearing at 7:55 p.m.

Mayor Sitnick said that members of Council have previously received a copy of the ordinance and it

would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2698. This motion was seconded by Councilwoman Whitmire and carried unanimously.

ORDINANCE BOOK NO. 18 – PAGE

ANNEXATION PUBLIC HEARINGS

Planning & Development Director Scott Shuford opened the public hearing at 7:56 p.m.

Mr. Shuford said that the City of Asheville has initiated a multi-year annexation program. These hearings are the first phase of that program. Staff will begin bringing annexations to Council each year in accordance with a priority plan we expect to receive from our consultant in the near future. The public hearings tonight are on the Phase I annexation of six areas into the City of Asheville. He then went over the procedures on how these hearings would be conducted. First, he will provide background and general information about annexation, the annexation requirements of state law, how the City has followed these requirements in our annexation process, general information about the expected revenues, and the City's obligation regarding costs of service. After each public hearing is opened separately, a brief description will be given of the area and then the public will have an opportunity to speak regarding concerns that they may have about the area under consideration. This will enable us to address issues and questions more effectively and in a more organized fashion.

City Council will not be taking any action at this meeting to approve or deny these annexations. However, staff does request that Council indicate any needed adjustments to the services plan or to the areas covered by annexation so that they can incorporate those changes in the ordinances that will complete the annexation process. Adoption of those ordinances is scheduled for City Council's meeting on June 13, 2000.

Background and General Information

State law allows annexation by cities of 5,000 or more in population. Areas to be annexed must have specific urban characteristics – they must qualify under state law as urban areas – and our consultant, Benchmark Inc. is here to answer specific questions regarding these qualifications and how they apply to the areas under consideration for annexation. State legislative policy says that "municipal boundaries should be extended in accordance with legislative standards to include such areas" that exhibit these urban characteristics to provide high quality governmental services and to promote sound urban development. Additionally, state revenue sharing policies and practices assume that urban areas will grow through annexation. If we do not pursue such growth, we miss out on revenue sharing opportunities that are population-based (such as sales tax distributions) or miles of roadway (Powell Bill distributions).

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Annexation by a city must follow a specific procedure and must insure that urban services are provided to the areas to be annexed in a timely fashion and at a level substantially similar to that provided to other areas within the city. The procedures that must be followed are:

- o Adoption of a Resolution of Intent to Annex for each area – Adopted by Council on March 15, 2000;
- o Approval of a Services Plan – Adopted by Council on March 15, 2000;
- o Public Information Meeting –Held on May 2, 2000;
- o Public hearing – Held tonight - May 23, 2000;

- o Adoption of Annexation Ordinances – Set for June 13, 2000; and
- o Effective Date of Annexation – June 30, 2001 - Please note that there is a one year period between the adoption of the ordinances and the annexation going into effect.

The Services Plan lays out the specific services that the City of Asheville intends to provide to the areas to be annexed and includes financial implementation information about these services. This Plan is very important from a legal standpoint as our courts have ruled that the central purpose behind the annexation procedure in the state statutes is to insure that in return for the added financial burden of municipal taxation, the areas annexed receive the benefits of all the major services available to other areas within the municipality. More significantly, it is important from an ethical standpoint for Asheville to fairly serve the areas it annexes and it is very clearly the policy of this City Council that this occurs.

Services covered in this plan include: (1) Police; (2) Fire; (3) Sanitation; (4) Street Maintenance; (5) Water; (6) Sewer; (7) Street Lighting; (8) Recreation Facilities and Services; and (9) Administration and Miscellaneous Services (e.g., governance by the City Council, administrative support by the City Manager and City staff, housing and building code services, planning and zoning services, community development services, legal representation and similar services).

The Services Plan provides estimates of revenues as well as expenditures necessary to insure that annexed areas receive a level of service comparable to other areas in the City. Estimated revenues include money from real property taxes, personal property taxes, state and local utilities franchise taxes, sales and use taxes, Powell Bill distributions, and the City recycling fees. These revenues total approximately \$1.9 million per year.

Estimated annually-recurring expenditures by the City to serve the annexed areas include police, fire, sanitation, street maintenance and street lighting costs. These annual costs total approximately \$248,000 per year. Additionally, the City will have capital costs to serve the annexed areas, including purchase of sanitation equipment, street paving, water and sewer line installation, fire hydrant and street light installation, and the upfit of a fire station. These capital costs total approximately \$694,000.

He then summarized the service issues as they generally affect all the annexation areas. There are some specifics for some areas that will need to be discussed as we address each individual annexation area.

Police - In all of the annexation areas, we are proposing to provide police protection. We will accomplish this through adjusting the districts served by the various patrol groups. For this annexation phase, no additional staffing is needed, although there will be costs associated with increased vehicle miles traveled which will also affect our fleet replacement schedule. Our response times will not be negatively affected by these annexations and will not affect our Police Department's accreditation.

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Fire - In all of the annexation areas, we are proposing to provide fire protection. We will accomplish this through one of three alternatives. First, because each of the areas to be annexed are currently served by one or more rural fire districts which levy a separate tax for their services, it is possible for the City to enter into good faith negotiations with these districts to have them continue to provide services on a contract basis, renewable on a five year term. We have been contacted by three of the rural fire districts expressing an interest in pursuing these negotiations. Second, we can provide City fire services by adjusting the districts served by the various fire stations. For this annexation phase, no additional staffing is needed, except in Annexation Area C – the Skyland area. Third, some combination of the first two alternatives is possible. Our response times will not be negatively affected by these annexations.

Sanitation - In all of the annexation areas, we are proposing to provide sanitation services. There are similar alternatives for providing this service as with the rural fire districts – we can enter into a contract with private haulers that serve the areas to have them continue their service. However, none of the companies have responded to our correspondence and we do not anticipate them continuing to serve the customers we will serve. We will have costs associated with the purchase of roll-out containers as well as the need to buy another automated packer vehicle. Redistricting will enable the annexation areas to be served without additional staffing.

We have heard some concern from the public regarding sanitation service. To ensure that there is no confusion: It is our intention under the Services Plan to provide the same level of service that City residents receive – curbside pickup of garbage and trash, plus recycling service. There is no fee for garbage and trash collection, but we do charge a recycling fee of \$3.08 bimonthly. The City does not serve bulk containers like dumpsters; these will continue to be served by private haulers.

Street Maintenance - In all of the annexation areas, we are proposing to provide street maintenance services. These include streets currently maintained by NCDOT and private streets where the owners wish to have the City assume maintenance. We will work with NCDOT to determine which state-maintained streets should be turned over to the City. The state will continue to be responsible for major thoroughfares. For private streets, we will accept them upon request by the owners within one year of the effective date of annexation when:

- o The street serves at least three occupied residences on property owned by separate persons.
- o There is no reasonable alternative to accessing the property through publicly maintained streets.
- o 100% of the property owners grant us sufficient right-of-way to serve their property for both street width and turnarounds, if needed.

Upon acceptance of the state or private street by the City, it will be placed on our street maintenance list in order of priority based upon our assessment of pavement conditions. No additional personnel will be needed to provide street maintenance services.

Water - In all of the annexation areas, we are proposing to provide water services for both water usage and fire protection. In order to provide this service, capital expenditures estimated at \$403,810 will be needed. Only two annexation areas will require water line extensions or upgrades.

Sewer - In all of the annexation areas, we are proposing to provide sewer service in accordance with City policy and state law. Except for some locations in Annexation Area C – Skyland, sewer service currently is provided to all properties by MSD. In our discussion of Area C, the method of serving these properties through a septic system maintenance program will be covered.

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Street Lighting - In all of the annexation areas, we are proposing to provide street lighting along all public corridors in accordance with our practices elsewhere in the City.

Recreation Facilities and Services - In all of the annexation areas, we are proposing to provide the areas' residents, businesses and property owners with the same access to recreational facilities and service as other City residents.

Administration and Miscellaneous Services - In all of the annexation areas, we are proposing to provide the areas' residents, businesses and property owners with the same access to Administration and Miscellaneous Services as other City residents.

City Clerk Burleson then stated how and when notification was given to property owners in the affected areas, along with notification to the Buncombe County Board of Commissioners, the solid waste providers and the volunteer fire departments. In addition, on April 21 and 28, 2000, a notification was published in the Asheville Citizen-Times of the public information meeting, the public hearing, a notice of property owners' rights, a map and a description of the areas being considered for annexation.

C. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE CHUNNS COVE ROAD/PINEY MOUNTAIN ROAD AREA (AREA 2001-A)

Mr. Shuford opened the public hearing at 8:16 p.m.

Mr. Shuford said that Annexation Area A is located along Chunns Cove Road and Piney Mountain Road. It consists of 55.85 acres, and contains two establishments and no dwellings or persons. There are no service extensions or other service issues to report. Annexation of this area would close a gap in our City Limits along I-240.

Using the statutory standards statements from the Annexation Services Plan, Mr. Rick Cowick, representative of Benchmark, Inc., reviewed with Council how the area qualifies as an area acceptable for annexation under state law.

Mr. Dean Pistor, on behalf of Shelby Horton who is a property owner in the area but not in this area of involuntary annexation, stated that Mr. Horton would like to potentially voluntarily annex a portion of his property for a change in zoning. City Attorney Oast felt it would be appropriate for Mr. Pistor to discuss this voluntary annexation with City staff, noting that the City Council cannot condition the annexation on a particular zoning.

Mayor Sitnick closed the public hearing at 8:27 p.m.

D. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE AREA LOCATED NORTH OF U.S. HIGHWAY 70 BETWEEN RICEVILLE ROAD AND LOWER GRASSY BRANCH ROAD (AREA 2001-B)

Mr. Shuford opened the public hearing at 8:24 p.m.

Mr. Shuford said that Annexation Area B is located north of US 70 between Riceville and Lower Grassy Branch Roads. It consists of 195.15 acres, and contains six establishments, 242 dwellings and 689 persons. Annexation of this area would include the Veteran's Hospital area and the City would lose fire protection revenue once this property becomes part of the City. There are water service extensions required by this annexation which Mr. John Echeverri, Assistant Director of Engineering, will review. There are no other service issues to report.

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Mr. Echeverri said that the Services Plan proposes an extension of a 6-inch waterline along Arnold Road, along with fire hydrants. All the lots are currently served by water, but the upgrade is to comply with the fire protection requirements.

Using the statutory standards statements from the Annexation Services Plan, Mr. Rick Cowick, representative of Benchmark, Inc., reviewed with Council how the area qualifies as an area acceptable for annexation under state law.

Ms. Lauronda Self, representing Parkway Vista Townhomes, passed out to Council a chart which breaks down their current services vs. what the City of Asheville will provide if they are annexed. She

stated that they do not want to be annexed. She explained that they already pay a Townhome Association fee which provides them with most of the services. In addition, their Association fees are tax deductible. The current cost of a home with an assessed value of \$75,000 is \$1,267.50. After annexation, their cost will be \$1,667.50. She said that the whole purpose of annexation is to provide services for the costs that people will have to pay when annexed, but the services provided by the City will not compensate them for the extra amount of tax they will have to pay if annexed.

Ms. Self said that police protection is very important to her, however, the area seems to be a low crime area. In addition, across the street from them is the City limits and she feels that regardless of whether they are in the City limits or not, the Asheville Police Department will respond to their needs.

Mayor Sitnick stated that City Council has to be sensitive to the Asheville taxpayers who are paying for the security Ms. Self described. Annexation is a way of spreading the burden in a more fair and equitable manner.

Mr. Shuford noted for the record that there were a number of people at the public information meeting on May 2 from Parkway Vista and none were in favor of the annexation.

Mr. James Profitt, President of Parkway Vista Homeowners Association, stated that the City of Asheville is asking them to pay additional taxes, but not receive any services.

Mr. Shuford said that at the May 2 information meeting, the Parkway Vista homeowners felt that the only benefit to them was police service. They feel they are not looking at much of a service enhancement. However, he reiterated that North Carolina law states that urban areas be in cities and this is an urban area. He said there will not always be areas where people who are served by the City are going to have a increase in their service as a result of annexation. But, there are so many other things that are important about a City and it is very difficult to put a dollar value on them.

Mayor Sitnick closed the public hearing at 8:49 p.m.

E. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE AREA LOCATED NORTH AND SOUTH OF LONG SHAOLS ROAD BETWEEN I-26 AND HENDERSONVILLE ROAD (AREA 2001-C)

Mr. Shuford opened the public hearing at 8:50 p.m.

Mr. Shuford said that Annexation Area C is a large tract generally centered on Lake Julian and Long Shoals Road. It contains a connection to the Asheville Regional Airport along I-26. It consists of 1,500.14 acres, and contains 32 establishments, 570 dwellings and 1,243 persons.

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There are four service issues to report. First, annexation of this area would include the CP&L plant. The City has an agreement with CP&L that caps CP&L's franchise taxes at a certain level. Under this agreement, property taxes the City receives from CP&L are deducted from the franchise tax cap. Beginning in the year 2001, if and when the property tax exceeds the franchise tax cap, the franchise tax is fix at a fairly low maximum and CP&L is responsible for the entire property tax amount in addition. This agreement, therefore, affects the City's cumulative revenue stream received from CP&L.

Second, Annexation Area C contains several properties currently served by septic systems that are difficult to serve with sanitary sewer and their land use configuration may change as the surrounding area continues to urbanize and infrastructure is improved. State law allows cities the option of instituting a septic tank maintenance program in lieu of providing sanitary sewer. Given these service

difficulties and land use uncertainties, we feel it is preferable to use this option in providing sewer service to these properties. Additionally, many of these properties are located close to Lake Julian and we believe having a regular septic system maintenance program will assist in improving or maintaining water quality in the lake. Staff recommends that there be no fee for this service.

Third, this area will require a fire station upfit and we will need to pursue additional staffing in the event we are unable to negotiate service responsibilities with the affected rural fire districts.

Fourth, there are water service extensions required by this annexation which Mr. John Echeverri, Assistant Director of Engineering, will review. There are no other service issues to report.

Mr. Echeverri said that there will be improvements in two particular areas. Along the Long Shoals Road corridor there was only one particular road that lacked fire protection. The City is proposing to extend a 6-inch waterline along State Road 3520 from Long Shoals all the way to the end of the pavement. The other area where major improvements will take place is the Haywood Road area and the Old Shoals Road area. We propose to extend a 6-inch waterline for fire protection purposes along Old Shoals from Haywood Road to basically the end of the pavement. We will also upgrade a small existing waterline on Old Shoals Lane to comply with current requirements. There will also be minor improvements along the Haywood Road area where we will extend the existing 6-inch waterline on Haywood Road to provide fire service protection for all the lots within that area.

Using the statutory standards statements from the Annexation Services Plan, Mr. Rick Cowick, representative of Benchmark, Inc., reviewed with Council how the area qualifies as an area acceptable for annexation under state law.

Mrs. Frances Briggs stated that it is the consensus of the area residents that want regular sewer service, not septic tank maintenance. They also asked if they live on a road that is not state maintained, but maintained by themselves, would they get garbage pick-up. Mrs. Briggs said that industries will be taxed heavily and jobs will be lost.

Public Works Director Mark Combs said that he visited the Old Long Shoals Road Extension and there is no turn-around and City vehicles can't travel on some portions of the gravel street that is there. There are considerable overhead branches that extend only 7-8 feet above the roadway. There are also several low utility wires that our vehicles can't drive under. There are some challenges for the City to provide any kind of service for them on that private street. Additionally, the road condition is very poor and we would require that those citizens give the City an affidavit holding us harmless for driving on those streets if they became worse for larger vehicles traveling on those streets for garbage pickup. The challenges are not impossible

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to overcome, but the homeowners need to work with the City for us to take over their maintenance and then eventually widen and bring that road up to City standards. Mr. Combs said that the City has liberalized their street acceptance policy for annexations to allow residents one year to get with the City and to dedicate the right-of-way to the City for the City's maintenance.

With regard to a form for water and sewer services to be turned into the City Clerk by 5:00 p.m. on May 30, 2000, Mr. Shuford explained that the form would need to be turned in only in a case where someone would want something that goes above and beyond what is called for in the Annexation Services Plan.

City Attorney Oast said that with regard to the agreement with CP&L, what is in the Annexation

Services Plan is actually a Memorandum of Understanding that refers to the agreement. When the ordinances are brought to City Council for adoption, the Annexation Services Plan will be amended to include the actual agreement.

Mr. Shuford noted that on May 22, 2000, City staff met with a number of the industries in the Skyland annexation area. These businesses included Cutler-Hammer, Thantex, Custom Packaging, Medical Action Industries, CP&L, Welch Allyn and Hubble Inc. The information was presented to them regarding our annexation plans and they heard concerns from those industries regarding what they felt were the negative effects of annexation. Their chief concern was the fact that annexation would add an incremental burden to their cost of doing business. This increment, added to other increases, such as labor costs, other government requirements, supplier cost increases, etc., could decrease their ability to compete in today's worldwide market. While several businesses expressed some interest in incentive programs the City offers, none expressed support for annexation.

Ms. Mary Ann Quarngesser, resident on Long Shoals Road, stated that at the May 2, 2000, public information meeting not one property owner at that meeting was in favor of annexation

Mayor Sitnick closed the public hearing at 9:08 p.m.

F. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF RIDGEFIELD BOULEVARD AND OAK TERRACE AREA (AREA 2001-D)

Mr. Shuford opened the public hearing at 9:10 p.m.

Mr. Shuford said that Annexation Area D is located on the east and west sides of Brevard Road south of Sardis Road. It consists of 205.65 acres, and contains 17 establishments, five dwellings and 13 persons. There are no service extensions or issues to report.

Using the statutory standards statements from the Annexation Services Plan, Mr. Rick Cowick, representative of Benchmark, Inc., reviewed with Council how the area qualifies as an area acceptable for annexation under state law.

Councilman Hay asked if one property owner challenges the annexation of his area, would the entire annexation area fail. City Attorney Oast said that it depends on the basis of the challenge.

Mayor Sitnick closed the public hearing at 9:14 p.m.

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G. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF NEW LEICESTER HIGHWAY AREA (AREA 2001-E)

Mr. Shuford opened the public hearing at 9:14 p.m.

Mr. Shuford said that Annexation Area E is now opened. Annexation Area E is located on the east side of New Leicester Highway. It consists of 9.03 acres, and contains three establishments one dwelling and three persons. Its annexation would close a gap in our City Limits in this area. There are no service issues to report.

Using the statutory standards statements from the Annexation Services Plan, Mr. Rick Cowick, representative of Benchmark, Inc., reviewed with Council how the area qualifies as an area acceptable for annexation under state law.

Mayor Sitnick closed the public hearing at 9:15 p.m.

F. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF ROCKY RIDGE ROAD/WEDGEFIELD DRIVE AREA (AREA 2001-F)

Mr. Shuford opened the public hearing at 9:16 p.m.

Mr. Shuford said that Annexation Area F is now opened. Annexation Area F is generally located on the north and south sides Rocky Ridge Road west of Brevard Road. It consists of 7.08 acres, and contains three establishments and no dwelling or persons. There are no service issues to report.

Using the statutory standards statements from the Annexation Services Plan, Mr. Rick Cowick, representative of Benchmark, Inc., reviewed with Council how the area qualifies as an area acceptable for annexation under state law.

Mayor Sitnick closed the public hearing at 9:17 p.m.

Mr. Shuford asked City Council to consider one change to the Annexation Services Plan. City staff suggests a perpetual no fee for the septic tank maintenance program as long as the property remains in its current developed state.

Mayor Sitnick said that the date City Council will consider extending the corporate limits to these areas will be on June 13, 2000. The effective date of annexation, if the ordinances are adopted, will be June 30, 2001.

Mayor Sitnick closed the public hearings at 9:22 p.m.

CHANGE IN AGENDA

It was the consensus of City Council to consider the budget amendment regarding the Civic Center at this point in the meeting.

ORDINANCE NO. 2699 - BUDGET AMENDMENT FOR THE CIVIC CENTER

Civic Center Director David Pisha said that this is the consideration of a budget amendment, in the amount of \$593,737, for the Civic Center.

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It is apparent the Civic Center will need an additional transfer of funds in order to continue operations through June 30, 2000. Revenues for the fiscal year are now estimated to be \$1,406,896 versus a budget amount of \$1,737,000. Revenue estimates do not include any transfers already made by the City. Expenses are estimated to be \$2,293,315, versus a budgeted amount of \$2,082,078. A portion of the increased expenses for the year include electrical repair work.

The overall deficit for the year will be approximately \$886,419. This includes the current budgeted transfer from the general fund of \$292,682. Also included in the deficit figure is electrical repair work to the facility. The additional monies requested amount to \$593,737.

City staff recommends City Council approve a budget amendment, in the amount of \$593,737, for the Civic Center.

Mr. Pisha responded to several questions from Councilman Peterson.

Councilwoman Whitmire requested that the following two items be implemented beginning July 1, 2000: (1) a in-house marketing plan for the Civic Center that will promote the arena and Thomas Wolfe Auditorium; and (2) a bi-monthly update on the Civic Center finances.

City Manager Westbrook said that he would schedule the issue about an in-house marketing plan for the Civic Center on the July 18, 2000, City Council worksession.

Mayor Sitnick would like to explore the Civic Center being a regional responsibility.

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. 2699. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE BOOK NO. 18 – PAGE

IV. UNFINISHED BUSINESS:

A. REPORT ON THE FUTURE OF THE WNC REGIONAL AIR POLLUTION CONTROL AGENCY AND BOARD

Mayor Sitnick updated City Council on a meeting that she and Vice-Mayor Cloninger had with Buncombe County Chairman Tom Sobol and Buncombe County Commissioner David Young on the future of the WNC Regional Air Pollution Control Board and Agency. She said that the City Attorney and Mr. Siemens, attorney for the WNC Regional Air Pollution Control Board, have prepared a draft interlocal agreement. She then reviewed highlights of the draft agreement. In addition, she reviewed other items discussed at the meeting, in particular: protection for the employees of the Agency; the terms of the appointments to the Board; the Board being responsible for it's own organization, mainly it's appeal process; selection of the director; bookkeeping and financial, including fund balance, issues; whether the Board has the right to make their rules and regulations more stringent than Federal and State laws; formally appointing liaisons to the Board; and Clean Air Trust Fund and Trust Board issues. She said that a separate issue discussed was that City Council and the County Commissioners send a co-signed letter to the Governor asking him to eliminate the suit he has against the Environmental Protection Agency.

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Mayor Sitnick noted that the final date to notify the Environmental Management Commission is June 1 and she asked if City Council would be willing to instruct the City Attorney to continue working with Mr. Siemens on a draft interlocal agreement.

Councilman Hay moved to authorize the City Attorney to proceed in negotiating an interlocal agreement with the Buncombe County Commissioners, as previously discussed, and to submit that draft agreement to the Environmental Management Commission prior to June 1, 2000, nothing that the draft agreement is subject to ratification by both governing bodies. This motion was seconded by Councilwoman Whitmire and carried unanimously.

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of May 5-11, 2000: Wayne D. Stoia (Civic Center), Richard Wagner (Water), Gregg McCoy (Water) and Gary Holmberg (Water).

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

B. LAWSUIT

The City received the following Complaint on May 10, 2000, which is generally described as follows: R. J. Snodgrass v. John P. Miall and the City of Asheville. The nature of the proceeding is a small claims action for money owed from a Certificate of Occupancy inspection error in 1986 under the Minimum Housing Code.

This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 10:00 p.m.

CITY CLERK MAYOR
