

Tuesday - June 20, 2000 - 3:00 p.m.

Worksession

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

Absent: Councilwoman Terry Bellamy (formerly Whitmire) and Councilman Brian L. Peterson

**CONSENT:**

**Budget amendment for Urban Trail Stations**

Summary: The consideration of a budget amendment, in the amount of \$45,250, to reflect increased project costs for three Urban Trail Stations, which increase will be covered by private donations and will not require any additional City funds.

Costs for the City of Asheville Urban Trail for Station #10-"Grove's Vision" were estimated to be \$10,300. The scope of the project has been expanded so that the project costs are now estimated at \$20,000, a net increase of \$9,700.

Costs for Station #16-"Legacy of Design" were estimated to be \$6,600. The decision was made to add not only a decorative bench, but also a sculpture of a young boy leaning against the bench. This increased the cost of the station to \$25,000, an increase of \$18,400.

Costs for Station #18-"Wolfe's Neighborhood" were estimated to be \$9,000. Plans have been changed to create a more elaborate station, increasing the budget to \$26,150, an increase of \$17,150.

Donors have been identified and commitments received for the full amount of Stations #10 and #16 and part of #18. Efforts are under way to raise the additional funds for Station #18. No City funds will be required for the completion of any of these stations.

The Parks and Recreation Department is responsible for the maintenance, management and development of the Urban Trail. The program is a result of a collaborative partnership between the City of Asheville and many different private individuals, organizations, and foundations under the guidance of the Urban Trail Committee. Twenty-four of the thirty stations planned for the Trail are now completed. Three bronze cats are being designed for installation this summer on Wall Street as Station #9. Four other stations including the three for which increased funding is requested are under design and scheduled for completion by spring. Plans are still under discussion for Station #1, but it is anticipated that the entire Trail will be completed on schedule by the end of 2001. All of the artwork and plaques on the Trail have been funded by outside funds.

The Parks and Recreation Department recommends City Council approve the budget amendment, in the amount of \$45, 250, to increase the Urban Trail capital budget.

**Budget Amendment regarding Municipal Building**

Summary: The consideration of a budget amendment, in the amount of \$471,676, to appropriate additional funds to the Municipal Building capital project from revenues received from Asheville City Schools, additional proceeds from the sale, plus interest earned on the proceeds of the Certificates of Participation (COPs).

In 1997, City Council appropriated \$14,719,229 from COPs proceeds and anticipated interest earnings for the renovation of the Municipal Building, the Old Water Maintenance Building and the roof of City Hall. These projects were approved unanimously by City Council in an effort to address ongoing maintenance and upgrades needed for the facilities. Because of improvements to the Municipal Building, it was necessary for the Asheville City Schools to relocate from the Municipal Building to the Old Water Maintenance Building. Part of the agreement with Asheville City Schools included a reimbursement to the City of Asheville for improvements made to the Old Water Maintenance Building that were above and beyond what was required for them to occupy the space. A total of \$49,350 revenue received from Asheville City Schools should be appropriated into the Municipal Building account in order to complete additional renovation to this facility. Additionally, an extra \$273,032 was realized on the sale of the COPs and \$149,294 has been earned in interest above the amounts included in the 1997 appropriations. Both of these sources are available for appropriation to the Municipal Building project at this time. These additional funds will allow for completion of the Municipal Building project without further appropriation by the City of Asheville through fund balance.

The Parks and Recreation Department requests approval of the budget amendment, in the amount of \$471,676 , to be appropriated to the Municipal Building renovation project.

### **Budget Amendment regarding Grant for Broadway Greenway**

Summary: The consideration of a budget amendment, in the amount of \$21,940, for an appropriation from the Pigeon River Fund for the Broadway Greenway.

The City of Asheville applied for grant funds in March 2000 to the Pigeon River Fund. The grant was recently awarded in the amount of \$21,940 and designated to pay for the cost to clean up 0.5 acre of private property along Reed Creek. The land will then be donated to the City for the Broadway Greenway.

On February 8, 2000, City Council authorized the Parks and Recreation Department to apply for and enter into an agreement with the Pigeon River Fund for a grant for \$19,940. Since then, more elements were added to the project, which increased the amount to \$21,940.

The Parks and Recreation Department recommends City Council approve the budget amendment, in the amount of \$21,940, to increase the budget for the Broadway Greenway.

### **Budget Amendment amending Regional Water Authority's 35 Fund**

Summary: The consideration of a budget amendment for the 35 Fund to reflect the transfer of capital from the Fiscal Year 2000/2001 Water Fund Budget that was approved by the Authority on May 16, 2000, and to redistribute funds to better reflect the five-year Capital Improvements Plan.

The Fiscal Year 2000/2001 Water Fund Budget, which was adopted by the Regional Water Authority on May 16, 2000, and is effective July 1, 2000, includes \$332,948 in Department-Wide expenses for projects to be performed in the Major Capital Projects Fund, broken down as follows:

Critical Needs State Grant Phase II – Final Matching Funds \$199,948

Master Plan Improvements \$100,000

Mills River Watershed Protection Project – Matching Funds \$ 33,000

(Third and Final Year of Match) =====

\$332,948

-3-

The budget amendment authorizes this \$332,948 to be transferred effective July 1, 2000, from the new Fiscal Year 2000/01 Water Fund Budget to the Major Capital Projects Fund (Fund 35). The Critical Needs Grant Phase II Project and the Mills River Watershed Protection Project are already well into design and the transfer to Capital Projects Fund is needed early in the fiscal year. The funding under Master Plan Improvements will be set aside for oversizing and reimbursement agreements with developers so that water lines are built to meet sizing recommended by the Master Plan.

In addition to the transfer of funding for new Capital Projects from the Fiscal Year 2000/01 budget, the budget amendment also transfers \$91,117 within the 35 Fund from its original designation to "Fiscal Year 1999/2000 Distribution System Improvements" and places these funds also in the Master Plan Improvements project. This better streamlines the program names in the fund without amending the purpose of the original appropriation.

The Fiscal Year 2000/2001 Water Fund Budget also will provide the revenue for the final payment of \$68,599 on the N. C. Dept. of Transportation non-betterment project for Tunnel Road/South Tunnel Road. This project has already been appropriated to the 35 Fund but was designated to be funded by future revenues. In July 2000, the revenues for this payment will be transferred from the Water Fund to the 35 Fund, but this action does not require a new appropriation.

Staff recommends approval of the budget amendment to reflect an appropriation of the transfer to capital from the 30 Fund for Fiscal Year 2000/2001, in the amount of \$332,948, and to redistribute funds to better reflect the five-year Capital Improvements Plan, effective July 1, 2000.

#### **Budget Amendment for French Broad River Park IV**

Summary: The consideration of a budget amendment, in the amount of \$1,174,000, for the French Broad River Park IV as a result of grants and donations.

The Parks and Recreation Department and RiverLink are in partnership to implement an ambitious fundraising plan to build the first phase of French Broad River Park IV. Staff has developed an overall budget of \$1,174,000 to develop the first phase of the park. In recent months, we have been successful in acquiring \$621,500 in grants and donations. We anticipate raising the remaining funds in the next six to nine months through additional grants and donations. Please see a summary of our fundraising activities below.

City of Asheville:

Parks and Recreation Trust Fund \$250,000

Private Donation \$500

RiverLink:

Janirve Foundation \$300,000

Pigeon River Fund \$20,000

Winterberry Fund \$50,000

French Broad River Garden Club \$1,000

Pending:

Land and Water Conservation Fund \$350,000

TEA21 \$203,000

-4-

The Parks and Recreation Department recommends City Council approve the budget amendment, in the amount of \$1,174,000 to increase the budget commencing the development of French Broad River Park IV.

### **Confirmation to Minority Business Commission**

Summary: The consideration of a resolution confirming the appointment of Debra Flack Weaver, representative of the Minority Business Alliance, on the Minority Business Commission.

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

The composition of the Minority Business Commission consists of 13 members from various groups. Each group provides a nominee for consideration and appointment by both the City Council and the Buncombe County Board of Commissioners.

Bonnie Love, representing the Minority Business Alliance, has resigned. The Minority Business Alliance has nominated Debra Flack Weaver to represent them on the Minority Business Commission. Ms. Weaver would serve the unexpired term of Ms. Love, term to expire August 1, 2001, or until her successor has been appointed.

City staff recommends City Council adopt the resolution confirming the appointment of Debra Flack Weaver on the Minority Business Commission.

### **Allowing the Possession and Consumption of Alcohol and Unfortified Wine at "Jammin With Classes of the 60's" Alumni Reunion on July 7, 2000**

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the "Jammin With Classes of the 60's" Alumni Reunion on July 7, 2000.

The Asheville Parks and Recreation Department is submitting this request on behalf of "Jammin With Classes of the 60's" Alumni Reunion, a group unaffiliated with the City of Asheville and not co-sponsored, that the possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine be allowed at the "Jammin With Classes of the 60's" Alumni Reunion on July 7, 2000, from 6:00 p.m. to 11:00 p.m.

"Jammin With Classes of the 60's" Alumni Reunion is a celebration of High School Alumni at City-County Plaza on July 7, 2000. Entertainment, food, and vendor displays will be available.

The Asheville Parks and Recreation Department is submitting this request on behalf of "Jammin With Classes of the 60's" Alumni Reunion, for approval of the possession and consumption of malt beverages and/or unfortified wine at the "Jammin With Classes of the 60's" Alumni Reunion on July 7, 2000.

### **Allowing the Possession and Consumption of Alcohol and Unfortified Wine at Bele Chere Festival on July 28-29, 2000**

Summary: The consideration of a resolution making provisions for the possession and consumption of open containers of malt beverages and/or unfortified wine at the Bele Chere Festival at the time and location

shown on the resolution.

-5-

The Bele Chere Festival is a community celebration produced by the City of Asheville's Parks and Recreation Department and the Bele Chere Board of Directors.

The Asheville Parks and Recreation Department recommends approval of the resolution at the times and dates as stated in the resolution.

### **Police Grant – Community Policing Geographic Information System Project**

Summary: The consideration of (1) a resolution authorizing the City Manager to accept a grant award from the North Carolina Department of Crime Control and Public Safety, Division of the Governor's Crime Commission, in support of a community policing Geographic Information System (GIS) Project and an associated budget amendment.

The Governor's Crime Commission has awarded the City of Asheville a grant in the amount of \$63,465 in support of a community policing GIS Project. A local match of \$21,155 is required which will be appropriated from Contingency. The purpose of this project is to enable consolidation of most of the City's geographic information systems data and coordinate this application in support of the City's Community Oriented Government program.

City staff recommends City Council adopt the resolution authorizing the City Manager to accept the grant award and that Council adopt a budget amendment, in the amount of \$63,465, to appropriate funds to the Police Department's budget.

### **Police Grant – Social Work and Employee's Partnership Project**

Summary: The consideration of a resolution authorizing the City Manager to accept a grant award from the North Carolina Department of Crime Control and Public Safety, Division of the Governor's Crime Commission, in support of a social work and employee's partnership project and an associated budget amendment.

The Governor's Crime Commission has awarded the City of Asheville a two-year grant in the amount of \$85,900 in support of a social work and employee's partnership project. The first year's grant is \$44,400 and a local match of \$14,800 is required which will be appropriated from Contingency. The purpose of this project is to reduce family violence issues contributing to chronic juvenile runaway behavior.

City staff recommends City Council adopt the resolution authorizing the City Manager to accept the grant award and that Council adopt a budget amendment, in the amount of \$44,400, to appropriate funds to the Police Department's budget.

### **Request to N.C. Dept. of Transportation to Provide Raised Landscaped Median in Long Shoals Road Improvement Project**

Summary: The consideration of a resolution requesting the N. C. Department of Transportation (NCDOT) provide a raised landscaped median in the Long Shoals Road improvement project.

The NCDOT is preparing plans to widen Long Shoals Road in accordance with the Transportation Improvement Program (TIP). The preliminary plans are for a five lane facility like Hendersonville Road. The Metropolitan Planning Organization (MPO) has asked that the NCDOT substitute a raised landscaped median for the unrestricted center turn lane. Staff is now requesting City Council to join the MPO in

supporting a design change that would incorporate a raised landscaped median.

-6-

This design will have numerous benefits over the NCDOT's current plan. These benefits include:

- An improved appearance befitting a major City gateway;
- Improved traffic handling capacity due to fewer left turns;
- Improved opportunities for better land use management;
- Improved safety.

Additionally, the proposed raised median would be consist with the "gateway" concept discussed with and approved by Council earlier in the year.

As a final note, we have a verbal commitment from the Biltmore Park development to maintain the median landscaping proximate to their property. The NCDOT may ask the City to assume landscape maintenance over the remaining portions of the median within the City limits.

City staff recommends that Council approve the resolution requesting that the NCDOT amend its plans for Long Shoals Road to include a raised landscaped median.

### **Grant for Master Street Tree Plan Phase III**

Summary: The consideration of a resolution authorizing the City Manager to apply for and enter into an agreement with the N. C. Department of Environment and Natural Resources for a grant to develop Phase III of the Master Street Tree Plan.

The Parks and Recreation Department is responsible for developing a Master Street Tree Plan (MSTP) for street trees on City right-of-ways located within the city limits of Asheville. The existing inventory is over fifteen years old and no longer accurately reflects the trees of the city. Phase III of the process will specifically identify the location, size, condition, and site conditions of trees located in the west district of Asheville. Phases I and II inventoried over 7,000 trees in the central and south districts, and were funded by the Urban and Community Forestry Grant Program. The MSTP will help serve as a critical link in developing a long term management plan for Asheville's urban trees, provide information for future tree planting and forestry planning, and provide educational and volunteer opportunities for community organizations.

The Parks and Recreation Department is requesting \$9,873 in grant funds which requires a 100% match. The in-kind match is located in the Parks Division budget and will include supplies, transportation, volunteer hours, and project management.

The Parks and Recreation Department recommends the City of Asheville apply for and enter into an agreement for the grant funds through the N.C. Department of Environment and Natural Resources in the Urban and Community Forestry Grant Program to assist with implementing the Master Street Tree Plan Phase III.

### **Accept Recommendations from Regional Water Authority to Award Construction Contracts for Critical Needs Phase I Water System Improvements**

Summary: The consideration of resolutions confirming the award by the Regional Water Authority of a construction contract to Hobson Construction Company for Contract A; Cooper Construction Company for Contract B; and with Buckeye Construction Company for Contract 4 for the Critical Needs Phase I Water System Improvements.

-7-

Sealed bids were received and opened on Wednesday, May 24, 2000 for the Authority's Critical Needs Phase I / Contracts A, B & 4. Four (4) bids were received for Contract A with Hobson Construction Company submitting the low bid of \$ 1,027,847.00. Contract A includes the installation of approximately 2,600 lf of 8-inch and 14,400 lf of 6-inch waterline. A complete list of bidders is provided below.

Three (3) bids were received for Contract B with Cooper Construction Company submitting the low bid of \$ 836,459.00 Contract B includes the installation of approximately 13,500 lf of 6-inch and 1,600 lf of 4-inch waterlines. A complete list of bidders is provided below.

Three (3) bids were received for Contract 4 with Buckeye Construction Company submitting the low bid of \$ 624,016.29. Contract 4 includes the installation of approximately 6,060 lf of 16-inch, 6,900 lf of 6-inch and 960 lf of 4-inch waterlines. A complete list of bidders is provided below.

**Critical Needs Contract A - Engineer's Estimate: \$ 1,228,837**

**COMPANY BID**

Hobson Construction Company, Arden, N.C. \$ 1,024,727.50

Cooper Construction Company, Hendersonville, N.C. \$ 1,230,233.00

Steppe Construction Company, Mill Spring, NC. \$ 1,369,735.00

J & L Specialty Equipment Company \$ 1,822,855.91

**Critical Needs Contract B - Engineer's Estimate: \$ 1,029,257.00**

**COMPANY BID**

Cooper Construction Company, Hendersonville, N.C. \$ 836,459.00

Steppe Construction Company, Mill Spring, N.C. \$ 1,020,105.00

Hobson Construction Company, Arden, N.C. \$ 1,052,180.00

**Critical Needs Contract 4 - Engineer's Estimate: \$ 783,381**

**COMPANY BID**

Buckeye Construction Company, Canton, N.C. \$ 624,016.29

Hobson Construction Company, Arden, N.C. \$ 675,927.50

Cooper Construction Company, Hendersonville, N.C. \$ 719,982.00

These three (3) projects comprise the Authority's Critical Needs Phase I program and are funded by the \$ 3 million high unit cost grant the Authority received last year. These projects are focused on locations where our existing infrastructure is old, leaking and inadequate to maintain high levels of customer service.

These bids have been reviewed by the Office of Minority Affairs and this office has approved the award of each contract to the low bidder. McGill Associates, the project engineers for Contracts A & B, have recommended award of these contracts to the low bidder. The City Engineer's Office prepared Contract 4

and has recommended award of the low bid for that contract.

-8-

Each Contract has a liquidated damages clause of \$ 250.00 per day for failure to complete the project in the time allocated.

The Policies and Priorities Committee of the RWA approved staff's recommendation for award of these construction contracts to the respective low bidders. The full Authority will consider their recommendation on June 20, 2000. City Staff recommends that City Council confirm the award by the Regional Water Authority.

Councilman Worley said that the Water Authority is given broad powers under the Water Agreement to carry out its duties, except in some instances, and the Authority's decisions and contract awards are binding without the necessity of City Council's approval. He felt these issues should be removed from Council's agenda. He asked the City Attorney to research this issue and report back to City Council at their next formal meeting.

### **Accept New Street Name of Carlyle Way**

Summary: The consideration of a resolution accepting the new proposed street name "Carlyle Way."

Sweeten Creek Apartments, LLC, has petitioned the City of Asheville to accept the street name "Carlyle Way." The new street will be a cul-de-sac beginning at Sweeten Creek Road (US 25-A).

City staff recommends adoption of the resolution.

### **Accept New Street Name of Boddington Court**

Summary: The consideration of a resolution accepting the new proposed street name "Boddington Court."

Southoaks of Buncombe, LLC., owners of lots in Southoaks Subdivision,

has petitioned the City of Asheville to accept the street name "Boddington Court." The new street will be a cul-de-sac beginning at Racquet Club Road.

City staff recommends adoption of the resolution.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

### **PRESENTATION BY PACK SQUARE TASK FORCE ON THE REDESIGN OF PACK SQUARE**

Ms. Carol King, Chair of the Asheville Downtown Commission, updated City Council on the events of the Downtown Commission and Pack Square Task Force with connection with the redesign of Pack Square, discussed where the Task Force will go from here, and requested City Council's support for them to continue with the project.

Mr. Jim Samsel, representing the Pack Square Task Force, presented Council with the comprehensive design concept of the redesign of Pack Square.

Ms. King and Mr. Samsel answered various questions from Council noting that this design concept has a lot of support from the community and the tourist industry.

-9-



Mayor Sitnick wanted to make sure that there was coordination with the Tree Commission, particularly with Dr. Orbison, when work commenced on the City-County Plaza because there is a treasured dawn redwood tree in the Plaza area.

On behalf of City Council, Mayor Sitnick was grateful to all the people who have put so much time and effort in this wonderful project.

It was the consensus of City Council to have the Pack Square Task Force continue with this project.

### **UPDATE ON DIRECTIONAL SIGNS TO THE PARKING GARAGES**

City Engineer Cathy Ball said that in December 1998, City Council adopted a comprehensive parking study that included over 60 recommendations to improve parking in Downtown Asheville, Biltmore Village and West Asheville. One of these recommendations was to install color-coded directional signs to the parking garages to encourage hourly and daily parking in the garages.

Ms. Ball said that in the Fall of 1999, she was selected to participate in Leadership Asheville. Each year Leadership Asheville requires that participants complete a project in an area of their choice. She, along with eight other participants, participated on the "Infrastructure Committee." The committee consisted of Yates Pharr with Biltmore Farms, Inc., John Oswald III with Mills Manufacturing Corp., Ellen Williams with Mission Hospital, Ian Robertson with Warren Wilson College, Charlotte Caplan with the City of Asheville, Scott Shealy with Citizens Fuel Company, Eric Barbour with BASF Corp., and Gary Roberts with Buncombe County.

The committee selected the project of designing the color-coded directional signs to the parking garages and identifying where the signs should be placed. The committee met several times from October 1999 to May 2000 to work on the project. The final product was a design for the sign and a map suggesting locations for the signs.

Along with the directional signs, banners will be placed on parking garages that match the assigned color. For instance, all signs leading to the Rankin Street Garage will be burgundy as well as the banners located on the garage.

This project was estimated to cost \$85,000. City Council approved \$45,000 for this project in the Fiscal Year 1999-00 budget and \$40,000 in the Fiscal Year 2000-01 budget.

On behalf of City Council, Mayor Sitnick thanked the Leadership Asheville Committee for their work on this very important project.

### **UDO AMENDMENT REVIEWS**

City Attorney Oast said that these Unified Development Ordinance amendments are being brought before City Council in order that staff may respond to questions Council may have prior to the public hearings, which are scheduled on June 27, 2000. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

### **Revision to Approval Process for Preliminary Plats for Major Subdivisions**

Urban Planner Dan Baechtold said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to revise the process for approval of preliminary plats for major subdivisions.

In response to direction provided by the Fast Trackers Development Review Team and the Sustainable Economic Development Plan, Planning and Development staff reviewed current processes to identify streamlining opportunities. The proposed preliminary plat review process change was identified as a way to improve the development review processes of the City. The Planning and Zoning Commission, at their May 3, 2000, meeting, reviewed and recommended approval of an amendment to the UDO to revise the approval process for preliminary plats for major subdivisions. Major subdivisions are those subdivisions that require the construction of new streets and/or utilities or the dedication of new easements or rights-of-way. Under the current preliminary plat review process, the preliminary plat is reviewed and approved by the Planning and Zoning Commission following review and recommendation by the Technical Review Committee (TRC). The approval process currently requires approximately four weeks. The TRC would be authorized to review and approve preliminary plats for major subdivisions by the proposed amendment. Time required for review and approval of preliminary plats would be reduced to two weeks. Public notification of proposed subdivisions would be provided prior to the TRC meetings and the meetings are open to the public. The proposed ordinance amendment would streamline and improve the preliminary plat review process with no reduction in the quality of the review process.

The Planning and Zoning Commission voted 6-0 to recommend approval of the wording amendment regarding the preliminary plat approval process for major subdivisions. The Planning and Development staff recommends approval of the wording amendment.

Mayor Sitnick stressed that since the TRC is being given more approval authority, it is very important that more publicity be given to their meeting schedule and that every possible means of notification be given for projects before the TRC.

### **Revision for Maximum Footprint for Accessory Structures in Residential Districts**

Mr. Baechtold said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to revise the maximum footprint for accessory structures in residential districts.

Approximately 2-½ years ago, City Council approved an amendment to the UDO establishing a maximum footprint of 600 square feet for accessory structures in residential districts. Staff has received comments from the public that the current size limit for accessory structures is too restrictive. Staff reviewed the current standards, spoke with citizens regarding the standards, and worked with the Planning and Zoning Commission in revising the standards. The Planning and Zoning Commission at their May 3, 2000, meeting recommended the proposed ordinance amendment for approval. Maximum footprints for accessory structures in residential districts proposed by the ordinance amendment are:

#### Lot Size Single Structure Total – All Structures

< 1 acre 770 sq ft 1,000 sq ft

1 – 3 acres 1,200 sq ft 1,600 sq ft

> 3 acres No limit No limit

The other standards for accessory structures in residential districts (setback, building height, etc.) would remain unchanged. The proposed standards would meet the needs of the community for accessory structures adequate to meet their storage needs while protecting neighboring residential properties from obtrusive structures.

The Planning and Zoning Commission voted 6-0 to recommend approval of the wording amendment

establishing revised maximum footprints for accessory structures. The Planning and Development staff recommends approval of the wording amendment.

**Revision to Approval and Review Process for Duplexes, Triplexes and Quadraplexes in Single Family Zoning Districts and to Establish New Development Standards for these units**

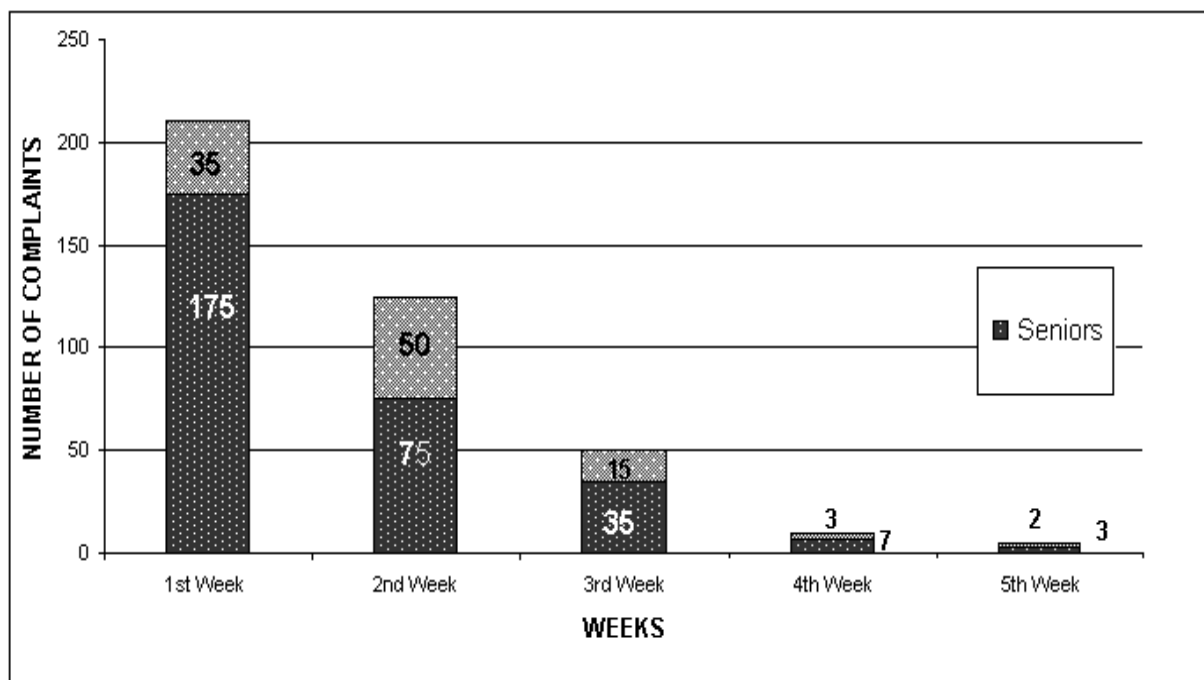
Planning and Development Director stated that a lot of innovative and creative information has come in from the community regarding this proposed amendment and City staff would like the opportunity to review that information. A revised ordinance will then be presented to the Planning & Zoning Commission for their recommendation to City Council. Therefore, he requested that City Council consider postponing (at their June 27, 2000, formal meeting) this public hearing until August 8, 2000.

Councilman Worley mentioned a concern regarding the minimum lot size and asked that Mr. Shuford review it prior to submitting the ordinance back to the Planning & Zoning Commission.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to proceed with the appropriate public hearings on June 27, 2000.

**REPORT ON AUTOMATED SIDE LOADER PILOT PROGRAM**

Public Works Director Mark Combs updated City Council on the new pilot automated side-loading program which began on April 3, 2000.



On April 3, 2000, the Sanitation Division began servicing 3,332 households utilizing two each one-man automated side loading trucks and City-issued 96-gallon roll out carts. Since the implementation of the program staff has received approximately 400 calls or inquiries related to the pilot program. Additionally, one newspaper commentary and several letters to the editor were published in two local newspapers. All were related to level of service and roll out cart maneuverability. Approximately 270 (68%) of the callers identified themselves as elderly and were concerned with the bulk and potential weight of the roll out containers. In each case staff followed up on each complaint and visited callers at their residences, as necessary, and implemented or suggested innovative solutions to unique problems. By using a chart, Mr. Combs showed that there was a high anxiety from the senior population relative to the program;

however, complaints related to cart manipulation and volume have significantly decreased since the program's start. The volume of concerns/ complaints has remained low (approximate to week 5 levels).

Staff identified a need for smaller containers for special situations, elderly people and low volume waste households. Two hundred 66-gallon containers have been ordered to meet these needs. Expected delivery is late June or early July.

Other service complaints related to volume (one 96-gallon container versus maximum six 30 gallon containers) have come from duplexes, triplexes and quadraplexes related to the additional \$2.50 per month container fee. To date, only 57 households (1.7%) ordered one additional container. This indicates to staff that the majority of pilot area customers have sufficient volume for the scheduled service frequency. Additionally, curbside recycling services will be expanded in July to include mixed paper which will further save potential solid waste volumes. A maximum of six recycling bins are allowed per household.

Information from other communities who have implemented similar programs indicate a pattern of initial concern from customers over the viability of such service (and equipment). Staff will continue to be proactive in providing information to customers and seeking solutions to their problems.

Mr. Combs answered several questions from Council regarding the pilot program.

### **AUTHORITY TO DEMOLISH FIRE DAMAGED CITY BUILDING AT AIRPORT**

Mr. John Miall, Risk Manager, said that this is the consideration of a resolution (1) authorizing the demolition of the remaining structure known as the FAA building on the southeast side of Airport Road across from the Asheville Regional Airport, (2) authorizing the City Manager to accept the actual cash value after applicable deductible from the City's carrier for the property loss, and (3) authorizing the use of net proceeds from insurance settlement for professional assessment and planning services to prepare plans for potential use of clean site for economic development purposes; and an associated budget amendment.

In the 1960's the City constructed a wood frame structure of approximately 1152 square feet. Said structure was valued for replacement cost under the City's property insurance program at approximately \$125,000.

Since the building was constructed it has housed by way of a lease agreement the Regional offices and shop facilities for the FAA at a monthly rate of \$747. Negotiations were, as of December 1999, under way to increase that rent upon renewal to a market rate of \$817 per month. FAA had agreed in principal to that rate.

On December 30, 1999, a fire in that building caused serious damage necessitating the FAA to relocate its offices and repair shop to facilities on the airport property in space managed by the Airport Authority. Members of the Asheville-Buncombe Arson Task Force concluded the likely cause of the fire was overheated ballast in a fluorescent light fixture.

Templeton Construction Company was asked to prepare a written estimate to repair the damage to the building and a claim for damages was made with the City's property insurance carrier. Based upon the estimate of Templeton Construction Company, it was determined that repairs would cost approximately \$82,627.14.

-13-

The City's coverage form allows for the replacement cost of structures lost due to insured perils is subject to a \$10,000 deductible. Assuming the Templeton estimate is accurate the City could rebuild the building subject to the deductible being paid by the City.

Following conversations with the City Manager, City Attorney, and the Director of Economic Development it was decided that the continued leasing of that facility to the FAA at the previously agreed to rental amount would not be in the best interest of the City. It is believed that the subject property has developable commercial value far in excess of the continued rental and can serve as a resource to support future economic development activity.

Due to a provision in the City's insuring agreement, the City may opt not to rebuild the subject building and recover from the carrier its loss on a depreciated value the net sum after applicable deductible of \$50,150.43.

Templeton Construction Company was asked to prepare a demolition estimate on the remaining structure. Including the cost of removing asbestos floor tiles in two of the rooms and disposing of them in a legally prescribed manner the total cost to demolish is \$18,510. Net recovery after a settlement on actual cash value and demolition would be \$31,640.43.

This resolution will authorize the City Manager to accept \$50,150.43 actual cash value after applicable deductible from the City's carrier for the property loss. Eighteen thousand, five hundred and ten dollars (\$18,510) from said recovery will be used to demolish and clean up the site. A budget amendment, in the amount of \$50,150.43, is needed to demolish and clean up the site with the balance to be used for economic development of the site.

Based on the above facts, it is the recommendation of staff to accept the actual cash value settlement of \$50,150.43 and to demolish the remaining structure and to use the net proceeds to secure appropriate professional services to determine the development potential of said property to its highest and best use.

When Mayor Sitnick hoped that the City would not have to spend the \$31,000 on consultant fees to advise the City what to do with the property, City Manager Westbrook said that the City may not need a consultant at all.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

### **SMART GROWTH DEFINITION AND POLICIES**

Planning and Development Director Scott Shuford said that as an outgrowth of the Sustainable Economic Development Task Force findings and City Council direction regarding Smart Growth development patterns, staff has been charged with creating a definition for Smart Growth that meshes with the City of Asheville's needs and characteristics.

He reviewed the draft Smart Growth Definition and Policies outlines issues relating to Smart Growth and sustainable development, provides a definition for Smart Growth based on local conditions and characteristics, and suggests several interim policies to guide staff in making land use and transportation decisions while the 2010 Plan is being updated and the Unified Development Ordinance is being amended.

City staff recommends that Council receive a presentation on Smart Growth and provide direction regarding the proposed definition and policies.

-14-

Discussion surrounded how the policies will guide staff in the day to day operations of City government.

Mr. Jim Bannon, Interim Project Director of Smart Growth Partners, and Mr. David Stewart, President of Smart Growth Partners, felt it was useful for the City and their organization to work together. They presented City Council with their principles for smart growth adopted on March 27, 2000.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

## **REVISIONS TO CITY COUNCIL'S RULES OF PROCEDURE**

It was the consensus of City Council to instruct the City Attorney to proceed with eliminating the requirement that City Council set public hearings in all applicable sections of the City Code and in all applicable sections of City Council's Rules of Procedure.

City Attorney Oast said that the actual setting of the public hearings will be handled administratively and a procedure will be set up to notify City Council when certain public hearings have been established. He said that he will work on the amendments and bring those back to Council for consideration.

## **NOISE ORDINANCE**

City Attorney Oast said that in 1998 the City undertook a review of the noise ordinance, which was last revised in 1994. This was done largely in response to community concerns about the difficulty of enforcing the current ordinance. The review process included a well-attended community meeting, meetings among City staff, and with citizen representatives.

The problems that were identified included:

- 1) Difficulty in getting police response to noise complaints;
- 2) Even when citations are issued, courts are not receptive to enforcement; and
- 3) Some noises (barking dogs, boom boxes) are not sufficiently regulated.

There were also some matters that needed to be addressed legally.

The revised noise ordinance has several important features:

1. The basic "unreasonably loud and raucous" standard is retained. This has been upheld in State and federal cases, including the United States Supreme Court.
2. Certain types of activities are identified as tending to produce loud and disturbing noises or noise levels. The City cannot ban or regulate these activities except to the extent that they actually do constitute a disturbance, but they are enumerated for the purpose of putting the public on notice that certain activities are prone to generating complaints in certain circumstances.
3. Certain types of activities are exempted from the noise ordinance. This was done in recognition that such activities (a) may be necessary for the public health and safety; (b) are non-recurring and of limited duration; (c) are associated with civic or community-wide events; or (d) are subject to constitutional or other legal protection.

-15-

4. Civil penalty for violation. Under the current ordinance, the only means of enforcement are by criminal penalty (\$50.00 fine/imprisonment) for misdemeanor infraction, or by equitable remedies (injunctions, etc.). There was no provision for civil penalty, and research discloses that this was specifically removed from a previous revision. As a practical matter, this means that the ordinance can only be enforced by the police, by a citizen swearing out a criminal warrant, or by the City initiating a civil action for injunctive relief. The use of civil penalties allows for escalating fines for repeat offenders.

5. Noise ordinance appeals board. To address the problems of "he said/she said," and to allow citizens an informal, but official, way of addressing noise based disputes, the ordinance establishes a hearing board with the power to adjudicate complaints and issue civil citations, and the power to consider appeals from citations issued by City staff. Appeals from the noise ordinance appeals board are to the City Manager.

6. Responsibility. The ordinance provides that the owner or occupant of property where a violation occurs may be liable for violations. Notice is required for owners who do not live on the premises.

If City Council agrees with the proposed revisions, adoption of the ordinance is recommended.

At the request of Councilman Hay, City Attorney Oast said that he would again review the basic "unreasonably loud and raucous" standard, with regard to the use of "raucous".

At the request of Councilman Worley, City Attorney Oast would amend Section 10-85 (m) to address public utilities working at night due to traffic considerations.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

### **REQUEST TO GOVERNOR HUNT TO DISMISS THE ENVIRONMENTAL PROTECTION AGENCY'S LAWSUIT REGARDING THE IMPLEMENTATION OF AIR POLLUTION REDUCTION STANDARDS**

Mayor Sitnick said that in 1999, North Carolina had the third highest number of violations of health standards for ozone pollution, just behind California and Texas. The Great Smoky Mountains National Park is now considered the most polluted National Park due to air pollution. She stressed that this air pollution crisis is having serious effects on our health, our natural resources, and our economy.

She explained why Governor Hunt's suing the Environmental Protection Agency (EPA) is not the way to go about cleaning up the air. She stated that she has received several letters from the medical community who support the City of Asheville doing something about our air quality. She asked if City Council would consider sending a resolution to Governor Hunt opposing North Carolina's actions against the EPA.

After discussion and at the suggestion of Vice-Mayor Cloninger, it was the consensus of City Council to investigate this issue further by obtaining additional information and to instruct the City Manager to arrange for Mr. Hugh Morton and a representative from the N. C. Department of Environment and Natural Resources to discuss this issue with City Council at an upcoming City Council formal meeting.

-16-

### **OTHER BUSINESS:**

#### **ORDINANCE NO. 2713 – ORDINANCE AUTHORIZING THE CITY OF ASHEVILLE TO LEVY A TAX ON GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASE OR RENTAL OF VEHICLES**

City Attorney Oast said that at the City Council meeting last week, June 13, 2000, City Council adopted Resolution No. 00-95 which authorized the City of Asheville to levy a tax on gross receipts derived from retail short-term lease or rental of vehicles. He explained that instead of a resolution, the proper format should have been an ordinance. He therefore asked City Council to adopt the same language, only in ordinance form.

Councilman Worley moved to suspend the rules and take formal action on this item at this meeting. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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

Vice-Mayor Cloninger moved to adopt Ordinance No. 2713. This motion was seconded by Councilman Hay and carried unanimously.

**ORDINANCE BOOK NO. 18 – PAGE**

**ASHEVILLE CIVIC CENTER – REGIONAL RESPONSIBILITY**

At the request of Mayor Sitnick, it was the consensus of City Council to instruct the City Manager to arrange a meeting with representatives from UNC-Asheville, some local organizations and businesses, and representatives from the surrounding counties including Jackson, Haywood, Madison, Henderson, Transylvania and Buncombe, for the purpose of discussing the needs of the Asheville Civic Center and to discuss feelings towards cooperation for the Civic Center's needs.

**ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 5:25 p.m.

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CITY CLERK MAYOR

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