

Tuesday - August 8, 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 Bellamy; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Hay gave the invocation.

ADDITIONS TO THE AGENDA

With the consensus of City Council, Mayor Sitnick added a resolution authorizing the City Manager enter into an encroachment agreement with the N. C. Dept. of Transportation for pedestrian improvements along US 25A (Brook and Lodge Streets) under the Consent Agenda.

Mayor Sitnick asked that the issue the public hearing for consideration of a conditional use permit for Riverbend Marketplace (i.e. Walmart) be discussed under Other Business.

I. PROCLAMATIONS:

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 25, 2000, AND THE WORKSESSION HELD ON AUGUST 1, 2000

B. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 2000, TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH A DEFINITION FOR ANCILLARY NON-RESIDENTIAL USES, TO ESTABLISH ANCILLARY NON-RESIDENTIAL USES AS A CONDITIONAL USE IN RESIDENTIAL ZONING DISTRICTS, AND TO ESTABLISH DEVELOPMENT STANDARDS FOR THIS USE

C. RESOLUTION NO. 00-134 – RESOLUTION AUTHORIZING THE ACCEPTANCE OF A \$2 MILLION HIGH UNIT COST GRANT FROM THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR CONTINUED IMPROVEMENTS TO THE REGIONAL WATER DISTRIBUTION SYSTEM

Summary: The consideration of a resolution authorizing the Regional Water Authority to formally accept a \$2 million high unit cost grant offer from the North Carolina Department of Environment and Natural Resources ("DENR").

In September 1999 the Regional Water Authority applied for a second grant with DENR to continue improvements to the Regional Water Distribution System. The Authority had already been awarded a \$3 million grant from DENR in July 1999 from an earlier round of applications. Areas of the water system were prioritized according to the State's criteria for grant points, including areas where water pressures to customers were low and areas where water leak repairs were frequent.

On March 15, 2000, the Water Resources Department was notified that DENR had selected the Authority for a \$2 million grant from the September application, conditioned on the design being completed and approved by DENR by July 7, 2000. This was completed on July 5, 2000.

DENR will formally request the Authority accept the grant sometime in August 2000. Pursuant to the Water Agreement, the Authority needs the approval of the County of Buncombe and the City of Asheville to formally accept this grant. Adoption of the resolution by the Council will provide the required approval of the City.

Water Resources Department staff recommend City Council adopt the resolution.

RESOLUTION BOOK NO. 26 – PAGE 103

D. RESOLUTION NO. 00-135 - RESOLUTION ACCEPTING THE NEW STREET NAME OF "DAWSON PLACE" OFF OF GLENDALE AVENUE

Summary: The consideration of a resolution accepting the new proposed street name "Dawson Place."

Ron Moser Inc., owner of lots in Glendale Avenue Subdivision, has petitioned the City of Asheville to accept the street name "Dawson Place." The new street will be a cul-de-sac off of Glendale Avenue.

City staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 104

E. RESOLUTION NO. 00-136 - RESOLUTION MODIFYING THE CITY COUNCIL MEETING SCHEDULE TO SCHEDULE A CITY COUNCIL COMMUNITY MEETING ON TUESDAY, AUGUST 29, 2000, BEGINNING AT 7:00 P.M. AT THE NORTH ASHEVILLE COMMUNITY CENTER LOCATED AT 37 E. LARCHMONT ROAD, ASHEVILLE, N.C.

RESOLUTION BOOK NO. 26 – PAGE 105

F. RESOLUTION NO. 00-137 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY FOR THE SKYLAND FIRE PROTECTION SERVICE DISTRICT

Summary: This is the consideration of a resolution authorizing the City Manager to sign a fire protection agreement with Buncombe County for the Skyland Fire Protection Service District.

The City of Asheville entered into an agreement to provide fire protection for the "Skyland Fire Protection Service District" in 1995. This area is primarily the Biltmore Estate property. The new contract was requested by Buncombe County to standardize contracts for fire protection with all fire departments in Buncombe County.

The Interim Fire Chief recommends City Council authorize the City Manager to sign the fire protection agreement with Buncombe County for the Skyland Fire Protection Service District.

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G. RESOLUTION NO. 00-138 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH KIMLEY-HORN ASSOCIATES TO PERFORM A TRAFFIC OPTIMIZATION STUDY IN

THE CENTRAL BUSINESS DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Kimley-Horn Associates in the amount of \$63,000 to prepare a traffic optimization study for traffic signals in the Central Business District in downtown Asheville.

In December 1998 City Council adopted a parking study of the downtown, Biltmore Village and West Asheville areas. One of the recommendations of the parking study was to optimize the traffic signals in the downtown area. In 1988, four closed loop systems were installed in the downtown area. Since then the timing of the overall system has not been revised.

This study will recommend improvements to the timing of the traffic signal system in downtown that will reduce traffic congestion, reduce air pollution and improve conditions for pedestrians.

Funds for this project are budgeted in the Fiscal Year 2000-2001 budget.

Staff recommends that City Council authorize the City Manager to sign a contract with Kimley-Horn Associates in the amount of \$63,000 to prepare a traffic optimization study for traffic signals in the Central Business District in downtown Asheville.

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H. RESOLUTION NO. 00-139 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ENCROACHMENT AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR PEDESTRIAN IMPROVEMENTS ALONG US 25A (BROOK AND LODGE STREETS)

Summary: The consideration of a resolution authorizing the City Manager to enter into an Encroachment Agreement with the N. C. Department of Transportation (NC DOT) for pedestrian improvements along US 25A (Brook and Lodge Streets).

Metropolitan Sewerage District (MSD) has recently improved a sanitary sewer line within the Biltmore Village area. With the Asheville-Buncombe Historic Resource Commission's approval, staff has proposed pedestrian improvements ancillary to MSD's resurfacing of Brook and Lodge Street (US25A). The proposed improvement would aid pedestrians crossing Brook and Lodge Streets (US25A) with the addition of three (3) pedestrian refuge islands, four (4) high visibility crosswalks, and one (1) curb extension (bulbout).

In order to install these improvements along a roadway maintained by the NC DOT, the City must enter into an encroachment agreement with the NC DOT for the improvements within the right-of-way.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a encroachment agreement with N. C. Department of Transportation.

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

Councilman Worley moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE IN ORDER TO REVISE THE REVIEW AND APPROVAL PROCESS FOR DUPLEXES, TRIPLEXES AND QUADRAPLEXES IN SINGLE FAMILY ZONING DISTRICTS AND TO ESTABLISH NEW DEVELOPMENT STANDARDS FOR THESE USES

Planning and Development Director Scott Shuford said that the Planning and Development Department is requesting that the public hearing scheduled in order to receive comments on the ordinance amendment revising standards for duplexes, triplexes, and quadraplexes in single family zoning districts be postponed indefinitely.

The UDO currently permits duplexes, triplexes, and quadraplexes in single family zoning districts as conditional uses. City Council must review requests for these uses and issue a conditional use permit for them. An amendment to the ordinance was proposed that would revise the review process and establish more rigorous design standards for these small-scale multi-family structures in single family zoning districts. This amendment was reviewed by the Planning and Zoning Commission and initially recommended for approval.

Subsequent to the Planning and Zoning Commission's initial review of this ordinance amendment, concerns were expressed by the community regarding the provisions of the ordinance amendment. The Planning and Zoning Commission and the Planning and Development staff are responding to these concerns by continuing to review the ordinance to identify whether revisions are required and, if so, what these revisions should be. In light of this continued review of the ordinance, holding a public hearing to receive input on the proposed amendment is not necessary at this time.

The Planning and Development staff requests that the public hearing be continued indefinitely.

Council members were concerned with the matter being postponed indefinitely because the issue does need to be resolved. It was their consensus to only table the issue with the understanding that Mr. Shuford would be providing them with updates as appropriate.

Therefore, at the request of City staff, Councilwoman Bellamy moved to table this public hearing. This motion was seconded by Councilman Hay and carried unanimously.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 00-140 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE ENKA FIRE DEPARTMENT FOR FIRE PROTECTION SERVICES

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Interim Fire Chief Robert Griffin said that this is the consideration of a resolution

authorizing the City Manager to sign a fire protection agreement with the Enka Fire Department.

The City of Asheville entered into an agreement with the Enka Fire Department to provide fire protection services in the west area of the City originally in 1991. This was in conjunction with Ordinance No. 1883 for annexation of an area known as West II and became effective in 1994. The City and the Enka Fire Department agree that there are benefits to the City and Enka Fire Department in maintaining a fire protection agreement. The amendment will extend the contract for an additional five years or until 2004. The amendment will update a fire code enforcement provision and a drug free workplace provision.

The Interim Fire Chief recommends City Council authorize the City Manager to sign the fire protection agreement with the Enka Fire Department.

Interim Fire Chief Griffin responded to various questions from Council, some being, but are not limited to: what is the difference between this fire station and the one in north Asheville, what is the timetable for moving the Enka Fire Station, and does the fire station on Haywood Road have to be closed once the new station is built.

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

Councilman Worley moved for the adoption of Resolution No. 00-140. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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B. RESOLUTION NO. 00-141 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A GRANT FROM THE U.S. DEPARTMENT OF JUSTICE, UNDER THE LOCAL LAW ENFORCEMENT BLOCK GRANT PROGRAM, TO FUND A PROGRAM DESIGNED TO REDUCE CRIME AND IMPROVE PUBLIC SAFETY

Police Chief Will Annarino said that this is the consideration of a resolution authorizing the City Manager to submit a grant application to the U. S. Department of Justice, Bureau of Justice Assistance, to fund a program designed to reduce crime and improve public safety.

The City of Asheville is eligible to apply for a federal project in the amount of \$139,346. The federal grant is in the amount of \$125,411. The purpose of the grant is to fund programs designed to reduce crime and improve public safety. The nature of the program using these funds will be determined by the City with public input after the grant award. A 10% local match (\$13,935) is required which match will come out of Contingency from the 110-0601-414-5097 line item.

Staff recommends the adoption of the resolution authorizing City Manager to apply for the grant through the U. S. Department of Justice, Bureau of Justice Assistance.

Upon inquiry of Councilman Peterson, Police Chief Annarino explained what kinds of things the grant could be used for.

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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Councilwoman Bellamy moved for the adoption of Resolution No. 00-141. This motion was seconded by Councilman Peterson and carried unanimously.

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VI. OTHER BUSINESS:

A. RIVERBEND MARKETPLACE (WALMART) CONDITIONAL USE PERMIT PUBLIC HEARING

Planning and Development Director Scott Shuford said that the Board of Adjustment will consider a variance for the Riverbend Marketplace project on September 5, 2000, in a special meeting. The developer has asked

that the conditional use permit for the project be held as soon as possible after the variance hearing due to project timing issues.

At Council's meeting on July 25, 2000, Council asked that staff get the project before them as soon as possible, but in order to avoid public inconvenience, Council suggested the public hearing not be set until after the Board of Adjustment acts on the variance. There is also the issue of holding the hearing in a separate venue (e.g., the Civic Center) to accommodate a large crowd.

Given all these circumstances, he asked Council if they would be interested in setting the conditional use permit public hearing in advance of the Board of Adjustment hearing. The advantage would be a quicker consideration of the conditional use permit as the hearing could be set for as early as September 12 – the first formal meeting after the Board of Adjustment meeting. The disadvantage of doing this is that the Board of Adjustment may continue the variance hearing or not approve the variance, necessitating the revision of the site plan or withdrawal of the project.

After discussion, it was the consensus of City Council to place a motion setting a public hearing on the conditional use permit for Riverbend Marketplace on Council's agenda for August 22, 2000. On August 22, 2000, the motion will be to schedule the public hearing at 5:30 p.m. on Tuesday, September 19, 2000, in the Stephens-Lee Community Center located on Carver Street. This public hearing will be after the 3:00 regular worksession in the First Floor Conference Room of the City Hall Building.

Upon inquiry of Councilwoman Field, City Attorney Oast suggested that City Council vote on September 19, 2000, to either issue or deny the permit and then at the next formal meeting, City staff will come back to Council with a draft order.

Mayor Sitnick asked that the public be made aware that they must be at the public hearing for their letters and comments to be entered into the record.

B. COMMENTS BY JAN HOWARD REGARDING RESERVOIR ROAD

Ms. Jan Howard, resident on Reservoir Road, said that she has been trying to get Reservoir Road (which she alleges is her driveway) closed for the past 8 years and passed out documents which she says supports her cause.

Mayor Sitnick said that she would contact Ms. Howard to set up a meeting.

C. COMMENTS BY C.D. WILLIAMS REGARDING THE UNIFIED DEVELOPMENT ORDINANCE

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Mr. C. D. Williams, resident on Weaver Boulevard, hoped that City Council carefully considers each Unified Development Ordinance amendment since it took over a year and many, many hours of discussion to arrive at the adopted document.

D. COMMENTS BY MICKIE MAHAFFEY

Mr. Mickie MaHaffey, representing Peacemakers, suggested that a flashing light be placed on the traffic signal on Biltmore Avenue between Café on the Square and Pack Place to bring attention to motorists that the light is changing.

Mr. MaHaffey also spoke about his concern about air pollution in our area and suggested the City study the types of vehicles they own and operate.

Mayor Sitnick responded to Mr. MaHaffey by stating several ways in which this present Council and the last sitting Council has shown that they are environmentally-minded and sensitive to the environment.

E. COMMENTS BY JOHN QUIGLEY

Mr. John Quigley, member of the Jackson Park/Woolsey Neighborhood Association, was concerned that the project by John Eflen in their area was larger than agreed upon. Planning and Development Director Scott Shuford said that he would meet with Mr. Quigley to investigate their concerns.

F. COMMENTS BY OCTAVIA FIELDER

Ms. Octavia Fielder, President of the Jackson Park/Woolsey Neighborhood Association, supported the City carefully reviewing amendments to the Unified Development Ordinance so as not to destroy the intent of the Ordinance. She also was concerned about the air pollution in Asheville.

Mayor Sitnick invited City Council to a meeting with representatives from the Tennessee Valley Authority on Friday, August 18, 2000, regarding air pollution in the Smokies.

G. COMMENTS BY PETER DAWES REGARDING BUNCOMBE COUNTY FRIENDS FOR ANIMALS

Mr. Peter Dawes alerted City Council that someone offered the Buncombe County Friends for Animals \$1 Million to build a new shelter if they would open their books for public inspection. He said that they refused. Since the City contracts with Buncombe County Friends for Animals, he felt they should be made aware of the situation and hoped that the City included verbiage in their contract to view the records of the agencies they contract with.

H. RECOGNITION OF GENE BELL

Councilwoman Bellamy congratulated Mr. Gene Bell who has recently received one of Governor Hunt's Community Service Awards. Mr. Bell is Chair of the Civil Service Board and is involved with several other civic activities.

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I. CLAIMS

The following claims were received by the City of Asheville during the period of July 21-27, 2000: Jehru Sullivan (Parks and Recreation), Donald Peek (Water), Larry Crawford (Water), Joyce Sorrells (Parks and Recreation) and Christy Baker (Streets).

The following claims were received by the City during the period of July 28-August 3, 2000: Herston Ownby (Water), Ralph P. Presley (Water), Alamo Rent-A-Car (Fire) and Trina Lee (Water).

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

J. LAWSUITS

The City was served with the following Complaint on July 31, 2000: John Foster v. City of Asheville, Ross Dillingham and John Does. The nature of the proceeding is a claim for malicious prosecution; abuse of process; assault and subsequent illegal restraint; compensatory damages and punitive damages. This matter will be handled by an outside attorney.

The City was served with the following Civil Complaint on July 31, 2000: Burley's Rink Supply Inc. v. City of

Asheville. The nature of the proceeding is a claim for money owed for work performed on chiller and rink piping equipment located at the Civic Center ice rink. This matter will be handled in-house.

The City was served with the following Notice of Trustee's Foreclosure Sale of Real Property on August 2, 2000: In the matter of foreclosure of Deed of Trust, Robert M. Janney and wife, Sara Belle Krueger dated 6-2-98, recorded on 6-2-98, at Book 1955 at page 169 in the Buncombe County Registry. The nature of the proceeding is default in payment of indebtedness secured by Deed of Trust. This matter will be handled in house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 6:04 p.m.

CITY CLERK MAYOR
