

Tuesday - December 19, 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 Burlison

Absent: None

INVOCATION

Councilman Worley gave the invocation.

CHANGES TO THE AGENDA

Councilman Hay asked that he be allowed to give a report from the Task Force on the Future of the Civic Center regarding an architectural feasibility study under Other Business.

I. PROCLAMATIONS:

A. RESOLUTION NO. 00-225 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A PROPERTY DONATION ON MERRIMON AVENUE FROM VERNE RHOADES JR. AND WILLIAM W. RHOADES

Mayor Sitnick recognized Mr. and Mrs. Verne Rhodes Jr. and thanked them for their kind donation of property.

Field Services Coordinator Ed Vess said that this is the consideration of a resolution authorizing the Mayor to accept a donation of real property on Merrimon Avenue from Verne Rhoades Jr. and William W. Rhoades for the City of Asheville parks and greenway system.

The City of Asheville is interested in establishing and maintaining parks and greenway systems throughout the corporate limits of the City of Asheville. The land for Weaver Park, located on Merrimon Avenue and Murdock Avenue, was donated by Mr. & Mrs. Verne Rhoades, Sr. in memory of Mr. & Mrs. W. T. Weaver. Verne Rhoades Jr. and William W. Rhoades, in complement of the gift by their parents honoring their grandparents, have offered to donate an approximately 0.715 acre parcel on Merrimon Avenue adjacent to Weaver Park (PIN Nos. 9649.10-37-6455 and 9649.06-37-6547) to become part of Weaver Park.

A Phase I Environmental Site Assessment has been completed by Patrick Price and the property has been surveyed by J. Glenn Haynes. The Parks and Recreation staff have reviewed the proposed donation and found that the property is appropriate for assemblage with Weaver Park.

City staff recommends City Council adopt the resolution authorizing the Mayor to accept a donation of real property on Merrimon Avenue from Verne Rhoades Jr. and William W. Rhoades.

Councilman Worley, as well as the rest of City Council, thanked the Rhodes for their very generous gift.

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

Councilwoman Field moved for the adoption of Resolution No. 00-225. This motion was seconded by Councilman Worley and carried unanimously.

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B. AWARD FROM WEST ASHEVILLE BUSINESS ASSOCIATION

Councilman Worley said that on behalf of the City Council, he accepted the West Asheville Business Association's monthly beautification award to the City of Asheville for their work on the triangle part at Westwood Road and Haywood Road and also for the Christmas wreaths along Haywood Road.

II. CONSENT:

City Attorney Oast said that with regard to Item J, the resolution in front of Council indicates that it's "water and sewer system revenue bonds," however, the resolution City Council should consider should read that it is only "water revenue bonds."

City Attorney Oast also said that with regard to Item M, the lease term (including options) is being requested for 9-1/2 years. Certificates of Participation (CO) on the Wall Street parking deck, of which this building is part, will be retired in February 2008, which means that the percentage cap on private activity income will no longer be applicable, and the City may thereafter seek a market rental for the property. Accordingly, the City is modifying the length of the option from the current 5 years to 2-1/2 years or 30 months, so that the lease and any extensions will expire on January 31, 2008, when the CO's are retired. The tenant and his attorney are agreeable.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 28 2000, AND THE WORKSESSION HELD ON DECEMBER 12, 2000

B. RESOLUTION NO. 00-226 - RESOLUTION ADOPTING THE 2001 SCHEDULED CITY COUNCIL MEETINGS

Summary: City Council worksessions begin at 3:00 p.m. on the first and third Tuesdays of each month in the First Floor North Conference Room in the City Hall Building. City Council formal meetings begin at 5:00 p.m. on the second and fourth Tuesday of each month in the Council Chamber located on the Second Floor in the City Hall Building.

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C. ORDINANCE NO. 2775 - BUDGET AMENDMENT, IN THE AMOUNT OF \$8,000, FOR A CONSULTANT TO DEVELOP AN ACCESS IMPLEMENTATION PLAN FOR THE PUBLIC ACCESS CHANNEL

Summary: Request was made by the Public Access Channel Commission at Council's worksession on December 12, 2000.

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D. RESOLUTION NO. 00-227 - RESOLUTION ACCEPTING THE NEW STREET NAME OF "NETTLEWOOD DRIVE" BEGINNING AT DEERLAKE DRIVE AND ENDING AT PEACHTREE ROAD

Summary: The consideration of a resolution accepting the new proposed street name "Nettlewood Drive."

Nettlewood, Assoc. LLC; owners of lots in Nettlewood Professional Park, has petitioned the City of Asheville to accept the street name "Nettlewood Drive."

The new street will begin at Deerlake Drive and end at Peachtree Road.

City staff recommends adoption of the resolution.

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E. MOTION ADOPTING THE FISCAL YEAR 2001-2002 BUDGET SCHEDULE

Summary: The consideration of a motion approving the Fiscal Year 2001/2002 budget schedule.

The proposed Fiscal Year 2001/2002 budget schedule identifies key dates for completion of all phases of the budget process leading to adoption. Certain administrative phases of the budget process including the distribution of budget materials and instructions have already begun or have been previously approved by City Council (i.e., City Council Retreat). Other key phases include submission of departmental requests, presentation of the proposed budget to City Council, a public hearing and formal adoption. Adoption of the Fiscal Year 2001/2002 budget is scheduled for June 26, 2001.

City staff recommends City Council adopt the Fiscal Year 2001/2002 budget schedule.

F. RESOLUTION NO. 00-228 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR GRANT FUNDS TO THE CLEAN WATER MANAGEMENT TRUST FUND TO PARTIALLY FUND THE EXPANSION OF OUR LOCAL STORMWATER/EROSION CONTROL DIVISION

Summary: The consideration of authorizing the City to apply for grant funds to the Clean Water Management Trust Fund and the N. C. Sedimentation Control Commission Local Program Assistance Contracts Fund to partially fund the expansion of our local Stormwater/Erosion Control Division.

The Clean Water Management Trust Fund was established by the N.C. General Assembly to provide monies to help finance projects that specifically address stormwater control management as well as funding to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. Currently, \$800,000.00 has been allocated in this trust fund for the period ending December, 2000. The City of Asheville is interested in applying for a grant to partially fund the expansion of our local stormwater/erosion control division. The total funding requested for this project is \$231,800.00, and we are requesting \$69,500.00 from this source.

The N.C. Sedimentation Control Commission Local Program Assistance Contracts Fund was established to make funds available to be used to support the start-up of new local erosion and sedimentation control programs or the enhancement of existing or expanding local programs. Currently, \$150,000 has been allocated in this trust fund for the period ending

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January, 2001. The City of Asheville is interested in applying for a grant to partially fund the expansion of our local stormwater/erosion control division. The total funding requested for this project is \$231,800.00, and we are requesting \$75,000.00 from this source.

The City will match/in-kind with an additional \$87,360 which will be collected through normal operations by Stormwater, and Soil and Erosion Permit fees.

City staff recommends the City Manager and/or Mayor be authorized to apply for or enter into agreements for

funding through the Clean Water Management Trust Fund and the Sedimentation Control Commissions Local Program Assistance Contract Fund.

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G. RESOLUTION NO. 00-229 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR GRANT FUNDS TO THE N. C. SEDIMENTATION CONTROL COMMISSION LOCAL PROGRAM ASSISTANCE CONTRACTS FUND TO PARTIALLY FUND THE EXPANSION OF OUR LOCAL STORMWATER/EROSION CONTROL DIVISION

Summary: See Consent Agenda Item "F" above.

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H. RESOLUTION NO. 00-230 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A UTILITY AGREEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION FOR NON-BETTERMENT RELOCATION OF WATER LINES IN THE NC 151 PISGAH HIGHWAY PHASE II ROADWAY PROJECT

Summary: The consideration of a resolution authorizing the Mayor to execute a Utility Agreement with the N.C. Dept. of Transportation (NCDOT), for the non-betterment relocation of an existing water main.

NCDOT is requiring the City of Asheville to relocate a 6" cast iron water main in Pisgah Highway (NC 151), between Medford Branch Road and Lower Glady Fork road, south of Candler, as a part of the highway improvements which have recently begun construction. This requirement is pursuant to current North Carolina law. NCDOT has designed the new relocated

water line and has included the construction of this new water line in the NCDOT construction contract. NCDOT has also presented to the City of Asheville a Utility Agreement which reduces to writing the obligations of each party in the relocation of this water line. Funding for the Pisgah Highway water line relocation project (\$633,500) is currently in the 329 Water Bond Capital Improvement Fund. The Utility Agreement for this project was reviewed with the Regional Water Authority on October 17, 2000, and action was taken by the Authority on November 21, 2000.

In the past all Utility Agreements for non-betterment relocation have been between the City of Asheville and NCDOT, although they have been reviewed with the Regional Water Authority. The Authority's action on November 21, 2000, was to adopt a resolution prepared by the Authority's attorney directing that the Utility Agreement for this project be a three-party agreement among the Authority, City, and NCDOT, and directed that the Authority's attorney meet with the City Attorney to review the language of the agreement.

The Water Agreement permits the Regional Water Authority to enter directly into contracts for work related to the water system, but the Agreement does not prohibit the City of Asheville from being the contracting party. The Water Agreement further provides that the City

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owns the water system and owns the assets and real property. The Authority routinely enters into contracts for construction with contractors. However, the City is the entity involved in transactions affecting its property interests in the water system assets, such as real estate acquisition or bond financing. The Water Authority has not previously been party to a Utility Agreement with NCDOT. NCDOT has traditionally preferred to contract with the City, and requires a provision in each Utility Agreement which allows NCDOT to withhold Powell Bill funds (street maintenance funds distributed annually to the City and other municipalities from State-collected gasoline taxes) from the City of Asheville if the State is not reimbursed for the expenses of relocating the water lines.

Because the City owns the system, and because the City's Powell Bill funds may be withheld in the event of non-compliance, the City should be the entity that contracts with NCDOT in the Utility Agreement. The Agreement may be amended to include a provision that describes the relationship between the City and the Authority, and this should provide the needed clarification. If there are issues between the City and the Water Authority regarding administration of the Utility Agreement, these may be addressed in a separate agreement between the City and the Authority.

The recommendation is to adopt a resolution authorizing the City to enter in the Utility Agreement with NCDOT, subject to appropriate revisions to reflect the relationship between the City and the Water Authority, and to protect the City's interests. The initial recommendation to the Regional Water Authority was for the Authority to adopt a resolution recommending the City of Asheville enter a Utility Agreement with the NCDOT. The recommendation of the Regional Water Authority, based on a revised resolution adopted on November 21, 2000, is that the City of Asheville authorize the Mayor to enter a Utility Agreement with the Authority and NCDOT.

RESOLUTION BOOK NO. 26 – PAGE 238

I. RESOLUTION NO. 00-231 - RESOLUTION APPROVING ISSUANCE OF MULTI-FAMILY HOUSING REVENUE BONDS FOR OAK KNOLL APARTMENTS

Summary: The consideration of a resolution approving the issuance of revenue bonds by the Housing Authority for the Oak Knoll project. This is the same bond issuance that was proposed and approved last year.

The Housing Authority of the City of Asheville proposes to issue revenue bonds in the amount of \$6,444,000 for the acquisition, rehabilitation, and equipping of a low- and moderate-income housing project in the City of Asheville. This project involves the acquisition and rehabilitation of an existing residential rental project currently known as Oak Knoll Apartments, consisting of 180 units located on Future Drive in Asheville.

This is the same bond issuance that was proposed by the Housing Authority and approved by the City last year. The law requires that the entity issuing the bonds, in this case the Housing Authority, conduct a public hearing on the question of the issuance of the bonds, and that the bonds actually issue within one year from the date of the hearing. Because the bonds in this case were not issued within a year of the October 26, 1999 public hearing of the Housing Authority, another public hearing must be held by the Housing Authority (scheduled for December 12, 2000), and the governing body's (City Council) approval is again required.

The project will be acquired by the Silver Street Development Corporation through the Oak Knoll - Asheville Limited Partnership, which will also perform the rehabilitation work. The Housing Authority will use the bond proceeds to provide financial assistance. In a meeting and

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public hearing held on October 26, 1999, the Housing Authority found that the issuance of the bonds would further the Authority's purpose of promoting low- and moderate-income housing in Asheville, found that the developer was financially responsible and capable of fulfilling its debt repayment obligations, if the financing was provided, and that estimated costs of the acquisition and rehabilitation were not excessive. The financing team was also approved. Since nothing about the project or the developer's financial capability has changed significantly since last year, it is anticipated that the Housing Authority will confirm its earlier actions.

The bonds being issued are "private activity bonds" under IRS regulations. Essentially, this is a form of financing that allows private entities to engage in public purpose projects, with some of the advantages of tax exempt financing. There are many requirements and limitations in the use of the money derived from bond

proceeds. One of the requirements is that the governmental unit having jurisdiction over the area in which the activity occurs must approve the issuance of the bonds, and this approval may only come after a public hearing. According to the Housing Authority's attorney, concurred in by bond counsel and the attorneys for the developer and issue, this public hearing requirement will be satisfied by the public hearing to be held by the Housing Authority, and a separate hearing by the City is not necessary. Our bond counsel has confirmed this, and this is the position of the Local Government Commission.

If City Council wishes to approve issuance of the revenue bonds for the Oak Knoll project, as required by Sec. 147(f) of the Internal Revenue Code, adoption of the resolution is recommended.

RESOLUTION BOOK NO. 26 – PAGE 239

J. RESOLUTION NO. 00-232 - RESOLUTION PROVIDING FOR THE ISSUANCE OF \$13,400,000 WATER REVENUE BONDS, SERIES 2001 OF THE CITY OF ASHEVILLE

Summary: The consideration of a resolution providing for the issuance of \$13,400,000 Water Revenue Bonds, Series 2001 of the City of Asheville.

The issuance of water revenue bonds is the most prudent method of financing programmed enhancements to the water system. The significant projects to be financed include: payments to N. C. Dept. of Transportation for non-betterment expenses necessitated by highway projects; renovation of existing lines; equipment and facilities; and state-mandated renovations to the Bee Tree Dam spillway

The resolution provides the particulars for issuance of the bonds, to include:

- o \$13,400,000 maximum aggregate principal amount to finance the project costs and costs of issuance;
- o Retains Parker, Poe, Adams & Berstein L.L.P. as bond counsel; Robinson-Humphrey Company LLC as underwriters and Raffelis Environmental Consulting Group, Inc. as feasibility consultant;
- o Approves Hunton & Williams as underwriter's counsel; The Bank of New York as trustee and Central Carolina Bank as co-trustee;
- o Directs the Finance Director to file an application with the Local Government Commission (LGC) for its approval of the issuance of the bonds;
- o City Council determines and requests the LGC to determine that the issuance is necessary; the principal amount is sufficient but not excessive; the projects are feasible; the City's debt management and policies are excellent and the bonds can be marketed at a reasonable cost to the City;

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- o Authorizes the Mayor, City Manager and Finance Director to do all things necessary for the issuance of the bonds;
- o Requests that LGC sell the bonds through negotiation to Robinson-Humphrey at terms as may be agreed on but at a true interest cost not exceeding 7.5%;
- o Approves, authorizes and confirms the form and content of the Preliminary Official Statement and its use by the underwriter in connection with the sale of the bonds.

City staff recommends City Council adopt the resolution.

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K. RESOLUTION NO. 00-233 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PAI, INC., D/B/A THE PHEIL COMPANY, FOR THIRD PARTY ADMINISTRATIVE

SERVICES AND STOP-LOSS COVERAGE FOR THE CITY'S GROUP HEALTH BENEFITS PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with "The Pheil Company" for administration of group medical claims and provision of specific and individual stop-loss coverage.

Since 1983 when the City first began self-funding its group benefits it has contracted with several third party administrators (TPA's) for administration of its claims and with various stop-loss reinsurers for its stop-loss needs.

The current hardening of global reinsurance markets necessitated the City securing competitive proposals this year prior to its January 1st renewal date. A very responsible and competitive proposal has been received from PAI, Inc., d/b/a The Pheil Company. This proposal as received will reduce the City's fixed costs for its program by \$272,000 in the coming year. In addition to their proposal they have also committed to opening an Asheville claims office within the first quarter of the coming year. The City has never had a local TPA capacity to service its claims needs.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into an agreement with "The Pheil Company" for administration of group medical claims and provision of specific and individual stop-loss coverage.

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L. RESOLUTION NO. 00-234 - RESOLUTION MODIFYING SCHEDULED CITY COUNCIL MEETINGS TO INCLUDE A COMMUNITY MEETING ON TUESDAY, JANUARY 30, 2001, BEGINNING AT 7:00 P.M. IN THE MUNICIPAL BUILDING COMMUNITY ROOM LOCATED AT 100 COURT PLAZA, ASHEVILLE, NORTH CAROLINA

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M. RESOLUTION NO. 00-235 - RESOLUTION AUTHORIZING LEASE OF CITY-OWNED PROPERTY AT 43 WALL STREET

Summary: The consideration of a resolution authorizing the City to enter into a lease for its building located at 43 Wall Street, adjacent to the parking deck.

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The City owns property on the north side of Wall Street that was redeveloped in the 1980's through the use of Certificates of Participation (COPs). The City leased the property to a development corporation, which constructed the deck and some attached commercial space on the Wall Street elevation. The development corporation leased the property back to the City, and the City subleased it to the Wall Street Limited Partnership, which subleased part of the commercial space to ClimbMax in 1995. The City entered into an agreement directly with ClimbMax for the construction and use of the climbing wall on the outside of the building in 1995. These leases expired in August of 1999, and ClimbMax has continued to lease directly from the City on a monthly basis. ClimbMax desires now to enter into a lease for a period of years for the part of the building that they currently occupy, and the climbing wall.

The basic terms are that ClimbMax will lease the property for an initial term of 4-1/2 years, with an option to renew for up to five additional years. ClimbMax will pay the City a monthly rental of \$1,100.00, subject to annual escalation after the first 18 months. The current rental is \$900.00. Although the rental market in the downtown area might support a higher rent, the space occupied by ClimbMax is essentially unfinished, and we are limited by law as to how much "private use" income we can realize from the (non-taxable) COPs-

financed structure, and \$1,100 is approaching the top of that range.

Currently, the space occupied by ClimbMax is without a functioning HVAC system. Due to the unique configuration of the space used by ClimbMax, the parties propose that ClimbMax should arrange for HVAC to meet its needs, and the amount of rent reflects this. ClimbMax proposes to use natural gas heat, and a supply line for this purpose needs to be built from the Wall Street main to the building. Since the City will receive a permanent benefit from this work (estimated at \$2,500.00) we are recommending that ClimbMax arrange and pay for the gas line installation, and that their first year's rent obligation be reduced by that cost.

If Council approves of the proposed lease arrangement, adoption of the resolution is recommended.

City Attorney Oast reiterated that the above information indicates that the lease term (including options) is being requested for 9-1/2 years. However, Certificates of Participation (CO) on the Wall Street parking deck, of which this building is part, will be retired in February 2008, which means that the percentage cap on private activity income will no longer be applicable, and the City may thereafter seek a market rental for the property. Accordingly, the City is modifying the length of the option from the current 5 years to 2-1/2 years or 30 months, so that the lease and any extensions will expire on January 31, 2008, when the CO's are retired. The tenant and his attorney are agreeable.

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N. MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 2001, TO REZONE ONE LOT ON FAIRFAX AVENUE AND WELLS AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT

O. MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 2001, TO REZONE ONE LOT ON HILLSIDE AND SEMINOLE STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO OFFICE BUSINESS DISTRICT

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P. MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 2001, TO REZONE 475 MERRIMON AVENUE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT

Q. MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 2001, TO APPLY THE MANUFACTURED HOME OVERLAY ZONING CLASSIFICATION ON TWO LOTS ZONED RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT LOCATED ON POWERS ROAD

R. MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 2001, TO AMEND THE FISCAL YEAR 2000 CONSOLIDATED PLAN TO REALLOCATE \$125,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FROM NEIGHBORHOOD HOUSING SERVICES PROPOSED SYCAMORE HOLLOW HOUSING DEVELOPMENT ON BRADLEY ROAD IN WEST ASHEVILLE TO NEIGHBORHOOD HOUSING SERVICES NEW APARTMENTS DEVELOPMENT IN MONTFORD AND MIDTOWN

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

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

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE PERMITTED HEIGHT FOR FENCES

ORDINANCE NO. 2776 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE PERMITTED HEIGHT FOR FENCES

Mayor Sitnick opened the public hearing at 5:14 p.m.

Chief Planner Gerald Green said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to revise the permitted height for fences. This public hearing was advertised on December 8 and December 15, 2000.

The proposed ordinance amendment would revise the maximum height permitted for fences located in the side and rear setbacks. Currently, fences are limited to a maximum height of six (6) feet if they are located in the front, side, or rear setbacks. Given the topography of the City, this height is often not adequate to screen adjacent uses and/or to provide privacy to homeowners. The Board of Adjustment has received several requests for variances from the fence height standard and the Planning and Development staff has received requests for the ordinance amendment being proposed. A maximum height of eight (8) feet for fences located in the side and rear setbacks is established by the draft ordinance amendment, with the maximum height remaining at six (6) feet for fences located in the front setback. In addition, the proposed ordinance would prohibit the blocking of the sight visibility triangle, located at street intersections, by fences. The proposed ordinance amendment would address the issues raised by the variance requests and would meet the needs of those requesting the ordinance amendment.

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At their October 4, 2000, meeting, the Planning and Zoning Commission voted 7 to 0 to recommend approval of the wording amendment revising the maximum height for fences. The Planning and Development staff recommends approval of the wording amendment.

Mayor Sitnick closed the public hearing at 5:15 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. 2776. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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B. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE STANDARDS FOR ON-PREMISE SIGNS

ORDINANCE NO. 2777 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE STANDARDS FOR ON-PREMISE SIGNS

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

Chief Planner Gerald Green said that this is the consideration of an amend to the Unified Development Ordinance (UDO) to revise the standards for on-premises signs. This public hearing was advertised on December 8 and December 15, 2000.

The proposed ordinance amendment would revise the City's sign ordinance to make it easier for staff and

the public to use. The proposed amendment represents the first comprehensive revisions to the sign regulations since their adoption over ten years ago. The proposed amendment would revise the standards for on-premises signs only; the standards for off-premises signs would remain unchanged. Revised standards for single tenant and multi-tenant signage are proposed, as well as changes to some miscellaneous standards. The proposed changes include:

Single tenant signage

- Reformat the section in the same style as the multi-tenant signage regulations;
- Permit suspended/transom signs;
- Permit maximum square footage for attached signage to be distributed between 2 signs;
- If variance granted by Board of Adjustment to permit sign larger than 125 sq ft, setback would be 15 ft instead of 10 ft;
- Commercial subdivisions permitted identification sign like residential subdivisions.

Multi-tenant signage

- Eliminated the standard that based attached tenant signage on the type of freestanding sign; tenants now permitted one square feet of attached signage for each one linear foot of building frontage (with max size identified);
- Increased maximum square footage from 187.5 to 200;
- Setback based on sign size. Signs over 125 square feet have 15 feet setback; signs under 125 square feet have 10 feet setback;
- Businesses sharing an entrance can have wall signs;
- Subtenants within a leased area can each have a small wall sign.

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Miscellaneous

- Method of calculating sign size simplified;
- Flags of nations, states, etc. are exempt; other flags added to list of prohibited signs;
- Modified section dealing with signs on vehicles to make it easier to enforce;
- Altered section dealing with directional signage; and
- Added signage to the list of design elements an authorized design board can vary.

The input and ideas of sign contractors and businesses was used in the development of the proposed revisions. The adoption of the proposed ordinance amendment will improve the ability of the staff to administer the sign regulations while providing additional flexibility to business owners in advertising their businesses.

At their October 4, 2000, meeting, the Planning and Zoning Commission voted 7 to 0 to recommend

approval of the wording amendment revising the standards for signs. The Planning and Development staff recommends approval of the wording amendment.

Mayor Sitnick closed the public hearing at 5:17 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. 2777. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 - PAGE

IV. UNFINISHED BUSINESS:

A. ORDINANCE DENYING THE CONDITIONAL USE PERMIT TO CONSTRUCT A WAL-MART SUPERCENTER AT THE INTERSECTION OF GERBER ROAD AND HENDERSONVILLE ROAD

Planning and Development Director Scott Shuford said that the City has received letters from both the property owner and Wal-Mart Stores formally withdrawing their request for a conditional use permit for the Gerber site. This is consistent with recent media reports indicating abandonment of the project. This withdrawal will eliminate the need for City Council to take action on the order denying the conditional use permit.

Please be aware that this withdrawal prior to final Council action has the effect of preserving the applicant's ability to resubmit a substantially similar request without waiting the one-year period called for in our ordinance for a denied conditional use permit. He was not aware of any inclination on the part of the applicants to resubmit, but did want City Council to be apprised of the possibility.

V. NEW BUSINESS:

A. RESOLUTION NO. 00-236 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE FILM BOARD

Vice-Mayor Cloninger said that Barbara Pasternack has resigned as a member of the Asheville Film Board, thus leaving an unexpired term until November 1, 2001.

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Upon recommendation of the Asheville Film Board, on December 12, 2000, City Council instructed the City Clerk to prepare the proper paperwork to appoint Diana Bilbrey to fill the unexpired term of Ms. Pasternack.

Councilman Worley moved to appoint Diana Bilbrey to the Asheville Film Board to fill the unexpired term of Ms. Pasternack, term to expire November 1, 2001, or until her successor is appointed. This motion was seconded by Councilman Hay and carried unanimously.

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VI. OTHER BUSINESS:

RESOLUTION NO. 00-237 – RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH HEERY INTERNATIONAL FOR AN ARCHITECTURAL FEASIBILITY STUDY OF THE CIVIC CENTER

ORDINANCE NO. 2778 – BUDGET AMENDMENT FOR THE CIVIC CENTER ARCHITECTURAL FEASIBILITY STUDY

Councilman Hay said that in September 2000, City Council authorized City staff to prepare a request for proposals for an architectural feasibility study of the Civic Center. This architectural study will examine four functions of the existing Civic Center (performing arts center, conference center, exhibition space and arena). The architectural study will analyze the existing Civic Center with a focus on the structural ability to renovate the existing facility or parts thereof and/or to enlarge the existing facility to provide the amenities normally found in today's market for sports arenas of a size between 7,500 seats and 9,000 seats, conference centers (including the ability to serve small conventions) trade shows (exhibition space) and the performing arts.

In addition, the architectural study will preliminarily review other sites, including two sites for possible use as an arena in the event there are site or economic constraints in providing an arena at the existing Civic Center.

On October 9, 2000, the City received six proposals. A sub-committee of the Civic Center Task Force narrowed the proposals to three. Interviews with the three finalist were held on November 30, 2000, noting that each firm was somewhat different from the other. The three finalist were Heery International Inc., KPS Group and Ellerbe Becket. Following the interviews, the Civic Center Task Force recommended that Heery International, Inc. be selected for the project. They were presently engaged in doing projects similar to this in other parts of the country and were up-to-date in the sports and entertainment industry.

Councilman Worley and Councilwoman Field also spoke in support of Heery International.

City Engineer Cathy Ball explained the thorough job the Task Force performed in this process and that staff did follow up on their references to make sure they were recommending a qualified firm. She said that City staff recommends the City Manager be authorized to sign a contract with Heery International, Inc. in an amount not to exceed \$98,400 plus reimbursable expenses for an architectural feasibility study of the Civic Center. Staff also requests Council approve a budget amendment in the amount of \$110,000 for the contract. (This amount includes that cost of the contract plus 10% reimbursable expenses.)

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Discussion surrounded the amount of the contract; the number of hours proposed by the architectural firm to complete the study; where the \$110,000 for the study would come from; how much of the contract cost is going toward analyzing the other sites; what kind of questions will the report answer, i.e., is the facility structurally suited to be renovated to be a first class modern facility with all the amenities that are expected of a first class facility; and alternative funding sources other than property taxes.

Vice-Mayor Cloninger's strong preference and major emphasis was to try to renovate the existing Civic Center.

Councilman Peterson wanted to make sure that the report includes cost estimates because even though Asheville would like to have a first class center, the City taxpayers may not be able to afford it. Mayor Sitnick said the study would include that information. In addition, substantive discussions have been those alternative funding sources that City taxpayers are going to have to get help with. Since over 80% of the people who use the facility come from outside the City of Asheville, it is Council's responsibility to get some kind of pay-equity and they are looking at that very seriously.

City Manager Westbrook said that the charge from City Council was whatever needs to be done to the Civic Center to bring it up-to-date needs to be done with something other than property tax dollars. He said there will have to be an alternate funding source to fund the debt service to do this.

Mr. Fred English, 17 Presley Road, suggested closing the existing Civic Center down and building a new arena. He felt the City should not put anymore money into the existing Civic Center.

Mr. Kevin Rollins, representing the Libertarian Party of Buncombe County, felt that City Council should hold a public hearing on this issue before spending \$110,000. Mayor Sitnick noted that this is not a new issue and there has been a lot of public comment, community meetings, public surveys, etc. to get to this point.

Upon inquiry of Vice-Mayor Cloninger, City Engineer Ball said that the report is to be finalized in 90 days.

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

Councilman Hay moved to adopt Resolution No. 00-237. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 250

Councilman Hay moved to adopt Ordinance No. 2778. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 58

COMMENTS BY FRED ENGLISH

Mr. Fred English made several comments, some being, but are not limited to: he hoped City Council would not consider a resolution supporting a moratorium on the death penalty; the Salvation Army should not have had to pay any parking fees; and he felt City Council should have approved the proposed Super Wal-Mart on Gerber Road.

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MORATORIUM ON THE DEATH PENALTY

Vice-Mayor Cloninger suggested City Council consider, as an alternative to the full Council voting on a resolution in support of a moratorium on the death penalty, that if City Council members want to express an opinion on this issue that they communicate their opinions individually, as Council members, by writing a letter to whomever they want. He felt this is not an issue for City Council and is not the kind of issue they were elected to take up. He hated to see City Council go down this road of taking up social issues.

Councilwoman Bellamy said that City Council is being asked to consider the possibility of a moratorium on the death penalty, not for City Council as a whole to decide on whether we need to have the death penalty or not. She felt it was important for City Council to address this issue, because we are on a local level and we have the ability to affect the state level on this decision. She said that with the moratorium, we are asking them to reassess and reevaluate their current system – not asking them to abolish it or to continue it. But if they are going to continue it, to look at it and see if it is being fair in determining who dies and who lives. She felt City Council should vote formally as a whole Council.

CLAIMS

The following claims were received by the City of Asheville during the period of November 17-30, 2000: Terminix (Sanitation), Samatha Emory (Sanitation), Frank Shepherd (Water) and Affordable Comfort (Sanitation).

The following claims were received by the City during the period of December 1-14, 2000: Ron Dame (Finance), Vadim Boraev (Finance), Carla William (Water), Richard Plemmons (Water), Choe Thompson (Water), Harry Fields (Streets), Daniel Boone Auto (Streets), Michelle Eldridge (Water), Donna Link (Water), Rev. Joe Chandler (Water), T.H. Plemmons (Water), Rebecca Wilson (Water), Idris Rasheed (Water), James Quinn (Transit Services), Deshondra Kemp (Streets) and Angela Bell (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 6:15 p.m.

CITY CLERK MAYOR
