

Staff recommends approval of the resolution authorizing the City Manager to sign a weekly frequency advertising contract with the Asheville Citizen-Times.

RESOLUTION BOOK NO. 26 – PAGE 263

D. RESOLUTION NO. 01-08 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT REGIONAL MEDICAL PARK DRIVE AS A PUBLIC RIGHT-OF-WAY AND PUBLICLY MAINTAINED STREET

Summary: The consideration of a resolution to accept Regional Medical Park Drive as a public right-of-way and City maintained street.

Section 7-15-1(f) 4.a requires that streets dedicated for public uses be accepted by resolution of City Council.

Regional Medical Park Drive is a newly constructed street servicing Regional Medical Park. The street has been constructed and inspected in accordance with the City of Asheville Standard Specifications and Details Manual. The street is a loop street that is approximately 2816 feet long.

Following City Council's approval of this resolution, Regional Medical Park Drive will be added to the official Powell Bill list.

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Staff request City Council accept Regional Medical Park Drive as a public right-of-way and City maintained street.

Councilwoman Field asked if she had a conflict of interest if Regional Medical Park is a project her office is actively participating in. City Attorney Oast said that did not feel she had a conflict of interest since this is only a street acceptance.

RESOLUTION BOOK NO. 26 – PAGE 264

E. RESOLUTION NO. 01-09 - RESOLUTION AWARDED CONTRACT TO PRECISION CONTRACTING INC. FOR CONTRACT 12 – PHASE II – STREET REPAIR AND RESURFACING

Summary: The consideration of a resolution authorizing the City Manager to sign a contract, in the amount of \$902,327, to Precision Contracting for Contract 12 - Phase II street improvements.

The City Council approved \$1.6 million for street improvements for the 1995/1996 budget. This project is known as Contract No. 12 Street and Sidewalk Improvements. These funds were to be used for priority streets of the 43 streets identified. Phase I of these improvements were completed in 1996. The remaining budget for Phase II is approximately \$650,000.

The City Engineering Department has developed construction plans for Phase II street and sidewalk improvements on the following streets: Tunnel Road (Sidewalk only) (East); Dellwood Street (West); Evelake Drive (North); Fayetteville Street (West); Hawkins Lane (North); Hi-Alta Avenue (West); Woodland Drive (West); King Arthur Place (North); Percival Court (North); and, Richland Street (West).

The project was advertised for one month. Staff received bids on November 10, 2000. Only one bid was

received at this bid opening. The sealed bid was returned to the bidder unopened per City policy. The project was immediately re-advertised for three weeks. The Engineering Department held a second bid opening on November 28, 2000. Two bids were received and opened. The bids were received by Precision Contracting, in the amount of

\$888,462.00, and APAC in the amount of \$1,129,183.51. The engineer's estimate for Phase II, street and sidewalk improvements, was \$694,895 for these streets.

Upon examination of the bids, it was determined that the low bidder (Precision Contracting) had failed to include one item in their bid. Precision Contracting had given a unit price for the same type of item as that omitted on a separate portion of the bid tabulation. Upon bringing this discrepancy to the bidders attention the bidder agreed to include the omitted item at the same unit price as that on the separate portion of the bid tabulation. The addition of this discrepancy to the original bid made a total of \$902,327. After discussing the discrepancy with Legal staff, it was determined that Precision Contracting was a responsive bidder and that the bid was legal. A tabulation of bids is included with resolution.

Money for this contract is budgeted. The additional funds, other than the \$650,000 in the capital budget for this project, are available in the Public Works concrete and resurfacing budgets.

The construction time for this phase of the project is identified as 90 calendar days in the contract documents.

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City staff recommends City Council adopt a resolution authorizing the City Manager to sign a contract, in the amount of \$902,327, to Precision Contracting for Contract 12 - Phase II street improvements.

RESOLUTION BOOK NO. 26 – PAGE 265

F. RESOLUTION NO. 01-10 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT FOR RESIDENTIAL DRIVEWAY IN NORTH FORK AREA

Summary: The consideration of a license agreement authorizing an encroachment in North Fork Watershed.

The applicants, Leigh and Katherine Kimmel represented by Black Mountain attorney Mike Begley, own property adjacent to City property near the North Fork reservoir, but downstream from the spillway. The Kimmels are constructing a residence on their property. In connection with their construction work, they are building a driveway.

There is a fence that has for years been assumed to be located on the common property line between the Kimmels' property and the City's property. A recent survey prepared for the Kimmels reveals that their line stops considerably short of the fence, indicating (a) that the fence is set back within the City's property line, or (b) that there is a gap in the two properties. The actual situation would be difficult to know without a survey of the City's property.

The Kimmels are asking for our agreement to allow for their driveway to encroach on our property (assuming it is ours), while preserving the rights of both parties to verify the ownership through appropriate means and not waiving any defenses to adverse possession. Without doing extensive and expensive research necessary to determine if the City has any interest in the property such that it could convey an easement or some other interest to the Kimmels, the license agreement is the best way to protect and serve the interests of the parties.

The Water Authority's attorneys have reviewed this matter, and concur in the use of the license agreement

as the most effective means of addressing the situation.

Adopt a resolution authorizing the Mayor to execute a license agreement allowing the driveway encroachment.

RESOLUTION BOOK NO. 26 – PAGE 267

G. ORDINANCE NO. 2784 - BUDGET AMENDMENT FOR ASSISTANCE FOR INCLUSIVE CHILD CARE AT LITTLE BEAR CARE PROGRAM

Summary: The consideration of a budget amendment, in the amount of \$2,326, from Smart Start-Buncombe County Partnership for Children through the Special Needs Assistance Program for assistance for inclusive child care at Little Bear Care Program for extra cost while serving a child with special needs.

The City of Asheville applied to Smart Start for assistance in December 2000 for cost associated with providing extra staff for a child with special needs in Little Bear Care. The allocation was recently awarded in the amount of \$2,326, and designated for cost associated with providing extra part-time staff for a child with special needs in Little Bear Care.

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The Parks and Recreation Department recommends City Council approve the budget amendment in the amount of \$2,326 for cost associated with providing extra part-time staff for a child with special needs in Little Bear Care.

Mr. Kevin Rollins, representative of the Libertarian Party of Buncombe County, said that the Little Bear Care Program is a private organization and should be privately funded.

ORDINANCE BOOK NO. 19 – PAGE 70

H. ORDINANCE NO. 2785 - BUDGET AMENDMENT TO ESTABLISH BUDGETS FOR THE PUBLIC ART MASTER PLAN, PUBLIC ART RESTORATION/ CONSERVATION, AND PUBLIC ART SPECIAL PROJECTS

Summary: The consideration of a budget amendment, in the amount of \$37,650, for grant appropriations and City of Asheville Capital Improvement Project (CIP) budget appropriations for the Public Art Master Plan, Public Art Restoration/Conservation, and Public Art Special Projects, all new projects in the Public Art Program.

The City of Asheville applied for funds, and received donations and appropriations in September-November 2000 for three new Public Art Program projects. The allocations were recently awarded, in the amount of \$37,650, and designated as described below.

Public Art Master Plan – A budget amendment in the amount of \$16,000, including a \$3,000 grant from the Community Foundation, a \$5,000 grant from the North Carolina Arts Council, and \$8,000 match from the City of Asheville CIP budget, to establish a budget for the Public Art Master Plan. Funds will be used to develop a master plan. The \$3,000 Community Foundation grant is currently held in Urban Trail account 666-2512-383-3000 CP9911 to be transferred into the new Public Art Master Plan account.

Public Art Restoration/Conservation – A budget amendment in the amount of \$13,650, including \$1,000 private donation, and \$12,650 match from the City of Asheville CIP budget, to establish a budget for restoration and conservation of the City's public art collection. A match of \$12,650 is held by the Heritage Preservation in the Save Our Sculpture! 2000 grant program. Funds will be used to repair the sculpture at

the Urban Trail's Station 25, Ellington's Dream, and to restore the "Energy Loop", the metal sculpture located in City-County Plaza.

Public Art Special Projects – A budget amendment in the amount of \$8,000, including a \$4,000 grant from the North Carolina Arts Council, and \$4,000 match from the City of Asheville CIP budget, to establish a budget for the Public Art Master Plan. Funds will be used to develop artist selection and the temporary art process in the Revolving Gateway Project.

This is the first year of the City's one percent for public art as allocated in the CIP budget, with \$50,000 available for matching funds for public art projects. The above matching funds are

available in this account. The Parks and Recreation Department is responsible for the management and operation of the Public Art Program.

The Parks and Recreation Department recommends City Council to approve the budget amendment, in the amount of \$37,650, to establish budgets for the Public Art Master Plan, Public Art Restoration/Conservation, and Public Art Special Projects.

Mr. Kevin Rollins, representative of the Libertarian Party of Buncombe County, said if residents want art, they should pay for it themselves and not use City funds.

ORDINANCE BOOK NO. 19 – PAGE 72

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I. RESOLUTION NO. 01-11 - RESOLUTION AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO APPLY AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR A GRANT TO ASSIST WITH RENOVATIONS OF THE PARK AT THE BURTON STREET CENTER

Summary: This is the consideration of a resolution authorizing the City to apply for grant funds through the N.C. Dept. of Environment and Natural Resources to assist with the renovation of the park at the Burton Street Center.

Funds are available through the North Carolina Department of Environment and Natural Resources, Division of Parks and Recreation in the North Carolina Parks and Recreation Trust Fund to assist with the development of new parks

The renovation represents the City of Asheville's commitment to maintain and provide recreation facilities and services to the citizens of Asheville. The park serves a number of neighborhoods in the West Asheville area. The improvements will feature a new playground and improvements to the surrounding area.

The Parks and Recreation Department is requesting \$50,000 in grant funds from the North Carolina Parks and Recreation Trust Fund which requires a 50% cash match. The cash match is available through funds allocated for the project as a result of the recent tax increase.

The Parks and Recreation Department recommends the City apply for and enter into an agreement for the grant funds through the North Carolina Parks and Recreation Trust Fund to assist with the renovations at the park at Burton Street Center.

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

and ordinances and the Consent Agenda and they would not be read.

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

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE PROPERTY LOCATED OFF OF POND ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT (MANUFACTURED HOME OVERLAY DISTRICT) TO COMMERCIAL INDUSTRIAL DISTRICT

On January 23, 2000, the applicant has requested this public hearing be continued until this date. On January 17, 2000, City staff received a letter from Mr. Dean Pistor (the applicant) advising the City "that PSNC Energy has terminated the Offer to Purchase 16 Pond Rd. The owners of the property must at this time regretfully remove the petition to re-zone the property to commercial industrial. I am continuing to market the property for commercial use and intend to petition the city for re-zoning as soon as a new contract is consummated. I appreciate your support in this re-zoning and feel that the CI zoning for this property is the highest and best use. I look forward to talking with you soon, and I apologize for any inconvenience."

B. PUBLIC HEARING TO INITIALLY ZONE 15 LOTS KNOWN AS BURNSIDE, PHASE 3 OF BILTMORE PARK TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT

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ORDINANCE NO. 2786 - ORDINANCE TO INITIALLY ZONE 15 LOTS KNOWN AS BURNSIDE, PHASE 3 OF BILTMORE PARK TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT

Mayor Sitnick opened the public hearing at 5:11 p.m.

Urban Planner Paul Benson said that this is the consideration of an ordinance to zone 15 lots known as Burnside Phase 3 at Biltmore Park to RS-4 Residential Single Family Medium Density District. This public hearing was legally advertised on January 12 and 19, 2001.

The Planning and Zoning Commission, at their December 6, 2000, meeting, reviewed and unanimously recommended zoning the recently annexed parcels known Burnside Phase 3 (PIN Nos. 964503217814, 964503312750, 964503311538, 964503314499, 964503313458, 964503227594, 964503226166, 964503229186, 964503320584, 964503321472, 964503320215, 964503320021, 964503217986, 964503310818 and 964503227338) to RS-4 Residential Single Family Medium Density District. The property is located in the Biltmore Park development on Burnside Drive, White Ash Drive, and Bearberry Lane. This is a 15.5 acre area, consisting of 15 parcels, platted and being developed for a single-family residential subdivision. The adjacent property lies within the Biltmore Park development and is being developed with a mixture of uses.

The RS-4 District is designed to establish a medium density residential area for single family dwellings where adequate infrastructure is in place to support the density and to stabilize and protect the residential character of existing neighborhoods while providing for a balanced mix of uses compatible with residential uses. Maximum density is 4 units per acre.

The RS-4 zoning will allow for medium density residential development in accordance with the Biltmore Park master plan, and the dimensions of the platted lots.

The Planning and Zoning Commission and the Planning and Development staff recommend approval of the initial zoning of Burnside Phase 3 of Biltmore Park to RS-4 Residential Single Family Medium Density

District.

Mayor Sitnick closed the public hearing at 5:13 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. 2786. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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C. PUBLIC HEARING TO INITIALLY ZONE 5 LOTS KNOWN AS BRAESIDE, SECTION 5 OF BILTMORE PARK TO RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT

ORDINANCE NO. 2787 - ORDINANCE TO INITIALLY ZONE 5 LOTS KNOWN AS BRAESIDE, SECTION 5 OF BILTMORE PARK TO RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT

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

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Urban Planner Paul Benson said that this is the consideration of an ordinance to zone five lots known as Braeside Section 5 at Biltmore Park to RS-2 Residential Single-Family Low Density District. This public hearing was legally advertised on January 12 and 19, 2001.

The Planning and Zoning Commission, at their December 6, 2000, meeting, reviewed and unanimously recommended zoning the recently annexed parcels known Braeside Section 5 (PIN Nos. 964515744624, 964516746581, 964515743405, 964516748370 and 964516746257) to RS-2 Residential Single-Family Low Density District. The property is located in the Biltmore Park development on Braeside Circle, west of Overlook Road. This is a 10.5 acre area, consisting of 5 parcels, platted and being developed for a single-family residential subdivision. The adjacent property lies within the Biltmore Park development and is being developed with a mixture of uses.

The RS-2 District is designed to establish a low density residential area for single family dwellings where adequate infrastructure is in place to support the density and to stabilize and protect the residential character of existing neighborhoods while providing for a balanced mix of uses compatible with residential uses. Maximum density is 2 units per acre.

The RS-2 zoning will allow for low density residential development in accordance with the Biltmore Park master plan, and the dimensions of the platted lots.

The Planning and Zoning Commission and the Planning and Development staff recommends approval of the initial zoning of Braeside Section 5 to RS-2 Residential Single-Family Low Density District.

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.

Councilwoman Field moved for the adoption of Ordinance No. 2787. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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D. PUBLIC HEARING TO INITIALLY ZONE 24 LOTS KNOWN AS OAKBROOK, PHASE 1 OF BILTMORE PARK TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 2788 - ORDINANCE TO INITIALLY ZONE 24 LOTS KNOWN AS OAKBROOK, PHASE 1 OF BILTMORE PARK TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Mayor Sitnick opened the public hearing at 5:16 p.m.

Urban Planner Paul Benson said that this is the consideration of an ordinance to zone 24 lots known as Oakbrook Phase 1 at Biltmore Park to RS-8 Residential Single-Family High Density District. This public hearing was legally advertised on January 12 and 19, 2001.

The Planning and Zoning Commission, at their December 6, 2000, meeting, reviewed and unanimously recommended zoning the recently annexed parcels known Oakbrook Phase 1 (PIN Nos. 964503124664, 964503126597, 964503123680, 964503122563, 964503121403, 964503126493, 964503124356, 964503123383, 964503123219, 964503122244, 964503120156, 964503112885, 964503114815, 964503114746, 964503121477, 964503112946, 964503125014, 964503126605, 964503115977, 964503125430, 964503124125, 964503122288, 964503121057 and 964503029292)

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to RS-8 Residential Single-Family High Density District. The property is located in the Biltmore Park development on Schenck Parkway, White Ash Drive, and Rosebay Lane. This is a 12.8 acre area, consisting of 24 parcels, platted and being developed for a single-family residential subdivision. The adjacent property lies within the Biltmore Park development and is being developed with a mixture of uses.

The RS-8 District is designed to establish a high density residential area for single family dwellings where adequate infrastructure is in place to support the density and to stabilize and protect the residential character of existing neighborhoods while providing for a balanced mix of uses compatible with residential uses. Maximum density is 8 units per acre.

The RS-8 zoning will allow for higher density residential development in accordance with the Biltmore Park master plan, and the dimensions of the platted lots.

The Planning and Zoning Commission and the Planning and Development staff recommend approval of the initial zoning of Oakbrook Phase 1 of Biltmore Park to RS-8 Residential Single-Family High Density District.

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.

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2788. This motion was seconded by Councilman Worley and carried unanimously.

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E. PUBLIC HEARING TO REZONE A PORTION OF PROPERTY LOCATED ON LEICESTER HIGHWAY FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT SO THAT ALL OF THAT LOT IS ZONED COMMUNITY BUSINESS II DISTRICT

ORDINANCE NO. 2789 - ORDINANCE TO REZONE A PORTION OF PROPERTY LOCATED ON LEICESTER HIGHWAY FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT, EXCEPT FOR A 25 FOOT STRIP ALONG OLD COUNTY HOME ROAD WHICH IS TO REMAIN ZONED RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT

Mayor Sitnick opened the public hearing at 5:18 p.m.

Urban Planner Carl Ownbey said that this is the consideration of an ordinance to rezone the remaining portion of a lot on Leicester Highway from RM-6 Residential Multi-Family Low Density District to Community Business II. This public hearing was legally advertised on January 12 and 19, 2001.

The owner of property, Michael Kirkpatrick, is requesting the rezoning of the remaining portion of his property (PIN No. 9629.18-41-0222) from RM-6 Residential Multi-Family Low Density District to Community Business II.

This parcel of land is only one of two lots in the Community Business II District along Leicester Highway that is split-zoned. Currently, the trend for development in this area is toward commercial use. For the owner to develop this land for that purpose and meet the requirements

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of the Unified Development Ordinance (UDO) (including setbacks, parking, and buffering), more of the property would need to be zoned commercial. There are other properties in the immediate vicinity of the subject property that are zoned commercial with frontage on both Old County Home Road and Leicester Highway. This includes a 5-acre tract of land that was rezoned in 1995 from R-5 Residential to Commercial Service and changed to Community Business II District with the adoption of the UDO.

The Planning and Development staff has discussed the development of this property over the past few months to determine the best zoning classification with minimal impact to the adjacent neighborhood. Staff considered the Conditional Use Rezoning process for this lot and determined that, since the proposed use is permitted in the Community Business II District and that the majority of the lot is already zoned Community Business II District, the most feasible approach would be to rezone the entire lot to Community Business II District.

At the Planning and Zoning Commission meeting, the Commissioners expressed concerns with regard to stormwater run-off from this property and its effect on the neighboring residents. They were concerned that the run-off from the fill needed for this lot to make it accessible from and level with Leicester Highway would have potential negative impacts to the drainage area and the existing flood fringe area immediately west of the lot. There were no public comments at the meeting.

The petitioner explained that the stormwater management of the lot would tie into the N.C. Dept. of Transportation system that connects with Leicester Highway and flows back to Old County Home Road to the existing creek. City floodplain management and erosion control requirements would have to be met during the development of this property.

Despite assurance from staff that vehicular access could be controlled during site plan review, the Commissioners also expressed concern about vehicular access from the residential street (Old County Home Road). The Commissioners suggested that a strip of land adjacent to the street remaining residentially zoned would prohibit vehicular access to the commercial portion of the lot. The Commissioners agreed that a five-foot strip parallel to Old County Home Road would be sufficient to accomplish this restriction.

Staff followed up on this action by requesting additional site development information from the applicant. He provided staff with an engineering survey indicating that 25 feet of undisturbed land will not be needed for the

project and could remain residentially zoned.

The Planning and Zoning Commission reviewed this rezoning request at their January 3, 2001, meeting. The Commission voted 5-2 to recommend approval to rezone the remaining portion of the property on Leicester Highway from RM-6 Residential Multi-Family Low Density District to Community Business II except for a five-foot wide strip along Old County Home Road which would remain RM-6. Based on the data from the engineer's survey, the Planning and Development staff recommends that this strip of land parallel to Old County Home Road be 25 feet wide.

Upon inquiry of Councilwoman Bellamy, Mr. Ownbey explained what types of buffer would be required around the property.

A brief discussion was then held about the five-foot strip remaining RM-6 vs. a twenty-five foot strip remaining RM-6.

Mr. Michael Kirkpatrick, property owner, said that the topography of the lot will prohibit any commercial access from Old County Home Road. He said that he would prefer the entire lot

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be rezoned Community Business II, but would accept a 5 or even 25 foot strip along Old County Home Road remaining residential.

Mr. Dave Gory felt that this rezoning issue is a tremendous assault on freedom. He stressed that the topography of the area achieves the goal Council is looking to achieve. He felt that to eliminate the zoning ordinance would allow us to have a better society.

Mayor Sitnick closed the public hearing at 5:37 p.m.

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

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2789, with a 25 foot strip remaining RM-6 along the portion of Old County Home Road. This motion was seconded by Councilman Peterson and carried unanimously.

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IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. MOTION APPROVING THE ASHEVILLE SISTER CITIES INC. PARTNERSHIP WITH KASTORIA, GREECE

Ms. Bunnie Cabiness, President of Asheville Sister Cities, Inc., requested City Council approve the Asheville Sister Cities, Inc. partnership with Kastoria, Greece.

Since recently losing a Sister City in Kyrgyzstan, the Asheville Sister Cities has been looking for a new partner city. The Search Committee chaired by former Mayor Russ Martin is recommending the City of Kastoria, Greece. Ms. Cabiness then explained the process in looking for a new partner city.

Staff recommends City Council approve the Asheville Sister Cities, Inc. partnership with Kastoria, Greece.

Mr. Joe Ferikes stated that he visited Kastoria, Greece, about three years ago and explained how they are similar to Asheville. He noted that their economy is fur production and they have an agricultural based economy. They are now striving to really build up their tourism industry.

Councilwoman Field explained that Asheville Sister Cities is a private organization but the governments have to agree to the friendships.

Mayor Sitnick noted she was a great supporter of the Sister Cities Program and Asheville has a wonderful Greek community, but personally felt it was hard for her to be in favor of partnering with Kastoria, Greece, because of it's fur production.

Mr. Ferikes noted that the fur industry is in the decline and if they can improve their tourism industry, they can eliminate some of the things that might be objectionable to others.

Councilman Hay noted that this relationship is city government to city government and people to people. The paring is not an endorsement by city government of the community.

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Councilman Worley moved to approve the Asheville Sister Cities Inc. partnership with Kastoria, Greece. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

B. RESOLUTION NO. 01-12 – RESOLUTION AUTHORIZING THE PURCHASE OF 155 ACRES ON AZALEA ROAD

ORDINANCE NO. 2789 - BUDGET AMENDMENT TO BE USED TOWARD THE DEVELOPMENT OF A MASTER PLAN FOR THE AZALEA ROAD DEVELOPMENT AND THE FIRST YEAR PAYMENT FOR THE PURCHASE OF THE PROPERTY

Parks and Recreation Director Irby Brinson said that this is the consideration of a resolution authorizing the purchase of 155 acres on Azalea Road for the development of a recreation facility and a beneficial fill/composting site and approving an associated budget amendment, in the amount of \$166,327.

City Council directed the Parks and Recreation Department to proceed with the necessary steps to acquire the Lake Craig and Azalea Road Park properties. Direction included the completion of a Feasibility Study to determine whether the purchase of the property was viable for use as a park and beneficial fill site.

For several years, the Parks and Recreation Department has investigated the purchase of the property located on Azalea Road as a future site for recreation. During this process, staff was approached by the Public Works Department about partnering in this project to include adding a beneficial fill and composting site. A total of 155 acres has been identified as part of this project. On June 13, 2000, City Council approved entering into a contract with Woolpert LLP to complete a Feasibility Study regarding purchase of the property for both recreation and beneficial fill/composting site. The scope of services included in Woolpert's contract contained an analysis of the flood plain/floodway regulations, wetland review, utility investigation, traffic impact analysis, beneficial fill investigation and cost of benefit analysis. Based upon the completion of the Feasibility Study, Woolpert has determined that there are no negative circumstances or issues surrounding the purchase of this property and recommends that the City of Asheville purchase the 155 acres to be used as a recreation and beneficial fill/composting site.

City staff and the consultant have worked together with a task team of representatives from the east Asheville community along with other interested user groups. Several meetings have occurred over the past 1 ½ years to solicit input in this process. Throughout these discussions, the City staff has maintained its original direction by City Council which was to determine the feasibility of the purchase of this property. The

results of this decision have been based upon the recommendations from the consultant regarding the above issues which were predetermined by the task force as being the most important issues to be addressed.

Also included in this staff report is a budget amendment appropriating funds from the Public Works Department totaling \$166,327 which will be combined with existing capital funds in the Parks and Recreation budget for this project. The total balance available for the project represents \$314,624. These funds will be used to develop a master plan for the site and to make the first year payment for purchase of the property.

City staff recommends that City Council approve proceeding with the purchase of the 155 acres and to negotiate the best price possible with the two property owners based upon options which were signed with them in March of 1999. Staff also recommends approval of the budget amendment appropriating \$166,327 from Public Works Department's budget to current CIP in Parks and Recreation.

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Mr. Doug Jewell, member of the Evaluation Team, briefly explained the project purpose of the City considering purchasing an approximate 155 acre tract of land for a community park and beneficial fill and composting mulch location. The designated uses should be compatible with adjoining properties, environmentally safe, and not cause significant impact to the natural resources. The Evaluation Team (which he identified) is to assist the City in making a Go/No Go decision regarding the purchase of the property considering six technical factors. He explained the site context and the existing land uses, which include agriculture, an historic site, horse facility, material disposal, lakes, woods, sand/gravel mining and equipment maintenance/storage.

The first technical factor he reviewed was the floodplain/floodway regulations. The findings include that the 100-year floodplain occupies virtually all the flat lowlands, floodplain will hold water periodically impacting use, and regulated floodway along Swannanoa River. The conclusions/recommendations include (1) active and passive recreation can occur within the floodway, but filling is restricted; (2) structures and beneficial fill areas must be elevated above the 100-year flood; and (3) additional study required to alter the floodway downstream of disposal mound. The summary of the floodplain/floodway regulation is (1) site is feasible for a community park and beneficial fill location; (2) restrictions on the siting of facilities can be accommodated; (3) parks are commonly located within floodplains and floodways; and (4) must keep buildings, structures, and beneficial fill location out of the regulated floodway.

The second technical factor he reviewed was the wetland review. The findings include that vegetated wetlands exist on southern portions of the site, ponds and river are regulated by the Environmental Protection Agency and the N.C. Dept. of Environment and Natural Resources, and wetlands to be certified by state and federal regulations. The conclusions/recommendations include (1) wetlands should be preserved as open space (no development); (2) wetlands offer opportunity for environmental education; and (3) permitting will be necessary if wetlands are impacted. The summary of the wetland review is: (1) site is feasible for community park and beneficial fill location; (2) haul roads to the beneficial fill site will need to avoid the wetlands; (3) wetlands are community incorporated into parks as features; and (4) wetlands are located along the perimeter of the site and should not severely restrict facility layout.

The third technical factor he reviewed was the utility investigations. The utilities include sanitary sewer, telephone, electric, water and natural gas. The findings include sanitary sewer along Azalea Road, electric transmission lines on the south portion of the property, underground power is minimal, telephone serves existing buildings, no water service along Azalea Road and no natural gas along Azalea Road. The conclusions/recommendations include (1) sanitary sewer service is available; (2) electric service is available; (3) telephone service is available; (4) water service possible from Oteen Church Road; (5) natural gas service is not likely; and (6) transmission line relocation is costly. The summary of the utility investigations are: (1) site is feasible for a community park and beneficial fill location; (2) beneficial fill can be accommodated with

little impact to utilities; and (3) park development can be served reasonably with utilities.

The fourth technical factor he reviewed was the traffic impact analysis. The findings include (1) no impact on signalized intersections; (2) delay increases at Azalea/Swannanoa; (3) other issues: (a) no left turn lane on Swannanoa at Azalea; (b) left land turn on Tunnel at Azalea; (c) sight distance problem for left turns from Swannanoa to Azalea; and (d) cut-through potential - 86 vehicles in each direction in peak hour. The findings include issues such as (1) width, curvature, and sight distance along Azalea – acceptable as a local access street; (2) access for cyclist in both directions and for emergency vehicles needed from both ends of Azalea; and (3) short off-set between Azalea and Lower Grassy Branch at Tunnel Road. The conclusions/recommendations include two primary alternatives: (1) Close Azalea Road to through traffic - (a) leave Azalea Road open to cyclists and emergency vehicles; and (b) future aligning Azalea Road with Lower Grassy Branch and add right turn lane to Azalea Road at Tunnel Road; and (2) keep Azalea Road open at Swannanoa - (a) potential cut-through in

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adjacent neighborhood (b) add left turn lane on Swannanoa; (c) improve left turn sight distance from Swannanoa; and (d) add right turn lane on Azalea at Swannanoa if needed in future. The summary of the traffic impact analysis summary is: (1) site feasibility for community park and beneficial fill location; (2) Woolpert recommends Alternative 1 – Closing Azalea near Swannanoa to vehicle traffic; and (3) address speed limit, speed humps, sight distance along Azalea in design phase.

The fifth technical factor he reviewed was the beneficial fill. The findings include that fill began with construction of I-40 in 1963, before floodplain regulations; some minor dumping

requiring clean-up; previous dumping violations per state (N.C. Dept. of Environment and Natural Resources); no current violations; and minor failure cracks along existing fill slope. The conclusions/recommendations include: (1) beneficial fill and composting/mulching can occur on-site at designated mound area; (2) beneficial fill located south of electric power right-of-way on approximately 5 acres; (3) composting/mulching located north of electric power right-of-way; (4) potential volume of fill over a 14-year period is 251,000 tons; and (5) general design requirements: (a) no wetland impacts; (b) not allowed in the 100-year floodway or floodplain; (c) no impact to historical sites; (d) no impact to endangered species; (e) E&SC plan required; and (f) visual screening from the parkway. The beneficial fill summary is (1) site is feasible for a beneficial fill and composting/mulch location; (2) site can meet state requirements; (3) site meets Public Works volume requirements; and (4) initial access to site across existing bridge – future access on new bridge.

The sixth and final technical factor he reviewed was the cost-benefit analysis. The findings and observations show that the projected annual operating cost of using beneficial fill location (current dollars) totals \$229,200, whereas, the projected annual operating cost using the County landfill (current dollars) totals \$659,400. The conclusions/recommendations include: (1) cost/benefit analysis shows the Azalea Road site is more advantageous than using County landfill; and (2) potential annual savings (a) \$430,200; and (b) City breaks even on entire site in less than four years. The cost-benefit analysis summary is (1) site is feasible and economically advantageous as a beneficial fill location; and (2) savings can be applied to the overall financial equation of the entire project.

The final study summary is that based on the six technical factors, the Evaluation Team unanimously recommends that the City purchase the property for a community park and beneficial fill location.

The Task Force has had two meetings with the community, seven hours of discussion and answered approximately 300 questions. He responded to the primary Task Force issues which questions included: will development of the site increase flooding, will development of the site impact water quality, will development

of the site make traffic worse, is the City buying an environmental problem with the disposal site, is the disposal site stable and safe, will beneficial fill create an eyesore, will composting/mulching create objectionable smells and noise, and will site development lower property values.

If the City does not buy the site (1) the disposal site will likely be purchased by a commercial fill operation and the City may have to pay tipping fees; (2) much of the site will likely be developed as single and multi-family residential; (3) no protection for the Swannanoa River; and (4) the City will lose a prime City park location.

Vice-Mayor Cloninger said that a flyer has been distributed which contains inaccurate information. He requested the consultant and staff to respond to those allegations.

Flyer: The City is planning to spend \$18 million to buy 155 acres on Azalea Road.

Fact: The purchase price for the 155 acres is 1,775,000 for the 155 acres.

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Flyer: The City is planning to spend \$18 million to buy 155 acres on Azalea Road (zoned single family residential) for ...

Fact: The bottom land portions of the site are primarily zoned RS-2, the lower southwest corner is RS-4, and the mountainside is zoned RM-8

Flyer: Public Works is purchasing 25 acres to put an inert DUMP on top of an un-stabilized, un-lined landfill, contents unknown, which may pose flooding and water quality hazards.

Fact: The beneficial fill will occur above the flood elevation and would not have any impact on the flooding issue on the site. Inert fill consists of asphalt, concrete, rock, clay and soil. The material is known in the existing fill area as 8 test bore holes were conducted and no hazardous materials were found. In general, we are confident that we know what is in there – concrete rubble, boulders, sand, gravel, asphalt, stumps, other wood products, sheet rock and other building materials, rusty steel and other steel structure material, old pipes. There are cracks along the existing fill area, which can be stabilized by correct sloping of the sides. The proposed beneficial fill site proposed is not required to be lined landfill. With regard to water quality, there would have to be monitoring around the composting facility but the beneficial fill site does not require water quality monitoring. An erosion and sedimentation control plan would be necessary for the entire site.

Flyer: Wood/Brush Chipping operation which sounds like a non-stop ambulance siren all day long.

Fact: Although a tub-grinder is noisy, it is anticipated that the grinder would run approximately 3-4 days per quarter per year. If a private developer purchased this property for commercial brush, the grinder could go on for days.

Flyer: Composting with strong odors and respiratory allergens.

Fact: This location is approximately 1/3 to 1/4 mile away from most living areas. In addition, there are buffering requirements for a compost facility, one of which is that a 500 foot minimum buffer is required between the compost area and residences or dwellings not owned or occupied by the permittee. The composting facility is an optional proposed use for this property.

Flyer: Heavy equipment operating and 25 big, loud trucks (inert and composting) past your door.

Fact: 16,800 tons of inert material is produced by the City each year, averaging 323 tons per week. The feasibility study estimates about 10 trucks per day will access the inert fill area. The study did not estimate

the number of trucks that would carry the composting material.

Flyer: 7 tournament soccer fields for people of SC, TN, GA, VA and more. These fields are probably not for city recreational use as the city is giving away 70 acres of land to a regional tournament soccer organization who will construct, maintain and control them.

Fact: There will be 4 fields for regulation play. These fields will not only be for tournaments for league play, but also for regular season play. There will be, on occasion, tournament play on some weekends.

Flyer: 400 or more cars per hour will come through our neighborhoods.

Fact: During the peak activity during soccer, it would be approximately 50 trips per hour per field would equal 197 trips per hour. During weekdays that activity would be reduced.

Mayor Sitnick said what has been alleged to be in there is non-permitted solid waste of asphalt, concrete, glue, petrol fuel products, particle board, hospital debris, dead cows, tires, plumbing material, construction debris, etc. Mr. Jewell said that the N.C. Dept. of Environment and Natural Resources (DENR) has had the regulated material that was objectionable fixed – either removed or remediated on site. It has been corrected to DENR's satisfaction.

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Mr. Mike Connor, engineer on the evaluation team, said that the petroleum mentioned on the site was a permitted land farming petroleum contaminated soil by the N.C. Dept. of Transportation when the I-40/Sweeten Creek Road interchange was construction. They applied to DENR and received approval to dispose of that on site. This was very low level petroleum material.

Councilman Peterson asked if the wood/brush chips would be made available to the public. And, if so, were the number of cars and trucks coming to pick up the chips included in the evaluation? Public Works Director Mark Combs said that the chips would be made available to the public. If we speculate on issues related to the potential to put a grinding site, we have 3 trucks and we fill them up about 3 times a day, 4 days a week – about 9 trips per day. We also have 2 sway cars and those would constitute about 2 loads per day – about 4 trips per day four days a week.

Councilman Peterson asked if the leaf composting pile from Broadway would be moved to the Azalea Road location. Mr. Combs said that they have not done any significant planning for this particular site for all of the leaf composting. He noted there is a high demand for that leaf material in the Montford area and they would probably like the City to leave something like that there for them. Despite of the trucks in the area, they have received no complaints as long as that leaf site has been in there – no smell, allergens.

Ms. Gaye Sprague, traffic engineer on the evaluation team, responded to a question from Councilwoman Bellamy about the level of service at the intersection of Azalea road and Swannanoa River Road, noting that unsignalized intersections are not assigned a level of service.

With regard to a question from Councilman Peterson, Mr. Gary Stewart, Project Manager for the evaluation team, said that to repair the existing bridge on the east side of the Parkway would be approximately \$150,000. The estimated cost to design, permit and construct a new bridge which would be downstream of the existing disposal mound is estimated to be \$300-500,000. He noted that when the beneficial fill process is complete, that disposal mound would be graded and become part of the park. Therefore, the new bridge would be designed to serve both the lowlands on the south side of the river as well as the disposal mound on the south side of the river.

Mr. Stewart answered various questions from Councilman Peterson regarding the disposal mound. He

estimated it would cost approximately \$15,000 a year over the life of the project to remove some of the steepness of the slope and stabilize it.

Mr. Richard Grant, Solid Waste Manager, responded to questions from Councilman Peterson regarding recyclable material going to the Buncombe County Landfill (\$32/ton) vs. Grovestone (\$7.50/ton for separated loads and \$15.00/ton for mixed loads). He said that asphalt and concrete can be recycled at Grovestone for \$7.50/ton. There is about 16,800 tons of material that is generated each year and we still have 10,000 tons of material left over that has to be put in an inert fill area. If we were to do that, we would incur additional cost to transport the material to Grovestone, the separation process, and the disposal fee.

Councilman Hay stated that the decision before City Council today is whether to buy the land or not. It's not an approval of the plan for the park or the plan for the beneficial fill site. In anticipation of why we want to buy the land, we have taken those things into account. But, by voting for or against the land purchase, we are not necessarily pronouncing judgement over either of the proposed uses of the land. City Manager Westbrook agreed stating that there would be future actions required by the Council both in terms of the budget, contractual obligations, and probably other things having to do with the state.

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Councilman Hay asked if the City does purchase the land and chooses not to use it for a beneficial fill, can the 25 acres be used for something else. Mr. Stewart said that it could be used toward passive recreation.

Councilman Hay and Councilwoman Field questioned Ms. Sprague about cut-through traffic and her summary of the traffic impact analysis. Ms. Sprague did note that her analysis was based on seven soccer fields.

When Councilman Worley asked what impact flooding would have on soccer fields, Mr. Brinson said it is common practice across the country that recreation use (not buildings or items that would generate a lot of property damage or loss) in a floodplain is the perfect use for it. He said the City has a number of parks in the floodway and his experience has been that the clean-up has been minimal.

Councilman Peterson asked if there were any appraisals of the parcels. Mr. Ed Vess, Rehab and Real Estate Coordinator, said that all of the property in the outlined area is to be purchased, except for one piece of property owned by Mr. Mabe. His plan is to get an appraisal on the Mabe property and, with Council's approval, approach Mr. Mabe about purchasing it. The three tracts proposed to be purchased are as follows: the floodplain area - \$659,585; the beneficial fill area - \$365,000; and the mountain area (with the historic site) - \$620,500. The appraisals are as follows: the floodplain area - \$700,000; the beneficial fill area - \$385,000; and the mountain area (with the historic site) - \$673,000. The appraisals on each tract were in excess of the amount that the City has agreed to buy them for.

At 7:30 p.m., Mayor Sitnick announced a short break.

The following residents spoke in favor of purchasing the property for recreational use for several reasons, some being but are not limited to: ideal site for needed soccer fields; criteria of area makes it unique because it's large, central, flat, clear, has good drainage and is ready to be developed; it's common to develop floodplains for soccer fields; there is a desperate need for soccer fields with 3,300 registered players; signal light is needed for left turn lane on Tunnel Road onto Azalea Road; Azalea Road is narrow and very windy and not wide enough to handle big trucks; cost of property seems high; instead of a beneficial fill the City should lease it back and make it into some kind of organic farm; park must be developed properly being sensitive to traffic and noise issues; if developed property this area could become a major recreational and scenic asset and reflect a commitment to the best in environmental protection; Clean Water Fund of NC is opposed to forcing sedimentation and compacted waste in to the Swannanoa River by

adding fill of any kind on top of an already unstable dump site; Clean Water Fund of NC is opposed to the use of any portion of the property in or out of the flood zone which for maintenance purposes would require the use and/or application of toxic herbicides, pesticides, and/or any other such substances harmless to the river and ground water tables; children in Asheville need a place to play soccer; the area is naturally contiguous with an existing park infrastructure defined by the pristine Swannanoa River; soccer fields allow a more intensive use than passive greenspace but they lend to minimal expense; there is no other land left in the City that would even come close to match this as a community park; this is an important link along the Swannanoa River for a greenway identified in our Greenway Master Plan; this would be an opportunity for trails in wooded sections, picnic areas and hiking; noise from I-40 greatly exceed noise from a tub-grinder; composting of leaves is not an odor producing process; this can achieve a goal to increase recreational opportunities in Haw Creek and east Asheville; and the land acquisition is a demonstration of foresight on the part of City Council:

Mr. Tom Donoho, adjoining property owner

Mr. Lloyd Sigmon, President of the WNC Soccer Foundation Inc.

Mr. Bob Somerville, representing the Asheville-Buncombe Youth Soccer Association

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A resident on Azalea Road

Mr. David Herbert, representing the Clean Water Fund of North Carolina

Mr. Greg Sherwood, soccer lover (submitted a picture)

Mr. Gerry Hardesty

Mr. Chris Pelly, President of the Haw Creek Community Association but speaking on behalf of himself

Mr. Gabriel Ferrari, 22 Sulphur Springs Road

The following residents spoke in opposition of purchasing the property, for several reasons, some being, but are not limited to: the purchase price is too high; traffic on Azalea Road will increase; the land is only good for farm and agricultural use; Azalea Road is a winding country lane with hairpin turns and barely enough room for two passing cars; Azalea Road has no shoulders in many areas; Azalea Road has one unsignalized intersection on Swannanoa River Road and one unsignalized intersection on US 70; both intersections are extremely dangerous with limited site lines that make a left hand turn difficult and hazardous; City will have to abide by several federal or state regulations including the Federal Clean Water Act, Rivers and Harbors Appropriation Act of 1899, Federal Agricultural Improvement & Reform Act of 1996, Clean Air Act, Endangered Species Act, Safe Drinking Water Act, National Environmental Policy Act and Comprehensive Environmental Response, Compensation, and Liability Act; there are more than five wildlife species known to be at risk in this area; toxic loads over the permit limits amount to over 20%; the area is considered to have a moderate level of wetland loss and the proposed project would make it a high level of loss wetland; preliminary testing on the mound for any toxins should be done; noise from tub-grinder; a dump will be located in a residential area; dust and air pollution; odor from dump will travel; City will have to invest a lot of money to improve Azalea Road; property values will drop before they eventually start to go up again; it will be hard for City children to use the soccer fields unless they are in an organized league; maintenance of the soccer field would be high; economic forecast is a definite slowdown and how will it impact Asheville; concern that Fund Balance was below City's goal; where is the money going to come from to renovate or replace the

Civic Center; and the property is not developable and the City should look for other options:

Mr. Frank Hanke, resident in View Pointe

Mr. John Granados, 26 Overbrook Place (submitted a statement)

Mr. Alan Williams, resident in View Pointe

Mr. Herb Gallinger, resident of View Pointe

Ms. Davis, resident of Beverly Hills

Mr. Adam Balus, Montford resident

The following residents spoke in opposition of purchasing the property for a beneficial land fill for several reasons, some being, but are not limited to: the cost benefit analysis does not include a lot of the costs; residents should be actively involved in planning the development of this site without discrimination of use, the landfill contains much organic material and could not be classified as "inert" fill; there are large voids throughout the fill that may cause areas to collapse; proximity of the fill to the Swannanoa River and the railroad heightens the consequences of a landslide, threatening public safety; no analysis made to determine the presence of toxins and biohazards in core samples; recycling options were not considered in the cost benefit analysis; extensive route modifications needed on Swannanoa River Road and Azalea Road would be needed; additional trucks entering Azalea Road from Tunnel Road would create congestion and pose a safety issue; high cost of a new bridge for large trucks to gain access to the proposed landfill; closing either end of Azalea Road will cause inconvenience to local residents; significant burden to taxpayers for required infrastructure improvements; numerous permits would be required that could mire the project in environmental litigation for many years; availability of proposed soccer fields for the use by all City residents is questionable; City of Asheville should own and maintain soccer fields; RiverLink, WNC Soccer and WNC Youth Sports entered into an

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agreement with the City that gives them preferential use of these properties; landfill operation would preclude the development of a passive nature park for many years; FEMA regulations must be followed; boring holes did not go to the bottom of the fill; this area is not a suitable site for this use; there is illegal dumping on this site; site is more than double it's worth; four major criteria must be met according to state law for a beneficial fill and they are not being met; asphalt is not beneficial fill; a 40' mound next to a railroad will not improve land use; fill material should not require excavation but it must be done to stabilize the mound slopes; fill activity must comply with zoning restrictions; this activity is not allowed in the Unified Development Ordinance; this commercial-like activity should not be allowed on single-family residentially zoned land; the core sample report was not analyzed and included in the feasibility study; why does the City want to buy an existing dump which could possibly have hazardous or toxic materials; the City is purchasing a liability; other alternatives to inert waste and grinding facility should be investigated; since the City owns 242 parcels of land, they should investigate locating a beneficial fill on one of those parcels; numbers in feasibility report appear to be randomly generated to work in favor of using Azalea Road; no environmental impact statement; concern of a leaf composter and wood grinder adjacent to a river and residential area; compaction of the land for a large parking area will destroy the purpose of the aquifer, which serves to cleanse the water of any impurities; run-off from the road, which is next to the river, will increase toxic runoff directly into the river; and no public input:

Mr. Peter Fisher

Mr. Brian McKenna, President of the Beverly Hills Homeowners Association (submitted

a statement)

Mr. Robert Borne, resident of View Pointe

Ms. Rebecca Campbell, representing Southeast Network for Intentional Communities

(submitted a statement)

Mr. Chris McKenna, representing Community Support of Development (submitted

a statement)

Representative of Save our Swannanoa (submitted a statement)

Mr. Ned Guttman, resident of east Asheville

Ms. Deborah McKenna, resident in Beverly Hills (submitted a statement)

Mayor Sitnick noted that the City of Asheville has not rushed into looking at the purchase of this property. It first began in 1990 – 11 years ago.

City Manager Westbrook, responding to an earlier comment, said that the City is in good financial condition. The report to Council was that fund balance was not growing as fast as we would like to see it grow in view of our expenditure growth last year with some of the special projects we were trying to do. But both fund balance and the City's overall financial position is excellent.

Upon inquiry of Councilwoman Bellamy about where the funding for this would come from, City Manager Westbrook said that there is \$314, 624 in the budget for this project which

will be used to develop a master plan for the site and to make the first year payment for purchase of the property. The development of the soccer complex is a public/private partnership and other parts of the park will be developed as money becomes available. We do have 2-cents set aside for parks and recreation, which is an alternative for the future, but now we are spending those funds on an annual basis.

City Attorney Oast said that what is before City Council is a resolution authorizing the City to proceed with the purchase (not specify uses) of 155 acres on Azalea Road, subject to the options that are in place. There are several conditions in all of the options and we would assure ourselves that those conditions are satisfied before the purchase takes place. We have been in the process of doing that for approximately the last three years. The second item before Council

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is a budget amendment to make the appropriation necessary to make the initial payment for the purchase of the property.

Councilman Peterson asked what the process would be to decide on the uses of the property. City Manager Westbrook said that over the next year or so City staff will bring parks and recreation uses to the City Council and hopefully, at an appropriate time, sign an agreement with the soccer people for a public/private development. He also said that before we are ready to establish a beneficial landfill, there would be an appropriation in the budget or a special appropriation to move forward, along with some resolutions which City Council will need to adopt to move forward in that area. Vice-Mayor Cloninger also said there will be a Master Plan process to get substantial public input so that people who have concerns and ideas about the

ultimate use of the property will have plenty of opportunities in the future to make their feelings heard.

Councilman Worley said that this issue has been in front of him, as a member of City Council, since 1991 and it is a wonderful resource in the City of Asheville. He felt this is an ideal site for the City to acquire for future generations. He felt we would be derelict in our duty if we did not purchase this property in order to look after the well-being of our citizens. Money is always a concern but we need to find a way to make the purchase and do the development because five years from now the value of the property will be even higher.

Councilman Peterson agreed that the City needs to purchase the property, even if we ultimately decide not to use part of the property for a landfill. His concern would be if we don't purchase that part of the property, we will not be able to protect it. He does have great concerns both about the safety and the financial feasibility concerns of building new bridges, etc. But he did think we should purchase the property and then figure out what to do with it.

Councilwoman Bellamy said that she has met with residents of the east community and different neighborhood associations and they raised a lot of good questions and provided a lot of good information, making sure City Council has clear and concise information. She has been diligent in reviewing all the material provided in addition to walking the site and asking specific questions. When, and if, City Council gets to the point of talking about the landfill on that site, we will address a lot of the questions and concerns raised. After talking with people and reviewing all the information presented, she feels confident that the City does need to purchase the property – if for nothing else, but to protect it from other things that could happen to this land.

Councilman Hay said this has been going on for a long time and it's one of those good ideas we are finally getting something done. One of the frustrations is here is that the City used to own this property in the 1920's and then when they abandoned it, it reverted back to the owners - now we're having to buy it. It's always been City park property for the last 100 years. What the City ends up doing with the property remains to be seen, but he did know that we need to buy it and use it for some type of park activity. Acquiring the fill site is not a mistake and if we decide not to use it for that, we may decide we're glad to have it for something else because it does protect our park land.

Councilwoman Field said there were a lot of issues raised and she would like to see the consultants or staff report back to Council to clear up those issues, especially the environmental concerns. She said it does make sense to move forward and purchase the property.

Vice-Mayor Cloninger supported purchasing the property. When it comes to recreational needs, we are failing the needs of the children of our community. We will do better if we acquire this property, convert it into soccer fields and other uses that children can enjoy. He was confident that through the master planning we can bring the community together and come up with a variety of uses for the property that most people will feel comfortable with.

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Mayor Sitnick said that if the City doesn't own this property and a private developer buys it and wants to put a landfill on it, there is no opportunity for public input. She would rather have that opportunity than not. Having been an environmental activist years, she believes there has been major abuses on that property in years past. She asked City staff to continue to look at those reports and get some information from DENR. She would be interested in finding out what was there, what was cleaned up, how things were remediated, etc. so that we are better informed when it comes to future dialog on that issue. She appreciated staff's ability, past performance and current willingness to work with the public on their input for what goes on in that park. She supported cities providing parks and children paying sports. She supported purchasing the park and look forward to seeing it evolve into something that we can all enjoy.

Councilman Worley moved to adopt Resolution No. 01-12, authorizing the purchase of 155 acres on Azalea Road. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 269

Councilman Hay moved to adopt Ordinance No. 2789. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 84

VI. OTHER BUSINESS:

A. BUNCOMBE COUNTY SATELLITE JAIL FACILITY

Vice-Mayor Cloninger said that he would like to discuss the issue of the County satellite jail issue. The county staff is set to meet with the Downtown Commission representatives, key stakeholders and City staff later this week and he hopes that this effort will result in a new location suitable for the County, other than the proposed site at the Union Storage Building.

In addition to the public concerns about the location of the jail facility, there is also a concern that the jail will not blend in the architecture and streetscape of the neighborhood in the event that it is located on South Lexington. I know we have a mandatory review, voluntary compliance design review process in this area, but he was interested in whether a majority of Council is interested in pursuing something that will have some teeth into it.

He would like for us to have some control over some of the operational aspects of the jail, as well. Things like where the drop-off areas are, the type of signage, and drop-off and pick-up times.

The best way to approach these issues is through amending the Unified Development Ordinance (UDO) regarding the conditional use permit process. He'd like to see Council move forward soon, before the County has a chance to purchase the Lexington Avenue property so we will protect our ability to use this review process on Lexington. He also asked the City Manager to send a message to the County Manager that we will be pursuing this approach to ensure that we have a say in how such facilities are developed in our downtown area.

He also asked if there was a consensus for staff to negotiate aggressively with the County staff in an effort to see if there are other properties in the general City-County Plaza area that we might discuss selling or exchanging with the County.

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Because Councilman Hay owns property across the street, Vice-Mayor Cloninger moved to excuse Councilman Hay from this issue due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

Chief Planner Gerald Green said that the conditional use approach is certainly the most appropriate way to handle this type of issue. It will give City Council the discretion to set standards for design, operational standards, etc., but also provide an opportunity for public comment and public input during the information gathering and decision-making process. Staff can have an amendment before the Planning & Zoning Commission at their February 7, 2001, meeting and City Council can hold their public hearing on February 13, 2001.

When Councilwoman Field asked if the UDO provides for any kind of control over lighting around the building, Mr. Green responded that it does not.

City Attorney Oast said that there is a provision in the Code that allows City Council to initiate text amendments and that is what Vice-Mayor Cloninger is suggesting.

Vice-Mayor Cloninger said that if there is consensus on these two actions, we would be sending a message to the County – (1) City Council wants some say-so in what is located in the Union Storage Building and how it's located there in the event they proceed at that site; and (2) City Council is anxious to work with them to try to find an alternative site if possible.

City Attorney Oast pointed out that this text amendment would not be just for the Union Storage Building, but the appropriateness of these kinds of controls for these types of facilities throughout the downtown area.

Chief Planner Gerald Green suggested the text amendment be to amend the UDO identifying jails and related correctional facilities as conditional uses in the Central Business District, Regional Business District and the Commercial Industrial District and establishing standards for these uses. He explained that these facilities are permitted in those districts, but without any conditions or standards.

Councilman Peterson felt that since something is coming that we don't like and the County has already looked into it, that City Council is reacting. He said it's the County's responsibility to provide jail space and he wouldn't want the City to get into saying we're going to decide where you can put it or not. Mr. Green responded that this will only allow the City to have input on those issues which are critical in any location – design, operational standards, and to provide a forum for those affected by the proposal to have input. As with any conditional use permit, based upon appropriate findings, City Council could say they are not going to issue the County a conditional use permit for that location.

Vice-Mayor Cloninger felt that part of City Council's job is to represent the interests of the people who work and live downtown and who have invested literally millions of dollars in the downtown area. All of us on Council have heard from those people that they are very concerned about this issue. He felt we would be shirking our responsibilities if we didn't try to institute some method by which we could have review of this project. Again, at the same time we pursue this track, we will also pursue the track of not being in an adversarial position, but simply trying to protect the interests of the people downtown and the people of the City at large. He felt strongly in trying to negotiate with the County on some other property.

Councilwoman Field said there are a whole lot of people in downtown who have struggled for years to get where they are. She suggested staff ask the County to look carefully at the Black Mountain Correctional Center for Woman because they already do a work release

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program and already have food service facilities on the campus. There may be ways to work with them to solve their problem.

Mayor Sitnick pointed out that the Asheville taxpayer is a Buncombe County taxpayer and she doesn't see it as protecting our people against the County. She sees it as working with Asheville residents who also live in the County.

Councilwoman Bellamy felt the conditional use permit is a good idea that should be investigated. She noted that the developers in downtown and the Downtown Commission were pretty vocal about not wanting the satellite facility over on the corner of Hilliard and Lexington. She has talked with the East End neighborhood and they would like their voice to be heard as well. They already have the Public Works building, Parks and Recreation, Water Department, a lot of governmental facilities in their neighborhood and enough is enough.

Even though they didn't invest millions in their neighborhood, their homes are their treasures. Let's keep their treasures in the forefront when City staff talks about possibly moving the satellite jail facility right behind City Hall because they don't want it there.

Councilman Peterson wanted to remind staff all of the efforts to revitalize the Eagle-Market Street area and didn't want to do anything to harm those development efforts.

Councilwoman Field said that it was clear that the Downtown Commission, and others she has talked to, are totally aware that we need to have the satellite jail facility and all they asked of the County was two weeks to work with them so they could find a more appropriate site in downtown than the one they had picked.

Vice-Mayor Cloninger moved to direct City staff to begin the UDO amendment process and also to direct staff to aggressively negotiate with the County about some alternative site for the satellite jail. This motion was seconded by Councilwoman Field and carried unanimously.

Councilwoman Field moved to set a public hearing on February 13, 2001, to consider amending the UDO identifying jails and related correctional facilities as conditional uses in the Central Business District, Regional Business District and the Commercial Industrial District and establishing standards for these uses. This motion was seconded by Councilman Worley and carried unanimously.

B. TRANSIT CENTER

Mayor Sitnick asked City staff to investigate putting up wind-shields or some type of plastic to block the winds at the Transit Center.

C. CIVIC CENTER COMMISSION

Councilman Peterson said that he talked with Dr. Carl Mumpower, Chair of the Civic Center Commission, who reminded City Council that they are willing to help City Council with any matters regarding the Civic Center.

D. MAYOR'S COMMITTEE ON (DIS)ABILITIES

Mayor Sitnick said that she will appoint a Mayor's Committee on (Dis)Abilities at the February 13, 2001, formal meeting. This advocacy group will work with the ADA, but will mostly be pro-active working with citizens and tourists with disabilities. She felt this will allow the community to have a great opportunity to learn about people in our City living with disabilities and being more sensitive to their needs.

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E. LAWSUITS

The City was served with a Notice of Charge of Discrimination on January 10, 2001, in the matter of James T. Keefer. The nature of proceeding is race, disability and retaliation charge against the City of Asheville. This matter will be handled in-house.

The City was served with a Complaint on January 12, 2001, in the matter to Joseph Boerner, etc (Police Department employees). The nature of proceeding is denying a 5% or 10% increase in pay. This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A. COMMENTS BY GABRIEL FERRARI

Mr. Gabriel Ferrari said that he is encountering a problem in the Planning and Zoning Department in developing his property. City Manager Westbrook gave Mr. Ferrari the name and phone number of the Planning & Development Director Scott Shuford who he felt sure would be able to give Mr. Ferrari some assistance.

B. COMMENTS BY DAN WATERMAN REGARDING A COMMUNITY BASED COMMITTEE TO STUDY THE APPLICATION AND EFFECTS OF MARIJUANA LAWS IN OUR COMMUNITY

Mr. Dan Waterman, speaking on behalf of North Carolina Hemp, read the following resolution in which he requested City Council to adopt: "Whereas, we, citizens of Asheville, have come to the belief that the laws criminalizing Cannabis hemp (i.e. Cannabis sativa, indica, ruderalis, marijuana, weed, herb) and the many uses to which it can be put have unduly harmed the people and culture of our community, we ask the City Council of Asheville to create a community based committee charged with the responsibility of studying the application and effects of marijuana laws in Asheville. We ask that this committee include those concerned individuals who both oppose and favor the criminal status of this plant in order to insure that meaningful discourse takes place and that appropriate recommendations can be made to City Council by this committee. We ask that every effort be made to encourage participation in this committee by any concerned citizen. We ask that City Council make those resources at their disposal available to this community committee and that City Council help to educate their constituency concerning the findings of this committee. We ask that this committee meet in a location that is inviting to all of our citizens, including those who favor decriminalization and legalization. It is our resolve that the laws prohibiting the cultivation and use of Cannabis and their local application have serious ramifications for our community. In order to determine whether or not these laws are being applied fairly in our community regardless of race, gender, age or social status, and whether or not this marijuana prohibition is detrimental or beneficial to our people, the local application and efforts of these laws must be studied. With this we urgently petition you, our representatives, to aide us in the cause of brining further understanding and compassion to Asheville and its citizens."

He said that in 1998 they presented a resolution proposal and they did not seek agreement, but to hear the voice of each Council member on their resolution proposal. Mayor Sitnick, upon advice of the City Attorney, said that this issue was not an issue City Council could address – it was not within their powers or responsibilities. When the resolution was introduced recently on the moratorium for the death penalty, Vice-Mayor Cloninger made the same statement concerning that resolution proposal. And yet, City Council chose to vote on that. He felt there is inequity and unfairness.

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Mayor Sitnick said that when we considered and passed the moratorium on the death penalty, we did so in response to a legislative study committee that was already on-going in the state legislature. Our resolution was in support of their work and in support of a moratorium. It was not in support of changing a law that we did not create. She supported Mr. Waterman's right to do this and to want to pursue this, but it needs to be pursued at the level that these laws are made at. Since City Council doesn't have the authority to pass a law, then what is the point. The moratorium on the death penalty was not passing or changing a law.

Councilwoman Bellamy said that Mr. Waterman does not need City Council's approval to create a community based committee. They have all the right and power to do this now.

Mr. Waterman said for their committee to study the application of the laws, whether or not their being applied fairly, whether or not people are prosecuted fairly, or whether or not there is discrimination according to gender, age or race, they need resources placed at their disposal. Unless there is a committee, sanctioned by this Council, the Police Department and the City Manager will not provide them with resources. Committees like this have been created by other city councils and this is totally within the purview of your powers.

Vice-Mayor Cloninger moved that we not adopt the resolution read by Mr. Waterman or any similar resolution. This motion was seconded by Councilman Worley.

Councilman Worley said that this Council did pass a resolution involving the death penalty moratorium and that not to deal with this might be inconsistent. From his personal standpoint, he did not feel (and he expressed his views at the time Council adopted the resolution on the death penalty moratorium) that that was a subject that this City Council should not be involved in. He feels just as strongly in this situation. This is not the proper forum for this kind of discussion. These kinds of discussions need to be taking place at the state level with our state legislators who do have the power to deal with this subject.

Councilman Hay said that he voted in favor of the resolution supporting a moratorium on the death penalty because he felt they were being asked to join a state-wide effort and to follow the lead of other cities to pass a resolution in the name of our City to present to our legislature. He did feel that was a municipal government role and for that reason was able to support voting for the moratorium on the death penalty. This is not a similar situation. This is a state law and an element that he would think City Council would have an impact on.

Councilman Peterson said there what is being asked is an endorsement of a committee to have a public discussion and you don't really need our endorsement. This is an issue, to distinguish it from the moratorium on the death penalty, that at this point doesn't have that public level of support. Partly maybe because of lack of education. He doesn't think in Asheville there is quite the level of support or interest that we would respond to this issue. He said that if Mr. Waterman thinks there is that level of support, he suggested he create the committee, study it, lobby votes and convince City Council that this is something that a significant number of citizens of Asheville feel strongly enough for us to get involved. He would not be in favor of taking a position on this.

Councilwoman Field would not support this resolution for the same reason she did not support the resolution in support of a moratorium on the death penalty. Personally she would support some kind of changes to the laws that would allow the medical use of marijuana. But she still didn't think it is City Council's place to do anything about it.

The motion made by Vice-Mayor Cloninger to deny the resolution and seconded by Councilman Worley carried unanimously.

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At 10:59 p.m., Councilman Hay moved to excuse Vice-Mayor Cloninger from the meeting due to a very early out of town trip. This motion was seconded by Councilman Worley and carried unanimously.

C. COMMENTS BY DAVID GORY

Mr. David Gory, east Asheville resident, said that Council feels this is not a municipal issue, however, City Council provides direction to the Police Department as to their priorities. You could, if a study was done and it was shown that the current application of our laws are damaging to our citizens, which he believed it would show, instruct the Police Department to place victimless crimes at the lowest possible priority.

D. COMMENTS BY KEVIN ROLLINS

Mr. Kevin Rollins, representing the Buncombe County Libertarian Party, wondered if there was a City Council policy on voting on legislative issues.

He felt that City Council is secretly working to sign a deal with the National Basketball Association to either

Staff recommends approval of the resolution authorizing the City Manager to sign a weekly frequency advertising contract with the Asheville Citizen-Times.

upgrade the Civic Center or build a new arena. He felt that entertainment is not part of City government.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 11:06 p.m.

CITY CLERK MAYOR
