

Tuesday – May 15, 2001 - 3:00 p.m.

Worksession

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

Absent: None

Mayor Sitnick asked for a moment of silence for former Council member Gary "Rock" McClure who died on Monday, May 14, 2001.

CONSENT:

New Street Name of "Proctor Drive"

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

Marcell Proctor, owner of lots in Watkins Estates Subdivision, has petitioned the City of Asheville to accept the street name " Proctor Drive." The new street will begin at Caribou Road and end at cul-de-sac on Proctor Drive.

City staff recommends adoption of the resolution.

New Street Name of "St. Davids Court"

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

Thomas Yurchenco, owner of lots in St. Davids Subdivision, has petitioned the City of Asheville to accept the street name " St. Davids Court." The new street will begin at Liberty Street and end at cul-de-sac on St. Davids Court.

City staff recommends adoption of the resolution.

Investment Policy

Summary: The consideration of a resolution adopting the City of Asheville Investment Policy.

The City of Asheville invests its public funds in a manner which will provide the highest investment return with reasonable security while meeting the daily cash flow demands of the City. The Finance Department of the City actively manages the City's investment program with the major objective of the preservation of capital, provision of liquidity and maximization of investment earnings. The investment program has been in compliance and continues to comply with North Carolina General Statutes, requirements of the Local Government Commission, and the investment practice recommendations of the Government Finance Officers Association. The Investment Policy formalizes and standardizes compliance with those requirements and recommendations.

Staff recommends the City Council adopt the resolution and City of Asheville Investment Policy.

Office Space for VISION

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

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

In a letter dated March 30, 2001, from VISION Board Chair Albert L. Sneed Jr. Mr. Sneed requests the City continue to grant an in kind donation of office space and existing support services (including two parking passes to the Rankin Street Parking Garage) for Fiscal Year 2001-02. The VISION Board has expressed gratitude to the City and the "ideal location" for the office space. In looking at the upcoming year, City staff is not aware of any changes in the City Development Office layout or staffing levels that will require the space currently utilized by VISION. In fact, staff has recently worked with VISION to develop a floor layout plan that will accommodate both parties needs at minimum cost to VISION. Therefore, the current space arrangement is recommended to be granted for the upcoming Fiscal Year 2001-02.

Staff recommends that Council grant the request of the VISION by a motion to approve the request thereby providing the continued use of donated office space, the existing level of support services and two parking passes to the Rankin Street Parking Garage for Fiscal Year 2001-02.

Amendment to Regional Water Authority By-Laws

Summary: The consideration of an amendment to the Regional Water Authority's By-Laws to permit members to attend meetings by teleconference for purpose of a quorum.

The resolution would approve amending Article I, Section IV of the By-Laws of the Regional Water Authority of Asheville, Buncombe & Henderson to permit an Authority member to be considered present at an Authority meeting, or a Committee meeting, both for purposes of a quorum and for voting rights, by telephone conference. The Chairman of the Water Authority, or the Chairman of a Committee in the case of a Committee meeting, must authorize each specific attendance by conference call. Of course, the use of this technology would be limited to the availability of the phone system in the meeting room; presently both the North Conference Room and the Gilewicz Conference Room have the capability for a teleconference to one remote location.

As with any amendment to the By-Laws, this amendment must also be submitted to the Buncombe County Board of Commissioners. A By-Laws amendment must be approved by two of the three boards (Authority, City Council, County Commissioners) to become effective.

The Regional Water Authority approved this amendment to the Authority's By-Laws at their April 17, 2001, meeting.

The Regional Water Authority of Asheville, Buncombe and Henderson recommends City Council approval of the by-law amendment.

Re-Certification of Asheville Regional Housing Consortium

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Summary: The consideration of a resolution authorizing the Mayor to renew the Joint Cooperation Agreement with the Asheville Regional Housing Consortium to continue receiving entitlement allocations under the HOME grant program.

The City of Asheville entered into a Joint Cooperation Agreement with twelve governmental units within Region B on March 31, 1992, and formed the Asheville Regional Housing Consortium. On February 12, 2001, the City sent a letter to HUD stating its intent to participate again as a consortium in the HOME program, and also stating it will submit to HUD prior to June 30, 2001, all other required documents for participation, including a new Cooperation Agreement and authorizing resolutions from member governmental units.

The Cooperation Agreement states in Section 14: "The Lead Entity and the Cooperating Units agree to remain in the Consortium at least through September 30, 2004. Thereafter, each party shall continue to participate in the Consortium to the extent required by HUD regulations or other applicable law."

Since formation of the Consortium in 1992, the region has received entitlement allocations totaling \$10,519,837. The City of Asheville has received \$3,347,822 for its affordable housing programs and administrative costs as Lead Entity since the beginning of the program.

Community Development staff recommends adoption of the resolution.

Annual Contract for Auditing Services for Fiscal Year 2000-01

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Crisp Hughes Evans LLP, Certified Public Accountants, for auditing services for Fiscal Year 2000-2001.

N.C. General Statute sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1998 the City solicited proposals from 36 accounting firms to perform the City's annual audit for the three (3) Fiscal Years 1997-98, 1998-99 and 1999-2000. City Council selected Crisp Hughes Evans LLP to conduct these audits with the option to be re-engaged annually for two more years. They completed the Fiscal Years 1997-98, 1998-99 and 1999-2000 audits and have now submitted an engagement letter for the Fiscal Year 2000-2001 audit. The fee has been estimated at \$54,000. Funds are appropriated in the budget of the Accounting Division of the Finance Department.

City staff recommends City Council adopt the resolution.

Councilwoman Bellamy requested additional budget information to include prior year's actual budget vs. actual expenditures for comparison purposes.

Advertise Offer to Purchase Disposal Parcel 157 on Jordan Street

Summary: The consideration of a resolution establishing minimum price and authorizing the City Clerk to advertise an offer to purchase Disposal Parcel 157 in the East End/Valley Street Community for the tax value of \$2,400.00.

Disposal Parcel 157 is a substandard lot located on the south side of Jordan Street comprising 3,920± square feet. The lot is rectangular in shape and mostly flat about street level then sloping down to the rear. The bid from William Boyle

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includes the proposal to combine the property with adjoining property currently owned by Mr. Boyle on Jordan Street. No construction is planned.

Approval of the resolution will establish the tax value as the minimum price and initiate the sale of the

property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Community Development staff recommends adoption of the resolution.

Land & Water Conservation Fund Grant

Summary: The consideration of a resolution to apply for and enter into an agreement with the N. C. Dept. of Environment and Natural Resources, Division of Parks and Recreation, for funds, through the Land and Water Conservation Fund via the National Park Service, to assist with the development of French Broad River Park, Phase IV.

French Broad River Park, Phase IV, represents the City of Asheville's next phase of a major greenway and park system being developed along the French Broad River on Amboy Road. The final master plan is complete, and the first phase of construction is underway. The park will include greenways, bicycle facilities, lawn bowling, volleyball and soccer complex, softball field, playground, restrooms, roller hockey, open space, picnic shelter, parking, and a welcome center. Phase IV will also connect to a planned N. C. Dept. of Transportation funded greenway from Hominy Creek on the west, and eventually to the Amboy Road greenway to the east.

The Parks and Recreation Department and RiverLink are in partnership to implement an ambitious fundraising plan to raise over \$2 million to build the park. To date, \$620,000 has been raised.

The Parks and Recreation Department is requesting \$250,000 to \$300,000 in grant funds from the Land and Water Conservation Fund which requires a 50% cash or in-kind match. The match is available in cash, labor, equipment, project management and technical support through Parks and Recreation and RiverLink.

The Parks and Recreation Department recommends the City apply for and enter into an agreement for grant funds with the North Carolina Department of Environment and Natural Resources to assist with the construction of the French Broad River Park, Phase IV.

Grant from Clean Water Trust Fund for Regional Stormwater Retention Facility in West-End Clingman Area

Summary: The consideration of a resolution to apply for and enter into an agreement with the Clean Water Management Trust Fund to assist with the purchase, construction and maintenance of two regional retention facilities in the West End/Clingman area.

The WECAN Community Charette suggested that two regional retention facilities be constructed to handle stormwater runoff from the area. One of the facilities is proposed to be located on property belonging to Mr. Tom Honea. The other facility is proposed to be located on property belonging to Mountain Housing Opportunities. Mr. Honea approached Mountain Housing Opportunities staff about purchasing a portion of his property for the above purpose.

The City is interested in assisting with this project because it is a more desirable solution to managing stormwater than individual stormwater facilities for every site. A regional wet stormwater facility allows impurities from the stormwater to settle out before the water is

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discharged into the stream. Additionally, the grant from the Clean Water Management Trust Fund must be requested by the City. Mountain Housing Opportunities is not an eligible agency for the grant.

The City is requesting approximately \$250,000 in the grant. The grant does not require a match; however,

some match is recommended. We propose to match the \$250,000 request with the land (for the second stormwater facility) that belongs to Mountain Housing Opportunities. Mountain Housing Opportunities would be required to deed the land to the City of Asheville prior to receiving the grant.

The Engineering Department recommends the City apply for a grant to assist with the purchase, construction and maintenance of two regional retention facilities in the West End/Clingman area.

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

PRESENTATION ON THE WATER AUTHORITY AND RELATED ISSUES

City Manager Westbrook said that this update will cover key trends and land use implications, financial trends and challenges, information on American Freightways – A Flawed Business Model, examples of regional authorities – pros and cons, and a summary and staff recommendations.

He asked Council to pay special attention to three key items (1) What business model is most appropriate for the Regional Water Authority (Authority) to pursue; (2) water supply is a regional asset; and (3) water distribution is a local decision based upon land use, economic development and other political factors.

Planning & Development Director Scott Shuford explained the economic development trends and outlined Asheville's population density, concluding that City and County development patterns and population growth rates reflect suburbanization rather than urbanization. Sprawl development is expensive to serve. Sixty percent of water customers are in the City. We are selling less water than 10 years ago and we are selling it through a much more dispersed distribution pattern.

Mr. Shuford also outlined land use issues, concluding that water service distribution directly determines the land use patterns and directly affects the economic development prospects of a community, and decisions regarding water service distribution should be determined by the political jurisdiction having land use control.

Finance Director Bill Schaefer said that the current depreciated assets of the water system are \$97.9 million and the current system produces a revenue stream of over \$19 million per year. He reviewed with Council the "equity" in the water system and explained that the Sullivan Act precludes a differential rate structure for the City of Asheville. He explained in detail the financial challenges with the current regional water agreement which are (1) funding new water lines; and (2) organizational considerations. In conclusion, the current operation follows a flawed business model in that (1) the definitions in the Water Agreement are difficult to implement; and (2) the financial burden of running new water lines is inequitably borne by Asheville and Buncombe water customers.

Water Resources Director Tom Frederick explained why a request for water service from American Freightways is a "flawed" business model. The current interlocal agreement with Henderson County requires separate accounting books for every "regional water line." The

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requested "regional water line" to serve American Freightways is just over 500 feet long. If separate accounting had been set up for the water system in Buncombe County for every 500 feet of water line, there would now be over 12,000 separate sets of accounting books to manage the finances of the water system. He said that it is not the fault of the City Water Resources Department nor the fault of the Henderson County Utilities staff that the agreement is not working. The problem is the process (or business model) defined in the agreement for building water lines, which is ambiguous on the details and is incredibly bureaucratic. The process can only be changed by amending the agreement, which requires action of the Henderson County Board of Commissioners, the Buncombe County Board of Commissioners, City Council and the current

Regional Water Authority. At the April 17, 2001, meeting of the Regional Water Authority, Authority members discussed that the Regional Water Agreement may need amending. He concluded that there is a serious need for a better business model that builds water lines in Henderson County, without wasteful accounting and legal expenses, and the overlap of multiple governmental organizations overseeing administrative detail.

Mr. Frederick then explained why the Orange County Water & Sewer Authority was not a good example of a regional water authority. He then went on to explain, in detail, why the Piedmont Triad was a good example of a regional water authority. In conclusion, he said that City staff has concluded that the Piedmont Triad Water and Sewer Authority offers a better model for this region to follow in developing a regional authority for addressing the regional water lines of Buncombe and Henderson Counties.

City Manager Westbrook summarized the report as follows: (1) each political jurisdiction (Asheville, Buncombe County and Henderson County) has separate and unique water services and growth management needs; (2) Henderson County believes a "true" G. s. 162A water authority will best meet their needs; (3) the current regional water agreement represents a "flawed" business model; (4) water supply is a regional asset; (5) water distribution is a local decision based upon land use, economic development, and other political factors; (6) financial inequities exist when Asheville and Buncombe County residents pay for Henderson County water lines; and (7) implementation of the Piedmont Triad model (G.S. 162-A) over Mills River assets would allow Henderson County sole discretion over growth management decisions. In conclusion, regional management structures should be limited only to manage assets which are truly regional in nature. Decisions regarding local issues, such as where to extend or replace water lines within a community, should be made by the governing board of that community.

City Manager Westbrook recommended that the "flawed" business model be fixed by (1) establishing the Mills River Treatment Facility, water supply intake and the 24" transmission line as a regional water authority organized under N. C. Gen. Stat. sec. 162-A; (2) allowing authority to have 3-4 local government customers buying wholesale water at wholesale rates; and (3) separating water distribution issues by local political jurisdiction.

Step One to begin implementation of fixing the "flawed" business model includes (1) City Council negotiating with Buncombe County and Henderson County regarding the best way to regionally manage current water system assets inside Henderson County; and (2) City Council inviting the City of Hendersonville to participate in the negotiations. Step Two is the City of Asheville and Buncombe County should jointly review the Supplemental Water Agreement to determine if changes are needed in the management of water system assets within Buncombe County.

Discussion surrounded the different components of the presentation and City Council asked numerous questions, made several comments and offered suggestions regarding the information presented.

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It was the consensus of Council that this is a good framework within which to begin discussions. City staff should investigate ways in which this would benefit the other parties to the agreement.

Mayor Sitnick reiterated to Council her comments at the Regional Water Authority meeting earlier in the day. She asked the Authority to support the bills exempting Asheville from the non-betterment waterline relocation costs. She explained her delay in responding to a letter Chairman Tate had written to her. She encouraged better communication between the Authority and City Council. With regard to the Water Agreement, the Authority seems to be unhappy with parts of it as well as City Council. She suggested we call the Henderson County Commissioners, the Buncombe County Commissioners, members of the Water Authority and City

Council and start a substantive, comprehensive dialogue on where we go from here.

REGIONAL WATER AUTHORITY CITY REPRESENTATIVES

Mr. Lewis Daniels, Mr. Tommy Sellers and Mr. Ted Patton, Regional Water Authority City representatives, answered various water-related questions from City Council. They all agreed that the Piedmont Triad model is a good platform to begin discussions.

Mayor Sitnick felt there should be some type of media education seminar so the media can help educate the public on this issue.

Discussion then surrounded how the presentation by City staff should be viewed by the Buncombe County Commissioners, Henderson County Commissioners, and the entire Regional Water Authority in order to start the education process and start the dialogue in a major community-wide way.

It was the consensus of City Council to have the City staff make their presentation (as they did at this worksession) at the next Water Authority meeting, inviting the Buncombe County Commissioners and Henderson County Commissioners. The presentation can be held in the Council Chamber and a video tape made to be shown on the Government Channel.

LICENSE AGREEMENT WITH TRITON PCS FOR CONCEALED WIRELESS COMMUNICATION TOWER AT 300 MERRIMON AVENUE

At the request of City staff, this matter was removed from the agenda.

BENEFICIAL FILL SITE (AZALEA ROAD PROPERTY)

Public Works Director Mark Combs said that the City's White Fawn Reservoir was closed to beneficial fill dumping on February 2, 2001. To facilitate Water Maintenance and Streets Division's needs regarding a close, accessible and long term beneficial fill site, staff has been gathering specific information for the further potential development of the property, as directed by Council.

On April 3, 2001, City Council approved resolutions to purchase 155 acres of property on Azalea Road for long term development as a park, sports fields and potential beneficial fill site.

Potential short term beneficial fill options such as materials recycling and small, isolated sites would certainly aid in primary site longevity; however such options do not mitigate the need for a central, city owned and operated site which will serve the city's beneficial fill needs for the next 15 or more years. Also, the siting and development of small satellite operations pose significant liability and operations challenges to the City.

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Concurrent with the recent purchase of the property, staff has initiated the following actions:

1. On January 31st Council directed staff to prepare a proposal regarding potential development of the property;
2. On February 2nd the White Fawn Reservoir was closed. Beneficial fill material is currently being placed in the Buncombe County Landfill in Alexander. In addition to tip fees, the 17 mile (one-way) trip has reduced operational efficiency by an estimated 30-50% due to travel time.
3. To date (12 weeks), the City has paid \$90,907.84 to Buncombe County, which is an average of \$7,576 per week, or \$30,304 per month. Annual cost projections remain tenuous due to seasonal construction

variances and emergencies; however, based on past experience, Water staff estimates tip fees at \$500,000 per year and Department of Public Works staff estimates \$175,000.

4. Staff developed a scope of services for an operation plan contract with the engineering firm of Woolpert, LLP, who will work with their sub-consultant, Froehling and Robertson, Inc. to prepare a plan which will incorporate the following:

- Contour map;
- Soil and Erosion Control Plan;
- Plan for stabilization of existing slopes;
- Plan for protection of existing river banks if necessary;
- Design of upgrade to existing road if necessary;
- Identify soil borrow source;
- Work procedures for operation of site coordinated with Park plan;
- Site grading plan (for grading permit application);
- Prepare documents necessary for all permits as required; and
- Flexibility (for slope and grade design) consistent with the final Parks & Recreation Master Plan (1st public meeting May 24th).

Estimated Operation plan cost: **\$39,500** (4 to 6 weeks to complete plan)

1. On April 10th staff met with Dan LaMontagne, NC DENR, at the Azalea site regarding an allegation from a citizen that 'toxic wastes' were polluting the Swannanoa River. Subsequently, Mr. LaMontagne's has gathered site samples and should receive test results in mid to late June. Based on the consultant's original site examination, staff is confident that the site is not toxic to the surrounding waters and property.

6. On April 23rd staff met with and provided specific site information to Patrick Lance and Alex Perry (WNC Nature Center) regarding their concern of potential impacts of a beneficial fill site up stream from the Center.

Based on staff's further research and investigation as directed by Council, we recommend the following:

- a. Appropriate \$75,000 to the Public Works Department for tip fees from February through June 30th (Water Department staff estimates FY 00-01 tip fees of \$110,000);
- b. Appropriate \$39,500 for a contract amendment with Woolpert LLP to develop a site operation plan; and
- c. Direct staff to return to Council with a draft operation plan for Council review and approval with appropriate public input, as determined by City Council.

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Contingent on Council's approval to proceed with a site plan, staff will report back to Council regarding specific construction and operations dates as plans are completed, as directed.

Councilman Worley asked for additional information regarding recycling of materials.

Discussion surrounded why the White Fawn Reservoir filled up so quickly.

Councilman Peterson explained why he had a concern that going to Azalea Road may not be the most cost-effective alternative. In addition, he wondered if the City could use the material to fill in worthless

land in the City.

Vice-Mayor Cloninger and Councilman Hay requested additional information showing that other sites had been investigated and the reasons those sites are not an option anymore.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to separate the two budget amendments on the next formal City Council agenda.

SALE AND/OR TRADE OF CITY PROPERTY FOR THE JAIL DETENTION CENTER

City Manager Westbrook stated that this item needs to be pulled from the agenda pending further discussion with City Council.

REPORTS FROM THE OUTSIDE AGENCY COMMITTEE AND THE FEES & CHARGES COMMITTEE

Budget Director Ben Durant passed out the outside agency funding requests and recommendations from the City Council Outside Agency Committee. He noted that the Committee's recommendation for 2001-02 is \$310,000 which is a decrease of \$63,000 from 2000-01 budget.

Mr. Durant explained why the Committee had recommended \$40,000 to be allocated to the A-B Community Relations Council (CRC) (their request was \$63,000). After Councilman Hay advised Council that the CRC's funding is being reduced from Buncombe County and CDBG funds. Executive Director Bob Smith advised Councilman Hay that if their budget is cut by the City, they may well have no choice but to close down. It was the consensus of City Council to recommend \$63,000 funding to the CRC and advise them of problems encountered with their application that need to be corrected and if they are not addressed, those problems will be considered the next time a funding request is made.

Mayor Sitnick suggested that every agency that is awarded outside agency funding be scheduled in for a worksession next year to find out what that agency is doing. Vice-Mayor Cloninger didn't think that was necessary and felt the Outside Agency Committee is capable of handling that.

Councilman Hay felt the entire outside agency funding process needs to be looked at in that, for instance, the Economic Development Commission should not be competing for funds with the One Youth at a Time agency.

Mayor Sitnick was very much opposed to funding the Visitor's Center \$100,000 in that the Chamber of Commerce did little or nothing to help City Council with the room tax.

Mayor Sitnick questioned the no funding for the Coalition of Asheville Neighborhoods. Vice-Mayor Cloninger explained the Committee's position with regard to that request.

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Mayor Sitnick urged City Council to support the Kids Voting in the amount of \$1,000 as a symbol of City Council's support.

It was the consensus of City Council to vote separately on each of the outside agency funding requests when the ordinance is brought before City Council for adoption.

City Council then discussed the report of the recommendations from the City Council Fees & Charges Committee.

RESOLUTION NO. 01-63 – RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE DOWNTOWN ASSOCIATION'S 2001 EVENTS

City Manager Westbrook said that this is the consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville Downtown Association's 2001 events at specific locations and times.

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

The Asheville Parks and Recreation Department recommends approval of this request as stated in the resolution.

Councilman Worley moved to suspend the rules and take formal action at this meeting since the first event begins Friday, May 18, 2001. This motion was seconded by Councilwoman Field and carried unanimously.

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

Councilman Worley moved to adopt Resolution No. 01-63. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilwoman Bellamy voting "no".

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CLOSED SESSION

At 7:50 p.m., Councilman Hay moved to go into closed session for the following reasons: (1) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session - G.S. 143-318.11(a)(4); and (2) to establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease - G.S. 143-318.11(a)(5). This motion was seconded by Councilwoman Field and carried unanimously.

At 9:36 p.m., Councilwoman Bellamy moved to come out of closed session. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 9:36 p.m.

CITY CLERK MAYOR

