

Tuesday – May 22, 2001 - 5:00 p.m.

Regular Meeting

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

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 01-62 – RESOLUTION REAFFIRMING SISTER CITY RELATIONSHIP

Councilman Worley read the resolution reaffirming the Sister City relationship with Saumur, France.

Councilman Worley moved for the adoption of Resolution No. 01-62. This motion was seconded by Councilwoman Field and carried unanimously.

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ADDITION TO THE AGENDA

It was the consensus of City Council, at the request City Attorney Oast, to add a resolution authorizing cancellation of the Biltmore Farms Deed of Trust and release of the Letter of Credit to the Consent Agenda.

II. CONSENT AGENDA:

At the request of Councilwoman Bellamy, Councilman Worley moved to remove Consent Agenda Items H and L from the consent agenda to be considered separately due to a conflict of interest by Councilwoman Bellamy. This motion was seconded by Councilwoman Field and carried unanimously.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 8, 2000, AND THE WORKSESSION HELD ON MAY 15, 2000

B. MOTION SETTING A PUBLIC HEARING ON JUNE 12, 2001, TO ADOPT THE FISCAL YEAR 2001-02 ANNUAL OPERATING BUDGET

C. RESOLUTION NO. 01-64 - RESOLUTION ACCEPTING THE NEW PROPOSED STREET NAME OF "PROCTOR DRIVE"

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

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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.

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D. RESOLUTION NO. 01-65 - RESOLUTION ACCEPTING THE NEW PROPOSED 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.

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E. RESOLUTION NO. 01-66 - RESOLUTION APPROVING THE CITY OF ASHEVILLE 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.

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F. MOTION GRANTING THE REQUEST OF VISION FOR ASHEVILLE-BUNCOMBE COUNTY TO (1) CONTINUE USING DONATED CITY OFFICE SPACE AT 29 HAYWOOD STREET, (2) USE OF EXISTING LEVEL OF SUPPORT SERVICES, AND (3) TWO PARKING PASSES TO THE RANKIN STREET PARKING GARAGE FOR USE BY THE VISION STAFF

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

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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. 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.

G. RESOLUTION NO. 01-67 - RESOLUTION APPROVING AN AMENDMENT TO THE REGIONAL WATER AUTHORITY'S BY-LAWS TO PERMIT MEMBERS TO ATTEND MEETINGS BY TELECONFERENCE FOR PURPOSE OF A QUORUM

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.

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H. RESOLUTION RE-CERTIFYING THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

This matter was pulled from the Consent Agenda due to a conflict of interest.

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I. RESOLUTION NO. 01-68 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP HUGHES EVANS LLP 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.

RESOLUTION BOOK NO. 26 – PAGE 357

J. RESOLUTION NO. 01-69 - RESOLUTION ESTABLISHING MINIMUM PRICE AND DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 157 ON JORDAN IN THE EAST END/VALLEY STREET COMMUNITY

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 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.

RESOLUTION BOOK NO. 26 – PAGE 358

K. RESOLUTION NO. 01-70 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT & NATURAL RESOURCES FOR A GRANT TO ASSIST WITH THE DEVELOPMENT OF THE FRENCH BROAD RIVER PARK, PHASE IV

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

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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.

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L. RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE CLEAN WATER TRUST FUND FOR A GRANT TO ASSIST WITH THE PURCHASE, CONSTRUCTION AND MAINTENANCE OF TWO REGIONAL RETENTION FACILITIES IN THE WEST END/CLINGMAN AREA

This matter was pulled from the Consent Agenda due to a conflict of interest.

M. RESOLUTION NO. 01-71 - RESOLUTION AUTHORIZING CANCELLATION OF A DEED OF TRUST AND RELEASE OF LETTER OF CREDIT

City Attorney Oast said that this is the consideration of a resolution authorizing cancellation of a Deed of Trust

In 1997, the City entered into an agreement with Biltmore Farms, Inc. and the Western North Carolina Regional Economic Development Non-Profit Corporation for the development of a high-tech / flex building at Broadlands Industrial Park. The City's part of the agreement was to fund the construction through the issuance of taxable Certificates of Participation, secured by a Deed of Trust on the property and a letter of credit from Biltmore Farms.

The construction has been completed and the loan has been paid off, and Biltmore Farms has otherwise satisfied its obligations to the City under the agreement, and has requested cancellation of the Deed of Trust and release of the letter of credit. The City staff agrees that this should be done.

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City staff recommends adoption of a resolution authorizing cancellation of the Biltmore Farms Deed of Trust and release of the letter of credit.

Councilman Worley stated that this was very successful for the City and for Biltmore Farms. It was a good investment and a good payback.

RESOLUTION BOOK NO. 26 – PAGE 360

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

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

ITEMS PULLED FROM CONSENT AGENDA

A. RESOLUTION NO. 01-72 - RESOLUTION RE-CERTIFYING THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

Councilman Hay moved to excuse Councilwoman Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

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.

Councilman Hay moved for the adoption of Resolution No. 01-72. This motion was seconded by Councilman Worley and carried unanimously.

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B. RESOLUTION NO. 01-73 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE CLEAN WATER TRUST FUND FOR A GRANT TO ASSIST WITH THE PURCHASE,

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CONSTRUCTION AND MAINTENANCE OF TWO REGIONAL RETENTION FACILITIES IN THE WEST END/CLINGMAN AREA

Councilman Hay moved to excuse Councilwoman Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

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 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.

Councilman Hay moved for the adoption of Resolution No. 01-73. This motion was seconded by Councilman Worley and carried unanimously.

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III. PUBLIC HEARINGS:

A. PUBLIC HEARING REGARDING AN AGREEMENT WITH BLUE RIDGE MOTION PICTURES LLC FOR ECONOMIC DEVELOPMENT INCENTIVES PURSUANT TO THE CITY'S ECONOMIC DEVELOPMENT POLICY

RESOLUTION NO. 01-74 – RESOLUTION OFFERING ECONOMIC DEVELOPMENT INCENTIVE GRANT TO BLUE RIDGE MOTION PICTURES LLC

Councilman Hay moved to excuse Mayor Sitnick and Vice-Mayor Cloninger from participating in this matter due to conflicts of interest, and that Councilwoman Field be appointed to preside in the Mayor and Vice-Mayor's absence. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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Vice-Mayor Cloninger explained that his conflict of interest was that his law firm represents Blue Ridge Motion Pictures LLC.

Councilwoman Field opened the public hearing at 5:18 p.m.

Economic Development Director Mac Williams said that the consideration of a resolution approving an economic development incentive grant to a company proposing to develop a movie production studio. This public hearing was advertised on May 11, 2001.

Blue Ridge Motion Pictures, LLC is a start-up company proposing to purchase property inside the City limits of Asheville and, on that property, to renovate an existing building and build new facilities for the purpose of operating a movie production studios facility.

The site, located at 12 Old Charlotte Highway, is a 40-acre tract with an existing industrial facility of 178,000 square feet owned and currently occupied by Asheville Velour, a manufacturer of textile products. Asheville Velour will sell the site to Blue Ridge Motion Pictures, LLC, but will remain in operation in the facility as a tenant. According to representatives of both parties, this project will not result in the loss of the current manufacturing jobs at the site.

Blue Ridge Motion Pictures, LLC, is proposing new capital investment of \$16 million to be in place by December 31, 2003. This investment is in addition to that required to purchase the property (scheduled for

late May/early June 2001). The new investments would cover renovations to the existing building, installation of equipment, and new construction of soundstages and other related structures necessary to provide a full service studio for their own productions and for rental of space and/or equipment to other production companies. The firm also intends to create at least 20 full time jobs at an average annual salary range of between \$25,000 and \$45,000.

Based on the stated level of investment of \$16 million, the firm would qualify for a Level 3 Grant as provided for by the City of Asheville Economic Development Incentives Policy. Per the policy, *"the grant is calculated and based upon the actual value, schedule and payment of property taxes. After the industry has paid in full its annual property tax and met all other criteria as outlined in the grant document, the City will pay the industry the annual installment of the grant required."*

Level 3 Grants (when investment levels are of \$10 million or greater) allow grants of up to 85% of new taxes for up to 5 years. The total grant amount would equal \$380,800 payable in 5 annual installments of \$76,160 each beginning in January, 2004. The calculation determining the grant is as follows:

CALCULATION OF LEVEL 3 GRANT

NEW INVESTMENT \$16,000,000 (div. by \$100)

NEW TAX BASE VALUE \$ 160,000 (x current rate - \$.56/\$100)

NEW ANNUAL TAX REVENUE \$ 89,600 (x grant amount - .85)

ANNUAL GRANT AMOUNT \$ 76,160 (x grant term – 5 years)

TOTAL GRANT AMOUNT \$ 380,800

Payment of the grant funds would not begin until 2004 and after City has received documentation of actual values and payment in full of property taxes. Company will have been in operation locally nearly 8 years before total grant payment is made.

Other policy criteria apply as follows:

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A. Jurisdiction – The project is within the city limits of the City of Asheville.

B. Scope:

1. Project proposes to exceed capital investment minimum of \$1,500,000.

2. Company does not have minimum of 3 years operating history. However,

a majority of the principals have a demonstrated history in the industry; and,

given the nature of this project and its potential impact to enhance the

growth of this industry sector locally, waiver of this criteria should be

considered.

3. There is a commitment to a minimum of 5 permanent new jobs.
4. The location and type of business is consistent with City plans and policies.
5. There is evidence of equity participation but at less than the 10% minimum of total project cost. However, the level of equity participation in the purchase of the property reportedly significantly exceeds 10%. Also, company representatives have reported capability to secure funding for total project as proposed. Council flexibility regarding this criteria should be considered.
6. Proposed minimum salary exceeds Average Weekly County Wage for industry type.
7. Proposed use of funds is in accordance with policy.
8. Additional incentive funding may be available from other local governments and/or the State.

The grant document, in the form of a performance agreement, has been drafted according to the terms outlined above and has been accepted by representatives of Blue Ridge Motion Pictures, LLC. Acceptance and execution of the agreement and provision of the grant, or not, by Council is the subject of a formal public hearing pursuant to N. C. Gen. Stat. sec. 158-7.1.

The terms of the agreement being considered and the notice of the public hearing have been published in accordance with the referenced statute.

Mr. Williams said that part of a sentence in the payment of grant section of the agreement was inadvertently omitted in which City Council has before them. That omission has been corrected in the original agreement and Blue Ridge Motion Pictures, LLC, is aware of it.

City staff recommends Council accept and execute the proposed Performance Agreement and offer the economic development incentive grant to Blue Ridge Motion Pictures, LLC under the terms and conditions in that Agreement.

Mr. W. Louis Bissette, attorney for Blue Ridge Motion Pictures, LLC, spoke of support of this agreement stating that it is a great development for the City and for Blue Ridge Motion Pictures.

Mr. Tom Barkstedt, Partner for Blue Ridge Motion Pictures, spoke about the multi-talent in the area and that they have the largest studio rental in the United States. He said that he was pleased to be working with the City on this venture.

When Councilwoman Field said that our Public Access Channel Commission is looking for a small space, Mr. Barkstedt said that they could work something out in their building.

Mr. Fred English suggested the City of Asheville just give the company a tax break instead of loaning them money. Councilwoman Field explained that the State of North Carolina does not allow cities to give tax breaks.

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Ms. Diana Bilbrey, member of the Film Board, spoke in support of this agreement and talked about the other benefits that will be derived from this motion picture studio coming to Asheville.

Mr. Paul Garrra has been involved with the film industry for 25 years and it's his opinion that the economic climate relative to a movie studio is excellent.

Mr. Chris Thurmond spoke in support of this venture.

Mr. Kurt Mann, owner of Ironwood Productions, spoke in support of this partnership.

Ms. Susan O'Neil felt this company has the possibility of bringing a great deal of development to Asheville, however, wanted to make sure that the development is compatible and sustainable with our present environment.

Ms. Gail Wurthner, member of the Film Board, spoke how this is a clean industry with a good product.

Mr. Kevin Rollins suggested City residents be given a tax break.

Mr. Johnny Sawyer, Secretary-Treasurer of the International Brotherhood of Teamsters – Local 61 in Asheville, spoke in support of this venture in that when movies are in town, they spend their money locally and local people are hired.

Ms. Leanne Campbell, Partner of Blue Ridge Motion Pictures LLC, spoke in support of this venture and noted that they are cleaning up the site.

Mr. William Meredith felt that if the company is investing \$16 million here, then why do they need taxpayers money for a grant.

Councilwoman Field explained that this is new tax dollars – the taxes that this company will pay to the City of Asheville - that the City is granting back a portion to them.

Mr. Peter Loewer, member on the Film Board, spoke in support of this venture and noted that this is one of the most welcome industries Asheville has ever had.

Mr. Chad Slagle, actor, stated that this is an incredible opportunity for the City of Asheville to bring in revenue to the surrounding areas.

Mr. Rob Best wants to make sure that vehicles access this property off of Swannanoa River Road.

Councilwoman Field closed the public hearing at 5:52 p.m.

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

Councilman Hay moved for the adoption of Resolution No. 01-74 authorizing the Mayor to execute an agreement with Blue Ridge Motion Pictures Inc. This motion was seconded by Councilwoman Bellamy.

City Attorney Oast asked that the motion authorize the City Manager to sign the agreement instead of the

Mayor due to her conflict of interest. Councilman Hay and Councilwoman Bellamy both accepted that amendment to the motion.

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Councilman Hay said that our economic development policies are at work and that is worth acknowledging and celebrating at the same time.

Councilwoman Worley emphasized that this is a grant to attract economic development. The amount of the grant is less than the new taxes that will be generated by that economic development - taxes we would not receive if this economic development did not come to Asheville. He felt this was a real bargain for Asheville to give the grant and in return receive all the benefits.

The amended motion made by Councilman Hay and seconded by Councilwoman Bellamy carried unanimously.

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ANNEXATION PUBLIC HEARINGS

B. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE LOWES AREA
