

Reduction of Future Funding for NCDOT Projects - Six of the eight future NCDOT projects which were to be funded with Future Contributions from Other Funds, are being funded in the 29 Fund with a portion of the \$13.3 million 2001 Revenue Bond Issue. These projects total \$2,805,299 and include the Biltmore Viaduct, I-40 at US 25A, NC 151 Phase I, US 74 Phase I and II, and NC 191 Brevard Road. Staff is recommending reducing the 35 Fund by \$2,805,299, since these projects will now be funded in the 29 Fund. The NC 151 Phase II and US 25-A will be funded with Future Contributions From Other Funds in the amount of \$1,879,370. This future funding is expected to come from a Revenue Bond Issue in late 2002. This change to the 35 Fund will become effective upon the date of adoption of this budget amendment.

The Regional Water Authority approved the amending of Capital Project Ordinance 82-25 (35 Fund) at their May 22, 2001, meeting.

Staff recommends approval of the a budget amendment to the 35 Fund to reflect the changes identified above.

Councilman Worley moved for the adoption of Ordinance No. 2815. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 159

RESOLUTION NO. 01-84 - RESOLUTION AMENDING THE ASHEVILLE STANDARD SPECIFICATIONS & DETAILS MANUAL TO INCLUDE FIRE FLOW AND FIRE HYDRANT REQUIREMENTS FOR BUILDINGS

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Summary: The consideration of a resolution amending the Asheville Standard Specifications and Details Manual to include fire flow and fire hydrant requirements for buildings.

On May 15, 2001, Mayor Sitnick sent a letter to the State Fire Marshal's office, on behalf of City Council, requesting that they remove fire protection water supply requirements from the Asheville amendments to the North Carolina Building Code – Volume V – Fire Prevention. The letter also stated that the City planned to place fire protection water supply requirements in the Asheville Standards and Specifications Manual. The State Building Code Council will be holding its semi-annual meeting from June 11 through June 13, 2001. It is anticipated that they will act on this request at this meeting.

Staff will be requesting additional changes to the Asheville Standards and Specifications Manual in July of this year.

City staff recommends that City Council adopt the addition to the Asheville Standard Specifications and Details Manual to include fire flow and fire hydrant requirements for buildings.

Councilwoman Field said that the Table 10.1 regarding the minimum required fire flow and flow duration for buildings is different from that the committee and community group agreed upon. She felt it just may be a typographical error. She supported adoption of the resolution and asked that City staff review the Table for accuracy.

Councilwoman Field moved to adopt Resolution No. 01-84, subject to Table 10.1 being reviewed for accuracy. This motion was seconded by Councilwoman Bellamy and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 373

RESOLUTION NO. 01-85 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 2001 BELE CHERE FESTIVAL ON JULY 27-28, 2001

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2001 Bele Chere Festival on July 27-28, 2001.

For many years, the Bele Chere Board in cooperation with the Asheville Parks and Recreation Department has produced Bele Chere to bring both the public and visitors to the downtown area. The Bele Chere Board and Asheville Parks and Recreation has requested permission to allow possession and consumption of beer and wine during this event as they have been allowed in the past.

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

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 01-85. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Mayor Sitnick and Councilwoman Bellamy voting "no".

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RESOLUTION NO. 01-86 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 2001 GOOMBAY FESTIVAL ON AUGUST 24-26, 2001

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2001 Goombay Festival on August 24-26, 2001.

The Asheville Goombay Festival is a unique celebration of African heritage and traditions. The 2001 Goombay Festival has requested permission to allow possession and consumption of beer and wine during this event as they have been allowed in the past. This event is co-sponsored by the Asheville Parks and Recreation Department.

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

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 01-86. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Mayor Sitnick and Councilwoman Bellamy voting "no".

RESOLUTION BOOK NO. 26 – PAGE 378

RESOLUTION NO. 01-87 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 5TH ANNUAL BREWGRASS FESTIVAL ON SEPTEMBER 15, 2001

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 5th Annual Brewgrass Festival on September 15, 2001.

For several years, the Annual Brewgrass Festival has served as a unique celebration of the art of brewing beer in the spirit of Oktoberfest with a Smokey Mountain twist. The 5th Annual Brewgrass Festival has requested permission to allow possession and consumption of beer and wine during this event as they have been allowed in the past.

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

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 01-87. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Mayor Sitnick and Councilwoman Bellamy voting "no".

RESOLUTION BOOK NO. 26 – PAGE 381

RESOLUTION NO. 01-88 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 2001 GREEK FESTIVAL ON SEPTEMBER 28-30, 2001

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Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 2001 Greek Festival on September 28-30, 2001.

The Asheville Greek Festival is a unique celebration of Greek heritage and traditions at City County Plaza, September 28-30, 2001. The 2001 Greek Festival 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.

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 01-88. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Mayor Sitnick and Councilwoman Bellamy voting "no".

RESOLUTION BOOK NO. 26 – PAGE 383

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO THE FISCAL YEAR 2001-02 ANNUAL OPERATING BUDGET

Mayor Sitnick opened the public hearing at 5:25 p.m.

Budget Director Ben Durant said that the Fiscal 2001/2002 Annual Operating Budget and Capital Improvements Program was presented to City Council on May 10, 2001. On May 15, 2001, City Council held a worksession. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the public hearing was published on June 1 and June 8, 2001. Adoption of the budget ordinance is scheduled for June 26, 2000, at the City Council meeting.

The Fiscal Year 2001/2002 Annual Operating Budget is balanced with an ad valorem tax rate of \$.56 per \$100 of assessed value. All essential City services are maintained.

A copy of the budget is available for public inspection in the City Clerk's office. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption with the only exception being the ad valorem tax rate, which can not be changed once adopted.

Mr. Durant said that City Council has received their requested additional information on the Fiscal Year 2000-2001 current street project list by geographic region, Civic Center employee demographics, Criminal Justice Information System costs, Water Resources Fund Balance, water rate increase history, water customer statistics and explanation of Parks and Recreation fee increases.

It was the consensus of City Council to make consensus decisions regarding the outside agency funding requests and the fees and charges at the next worksession on June 19, 2001.

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Mr. Adam Baylus questioned how certain can we be that we will be the City will get their reimbursement from the State and can we work the budget so we are planning now not to have those funds. In addition, he questioned the \$100,000 for a feasibility study regarding the Asheville Riverside Project, which this particular funding was not addressed at the April 24, 2001, meeting when this project was endorsed by City Council.

City Manager Westbrook responded that he did not believe the City would get reimbursed the funds for the current year and administratively the budget has been reduced to account for that. The Governor has proposed that, in the upcoming budget, cities and counties get the reimbursements. In addition, there is a lot discussion about alternate funding sources for cities through other means of raising revenue. The N. C. League of Municipalities recommends that cities plan for those revenues, or the equivalent of those, in the budget. If we do not get those funds, then we do have contingency plans, and we would ask City Council to amend the budget at that time.

Mr. Mickey MaHaffey, representing Peacemakers, believed that given the crisis in our community with water and air that there needs to be serious consideration given to the budget. He asked City Council to consider the following: far more attention to water system needs; the 5% that goes to the city as payment in lieu of taxes and the 2.5% that goes to the County should stay in the Water Fund; continue to work on the needed relief from the non-betterment costs; more work on the water agreement; need to make the Regional Water Authority a "true" Water Authority; because we are falling short in the area of addressing air pollution, we need to examine our fleet of vehicles and buy smaller vehicles; Transit Authority is receiving less money but we need to make the bus system a top priority and expand the transit system; examine the way we do

policing in Asheville – need more foot patrol and bicycle patrol; need to consider holding the public safety departments (Police and Fire) down as much as possible so money can be spent in other areas; need to look at how much we are investing in payroll and consider holding raises down this and next year; and keep in mind that Asheville is becoming an increasing tourist economy and the people that keep the tourist economy going are very low wage owners in a stagnant market and most none have health care coverage.

Ms. Catherine Shane was disappointed that air quality is not a top priority in the Fiscal Year 2001-02 budget. She noted that the transit system is severely lacking. She encouraged Asheville to not create more of a population on the French Broad River without addressing the fact that it is a very polluted river. She seems like we are encouraging tourists to come here to drive and shop and not to come for our natural beauty.

Ms. Susan O'Neil felt that the most secure workers in our economy are government employees who get regular raises.

Ms. Beth Trigg was concerned about the priorities reflected in the budget because she didn't feel they are the priorities of the community. She felt Council should address the huge gap reflected in the budget between the top management positions and the people at the bottom. More money should be spent on public transportation and accommodating pedestrians and bicycles within the community. She urged City Council to enclose the bus shelter before winter. She was also concerned about the gap between funding for Economic Development and funding for Community Development programs.

Ms. Susan Andrew asked Council to increase the traffic calming budget from \$100,000 to \$200,000. She asked City Council to re-consider funding the request from the Coalition of Asheville Neighborhoods. She asked the City make it a standard that we only give public funds to groups that work for the whole community, not just for their members like the Chamber of Commerce.

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Mr. Jack Tate, Chairman of the Regional Water Authority of Asheville, Buncombe and Henderson, said that for the last ten years, the water rates have increased at an average of 3.175%.

Mr. Lewis Daniels, Chairman of the Budget Committee of the Regional Water Authority of Asheville, Buncombe and Henderson, hoped that the Water Authority has the opportunity to address any issues in terms of what the Water Authority is recommending (3.1% increase) vs. what the City staff is recommending (2.5% increase) for the budget.

City Manager Westbrook said that pursuant to City Council's instruction, they are still trying to arrange a meeting with Buncombe County representatives, Regional Water Authority representatives and City staff with regard to working on a compromise to the Water Authority's recommended increase vs. City staff's recommended increase in the Water Fund Budget.

At the Mayor's request, Mr. Durant reviewed the water rate increase history, a financial feasibility evaluation, the Fiscal Year 2001-02 recommended Water Budget comparison, budget reduction options, and estimated tipping fee costs. He said that the tipping fee budget can be adjusted, based on actual history, and accommodate all of the Water Resource Department's needs, including the capital replacement schedule, at a 2.5% rate increase.

Mr. Daniels responded to the information presented regarding the financial feasibility evaluation and the budget comparison on department wide expenses and attorney fees. He said if the difference can be achieved from the tipping fees in a legitimate manner, then he felt the Water Authority would be delighted to go with the City staff's recommendation of a 2.5% increase. He stressed, however, that it was important to maintain the capital replacement.

Upon inquiry of Mayor Sitnick, Mr. Daniels said that the attorneys for the Water Authority have not had a rate increase in several years, but their rate increase this year is substantial.

Mr. Tate said they are certainly willing to look at the tipping fees, but he wants to make it clear that the initial figure was a responsible figure. If they end up spending more than that, then he would be concerned where that money would come from. They have made a policy decision for the commitment to the 80 year replacement.

Mayor Sitnick suggested that a meeting be set up with the Water Authority, City Council and the City's Director of Public Works so the Authority can inform Council on where the water is being lost and our Director of Public Works can report on ways to reduce our waste by recycling, compaction, re-use, etc.

Ms. Laurel Eide explained why the Coalition of Asheville Neighborhood funding for a paid staff member should be granted by City Council.

Mayor Sitnick closed the public hearing at 7:00 p.m.

Mayor Sitnick said that City Council will be discussing the outside agency funding requests and fees and charges at their June 19, 2001, worksession and considering adoption of the Fiscal Year 2001-02 Annual Operating Budget on June 26, 2001.

IV. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2816 - ORDINANCE DENYING THE CONDITIONAL USE PERMIT FOR THE ANCILLARY USE (PARKING LOT) IN A RESIDENTIAL DISTRICT ON SHILOH ROAD

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City Attorney Oast on May 22, 2001, following a public hearing, Council voted to deny the application for the conditional use permit on Shiloh Road, and directed staff to prepare an order with appropriate findings.

The order is in draft form and may be modified by Council prior to voting on it.

Once the order issuing the Conditional Use Permit is in satisfactory form, Council should vote to adopt it.

City Attorney Oast corrected the following typographical errors: (1) in Finding No. 3 in the classification should read CB II Community Business classification; (2) in Finding No. 4, the sentence should read "A recreation center is located to the east on Shiloh Road;" and (3) in Finding No. 6, the sentence should read "If developed as proposed ... landscaping would meet or exceed the requirements of the City Code."

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

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2816, with the changes outlined above by City Attorney Oast. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 161

At 7:05 p.m., Mayor Sitnick announced a short break.

B. ORDINANCE NO. 2817 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE LOWES AREA

Mayor Sitnick said that the public hearing on this matter was held on May 22, 2001.

Urban Planner Paul Benson said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Lowes area.

On March 13, 2001, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Lowes, Upper Sondley, Best Inns, Old Dominion Freight and the Arden area. The Annexation Services Plan for all of these areas was approved on March 27, 2001, and a public information meeting was held on May 3, 2001. Public hearings on each of annexations were held by City Council on May 22, 2001. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Benson said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2002.

Staff recommends adoption of annexation ordinance for the Lowes area, with an effective date of June 30, 2002.

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

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Councilman Worley moved for the adoption of Ordinance No. 2817. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 165

C. ORDINANCE NO. 2818 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE UPPER SONDDLEY AREA

Mayor Sitnick said that the public hearing on this matter was held on May 22, 2001.

Urban Planner Paul Benson said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Upper Sondley area.

On March 13, 2001, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Lowes, Upper Sondley, Best Inns, Old Dominion Freight and the Arden area. The Annexation Services Plan for all of these areas was approved on March 27, 2001, and a public information meeting was held on May 3, 2001. Public hearings on each of annexations were held by City Council on May 22, 2001. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Benson said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2002.

Staff recommends adoption of annexation ordinance for the Upper Sondley area, with an effective date of June 30, 2002.

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

it will not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2818. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 169

D. ORDINANCE NO. 2819 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE BEST INNS LOCATED ON TUNNEL ROAD

Mayor Sitnick said that the public hearing on this matter was held on May 22, 2001.

Urban Planner Paul Benson said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Best Inns on Tunnel Road.

On March 13, 2001, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Lowes, Upper Sondley, Best Inns, Old Dominion Freight and the Arden area. The Annexation Services Plan for all of these areas was approved on March 27, 2001, and a public information meeting was held on May 3, 2001. Public hearings on each of annexations were held by City Council on May 22, 2001. Adoption of the annexation ordinances is the final step in the annexation process.

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Mr. Benson said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2002.

Staff recommends adoption of annexation ordinance for the Best Inns on Tunnel Road, with an effective date of June 30, 2002.

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

Councilman Hay moved for the adoption of Ordinance No. 2819. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 173

E. ORDINANCE NO. 2820 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE OLD DOMINION FREIGHT AREA

Mayor Sitnick said that the public hearing on this matter was held on May 22, 2001.

Urban Planner Paul Benson said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Old Dominion Freight area.

On March 13, 2001, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Lowes, Upper Sondley, Best Inns, Old Dominion Freight and the Arden area. The Annexation Services Plan for all of these areas was approved on March 27, 2001, and a public information meeting was held on May 3, 2001. Public hearings on each of annexations were held by City Council on May 22, 2001. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Benson said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2002.

Staff recommends adoption of annexation ordinance for the Old Dominion Freight area, with an effective date of June 30, 2002.

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

Councilman Peterson moved for the adoption of Ordinance No. 2820. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 177

F. ORDINANCE NO. 2821 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE ARDEN AREA

Mayor Sitnick said that the public hearing on this matter was held on May 22, 2001.

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Urban Planner Paul Benson said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Arden area.

On March 13, 2001, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Lowes, Upper Sondley, Best Inns, Old Dominion Freight and the Arden area. The Annexation Services Plan for all of these areas was approved on March 27, 2001, and a public information meeting was held on May 3, 2001. Public hearings on each of annexations were held by City Council on May 22, 2001. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Benson said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2002.

Staff recommends adoption of annexation ordinance for the Arden area, with an effective date of June 30, 2002.

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

Councilman Worley moved for the adoption of Ordinance No. 2821. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 181

V. NEW BUSINESS:

A. CONTRACT WITH THE NATIONAL BASKETBALL DEVELOPMENT LEAGUE

Councilman Hay said that the City is scheduled to get the final report regarding the Civic Center Architectural Study from Heery International on Tuesday, June 26, 2001. City Council is scheduled for the presentation at 3:00 p.m. on Tuesday, June 26, 2001, in the Council Chamber in the City Hall Building.

City Manager Westbrook said that staff, with Councilmen Hay and Worley, has been working with the National Basketball Development League (NBDL) on the possibility of bringing a professional basketball team to the City. After this presentation, staff will recommend City Council hold a public hearing on this issue on Tuesday, June 19, 2001, beginning at 5:00 p.m. in the Council Chamber in the City Hall Building.

City Attorney Oast said the potential agreement has some elements of a lease and some elements involve economic development. If the lease is longer than one year but less than 10 years, there must be 10 days notice of Council's intent to authorize the lease. For most types of economic development, there is a 10 day notice of Council's intent to authorize the agreement and a public hearing must be held. Because of some timing situations, City staff is giving the presentation today and asking for the public hearing and final action at the June 19, 2001, worksession. These items have been advertised for action on June 19. After this presentation, City staff will ask Council on whether or not to proceed with the public hearing and consideration of the lease and economic development license agreement.

Finance Director Bill Schaefer explained in detail the financial and other ancillary financial benefits of the NBDL. He used the representative attendance of 2,500 to outline the revenues in

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the first year of \$243,804.00 and the expenses in the first year of \$209,403.50, showing a gain of \$34,400.50. He then outlined the estimated gain in year two of \$521.00 and in year three \$4,249.00. After the initial third year period, in years 4-10 there is no longer any provision for an attendance bonus, the capital expenses have been amortized, and the entertainment fee is no longer applicable. Therefore, in year 4, the anticipated gain is \$141,423.00 and that growing through the out years to \$167,008.81 in the 10th year. He then reviewed in detail the staffing projections for the NBDL. Next Mr. Schaefer reviewed the ice to basketball change-over and the ice to home show change-over removal or set-up. He then reviewed just the NBDL gain/loss based on three year's attendance.

Upon inquiry of Councilman Peterson, Mr. Schaefer explained the figures with both hockey and basketball in the Civic Center. If hockey remains, using an attendance figure of 1,795, there will be additional change-over costs of approximately \$80,000, an additional Assistant Director in the amount of \$45,000, and additional maintenance labor in the amount of \$20,000. In the first year the City loses approximately \$58,000. In years 2 and 3, the City loses approximately \$95,000, and the subsequent seven year is a loss of approximately \$9-13,000 per year.

Civic Center Director David Pisha addressed the scheduling as it relates to both hockey and basketball. They have gone to considerable lengths to make sure that each team has been treated as fairly as possible. He also talked about public skating and youth hockey scheduling.

City Manager Westbrook summarized the benefits: long-term financial gain (after 1 year); if hockey leaves the Civic Center, a major tenant like NBDL would be less expensive to operate and less disruptive to trade shows; with the NBDL, there is potential to bring SFX back in the future, Southern Conference and UNC-Asheville; greater potential for renovation of facility; greater potential for naming rights, luxury boxes, personal seat licenses, etc., which will generate additional future income for the Civic Center; NBDL represents a stable income (\$5,000 rent/game); financial and marketing strength of NBA; and ancillary economic and other benefits. He also outlined the following issues and concerns: short-term financial loss (1 year – cost of minor renovations); tremendous arena floor turnover in order to provide small, separate segments of time as needed to schedule both hockey and basketball in the same facility; minor impact on

public skating and youth hockey; one additional staff to be added which would not be required by either sport separately; there are fewer dark days, therefore less time for other attractions at the Civic Center during the hockey and NBDL seasons such as concerts, wrestling, etc.; and unilateral right to renew after three years for an additional seven years.

At the request of Councilman Peterson, Mr. Pisha said he would develop an additional scheduling calendar of only NBDL (without hockey) showing the days that would be available for public skating and youth hockey. He would also provide figures regarding changeovers with regard to that.

Mr. Rob Levine, Senior Vice-President, New League Development with the National Basketball Association (NBA), said the NBDL is 100% owned by the NBA. He gave some brief statistics of the NBDL and the players. He explained why they chose Asheville. He then addressed the misconceptions with regard to the SFX and the NBDL negatively impacting hockey. He said the City has used very conservative assumptions but they believe the numbers are higher. He said they will be investing over \$1 Million locally and a good percentage of that will be on local advertising and promotion. He said they share with the Asheville Smoke the commitment to growing a vital sports marketplace.

Councilman Hay moved to set a public hearing on the proposed agreement with the National Basketball Development League for 5:00 p.m. on Tuesday, June 19, 2001, in the

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Council Chamber located on the 2nd Floor in the City Hall Building. This motion was seconded by Councilman Worley and carried unanimously.

B. RESOLUTION NO. 01-89 - RESOLUTION AUTHORIZING ESTABLISHMENT OF A CLEAN AIR COMMUNITY TRUST

City Attorney Oast said that this is the consideration of a resolution authorizing establishment of a clean air community trust.

Last year, the City and Buncombe County agreed to establish a clean air community trust for the purpose of seeking and administering grants and undertaking other programs in furtherance of local air quality.

Since then, the City has been working with the County's attorneys and members of the air quality agency to develop a trust agreement and by-laws for this purpose. Our progress has been affected by the pendency of a lawsuit regarding the distribution of funds collected by the air quality agency. However, the trust documents specify that the funding for the trust is to be from money from private sources or that is not restricted by law.

To this end, the Buncombe County Medical Society and Alliance Endowment has made a significant contribution to the Trust for purposes of the initial funding for the trust, and other members of the community have expressed their desire to help get it started.

Currently under review are the by-laws for the trust.

The Buncombe County Commissioners are planning to act at their meeting today to authorize establishment of the trust, and may appoint the County's three initial trustees. Following adoption of the resolution authorizing the trust and approving the by-laws, Council should act to appoint its initial two trustees.

If Council wishes to establish the Clean Air Community Trust, adoption of the resolution is recommended.

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

Councilwoman Bellamy moved for the adoption of Resolution No. 01-89. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 385

C. RESOLUTION NO. 01-90 - RESOLUTION AUTHORIZING SALE, EXCHANGE, AND JOINT USE OF GOVERNMENTAL PROPERTY NEAR CITY BUILDING

City Manager Jim Westbrook said that pursuant to City Council's direction, he has completed negotiations with the County for the sale and/or trade of City property for use as a jail detention center.

Based on direction for City Council, he has been negotiating with Buncombe County for the use of City-owned property directly behind the current jail site for a proposed jail detention center. Since there were other properties in the area that the City desired to acquire from the

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County, he proposed a combination sale and trade of properties which would allow the County to purchase the property the City owns and the City to acquire two properties that we need from the County.

The details of the negotiations are summarized below.

1. The City will sell to the County property located behind your current jail for two pieces of property which the County owns as follows:

The appraised price of the City-owned parking lot \$750,000

(Marjorie, Davidson, Valley Streets) PIN 9649.19-50-4467

Less property owned by Buncombe County (Marjorie and Eagle Streets) -364,000

PIN 9649.19-50-2118

Less property owned by Buncombe County (Valley, Marjorie & Davidson Sts.) -243,500

PIN Nos. 9649.19-50-4350, 5310, 5325, 5326

Cash Due City \$142,500

2. Since both the County and the City are using the property described in Item 1 above as parking lots, the agreement will include cross-easements to allow for the City and County to continue to park as we do currently. When either the City or the County starts a construction project on the lots, then the parking for City and County employees will revert to align with the ownership of the property.

3. The current lease between the City and the County for the property located between Marjorie and Eagle Streets (PIN 9649.19-50-2118), which the City will purchase with this new agreement, will terminate with no further obligation by either party.

4. The property which the City will sell to the County (PIN 9649.19-50-4467) located behind the current jail will be used exclusively for jail and/or jail related facilities during a 12 year period beginning with the date the property is sold to the County.

5. The property which the City will sell to the County (PIN 9649.19-50-4467) located behind the current jail

will be used for jail and/or jail related facilities, governmental offices, or governmental uses after the initial 12 year period.

6. For a period of 12 years from the date of conveyance, the height of any building constructed on the lot behind the current jail (PIN 9649.19-50-4467) may be no higher than the top of the balustrade on the second floor of the City Building. This restriction is in addition to the City's zoning regulations. After the expiration of the 12 year period, the City's zoning regulations would continue to apply.

7. The City and the County will continue to work together for a Master Plan of the governmental complex area located in the downtown so that in the future such expansions by the City and/or County can be better planned with regard to traffic, supporting and ancillary facilities.

Of particular note is the agreement between the City and the County to Master Plan the governmental complex area located in downtown so that future governmental building expansions can be preplanned to the maximum extent possible. It also allows the City to acquire two pieces of County property that may be needed in the future for additional parking, and to help make up the loss of parking spaces when construction begins on the property sold to the County.

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City staff recommends Council approve the sale of the City-owned parking lot (PIN 9649.19-50-4467) for \$750,000 to Buncombe County; the purchase of Buncombe County property (PIN Nos. 9649.19-50-4467; 9649.19-50-4350; 9649.19-50-5310; 9649.19-50-5325, and 9649.19-50-5326) by the City; to further instruct the City Manager to allow for the cross-easements as described in Number 2 above through written agreement with the County; to provide for the termination of any agreements or understanding with regard to the property owned by the County between Marjorie and Eagle Streets (PIN 9649.19-50-2118) as described in Number 3 above; and such language as would be necessary to cause the City and the County to work toward a Master Plan for the governmental complex as described in Number 7 above. The City Attorney is instructed to prepare the deeds in such a manner that the property sold to the County (PIN 9649.19-50-4467) is to be used exclusively for jail and/or jail related facilities for the first twelve (12) years as described in Number 4 above, and the use of the property by the County for jail and/or jail related facilities, governmental offices, or governmental uses after the initial twelve (12) year period as described in Number 5 above, and the height of the initial building for the first twelve (12) years of the agreement as described in Number 6 above.

Councilwoman Bellamy hoped that Buncombe County will involve Pastor Grant from the Mt. Zion Missionary Baptist Church in their discussions of design and that the City involves the Church when discussions begin about the parking deck.

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

Councilman Worley moved for the adoption of Resolution No. 01-90. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 25 – PAGE 386

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of May 18-24, 2001: Yvette Lee Adams (Police), Beverly Hinton (Parks & Recreation), Dennis Horton (Water), Oswaldo Ordonez (Street),

BellSouth (Water), Hampton Inn (Water) and Sarah Burdine (Parks & Recreation).

The following claims were received during the period of May 25-June 7, 2001: James W. Dally (Parks & Recreation), Ferguson Enterprises (Finance), Feed-Seed Supply (Fire), Michelle Swanson (Water) and Kay Crozer (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A. COMMENTS BY FRED ENGLISH

Mr. Fred English felt what when the NBDL comes to Asheville, they will start making demands. He felt they the City should not enter into an agreement with the NBDL.

B. COMMENTS BY MICKEY MAHAFFEY

Mr. Mickey MaHaffey asked some questions regarding transit services.

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C. COMMENTS BY PETER DAWES

Mr. Peter Dawes thanked City Council for their courtesy to the media. He said that a lot of people say they are concerned about air quality, but people rarely attend the WNC Regional Air Quality Agency meetings.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 10:10 p.m.

CITY CLERK MAYOR
