

Tuesday – November 13, 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

Councilwoman Bellamy gave the invocation.

I. PROCLAMATIONS:

II. CONSENT:

Due to a conflict of interest by Councilwoman Bellamy, Consent Agenda Item "F" was removed from the Consent Agenda to be voted on separately.

Due to a conflict of interest by Vice-Mayor Cloninger , Consent Agenda Items "H" and "J" were removed from the Consent Agenda to be voted on separately.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 23, 2001, AND THE WORKSESSION HELD ON NOVEMBER 7, 2001

B. RESOLUTION NO. 01-160 - RESOLUTION RECOGNIZING THE CITY OF ASHEVILLE AS A PARTICIPANT IN THE PILOT PROGRAM FOR REHABILITATING EXISTING BUILDINGS

Summary: the consideration of a resolution acknowledging the City of Asheville as a participant in the pilot program for rehabilitating existing buildings in the City of Asheville and adopting the Pilot Code, currently being prepared by Mecklenburg County.

The North Carolina General Assembly approved Session Law 2001-373, Senate Bill 633 on August 17, 2001, which is an act to establish a building code pilot program for rehabilitating existing buildings. The pilot code is based upon the New Jersey Uniform Construction Code Rehabilitation Subcode, which has received national praise and attention.

In 1999 the State of New Jersey's Rehabilitation Subcode was a winner of the "Innovations In American Government Award, an award competition of the Ford Foundation, the John F. Kennedy School of Government at Harvard University and Council for Excellence in Government." Their prize of \$100,000 recognized their innovation and leadership of implementing a user friendly rehab code.

Benefits of the Rehabilitation Subcode in New Jersey included:

- Dramatic increase in the estimated dollar amount of rehabilitation work undertaken in New Jersey's urban areas during the first year that the rehabilitation subcode was in place.
- Takes a common sense approach and applies building code requirements to the rehabilitation of existing buildings in a rational manner, protecting the safety of building occupants without imposing needless requirements or unnecessary additional costs.

- Eliminate building code requirements as a disincentive to the rehabilitation of existing buildings

Senate Bill 633 authorizes a lead local jurisdiction in North Carolina to develop a pilot rehabilitation building code based upon the New Jersey Subcode. Substantive changes to the New Jersey model are not allowed. The pilot code may then be administered by local building inspection departments that have been approved by the Building Code Council to do local plan reviews. Asheville obtained local plan review approval in December 1997.

In order to participate in the pilot program, the eligible local jurisdiction's governing body must adopt the pilot code. Mecklenburg County, the lead local jurisdiction is currently in the process of finalizing the pilot code. It is anticipated the pilot code will be available for use before April, 2002.

The Director of Building Safety recommends City Council approve the resolution acknowledging the City of Asheville as a participant in the pilot program for rehabilitating existing buildings and further recommends adopting the pilot code.

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C. RESOLUTION NO. 01-161 - RESOLUTION AMENDING THE SCHEDULED CITY COUNCIL MEETINGS

Summary: (1) December 4, 2001, will be the organizational meeting beginning at 4:00 p.m. in the Council Chamber followed by the formal meeting at 5:00 p.m. in the Council Chamber; (2) December 11, 2001, will be a worksession beginning at 3:00 p.m. in the First Floor North Conference Room; (3) December 18, 2001, will be a formal meeting beginning at 5:00 p.m. in the Council Chamber; (4) December 25, 2001, meeting will be cancelled; and (5) January 1, 2002, meeting will be cancelled.

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D. RESOLUTION NO. 01-162 - RESOLUTION AMENDING PERSONNEL POLICY REGARDING MILITARY LEAVE

Summary: The consideration of a resolution amending Section 49, Military Leave, of the City of Asheville's Personnel Policy.

Section 49(2)(a), Military Leave, of the City's Personnel Policy currently provides that, in the event of national emergency or war, the health and dental insurance (including family coverage) of any City employee who is called-up for active military duty would continue until the employee's military insurance became effective.

The resolution amends this section of the City's Personnel Policy to continuously provide any benefit plan(s) in which the employee participates as if the employee were still working - regardless of any insurance that may be provided to these employees by the military.

Staff recommends the adoption of the resolution.

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E. RESOLUTION NO. 01-163 - RESOLUTION ACCEPTING THE NEW STREET NAME OF "GLESTA KNOLL DRIVE" OFF OF ELIADA HOME ROAD

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

Mr. Tommy Pressley, owner of lots in Glesta Knoll Subdivision, has petitioned the City of Asheville to accept the street name " Glesta Knoll Drive." The new street will begin at Eliada Home Road and end at cul-de-sac on Glesta Knoll Drive.

City staff recommends adoption of the resolution.

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F. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 27, 2001, TO CONSIDER THE PROPOSED SALE OF PROPERTY ON BROTHERTON AVENUE TO MORSE PROPERTIES INC. FOR AFFORDABLE HOUSING DEVELOPMENT SITE AND THE AMENDMENT OF THE 2001 ACTION PLAN TO INCREASE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE PROJECT

This item was removed from the Consent Agenda due to a conflict of interest by Councilwoman Bellamy.

G. ORDINANCE NO. 2868 - BUDGET AMENDMENT TO THE WATER 29 FUND

Summary: The consideration of a budget amendment to the 29 Fund (Water Bond Capital Improvements Fund) to reflect an increase in the Pipeline Replacement Phase II (Bee Tree Crossing), an increase in the N. C. Dept. of Transportation (NCDOT) Non-Betterment Projects, and a decrease in the Building Safety Improvements.

Funding for the Pipeline Phase II (Bee Tree Crossing Project) needs to be increased by \$20,000 to cover the multiple change orders that have been necessary since this project was first initiated in 1996. There are also additional engineering expenses that have accumulated due to the time extension and changes in the project.

Funding also needs to be increased for two NCDOT Non-Betterment Projects totaling \$147,630. The Utility Agreements for Sweeten Creek Phase I and Pisgah Highway Phase I included construction estimates that were lower than actual costs. The invoice from NCDOT for Sweeten Creek Phase I is \$69,125 more than NCDOT's construction estimate and Pisgah Highway Phase I is \$78,505 more.

Funding is available in the Building Safety Project since it has been determined that this project needs to be deleted to provide additional funding for NCDOT Non-Betterment Projects in Fiscal year 2003-2005. There is currently \$1 million available and \$167,630 of it is being redistributed to the Bee Tree Crossing and the NCDOT Non-Betterment Projects described above. The remaining \$832,370 can be used to fund additional NCDOT projects that were initially planned to be funded with a second Revenue Bond Issue in Fiscal Year 2003. The City will not be issuing additional revenue bonds at this time. NCDOT Projects in Fiscal Year 2003 through 2005 total approximately \$4 million. If sufficient revenue is not generated to pay for these projects on a pay-as-you-go basis, it will be necessary to set up a payment plan with NCDOT.

Staff recommends approval of the budget amendment to the 29 Fund to reflect the changes identified above.

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H. RESOLUTION CALLING FOR A PUBLIC HEARING ON DECEMBER 18, 2001, TO CLOSE A PORTION OF PORTER STREET FROM POND AVENUE TO ROSSCRAGGON ROAD AND THE 15-FOOT ALLEYWAY FROM PORTER STREET TO LEE STREET

This item was removed from the Consent Agenda due to a conflict of interest by Vice-Mayor Cloninger.

I. MOTION APPROVING THE DONATION OF A CHAIR FROM THE COUNCIL CHAMBER AND TWO PIECES OF TERRA COTTA FROM THE CITY HALL ROOF TO THE ASHEVILLE ART MUSEUM FOR THE DOUGLAS ELLINGTON COLLECTION

Summary: The Asheville Art Museum has requested the donation of several items from City Hall for the Douglas Ellington collection.

Over the past several years, the Asheville Art Museum has become a major repository for Douglas Ellington's architectural drawings, correspondence and other materials from the City Hall Building. The museum is trying to preserve and document his work in Asheville as a major figure in the art culture arena. They are working closely with his family to preserve his work and his legacy. The museum is requesting that the City donate a chair from the Council Chamber as well as two pieces of terra cotta from the roof of the City Hall Building. (We have several pieces of terra cotta that they could have.) The City would be placing these objects with the Asheville Art Museum in trust for their Douglas Ellington collection.

Staff recommends that Council approve the donation of a chair from the Council Chamber and two pieces of terra cotta from the City Hall roof to the Asheville Art Museum.

J. RESOLUTION AUTHORIZING EXECUTION OF A PARKING EASEMENT AT 36 GROVE STREET

This item was removed from the Consent Agenda due to a conflict of interest by Vice-Mayor Cloninger.

K. RESOLUTION NO. 01-164 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR NOVEMBER 27, 2001, ON THE QUESTION OF VOLUNTARY ANNEXATION OF PROPERTY KNOWN AS GARDEN HOMES AT BILTMORE PARK

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L. ORDINANCE NO. 2869 - ORDINANCE CHANGING THE NAME FROM THE ASHEVILLE FILM BOARD TO THE ASHEVILLE FILM COMMISSION

Summary: The consideration of an ordinance changing the name of the Asheville Film Board to Asheville Film Commission.

As Council requested last month, the ordinance changes the name of the "Asheville Film Board" to "Asheville Film Commission" and change "board" to "commission" where it appears in the ordinance. There are no changes to the Board's/Commission's powers or duties in connection with this name change. This name change has no budgetary implications. Some changes were also made to paragraph (b) to remove an apparent redundancy, and to paragraph (d) to make it read more smoothly.

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Adoption of the ordinance is recommended.

ORDINANCE BOOK NO. 19 – PAGE

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

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

ITEMS REMOVED FROM THE CONSENT AGENDA TO BE VOTED ON SEPARATELY

MOTION SETTING A PUBLIC HEARING ON NOVEMBER 27, 2001, TO CONSIDER THE PROPOSED SALE OF PROPERTY ON BROTHERTON AVENUE TO MORSE PROPERTIES INC. FOR AFFORDABLE HOUSING DEVELOPMENT SITE AND THE AMENDMENT OF THE 2001 ACTION PLAN TO INCREASE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE PROJECT

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.

Councilman Worley moved to set a public hearing on November 27, 2001, to consider the proposed sale of property on Brotherton Avenue to Morse Properties Inc. for affordable housing development site and the amendment of the 2001 Action Plan to increase Community Development Block Grant funding for the project. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION NO. 01-165 - RESOLUTION CALLING FOR A PUBLIC HEARING ON DECEMBER 18, 2001, TO CLOSE A PORTION OF PORTER STREET FROM POND AVENUE TO ROSSCRAGGON ROAD AND THE 15-FOOT ALLEYWAY FROM PORTER STREET TO LEE STREET

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

Councilman Hay moved for the adoption of Resolution No. 01-165. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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RESOLUTION NO. 01-166 - RESOLUTION AUTHORIZING EXECUTION OF A PARKING EASEMENT AT 36 GROVE STREET

Councilman Hay moved to excuse Vice-Mayor Cloninger 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 City to enter into an easement for parking at the Senior Opportunity Center on Grove Street.

Earlier this year, the City agreed to sell certain property located at 36 Grove Street. The property is situated between the building currently occupied by the Employment Security

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Commission at 48 Grove Street and the building used by the City for the Senior Opportunity Center (SOC). The property is used for parking for both buildings and has some metered spaces on it. The buyers also own the 48 Grove Street building and intend to expand and renovate it, and acquired the City property for parking and access in connection with this expansion. This conveyance was subject to the City retaining an easement to allow for continued parking at the SOC.

The City has now negotiated that easement, which allows for the City to use the lot for parking for the SOC during non-business hours and on weekends, when it will not interfere with the use by the 48 Grove Street building, but also when its need by the SOC is highest. The easement is personal in nature, and terminates when the City ceases its use of the SOC. The parking spaces right next to the SOC were not part of the property conveyed and will continue to be available for daytime use by staff and visitors.

Adoption of the resolution authorizing the City to execute the easement.

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

Councilman Worley moved for the adoption of Resolution No. 01-166. This motion was seconded by Councilwoman Bellamy and carried unanimously.

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III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO AMEND THE COMMUNITY DEVELOPMENT BLOCK GRANT/HOME CONSOLIDATED ACTION PLAN

RESOLUTION NO. 01-167 - RESOLUTION AMENDING THE COMMUNITY DEVELOPMENT BLOCK GRANT/HOME CONSOLIDATED ACTION PLAN

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

Mayor Sitnick opened the public hearing at 5:07 p.m.

Community Development Charlotte Caplan said that this is consideration of an amendment Community Development Block Grant (CDBG)/HOME Consolidated Plan.

The City's Consolidated Action Plan, approved in May each year, allocates our annual entitlement of CDBG and HOME funds to specific projects. From time to time, amendments are needed to deal with cancelled projects, cost over-runs, new urgent projects, or differences between actual and estimated program income. At this time, staff recommends the following amendments:

HOME Funding

The Board of the Asheville Regional Housing Consortium recommends the following amendments:

1. Cancellation of Neighborhood Housing Services' multi-family rehabilitation project.

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NHS used \$103,500 in 1998 HOME funds to rehabilitate 14 apartments in three buildings in the Montford and midtown neighborhoods. However, NHS did not have enough other funding to bring the units completely up to standard and has decided to sell the buildings "as is" as part of its financial restructuring. The tenants have been relocated with help from the City, and NHS is repaying the HOME investment as each building is sold. \$70,700 has already been repaid. These funds will be returned to the City's HOME Fund for future use on eligible activities.

2. Reduction in funding for Rankin Heights project.

The construction of infrastructure for 17 new single family homes on Buttonwood Court in West Asheville was completed in 1999, slightly under budget. \$4,469 is available to be re-allocated.

3. Reduction in funding for HOME Administration.

Up to 10% of HOME funds may be set aside for the planning and administration of the program. The City of Asheville and the other Member Governments of the Regional Housing Consortium have consistently used only 6%-7% for this purpose. The Board recommends reducing the administrative allocation for 2001 by \$43,000 and allocating that amount to projects instead.

4. New HOME loan to Mountain Housing Opportunities to acquire land in Woodfin (\$118,169)

Mountain Housing Opportunities plans to acquire a 9-acre site on Reynolds Mountain Blvd, off Weaverville Highway in Woodfin, for the construction of 70 affordable family apartments to be called Northpoint Commons. MHO currently holds an option on the site which is about to expire. It proposes to use HOME funds and private financing to acquire the site for a total price of \$405,000. MHO intends to apply for Low Income Housing Tax Credits in the 2002 round and start construction in fall 2002.

5. Cancellation of Probart Hills Subdivision Project in Brevard and Reallocation of unexpended funds to scattered site development.
