

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor Terry M. Bellamy; Councilman Joseph C. Dunn; Councilman James E. Ellis; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; and Councilman Brian L. Peterson; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilwoman Jones gave the invocation.

I. PROCLAMATIONS:

A. MAYOR WORLEY RECOGNIZED BOY SCOUT TROOP 77

B. ORDINANCE NO. 2897 - ORDINANCE ACCEPTING DONATION FROM THE ASHEVILLE PROFESSIONAL FIREFIGHTERS ASSOCIATION

Mayor Worley recognized Fire Chief Greg Grayson who in turn recognized Asheville Professional Firefighters Association Mike Marshall and thanked the Asheville Professional Firefighters Association for the \$17,100 donation to the City to purchase a thermal imaging camera for use in the Fire and Rescue Division. The camera will allow firefighters to see in smoke and dark conditions. Use of the camera improves firefighter effectiveness and safety. The cameras also allow firefighters to locate and rescue fire victims quickly and to search for fire hidden in walls and building voids.

The Asheville Firefighter's Association, IAFF Local 865, recently received the "North Carolina Professional Firefighters and Paramedics of North Carolina Local of the Year" award for the State of North Carolina. This is a prestigious honor for the Association. The Association is comprised of approximately 85% of the Asheville firefighters.

Fire Chief Grayson was also pleased to announce that the Asheville Chapter of Professional Firefighters and Paramedics of North Carolina received the Local of the Year Award for the Year 2001.

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

Vice-Mayor Bellamy moved for the adoption of Ordinance No. 2897. This motion was seconded by Councilman Dunn and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

C. PROCLAMATION PROCLAIMING MARCH 10-16, 2002, AS "GIRL SCOUT WEEK"

Mayor Worley read the proclamation proclaiming March 10-16, 2002, as "Girl Scout Week" and recognizing March 12, 2002, as the 90th Anniversary of Girl Scouts of the USA and recognizing 2002 as the 50th Anniversary of Girl Scouts of Western North Carolina Pisgah Council. He presented the proclamation to Ms. Jennifer Hallmark, Director of Communication/ Marketing for the Girl Scouts of Western North Carolina Pisgah Council.

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II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE RETREAT HELD ON FEBRUARY 8, 2002; THE REGULAR MEETING HELD ON FEBRUARY 12, 2002, AND THE WORKSESSION HELD ON FEBRUARY 19, 2002

B. ORDINANCE NO. 2898 – FIRST READING OF ORDINANCE GRANTING A FRANCHISE TO TROLLEY LEASING, LLC, TO OPERATE A NARRATED HISTORIC TOUR TROLLEY ON THE STREETS OF THE CITY OF ASHEVILLE

Summary: This is the consideration of the first reading of a franchise ordinance for the operation by Trolley Leasing, LLC, of a narrated historic tour trolley on the streets of the City of Asheville.

Trolley Leasing, LLC, is a Florida Limited Liability Corporation. They propose to do business in Asheville as Asheville Historic Trolley Tours. The services to be offered will include narrated historic tours of the downtown and nearby historic areas. They intend to stop at a number of local hotels. The tickets will be sold at various locations including hotels and the Asheville Visitors Center.

The tour will follow an established route and could occur up to four times per day. The business plan does not contemplate point-to-point transportation of people on a scheduled basis for a fee, but does include the possibility of charter business.

At the request of City staff, the operator has met twice with the City Traffic Engineer and he has signed off on the proposed route as not unduly interfering with the normal flow of traffic.

The vehicle is a 30-foot rubber-tired trolley with open sides where the windows would normally be. This area can be closed off with clear plastic roll down curtains in inclement weather. The operator has assured the staff that the narration from within the trolley is not audible outside the vehicle.

The vehicle is driven and the tour narrated by one person, but could also include a second person if appropriate.

It is recommended that the Council franchise the historical tour aspect of this business. A tour trolley usually runs somewhat slower than prevailing traffic and occasionally stops to embark or discharge passengers from a public street. This creates the possibility of interfering with the flow of traffic on public streets by creating unsafe situations or by blocking a lane of traffic. The franchise, as drafted, would simply require that the City's Traffic Engineer sign off on the proposed routes and be advised of any changes subject to his approval. At this time, the Traffic Engineer has reviewed and approved the routes, but the operator is conferring with the Traffic Engineer on some proposed changes.

The franchise ordinance also limits operation of the narrated tour from 7:00 a.m. to 8:00 p.m., Sunday through Thursday, and between 7:00 a.m. and 12:00 Midnight Friday and Saturday. For City-recognized holidays and days on which City-approved festivals occur in the Central Business District, the operating hours may be extended to 12:00 Midnight, regardless of the day of the week. For charter operations, the hours of operation are not limited to the above, providing that Trolley Leasing meets all local, state and federal laws regarding the operation of a chartered vehicle.

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The ordinance is drawn to be as narrow as possible. It does not attempt to franchise any other part of the business operation except that part which will regularly and routinely utilize local public rights-of-way with the potential of repeated constraints to the flow of traffic.

City staff recommends City Council adopt the franchise ordinance.

The required second reading of this ordinance will occur on March 5, 2002.

ORDINANCE BOOK NO. 19 – PAGE

C. RESOLUTION NO. 02-27 - RESOLUTION ESTABLISHING A NEW POLICY AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS AND AWARD BIDS

Summary: The current contract approval authority for the City Manager is relatively low compared to formal bid limits set in the North Carolina General Statutes and normal practices across the state, thus requiring many routine, budgeted, contracts to require approval of Council. This change, if approved, would increase the City Manager's authority consistent with state law and general practices across North Carolina.

Currently the City Manager is authorized to sign contracts up to \$30,000.00. All contracts for construction and services above \$30,000.00 require approval of City Council. In many cases contracts are approved by Council on the consent agenda and, therefore, require several additional weeks before the awarding of the contract can be accomplished. This slows down the process and, in several recent cases, you have noticed where staff has asked you to take special action at worksessions in order to be able to move projects forward at a more rapid pace.

Just recently the General Assembly amended General Statute §143-129 regarding the procedures for letting of public contracts. The General Assembly increased the amount of the contract needed to trigger the formal bidding requirements as outlined in the statute. The recent changes require that cities receive formal bids on construction or repair contracts that could amount to more than \$100,000.00. In addition, the formal bid requirement for purchases of apparatuses, supplies, material or equipment has been raised from \$30,000.00 to \$50,000.00. (Note: Informal bids are still required for purchases from \$5,000.00 to \$49,999.99.)

In order to align local responsibilities with newly changed state law, it is recommended that the City Manager be given authority to approve contracts in the following manner:

- A. Construction or repair contracts up to \$100,000.00 could be approved and signed by the City Manager without City Council approval while construction contracts over \$100,000.00 must be approved by City Council before the City Manager is authorized to sign the contract.
- B. Purchase contracts for apparatuses, supplies, materials or equipment below \$50,000.00 could be approved and signed by the City Manager without Council approval.
- C. Service contracts up to \$50,000.00 can be approved and signed by the City Manager without Council approval while service contracts \$50,000.00 and over need City Council approval before the City Manager can sign the contract. Currently, the City Manager can sign a service contract under \$30,000.00 without City Council approval. (NOTE: THERE IS NO REQUIREMENT TO BID A SERVICE CONTRACT AND THERE ARE NO MONETARY THRESHOLDS.)

All of the above recommendations are made with the understanding that there must be sufficient funding in the budget and that all contracts will be approved in accordance with federal,

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state and local laws. In addition, the Manager will continue to report to City Council on a quarterly basis in writing regarding the contracts of the City.

The above changes would take some of the items off the Council's agenda, which sometimes tend to lengthen it with routine matters. In addition, it would follow the tradition of allowing Council approval of formally bid construction projects and large service contracts, while allowing the City Manager to execute the remaining contracts.

The City Manager requests that Council adopt the ordinance granting authority to approve, award and execute construction contracts, purchase contracts and service contracts as outlined.

RESOLUTION BOOK NO. 27 – PAGE 69

D. RESOLUTION NO. 02-28 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PRECISION CONTRACTING CO. TO CONSTRUCT ADA AND SIDEWALK AMENITIES ALONG THE URBAN TRAIL

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Precision Contracting Co. Inc. to construct ADA and sidewalk amenities located along the Urban Trail in downtown Asheville.

The City is in need of a contractor to perform ADA and sidewalk construction services along the Urban Trail. In accordance with N.C. Gen. Stat. sec. 143-129, formal bids for ADA and sidewalk construction services were solicited and four responses were received. The bidders are listed below:

<u>Company</u>	<u>MB Part</u>	<u>Drug Free</u>	<u>Bond</u>	<u>Bid</u>
Carolina Specialties Construction Inc.	Non-Compliance	Yes	Yes	\$111,827.00
Precision Contracting Inc.	100%	Yes	Yes	\$133,410.00
Candler Concrete Works Inc.	0%	Yes	Yes	\$137,328.54

Jerry Payne Const. Co. Inc. 0% Yes Yes \$191,300.00

These amenities will include: The installation of seven additional handicap accessible ADA ramps. Sidewalk replacement on Haywood Street adjacent to the downtown library, which will include new handicap accessible parking spaces to accommodate side-unloading vehicles, tree grates, and streetscape amenities such as benches and trash cans. The installation of thematic, directional markers will assist downtown visitors in finding their way along the Urban Trail.

As part of a TEA 21 Grant, 80% of the project funding is reimbursable from the N. C. Dept. of Transportation. The City's 20% match has already been allocated in the Public Works Department's Capital Improvement Project budget. Under the provisions of a TEA 21 Transportation Improvement Project (project number E-4138), completion of this contract would qualify the City of Asheville for a reimbursement of \$106,728.00.

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The Public Works Department staff recommends City Council adopt the resolution to construct ADA and sidewalk amenities along the Urban Trail.

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E. RESOLUTION NO. 02-29 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GREEN LIGHT ELECTRIC INC. FOR PREVENTIVE MAINTENANCE OF TRAFFIC CONTROL SIGNALS

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Green Light Electric, Inc., for preventative maintenance of traffic control devices in the amount of \$79,775.

In April 2001, the Public Works and Engineering staff undertook the project of reengineering the Division of Traffic Operations, given the fact that two signals technicians resigned and the impending retirement of the traffic signal supervisor. Staff goals were to evaluate the existing level of service and determine if reengineering options were available, with the possibility of contracting out some of the existing services. Other goals were to improve overall signal services, assure system reliability, and maintain direct accountability for fundamental system functions.

City staff has determined that preventative maintenance activities could, and should be, contracted to the private sector.

It was further determined that a minimum staff level of two signal technicians, whose pay scale and classification would more closely emulate the N. C. Dept. of Transportation technicians with similar responsibilities, would be maintained to insure emergency response and guarantee that timely repairs were enacted. Their primary responsibility, beyond emergency response, is to maintain and update signal system data and functions of coordination and timing.

Bids were solicited to determine actual costs for a comprehensive preventative signal maintenance program by the private sector. The City received three bids for the work. Bids were received from the following vendors:

Green Light Electric	\$119,800
ALS of North Carolina	\$199,800
MB Haynes Electric	\$249,945

City staff negotiated with the successful bidder to further reduce the contract amount for the required work to \$79,775 per year for the next 5 years, with annual options for renewal, calculating a 3% increase per year.

The overall cost savings from the reengineering idea, along with the improved services mentioned above, is approximately \$40,000 per year.

Staff requests that City Council approve a resolution authorizing the City Manager to enter into an agreement with Green Light Electric, Inc. for preventative maintenance of traffic control devices.

RESOLUTION BOOK NO. 27 – PAGE 72

F. MOTION APPROVING THE 2002 FESTIVAL AND SPECIAL EVENTS CO-SPONSORED BY THE CITY OF ASHEVILLE

Summary: The consideration of a motion approving the 2002 festival and special events scheduled co-sponsorship by the City of Asheville.

In March of 1995, the Asheville City Council adopted a festival policy. A segment of that policy requires that City Council approve the list of festivals requesting co-sponsorship with Asheville Parks & Recreation on an annual basis. In 2001, the City co-sponsored 37 events produced by 25 organizers. For 2002, the request is for 65 events produced by 35 organizers.

The criteria for inclusion as a co-sponsored event are laid out in the Outdoor Special Event Guide which are:

1. The requesting applicant must represent a non-profit organization as defined by state or federal tax law.
2. The requesting applicant/organization does not discriminate on the basis of race, color, creed, sex, sexual orientation, age, political or religious affiliation, ethnicity, national origin or economic standing.
3. The proposed event is community focused and recreational in nature.
4. The proposed event is open to the general public.
5. The proposed event has been planned to facilitate a positive impact to the community.
6. Eligibility for co-sponsorship status is based on successful completion and submittal of application, agreements, letters of petition and/or contracts within the specified period of time.

The Parks and Recreation Department recommends accepting the list of events as the only events eligible for co-sponsorship for 2002. All further requests for 2002 will be denied, and organizers will be encouraged to apply for 2003.

Councilman Mumpower pointed out the fact that the numbers have increased dramatically and City staff has been instructed to review the policy on the criteria for co-sponsorship.

G. RESOLUTION NO. 02-30 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GLAZER ARCHITECTURE P.A. FOR RENOVATIONS AND ADDITIONS TO FIRE STATION 8 LOCATED AT 902 TUNNEL ROAD

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Glazer Architecture, P.A., in the amount of \$33,000, for renovations and additions at Fire Station #8 located at 902 Tunnel Road.

Fire Station #8 was constructed in 1966 and no major building renovations have been undertaken during the life of the building. The additional growth of east Asheville required the building to house a pumping fire engine and ladder truck today. However the building was only designed for one fire company. The renovations include women's locker area, storage area, enlarged dayroom and kitchen. A new public entry, bay for a quick response vehicle, and officer office are in the scope of work. Site work to improve the traffic flow is included in the contract. The contract is an AIA Document with modifications for the City of Asheville.

The funds for this project were appropriated in previous fiscal years and no funds would be used from Fiscal Year 2001-02 appropriations.

The Fire Chief recommends City Council authorize the City Manager to sign the contract with Glazer Architecture, P.A. for renovations and additions to Fire Station #8.

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H. RESOLUTION NO. 02-31 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GLAZER ARCHITECTURE P.A. FOR RENOVATIONS AND ADDITIONS TO FIRE STATION 3 LOCATED AT 50 OREGON AVENUE

Summary: The consideration of a resolution authorizing the City Manager to sign the contract with Glazer Architecture, P.A., in the amount of \$18,600, for basic renovations and minor additions at Fire Station #3 located at 50 Oregon Avenue.

Fire Station 3 was constructed in 1976 and no major building renovations have been undertaken during the life of the building. Presently, a pumping fire engine and a ladder truck are housed within the station. The renovations include re-roofing the building, renovating the kitchen, new finishes in the dayroom, kitchen, and dorms, new HVAC for all areas except the apparatus

bays, electrical and plumbing renovations as required by Code. The contract is an AIA Document with modifications for the City of Asheville.

The funds for this project were appropriated in previous fiscal years and no funds would be used from Fiscal Year 2001-02 appropriations.

The Fire Chief recommends City Council authorize the City Manager to sign the contract with Glazer Architecture, P.A. for renovations and additions to Fire Station #3.

RESOLUTION BOOK NO. 27 – PAGE 74

I. RESOLUTION NO. 02-32 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE DISPOSAL PARCEL 146 ON LINCOLN STREET 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 146 in the East End/Valley Street Community for the amount of \$3,200.

Disposal Parcel 146 is a substandard lot located on the north side of Lincoln Street comprising 3,659± square feet. The lot is irregular in shape and mostly flat about street level then sloping up sharply to the rear. The bid in the amount of \$3,200 from Damon Rouse includes the proposal to combine the property with adjoining property currently owned by Mr. Rouse on Jordan Street.

Although the new tax appraisal is \$5,600, this property was available for several years at the previous tax value of \$2,000 and then at \$4,900 with no offers having been received. A letter of opinion from Ben Mansell CRS, GRI with RE/MAX Advantage Realty, indicates that due to the limited utility of the property to any buyer except an adjoining owner, the market value of the property would be approximately \$3,000.

Approval of the resolution will establish the minimum price in the amount of \$3,200 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.

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K. RESOLUTION NO. 02-33 - RESOLUTION DIRECTING THE CITY CLERK TO PUBLISH A NOTICE REGARDING THE PROPOSED SALE OF REAL PROPERTY AT 9-13 BILTMORE AVENUE, ASHEVILLE, N.C., AND SETTING A PUBLIC HEARING ON MARCH 12, 2002

Summary: The consideration of a resolution setting a public hearing and directing the City Clerk to publish a notice regarding proposed sale of real property at 9 -13 Biltmore Avenue, Asheville, N.C.

The property at 9 -13 Biltmore Avenue is located about 125 feet south of Pack Square. It is improved with a store front building with three bays dating from the 1920s. The land area comprises 14,469 square feet and the total combined building area is approximately 6,529 square feet. The lot extends to the east side of South Lexington Avenue, about 125 feet south of the intersection with Patton Avenue, and is improved with marked parking spaces on an asphalt surface. The lot is rectangular in shape and sloped to street level access. The appraised value of the property is \$530,000.

Asheville Area Arts Council has submitted a proposal to purchase the property minus the air rights over the rear parking lot in the amount of \$462,500. The bid from the Arts Council includes the proposal to cooperate with the eventual purchaser of the air rights over the parking lot to allow construction a new building containing parking, office, retail and/or residential units on South Lexington Avenue. The new building would be constructed above the first level by the purchaser of the air rights. The calculated value of the air rights retained by the City to be sold separately is \$67,500. The bid from the Arts Council reflects the appraised value minus the air rights. The City has a bid in hand from a redeveloper for the air rights. The bid from the Arts Council includes an offer of \$339,000 cash and a request that the City finance \$123,500 of the purchase price.

If the bid of the Arts Council is accepted, Community Development staff recommends evidence of funding or financing be required within 60 days of acceptance.

Approval of the resolution will schedule a public hearing on March 12, 2002, and initiate the sale of the property through a private sale as provided in N. C. Gen. Stat. sec. 160A-457(4).

Community Development staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 27 – PAGE 76

Mayor Worley 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 Jones moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Ellis and carried unanimously.

III. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO REZONE A PORTION OF PROPERTY LOCATED AT 1153 SWEETEN CREEK ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT

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Mayor Worley said that this public hearing was opened on October 23, 2001, and continued several times.

On February 19, 2002, a letter was received from Ms. Diane Smoak, representing the petitioner, as follows: "We are requesting that our rezoning hearing for 1153 Sweeten Creek Road be rescheduled for the May meeting. We have been trying to work with the citizens of the Shiloh community to rezone this property and apologize for the inconvenience to the council but feel a mutually agreeable plan for the property would be good for the community as well as the owner of the property. Thank you in advance for working with us."

Councilman Ellis moved to continue the public hearing to May 28, 2002. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF 2270 HENDERSONVILLE ROAD KNOWN AS ARDEN SQUARE SHOPPING CENTER

ORDINANCE NO. 2899 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE 2270 HENDERSONVILLE ROAD KNOWN AS ARDEN SQUARE SHOPPING CENTER.

Mayor Worley opened the public hearing at 5:17 p.m.

Urban Planner Paul Benson said that this is the consideration of an ordinance to consider the voluntary annexation for property located at 2270 Hendersonville Road, site of the Arden Square Shopping Center. This public hearing was advertised on February 15, 2002.

Mr. Winston W. Pulliam, sole owner of Arden Square LLC, has submitted an annexation petition for property located at 2270 Hendersonville Road.

This property is not contiguous to the City, but is located within the Arden annexation area, for which the annexation ordinance has been adopted with an effective date of June 30, 2002. The location of the property is further described as being on the east side of Hendersonville Road, south of Royal Pines Drive. The annexation area includes one lot, PIN No. 9654-09-15-9196, and consists of 2.2 acres.

City staff recommends City Council adopt the ordinance annexing 2270 Hendersonville Road.

Mayor Worley closed the public hearing at 5:22 p.m.

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

Councilman Ellis moved for the adoption of Ordinance No. 2899. This motion was seconded by Councilman Mumpower and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

C. PUBLIC HEARING TO CONSIDER THE REZONING OF TWO LOTS LOCATED AT THE CORNER OF HENDERSONVILLE ROAD AND MILLS GAP ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT

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ORDINANCE NO. 2900 - ORDINANCE TO REZONE TWO LOTS LOCATED AT THE CORNER OF HENDERSONVILLE ROAD AND MILLS GAP ROAD FROM COMMERCIAL INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT

Mayor Worley opened the public hearing at 5:23 p.m.

Urban Planner Jeff Tacy said that this is consideration of an ordinance to rezone two lots located at the corner of Hendersonville Road and Mills Gap Road from Commercial Industrial District to Highway Business District. This public hearing was advertised on February 15 and 22, 2002.

The Planning and Development Department has initiated this rezoning request (.88 acre) (PIN Nos. 9655.09-25-0433 and 1468) in an effort maintain the commercial character of the Hendersonville Road corridor. The Highway Business District is established to address the needs of commercial development along major thoroughfares. The district permits a wide range of residential, recreational, institutional, public/semi-public, office/business and other land uses. The majority of the properties in the vicinity that front on Hendersonville Road are zoned Highway Business. There are no industrial uses fronting on Hendersonville Road in the immediate area. Based on the purpose of the HB District and the development patterns along Hendersonville Road, HB zoning would be more appropriate than Commercial Industrial. HB zoning would prevent the location of incompatible uses in the area and promote the location of uses similar to those in existence. Next month, the Planning and Development Department will request the same rezoning for the property on the southeast corner of Hendersonville Road and Mills Gap Road. This will eliminate nearly all of the Commercial Industrial zoning fronting on Hendersonville Road at the Mills Gap Road intersection.

It should be noted that the current owner of the subject property has submitted a letter of agreement for the rezoning request.

The Planning and Zoning Commission voted unanimously to recommend approval of the rezoning of the property located at the northeast corner of Hendersonville Road and Mills Gap Road from Commercial Industrial to Highway Business. The Planning and Development staff recommends approval of the requested rezoning.

Councilman Peterson said that at their recent retreat City staff advised Council that the City needs to preserve property that is zoned industrial to encourage more industrial development in the City. This rezoning request is doing just the opposite. He wondered if by changing the zoning on this property, are we making it easier for the properties behind it to be more justified in changing to a more commercial use vs. a more industrial use. He admitted that it's easy for the City to say they need to preserve the industrial zones, but hard to enforce if property owners can get better use out of their property if zoned commercial.

Mr. Tacy said that these properties are not good from a planning or land use type perspective to be preserved as industrial. He pointed out that there are a lot of uses permitted in the industrial district that would not fit into the long-range plan for the Hendersonville Road corridor.

Planning & Development Director Scott Shuford said that at this particular location it is very unlikely that the property would be developed for anything industrial. In fact, with very rare exceptions, when property is placed in commercial industrial zoning classifications, the end result is that the commercial aspect usually gets developed. He advised Council that in the near future Planning staff will be bringing forward to Council an amendment that will allow more industrial development to occur in our commercial zoning classifications.

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Mayor Worley closed the public hearing at 5:33 p.m.

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

Councilman Mumpower moved for the adoption of Ordinance No. 2900. This motion was seconded by Councilman Dunn and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

IV. UNFINISHED BUSINESS:

A. AMENDMENT TO CITY COUNCIL POLICY ON RULES FOR BOARDS AND COMMISSIONS REGARDING U.S. CITIZENSHIP AS A QUALIFICATION FOR APPOINTMENT

Mayor Worley said that this issue has been referred to the City's Board and Commission Committee and will not be discussed at this meeting.

V. NEW BUSINESS:

A. RESOLUTION NO. 02-34 - RESOLUTION APPROVING FIVE LOANS FROM THE CITY'S HOUSING TRUST FUND

Councilman Peterson moved to excuse Vice-Mayor Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilwoman Jones and carried unanimously.

Community Development Director Charlotte Caplan said that this is the consideration of a resolution to award five loans from the City's Housing Trust Fund.

Ms. Caplan explained the 2nd Year Housing Trust Fund Program. She pointed out the concerns of Year 1 and explained the focus group, which was formed to address those concerns. She explained why repayments should be deferred: (1) funding structure depends on target income group; (2) making housing affordable at 80% median income requires incentives; and (3) making housing affordable at less than 50% median income requires subsidy. She explained the growth of the Fund through repayments vs. level of subsidy and then gave examples of finding the right loan structure.

Ms. Caplan said that available funds in the City Housing Trust fund stand at \$512,000. This comprises \$400,000 in new Fiscal Year 2002 funds and approximately \$112,000 in loan repayments. Applications for these funds were invited by letter and advertisement on December 7, 2001.

Eight applications were received by the January 18 deadline, requesting loans totaling \$840,000. They were reviewed by a five-person committee of City staff and outside experts, using criteria developed by a broad-based focus group last fall. The review committee reported to the Housing and Community Development Committee, which has recommended the five highest ranked applications for a total of \$520,000 in loans, producing 26 affordable housing units. They are:

1. WNC Housing, Inc. – \$100,000 for "Independence Cottages", five 1-bedroom houses for rent to very low income individuals with severe and persistent mental illness; on Clemmons Street and Spinet Street.

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2. Mountain Housing Opportunities – \$80,000 for construction of a 4-bedroom house for sale and rehabilitation of two dilapidated houses, one for sale and one as a rental duplex; on Jefferson Street, Clingman Avenue, and Rector Street.
3. Tim & Wendy Vorst – \$40,000 for a duplex with a 1-bedroom and a 3-bedroom apartment to rent on Brookshire Street.
4. Tim & Wendy Vorst – \$120,000 for a 6-plex of 1-bedroom apartments to rent on Hendersonville Road.
5. Carolina Custom Exteriors – \$180,000 for a 3-bedroom house for sale, and two duplexes and a 4-plex to rent on Galax Street. The proposal includes an offer to buy the City-owned site on Galax Street.

Proposed loan terms are as follows:

WNC Housing: 2% interest payable annually; first year's interest and all principal repayment deferred for 30 years.
Mountain Housing: Rental duplex: 2% interest with all payments deferred for 20 years;

Single-family homes: x% interest with all payments deferred for 30 years, where x = the rate of appreciation of the properties.
Tim & Wendy Vorst: 2% for 30 years, amortizing, on both projects.
CC Exteriors: 2% construction loan only on the single-family house;
2% for 15 years amortizing on the rental units.

City staff recommends approval of the five loans from the City's Housing Trust Fund.

Councilman Dunn felt that the Housing & Community Development Committee (of which he is a member) should carefully review using the Housing Trust Fund monies to restore historic sites. He asked that if a focus group is again formed, he felt it should be more balanced by having an equal number of developers, non-profits and for-profits.

Upon inquiry of Councilman Dunn, Ms. Caplan said that since property in the extraterritorial jurisdiction does not provide tax revenue, City Council did not wish Housing Trust Fund monies to be expended outside the City limits.

Councilwoman Jones, member of the Housing & Community Development Committee, felt this would be a good time to ask the County to be a part of the Housing Trust Fund. She felt these five recommendations represent a balance of rehab and new construction; rental and sale; different types of dwellings as far as duplexes and single-family homes; is a mixture of private and non-profit; and are different parts of the City. She stressed that part of what we must do as policy and decision makers is be good stewards of hard earned tax money. However, the "bang-for-the-buck" is only one criterion in the bottom line and will not always be for the best decisions. When we talk about balance, we need to bring in other criteria as well.

Councilman Mumpower felt that accountability is a good criterion, but also defends getting the most benefit out of the monies that we have to spend.

Upon inquiry of Councilman Ellis, Ms. Caplan said that the City would gain 26 affordable housing units from the combined \$520,000 loans this year.

Mayor Worley gave a brief history of the Housing Trust Fund and said that City Council has never adopted policies to apply to this Fund. He suggested the Housing & Community Development Committee look at adopting some policies on how the Trust Fund is administered in

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the future. His concern has to do with the no payment loans where the loans are for 20 or 30 years and there is no principle being returned and no opportunity to revolve that money over and over again within the community. He does understand how incentives and subsidies are needed. Perhaps Community Development Block Grant (CDBG) funds could be used more effectively as a subsidy. He also suggested we look at our total funds available for affordable housing and see which fund sources are best for which aspects of affordable housing.

Councilwoman Jones said that CDBG funds and the Housing Trust fund are not enough to fix affordable housing problems in Asheville. We need to find more creative solutions and be open to land use planning if we are going to make a difference in affordable housing. Council needs to remember that while we are growing this Fund and using it wisely, let's not forget we are putting people in homes.

Councilman Dunn said that the Housing & Community Development Committee is already talking about some of the issues mentioned at this meeting.

Councilman Ellis asked if all of the new units pay property taxes. Ms. Caplan responded that the units owned and maintained by WNC Housing for special needs people will not be on the tax rolls – all the other units will be.

Mr. Walter Plaue, City resident, said that he was a member of the focus group that addressed the first year concerns. They agreed that (1) no more than 30% of the loan funds in any year should be deferred; (2) no more than 30% of the loan funds in any year should be at 0% interest; and (3) there should be a creation of a balanced citizens advisory committee for the 2002-03 year to be appointed by the City Council by the Spring of 2002. He agreed that this is not simply the matter of the best dollar, but that there needs to be a consideration of the human element. He personally felt that the City should look to expand the Fund into the ETJ areas. Granted those properties may not pay City taxes, but already one of the recommendations today is for a project that is not going to pay City taxes. By going into the ETJ we can find land that is less expensive and that is a key element in giving the people better units to live in.

Mr. Fred English, City resident, felt that the City should not be putting any of the Trust Fund into historic properties.

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

Councilman Peterson moved for the adoption of Resolution No. 02-34. This motion was seconded by Councilwoman Jones and carried unanimously.

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Vice-Mayor Bellamy said that there are other ways to address the issues of affordable housing and some is looking at our policies and how we interpret those policies. We need to think about what people want in their existing neighborhoods – something that blends in with the character of the neighborhood. We need to look at more collaboration with non-profits and for-profits and look at how we can work together. She supported inclusionary housing, which the City needs legislative authority.

B. ORDINANCE NO. 2901 - ORDINANCE RESTRUCTURING AND INCREASING PENALTIES FOR ANIMAL CONTROL VIOLATIONS

Police Chief Will Annarino said that this is the consideration of an ordinance to restructure and increase penalties for animal control violations.

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The current penalty for animal control violations is \$10.00 for the first offense; \$20.00 for the second offense within 12 months of the first; and succeeding offenses within 12 months of a prior offense result in increased penalties in \$10.00 increments per offense. Penalties of these amounts have proven ineffective in promoting voluntary compliance with animal control regulations. In addition, collection of penalties is a problem because of the costs of collecting delinquent penalties exceeds the value of the revenue.

It is proposed that the penalties be increased as follows:

- First offense -----\$50.00
- Second offense within 12 months -----\$100.00
- Third offense within 12 months-----\$150.00
- Succeeding offenses within 12 months result in increased penalties in \$50.00 increments per offense. (For example the fourth offense within 12 months would carry a \$200.00 penalty; the fifth would carry a \$250.00 penalty, and so on.) The maximum penalty is set at \$500.00.
- Unpaid penalties would be declared delinquent after the 30th day from the issuance of the citation and thereafter for each additional 30-day period of delinquency.
- Delinquency fee-----\$50.00. (This is similar to the parking penalty delinquency schedule which provides for a \$25 fee for each 30 day delinquency period.)

The following is a survey of seven cities' and counties' which have animal control penalties (none provide for a delinquency fee for non-payment):

- Chapel Hill: \$50 per offense; if payment is not received a criminal summons is issued, to \$500.
- Buncombe County: Each offense not to exceed \$500 at the discretion of the Animal Control Officer.
- Lee County: 1st offense \$25; 2nd \$50; 3rd \$250 and/or confiscation of animal.
- High Point: \$50 per offense.
- Salisbury: 1st offense \$25; 2nd \$50; 3rd \$75; 4th \$250. Loose dog is \$50.
- Sanford: 1st offense \$50; 2nd \$100; 3rd \$250 and/or confiscation of animal.
- Cary: 1st offense \$20; 2nd \$50; 3rd \$75; 4th \$100; 5th \$250 and confiscation of animal.

Public education of the penalty structure is an important component of the implementation plan. Asheville's Government Access Channel, the "City Works" section of the Asheville Citizen-Times, internet postings and other methods will be used to inform the public. The effective date of the ordinance will allow a 60-day window of opportunity for staff to carry out public education activities.

Spay and neuter alternatives to penalties will be considered on a case-by-case basis.

The contract for animal control services the City has with the Asheville Humane Society specifies that all civil penalties and license fees collected will be retained by the Humane Society to off-set expenses associated with enforcing the annual license fee, sterilization of animals adopted from the shelter, and public education. For 2001, approximately \$1,700 in penalties and \$10,000 in license fees were collected.

City staff recommends Council adopt the ordinance.

Councilman Peterson asked if the City considered confiscation of animal as the last resort as some cities and counties do. Police Chief Annarino said that administratively and realistically they don't get to that point. Confiscation of animals generally means a violation of some type of criminal offense.

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Vice-Mayor Bellamy said that she people have brought to her attention problems with the Humane Society not enforcing the ordinance and their inability of responding in a timely manner. Police Chief Annarino said that the City's contract with the Humane Society is in the amount of \$170,000 and expires on July 1 of this year. He noted that both parties are currently evaluating the contract. They do have a new director who is working on those issues. She has instituted training and certification for her officers, is working to enforce compliance and has supported the increasing of fees. This will help them bring in revenue to help offset some of their costs.

The following residents spoke in support of increasing the penalties for animal control violations:

Mr. Bob Brummond, Haw Creek resident
Mr. Walter Plaue, City resident
Mr. Robert Maddox, City resident
Mr. Fred English, Haw Creek resident
Mr. Lynwood Crump, Shiloh resident
Mr. Bernard Lancaster, Haw Creek resident
Mr. Thomas Penland, Haw Creek resident
Mr. Chris Pelly, President of the Community Association of Haw Creek

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

Councilman Dunn moved for the adoption of Ordinance No. 2901. This motion was seconded by Vice-Mayor Bellamy.

Councilman Mumpower understands that there is a clear need for this increase of fees, however, felt that this is an extreme percentage of increase. He would prefer to support of a sequential increase in fees. He felt that our fees are higher than the healthier models in the survey, specifically speaking to Lee County, Salisbury and Cary. He was also concerned that we are changing the fees before we clarify our ordinance. He felt the enforcement part is as least as important as the fees, if not more. He felt this should be a more reasonable fee structure, for example \$50 first offense and \$25 increments from there on.

The motion made by Councilman Dunn and seconded by Vice-Mayor Bellamy and carried on a 6-1 vote, with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 19 - PAGE

At 6:55 p.m., Mayor Worley announced a short break.

B. RESOLUTION NO. 02-35 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Vice-Mayor Bellamy said that this is the consideration of appointing members to the Board of Adjustment.

The terms of Lauren Malinoff (Regular), Dennis Hodgson (Regular) and Joseph Brady (Alternate) on the Board of Adjustment expired on January 21, 2001.

On February 5, 2002, City Council interviewed Chris Goodwin, Lauren Malinoff, Dee Knight, Richard Fort, Robert Smith, Ned Guttman and Steven Sizemore. On February 12, 2002, City Council interviewed Beverly Robinson, Tom Muncy and James Mills.

Chris Goodwin received 0 votes; Lauren Malinoff received 3 votes; Dee Knight received 0 votes; Richard Fort received 3 votes; Robert Smith received 0 votes, Ned Guttman received 1 vote, Steven Sizemore received 4 votes; Beverly Robinson received 4 votes; Tom Muncy received 6 votes; and James Mills received 0 votes. Because of a tie between Beverly Robinson and Steven Sizemore, another vote was taken: Beverly Robinson received 5 votes and Steven Sizemore received 2 votes.

Vice-Mayor Bellamy moved to appoint Tom Muncy and Beverly Robinson, as Regular members, to each serve a three year term respectively, terms to begin immediately and expire on January 21, 2005; and to appoint Steven Sizemore, as an Alternate member, to serve a three year term, term to begin immediately and expire January 21, 2005. This motion was seconded by Councilman Mumpower and carried on a 6-1 vote with Councilman Peterson voting "no".

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C. RESOLUTION NO. 02-36 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Bellamy said that this is the consideration of appointing members to the A-B Community Relations Council.

The terms of Bernadette Thompson and Cassandra Ingram, as members on the Asheville-Buncombe Community Relations Council, expired on December 31, 2001.

On January 22, 2002, City Council interviewed Rod Whiteside, Shirley Dillingham and Leslie Hennessee. On February 5, 2002, City Council interviewed Dan Comer.

Mayor Worley noted that he had received an e-mail from Rod Whiteside which stated he did not wish to be considered for the A-B Community Relations Council appointment.

Shirley Dillingham received 2 votes; Leslie Hennessee received 6 votes and Dan Comer received 6 votes.

Vice-Mayor Bellamy moved to appoint Leslie Hennessee and Dan Comer to each serve a three year term respectively, terms to begin immediately and expire on December 31, 2004, or until their successor have been appointed. This motion was seconded by Councilwoman Jones and carried unanimously.

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D. RESOLUTION NO. 02-37 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE FAIR HOUSING COMMISSION

Vice-Mayor Bellamy said that this is the consideration of appointing members to the Asheville-Buncombe Fair Housing Commission.

The terms of Christiana Tugman, Kim Moore and Jim McCulley, as members on the Asheville-Buncombe Fair Housing Commission, expired on December 31, 2001.

On February 12, 2002, City Council interviewed David Clegg.

City Council noted how impressed they were with Mr. Clegg.

Vice-Mayor Bellamy moved to reappoint Jim McCulley, Kim Moore and Christiana Tugman to each serve a three year term respectively, terms to expire December 31, 2004, or until their successors have been appointed. This motion was seconded by Councilman Mumpower and carried unanimously.

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E. RESOLUTION NO. 02-38 - RESOLUTION APPOINTING MEMBERS TO THE TRANSIT COMMISSION

Vice-Mayor Bellamy said that this is the consideration of appointing members to the Asheville Transit Commission.

The term of Claudia Nix, Ron Lambe, Althea Goode and Willie McDaniel, as members on the Asheville Transit Commission, expired on December 31, 2001.

On January 22, 2002, City Council interviewed Mickey Mahaffey and on February 12, 2002, City Council interviewed Richard Fosmoen.

Mickey Mahaffey received 5 votes and Richard Fosmoen received 2 votes.

Vice-Mayor Bellamy moved to reappoint Claudia Nix, Ron Lambe and Althea Goode to each serve an additional two year term, terms to expire December 31, 2003, or until their successor have been appointed; and to appoint Mickey Mahaffey to serve a two year term, term to begin immediately and expire December 31, 2003, or until his successor has been appointed. This motion was seconded by Councilman Mumpower and carried unanimously.

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VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of February 8-21, 2002: Perry Christopher (Parks & Recreation), Asheville Smoke (Civic Center), Jean Arrington (Water), Kent Cook (Streets) and Scott Bralley (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, City resident, spoke about several matters concerning the Asheville Smoke, the Asheville Altitude, affordable housing, 2002 revaluation, and the City's budget as a result of the State's budget cuts.

B. COMMENTS BY KEVIN NUTTELL

Mr. Kevin Nuttall, representing the N.C. AIDS Policy Center, spoke about his dissatisfaction about the services provided by a local AIDS service organization.

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Mayor Worley stated that the comments Mr. Nuttall makes before Council are not relevant to the tasks of City Council. He suggested Mr. Nuttall to only bring matters to Council's attention which are in their preview.

C. COMMENTS BY NELDA HOLDER

Ms. Nelda Holder, City resident and President of the League of Women Voters of Asheville and Buncombe County, presented City Council with a petition containing 45 signatures which reads "WHEREAS, the cost of running for and winning elective office has been escalating throughout the nation; and WHEREAS, this escalation has reached to municipal election level; and WHEREAS, this escalation results in a de facto Wealth Primary, limiting access to public office to those with wealth or access to the wealth of others; and WHEREAS, this Wealth Primary seriously erodes the principle of one person, one vote. We citizens of Asheville, North Carolina, do hereby resolve to petition the City Council to appoint a Citizens Committee to study alternative methods of municipal campaign finance reform and to recommend adoption of a specific ordinance for comprehensive campaign finance reform to the City Council by July, 2002." She said that the League of Women Voters will volunteer in any way they can to help.

D. COMMENTS BY SHARON MARTIN

Ms. Sharon Martin, City resident, spoke to Council about their board and commission appointment process and also about campaign finance reform.

E. COMMENTS BY BEN DARUDY

Mr. Ben Darudy, City resident, spoke about how the unusual people are the heart of downtown Asheville and the need for affordable housing.

F. COMMENTS BY REBECCA CAMPBELL

Ms. Rebecca Campbell, City resident, spoke about the need for campaign finance reform.

G. COMMENTS BY JOHN YARNALL

Mr. John Yarnall, City resident, spoke about the need for campaign finance reform and the need for the changes to be made before the next election.

H. COMMENTS BY DENNIS JUSTICE

Mr. Dennis Justice, Fletcher resident, spoke to Council about the lack of practice time on the ice for the Asheville Smoke. He felt the City needs to create a sports authority for the Asheville area.

I. COMMENTS BY LYNWOOD CRUMP

Mr. Lynwood Crump spoke about the need for additional police.

J. CLOSESD SESSION

At 8:08 p.m., Councilwoman Jones moved to go into closed session to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including proceedings involving the policy

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pay grievance decision by the Civil Service Board – G.S. 143-318.11 (a) (3). This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

At 9:37 p.m., Vice-Mayor Bellamy moved to come out of closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 9:37 p.m.

CITY CLERK

MAYOR