

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; 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: Vice-Mayor Terry M. Bellamy

INVOCATION

Councilman Peterson gave the invocation.

I. PROCLAMATIONS:

A. MAYOR'S CUP RAFT RACE

Mayor Worley thanked Councilwoman Jones, Councilman Mumpower, Captain Mike Russell, Engineer Mark Rivord, Firefighter Jason Shoars and Firefighter Carley Cox for their substantial contribution participating in the City of Asheville's First Place Victory of the Mayor's Cup Raft Race held on June 2, 2002.

B. EXCELLENCE IN PUBLIC SERVICE AWARD WINNERS

Mayor Worley recognized the City of Asheville's Excellence in Public Service Award winners Rae Ferguson, Police Lieutenant in the Asheville Police Department, as Outstanding Manager; Jennifer Blevins, Secretary Senior in the Building Safety Department, as Outstanding Administrative Support; Keith Whittington, Park Warden in the Asheville Police Department, as Outstanding Trades, Crafts and Service Maintenance; and John B. Dankel, Crime Prevention Specialist in the Asheville Police Department as Outstanding Professional.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 25, 2002, AND THE REGULAR MEETING HELD ON JUNE 27, 2002

B. RESOLUTION NO. 02-111 – RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 218 ON WATER STREET TO LOUISE GARDNER

Summary: The consideration of a resolution authorizing the sale of Disposal Parcel 218 on Water Street to Louise Gardner in the amount of \$1,500.

On June 25, 2002, the City Council directed the City Clerk to advertise for upset bids on Disposal Parcel 218 on Weaver Street. The advertisement ran in the Asheville Citizen-Times on June 28, 2002, as provided in N. C. Gen. Stat. sec. 160A-269. No response was received. Therefore, the offer to purchase from Louise Gardner in the amount of \$1,500 was not upset and the sale should be approved.

Community Development staff recommends adoption of the resolution authorizing the sale of Disposal Parcel 218 on Water Street to Louise Gardner in the amount of \$1,500.

RESOLUTION BOOK NO. 27 – PAGE 195

-2-

C. RESOLUTION NO. 02-112 – RESOLUTION MODIFYING THE CITY COUNCIL MEETING SCHEDULE FOR A COMMUNITY MEETING ON TUESDAY, JULY 30, 2002, BEGINNING AT 7:00 P.M. IN THE EAST ASHEVILLE COMMUNITY CENTER LOCATED AT 906 TUNNEL ROAD, ASHEVILLE, N.C.

RESOLUTION BOOK NO. 27 – PAGE 116

D. ORDINANCE NO. 2936 - BUDGET AMENDMENT FOR THE CULTURAL RENAISSANCE PROGRAM'S

SUMMER ARTS PROGRAM AND THE MURAL AT REID COMMUNITY CENTER

Summary: The consideration of a budget amendment, in the amount of \$20,000, for the Cultural Renaissance Program's Summer Arts Program and the Mural at Reid Community Center.

The City of Asheville applied for grant funds in February-June 2002 for two new Cultural Renaissance Program projects. Grants were recently awarded in the amount of \$15,000, which are supplemented with \$5,000 in matching funds already provided in the Parks and Recreation Department budget.

Cultural Renaissance Arts Program – A budget amendment, in the amount of \$10,000, from a grant from the Wachovia Foundation to establish a budget for the Arts Program. Funds will be used for the operating cost of the program.

Cultural Renaissance Reid Mural– A budget amendment, in the amount of \$5,000, from a grant from the North Carolina Arts Council to be matched with \$5,000 in existing funds in the Parks and Recreation Department budget to establish a budget for the Reid Mural public art project. Funds will be used for the operating cost of the project.

The Parks and Recreation Department recommends City Council approve the budget amendment to establish budgets for the Cultural Renaissance Program's Summer Arts Program and the Mural at Reid Community Center.

ORDINANCE BOOK NO. 19 – PAGE

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.

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

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING 453 WEST HAYWOOD STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 2937 – ORDINANCE REZONING PROPERTY AT 453 WEST HAYWOOD STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

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

-3-

Mr. Carter Pettibone, Urban Planner, said that this is the consideration of an ordinance to rezone property located at northeast corner of West Haywood Street and Roberts Street from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District. This public hearing was advertised on June 28 and July 5, 2002.

Mr. Diego Apunte, applicant, is requesting the rezoning of 0.18 acre (PIN No. 9638.08-98-2613) to allow for the establishment of a residential duplex on the property. The purpose of the RM-16 District is to permit a full range of high-density multi-family housing types.

This property is located in the City limits and has street frontage on both West Haywood Street and Roberts Street, with an existing house on the property oriented toward West Haywood. Development in the area is fairly sparse with the properties immediately adjacent to the property and across the streets vacant. Properties to the east and south are zoned RM-8 while the property to the west across Roberts Street is Commercial Industrial. The property directly north is a property that was recently rezoned to Community Business I with a conditional use permit to allow for a mixed-use building, but is yet to be developed.

Even though the property is currently zoned RM-8, which is intended for multi-family residential dwellings, the small lot size and minimum lot requirements of the district only allow a single-family residence on the property. Rezoning the property to RM-16 would provide the opportunity to convert the existing building into a duplex since the minimum lot size per unit would be cut in half. And, due to the property's small size, the maximum number of units that could be realized is two if rezoned.

This site would also help provide a transition from the Commercial Industrial and Community Business I/Conditional Use properties to the north and west to the lower intensity residential uses in the RM-8 district to the east.

In consideration of the shape and size of the lot, the existing building on the site, and the adjoining zoning and land uses in the area around the site, the proposed zoning change appears to be consistent with the intent and purpose of the Unified Development Ordinance.

The Planning and Zoning Commission voted unanimously to recommend approval of the rezoning of the property located at the northeast corner of Haywood Street and Roberts Street from RM-8 to RM-16. The Planning and Development staff also recommends approval of the requested rezoning.

Upon inquiry of Councilman Peterson, City Attorney Oast explained why he didn't feel that this was a spot zoning issue.

Mayor Worley closed the public hearing at 5:24 p.m.

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

Councilman Peterson moved for the adoption of Ordinance No. 2937. This motion was seconded by Councilman Ellis and carried unanimously.

ORDINANCE BOOK NO. 19 - PAGE

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

-4-

A. RESOLUTION NO. 02-113 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH H&M CONSTRUCTORS FOR RENOVATIONS TO FIRE STATION 3

RESOLUTION NO. 02-114 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH JERRY PAYNE CONSTRUCTION COMPANY FOR RENOVATIONS TO FIRE STATION 8

Director of Parks and Recreation Irby Brinson said that this is the consideration of a resolution authorizing the City Manager to enter into contracts for the renovation of Fire Station #3 and #8.

In an effort to maintain City facilities, the City Council has approved funds for renovations to Fire Stations # 3 and #8. City staff solicited sealed bids from both minority and non-minority general contractors and received qualified bids from seven general contractors, none of which were minority contractors, for renovations that include new roofing, heating and air conditioning systems and more useable space. City staff has reviewed all bids received and determined that the lowest qualified bidder for each Fire Station is as follows:

Fire Station #3 - H & M Constructors a division of M. B. Haynes Corporation	Total bid amount	\$ 92,650.00
Fire Station #8 - Jerry Payne Construction Company	Total bid amount	\$ 274,870.00

City staff recommends acceptance of the total bid amount for each Fire Station.

Approved funding is available in the capital improvement project account to pay for these renovations.

The Parks and Recreation Department, in conjunction with the Fire Department, requests City Council authorize the City Manager to enter into a contract with H & M Constructors for Fire Station #3 in the amount of \$92,650.00; and with Jerry Payne Construction Company for Fire Station #8 in the amount of \$274,870.00.

Mayor Worley said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

Councilman Ellis moved for the adoption of Resolution No. 02-113. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 197

Councilman Mumpower moved for the adoption of Resolution No. 02-114. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 198

B. RESOLUTION NO. 02-115 – RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH WHEELER CONSTRUCTION COMPANY INC. FOR THE BREVARD ROAD ANNEXATION AREA PHASE III – CONTRACT “3” SANITARY SEWER SYSTEM IMPROVEMENTS

-5-

Mr. John Echeverri, Assistant Engineering Director said that this is the consideration of a resolution awarding the contract for Brevard Road Annexation Area Phase III Contract “3” Sanitary Sewer System Improvements to Wheeler Construction Company, Inc., in the amount of \$167,680.00.

This project is the last Phase of the Brevard Road Annexation Area. It is called the Brevard Road Annexation Area Phase III - Contract “3” Sanitary Sewer System Improvements and consists of the installation of approximately 1,760 linear feet of eight inch (8”) diameter sanitary sewer line and related appurtenances.

The Engineering Department received and publicly opened five (5) bids on Tuesday, June 18, 2002, 2000, at 2:00 p.m. After a thorough review of the bid documents by the Engineering Department and the Office of Minority Affairs, Wheeler Construction Company, Inc., was found to be the lowest responsible bidder with a total bid of \$ 167,680.00. The Engineer's estimate for this project was \$201,061.15.

Funding for this project was included in the Fiscal Year 2001/2002 Capital Improvement Program and will be financed with monies generated by General Obligation Bonds Series 2000 of December, 2000.

Wheeler Construction Company, Inc., has performed several projects of this nature in the past without any major problems.

The construction time for this project is identified as 120 calendar days in the contract documents. The contractor will be required to pay the sum of \$250.00 as liquidated damages for each and every calendar day that he shall be in default after the time stipulated in the contract.

Staff recommends that City Council adopt a resolution awarding the bid for Brevard Road Annexation Area - Phase III - Contract “3” Sewer System Improvements to Wheeler Construction Company, Inc., the responsible low bidder and authorize the City Manager to execute all necessary agreements and contracts.

Upon inquiry of Councilman Peterson, Mr. Echeverri explained the different areas for the sewer line work.

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. 02-115. This motion was seconded by Councilman Ellis and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 199

C. RESOLUTION NO. 02-116 - RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION

Mayor Worley said that the terms of Robert Swan, Richard Bowman and Denise Goodson, as members on the Civic Center Commission, expired on June 30, 2002.

On June 18, 2002, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Ms. Goodson to serve an additional three year term, term to expire June 30, 2005, or until her successor has been appointed.

On July 9, 2002, City Council interviewed Max Alexander.

-6-

Kathryn Nash is a candidate, however, she did not need to be interviewed. In addition, Leonard Jones is a candidate, however, Mr. Jones was unable to take off work for the interview.

Councilman Peterson moved to (1) reappoint Denise Goodson to serve an additional three year term, term to expire June 30, 2005, or until her successor has been appointed, and (2) to appoint Max Alexander and Kathryn Nash to each serve a three year term respectively, terms to expire June 30, 2005, or until their successors have been appointed. This motion was seconded by Mayor Worley and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 206

D. RESOLUTION NO. 02-117 - RESOLUTION APPOINTING MEMBERS TO THE CRIME-STOPPERS BOARD

Mayor Worley said that the terms of Josefine Matty and Leslie Hennessee, as members on the Asheville-Buncombe Crime Stoppers Board of Directors, expired on June 30, 2002.

On June 18, 2002, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Ms. Hennessee to serve an additional three year term, term to expire June 30, 2005, or until her successor has been appointed.

On July 9, 2002, City Council interviewed Bill McGuire.

Councilman Ellis moved to (1) reappoint Leslie Hennessee to serve an additional three year term, term to expire June 30, 2005, or until her successor has been appointed, and (2) appoint Bill McGuire to serve a three year term, term to expire June 30, 2005, or until his successor has been appointed. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 207

E. RESOLUTION NO. 02-118 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Mayor Worley said that the terms of Ann Babcock, Susan Roderick, Charles Bullman and Jim Drummond, as members on the Recreation Board, expired on June 30, 2002.

On June 18, 2002, City Council instructed the City Clerk to prepare the proper paperwork to (1) reappoint Ms. Babcock and Mr. Drummond to each serve an additional three year term, terms to expire June 30, 2005, or until their successors have been appointed; and (2) appoint Chuck Cloninger to serve a three year term, term to expire June 30, 2005, or until his successor has been appointed.

On June 18, 2002, City Council instructed the City Clerk to arrange for an interview of Christopher Barkley. A phone message was left on June 19 for Mr. Barkley to call the City Clerk and on June 26, 2002, a letter was sent to Mr. Barkley asking him to contact the City Clerk to arrange for an interview. As of July 9, no response has been received.

Councilman Peterson moved to (1) reappoint Ms. Babcock, Mr. Bullman and Mr. Drummond to each serve an additional three year term, terms to expire June 30, 2005, or until their successors have been appointed; and (2) appoint Chuck Cloninger to serve a three year term, term to expire June 30, 2005; or until his successor has been appointed. This motion was seconded by Councilman Ellis and carried unanimously

-7-

RESOLUTION BOOK NO. 27 – PAGE 208

VI. OTHER BUSINESS:

HOUSING AUTHORITY BOARD TERMS

Mayor Worley explained that our legislative delegation has an informal rule of not taking up anything controversial, in terms of local acts, in the Short Session. The City of Asheville has requested that the terms of the Housing Authority Board members be reduced from five years to three years. The Housing Authority disagrees. Therefore, Councilman Mumpower moved to ask our

legislative delegation to delay consideration, by whatever means appropriate, on the City of Asheville's request until the Session of the General Assembly begins in 2003, in order for the City Council and Housing Authority Board members to discuss the matter. This motion was seconded by Councilman Ellis and carried unanimously.

POLICE PAY GRIEVANCE

Upon inquiry of Councilman Dunn and after discussion of the matter, City Manager Westbrook said that City Council has previously given staff guidance on how to proceed in the police pay matter and they are proceeding in accordance with those instructions. City Attorney Oast said that he would be prepared to update City Council at the next worksession in closed session since this is a legal matter and an attorney represents the officers. City Attorney Oast did point out that the City remains open to discussion on this matter.

CLAIMS

The following claims were received by the City of Asheville during the period of June 21 – July 3, 2002: Rick Haynes (Fire), Danny Shope (Police), Cheryl Simcox (Inspections), Gold Star Coatings (Engineering), Dana Dill (Water), Lisa Lindsay (Water), Bonnie Love (Transit Services), Christopher White (Sanitation) and Dan Throgmorton (Fire).

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

LAWSUIT

The City filed a lawsuit on July 9, 2002, against Mattie Giles. The nature of the proceeding is a complaint, injunction, order of abatement for removal of aesthetic junked vehicle, which is in violation of Section 10-31 of the City of Asheville Code of Ordinances. This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

COMMENTS BY SHARON MARTIN

Ms. Sharon Martin, representing the Community Supported Development, read a prepared statement in which she felt that at the City Council meeting on June 25, 2002, members of the public were subject to a discriminatory policy in which members of the public who were carrying backpacks were told they would have to leave their bags outside of the Council Chamber, while all those carrying purses and briefcases were allowed into the Chamber with no questions asked. She was given the response that the policy was for public safety reasons. She felt the policy singles out a single segment of our community. In trying to find out the reason for this discriminatory practice, she spoke to Police Chief Will Annarino who she felt treated her disrespectfully. She asked Council for a fair and equitable policy, where all members of the community are treated the same with respect to bags in the Council Chamber. She also asked

-8-

Council consider how our public officials interact with members of the public. She asked Council to work to insure that the values of the Police Department are upheld.

City Manager Westbrook said that he would investigate the concerns raised by Ms. Martin with the Police Chief.

COMMENTS BY MICKEY MAHAFFEY

Mr. Mickey Mahaffey said that he was disappointed with the progress of the Citizen Study Committee on Campaign Finance Reform. He felt that the Committee members, who have done their best, were put into a difficult situation since they had very little background and knowledge on the subject matter in which they are supposed to be studying.

Councilman Mumpower said that City Council made an effort to appoint a diverse committee who wanted to make a difference and attack the hard issues. The Committee members are moving forward in a positive way and will be reporting to Council in the near future with their progress.

COMMENTS BY STEWART DAVID

Mr. Stewart David, President of Carolina Animal Action, asked City Council to review the policy that limits the number of non-profit groups that are allowed to sell items at their booths during the Bele Chere Festival. He said that last year 15 non-profit

groups were allowed booths and this year that number has been reduced to ten – Carolina Animal Action was not allowed this year. He explained that a lottery was used to select the ten non-profits. However, he said that the Bele Chere Festival is their number one way of community outreach. It allows them to bring in donations, hand out literature, network and bring in new members. He felt that since there is no shortage of street space, non-profits should not be excluded.

Mayor Worley said that he would check into that policy decision.

COMMENTS BY ALTHEA GOODE

Ms. Althea Goode, resident on Eastview Avenue, urged Mayor Worley to appoint a person with empathy and compassion to the Housing Authority Board of Directors. She felt the Board members need to talk and visit people who live in public housing to find out their needs. She favored reducing the Housing Authority Board terms from five years to three years.

COMMENTS BY GABRIEL FERRARI

Mr. Gabriel Ferrari, resident on Sulphur Springs Road, briefed City Council on problems he is encountering as a result of a tattoo business across the street from his home. City Manager Westbrook said that since this is a zoning issue, he would have our Planning Department contact Mr. Ferrari regarding his concerns.

COMMENTS BY GRANT MILLIN

Mr. Grant Millin urged City Council to amend Resolution No. 01-144 (near the anniversary of September 11) condemning the terrorist attack and supporting the President. He also asked Council to adopt a bill of rights defense resolution similar to Carrboro, North Carolina. Mr. Millin submitted information for the record.

-9-

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 6:25 p.m.

CITY CLERK

MAYOR