

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

**PLEDGE OF ALLEGIANCE**

Retired Chief Master Sergeant Larry Fowler of the United States Air Force led City Council in the pledge of allegiance.

**INVOCATION**

Councilman Peterson gave the invocation.

**RESOLUTION NO. 03-93 - RESOLUTION OF CENSURE OF COUNCILMAN BRIAN PETERSON**

Councilwoman Jones moved to excuse Councilman Peterson from participating in this matter. This motion was seconded by Councilman Ellis and carried unanimously.

Mayor Worley then read the following resolution: "The City Council of the City of Asheville has the authority to address issues relating to the conduct of its members, when that conduct brings disrepute to the City or the Council, or otherwise interferes with the Council's ability to conduct the City's business. Just after midnight on May 27, 2003, Council Member Brian Peterson was observed by an Asheville Police Officer to admit a woman into his personal vehicle in an area under police surveillance for prostitution activity, and later denied the police observations about the circumstances of this incident. Council Member Peterson has engaged in conduct tending to bring the City and the Council into disrepute, and to otherwise interfere with the Council's ability to conduct the City's business and the ability of each member of Council to represent the City and Council. Mr. Peterson's conduct falls short of the standards that the citizens of Asheville have the right to expect of their elected officials, and tends to undermine and damage the Council's credibility with the public in general, and with law enforcement in particular. Now, therefore, be it resolved by the City Council of the City of Asheville that the actions of Council Member Brian Peterson on May 27, 2003, are hereby condemned, and the Council does hereby censure Mr. Peterson for his conduct. Be it further resolved that the Council calls on Mr. Peterson to seriously consider his credibility with Council and his own ability going forward to be effective in his service on Council in appropriately representing the citizens of Asheville and Council.

Councilman Dunn moved for the adoption of Resolution No. 03-93. This motion was seconded by Vice-Mayor Bellamy.

Councilman Dunn said this was a sad day for Council. There is no one in the City hurting more than Councilman Peterson and his family. A censure coming from him or anyone else bothers him because it does conflict with his belief that to publicly judge anyone goes against his religious beliefs. No one on Council is willing to discuss all of their imperfections. This being said, this Council does represent all of Asheville. Council is supposed to uphold the ethical and moral standards of an elected position. We are role models whether we like it or not. City Council should not be held to a lower standard of behavior than the City employees who they

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make rules for. This country is experiencing moral decline. Family values are being attacked by various special interests. When will honesty replace political correctness? Why do you think that less than 30% of the voters in our City vote – distrust of the system and its representatives. While Council does not have the power to have Councilman Peterson removed from office, which is what the law states, Council can censure him. Personally, this is really not the best solution. Therefore, he sadly requests that Councilman Peterson resign this position for the good of the City. This is the honorable, ethical and right thing to do. It's also time to place ethics ahead of political aspirations. He did not feel comfortable in commenting on this resolution and he didn't like to add to Brian's pain, but our citizens do expect us to deport ourselves in an ethical and honorable higher ground. Excuses and blaming others is easy. Honesty and common-sense seems to be losing favor in this country. Honesty and integrity do have a place in our society. Our criminal justice system has for centuries relied on a judgmental system. This system has been shown to be the best system in the world. If we ignore honesty, integrity and morals, our nation and our society will be thrown into chaos. He was sorry this all had to happen and while he does not like this resolution to censure he would support it, but he would prefer that

Councilman Peterson resign.

The motion made by Councilman Dunn and seconded by Vice-Mayor Bellamy carried unanimously.

**RESOLUTION BOOK NO. 27 – PAGE 418**

**I. PROCLAMATIONS:**

**A. KIPP PROGRAM**

Vice-Mayor Bellamy recognized Asheville KIPP Director Shawn Jackson who spoke about the success of the first year of the KIPP (Knowledge is Power Program) Asheville Youth Academy. He explained that their mission is to prepare students with the skills, knowledge, and character necessary to succeed in high school, colleges, and the competitive world beyond. Vice-Mayor Bellamy also recognized Miss Miller who has excelled in the KIPP Program.

**II. CONSENT:**

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 27, 2003; THE SPECIAL WORKSESSION HELD ON MAY 29, 2003; AND THE WORKSESSION HELD ON JUNE 3, 2003**

**B. RESOLUTION NO. 03-94 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP HUGHES EVANS LLP FOR AUDITING SERVICES FOR FISCAL YEAR 2002-03**

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Crisp Hughes Evans LLP, Certified Public Accountants, for auditing services for Fiscal Year 2002-2003.

N.C. General Statutes 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1998 the City solicited proposals from 36 accounting firms to perform the City's annual audit. City Council selected Crisp Hughes Evans LLP to conduct the Fiscal Year 1997-98 audit and has re-engaged them annually through Fiscal Year 2001-2002. They completed all of those engagements in a satisfactory manner and have now submitted an engagement letter for the

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Fiscal Year 2002-2003 audit. The base fee has been proposed at \$54,000 (the fee has remained the same or decreased each of the past three consecutive years). Funds are appropriated in the budget of the Accounting Division of the Finance Department.

City staff recommends City Council adopt the resolution which authorizes the Mayor to execute a contract with Crisp Hughes Evans LLP for auditing services for Fiscal Year 2002-2003.

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**C. RESOLUTION NO. 03-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY AND ENTER INTO AN AGREEMENT WITH THE U.S. DEPT. OF JUSTICE FOR A GRANT TO HIRE AND TRAIN A SCHOOL RESOURCE OFFICER SUPERVISOR**

Summary: The consideration of a resolution to apply for and enter into an agreement with the United States Department of Justice for personnel funds to hire a Supervisor for the current School Resource Officers in the Asheville Police Department.

The COPS in Schools grant program has been an excellent way to provide a quality community service to our city schools through the assigning of School Resource Officers. The Asheville Police Department currently provides 3 officers to our schools. This program has been well received in the school system and has given them the support they need in the areas of safety of the school children and the premises in general; investigation of fights, thefts, and vandalism; and in identifying and mentoring problem students.

The COPS in Schools grant program offers a three-year grant for a maximum of \$125,000 for the three-year period. The Asheville Police Department is requesting \$184,587.43 in grants from the Department of Justice COPS in Schools Program with a local match of \$59,587.43 over the three years, which will be paid for by Asheville City Schools. The grant funds will be used to add an additional sergeant position as a supervisor for the current COPS in Schools officers.

- City staff recommends the City of Asheville apply for and enter into an agreement for grant funds to hire one supervisor for the current COPS in Schools officers to enhance cooperation with Asheville City Schools.

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**D. RESOLUTION NO. 03-96 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY AND ENTER INTO AN AGREEMENT WITH THE DEPT. OF JUSTICE OVERTIME FUNDS PROGRAM FOR A GRANT TO ASSIGN A POLICE UNIT TO THE PUBLIC HOUSING COMMUNITIES OF THE CITY OF ASHEVILLE**

Summary: The consideration of a resolution to apply for and enter into an agreement with the United States Dept. of Justice for overtime funds to enable the Asheville Police Department to assign a police unit to the public housing communities.

Almost a year ago, the Asheville Police Department lost funding for a police unit dedicated to our public housing communities when the Housing Authority had their funding from the Dept. of Housing and Urban Development reduced. The overtime grant funding from the Dept. of Justice will allow the Asheville Police Department to restore that unit. There has been a noticeable increase in calls for service and crimes committed in the public housing communities

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since the elimination of their dedicated police unit. This unit will help to address the concerns voiced by the public housing communities to the Housing Authority and Police Department.

The Dept. of Justice Overtime Program offers a one-year grant to support community policing and homeland security efforts. There is a 25% match required for these funds. The Asheville Police Department is requesting the maximum amount of federal share allowed based on our population, which is \$100,000 with a match requirement of \$25,000. The matching funds will come from the Housing Authority. No financial resources will be required from the City of Asheville. The total grant request will be \$125,000.

- City staff recommends the City of Asheville apply for and enter into an agreement for grant funds to assign a police unit to the public housing communities using overtime funding from the Dept. of Justice.

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**E. RESOLUTION NO. 03-97 - RESOLUTION CONFIRMING A MEMBER TO THE MINORITY BUSINESS COMMISSION**

Summary: The consideration of a resolution confirming the appointment of a member of the Minority Business Commission.

- On May 26, 1998, City Council adopted Resolution No. 98-63 adopting a City-County Minority Business Plan.

The Minority Business Commission consists of 11 members, 9 of whom are nominated by various groups and two (2) of whom are minority business owners nominated by the Minority Business Commission. All nominees are considered and appointed by both the City Council and County Board of Commissioners.

Ms. Connie Mitchell has been named by the American Institute of Architects (AIA) to represent them on the Minority Business Commission. Ms. Mitchell has been nominated to fill the position left vacant by Ms. Jacquelyn A. Schauer who resigned effective May 8, 2003. Ms. Mitchell's term will run through August 2004 to complete the current term of Ms. Schauer.

City staff recommends City Council adopt the resolution confirming the appointment of Ms. Connie Mitchell as the AIA representative on the Minority Business Commission.

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**F. RESOLUTION NO. 03-98 - RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH THE STATE HISTORIC PRESERVATION OFFICE TO RECEIVE GRANT FUNDS TO HIRE A CONSULTANT TO COMPLETE THE NOMINATION REPORT FOR THE CLINGMAN/RIVERSIDE INDUSTRIAL HISTORIC DISTRICT**

Summary: The consideration of a resolution to enter into an agreement with the North Carolina State Historic Preservation Office for and in consideration of a federal grant from the US Department of Interior, National Park Service in the amount of \$2,000 for the purpose of the preparation of the Clingman/Riverside Industrial and Commercial Historic District National Register Nomination Report.

The project is to prepare a National Register nomination form for the Clingman/Riverside Industrial and Commercial Historic District. The proposed district encompasses approximately

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20-25 properties on 2 ½ acres located to the west of downtown Asheville in the area north of Lyman Street and east of Riverside Drive. The proposed district, along with two other identified sub-districts was approved for inclusion in the North Carolina Study List in 1999. This nomination will include only the historic and commercial area within the larger West/End Clingman Avenue Neighborhood as identified in the grant application unless modifications are determined necessary through field observation efforts. A consultant who meets the qualifications outlined in 36 CFR 61 will be hired to prepare the nomination according to the guidelines outlined in National Register Bulletin 16A. The complete and final draft will be submitted to the State Historic Preservation Office no later than August 30, 2004.

The total cost for the project is \$3,380. The grant is for \$2,000 and the remaining local match of \$1,380 will be provided by the property owners within the district as indicted on the application. The City will not be responsible for the local match. The grant period is from 6/1/2003-9/30/2004.

City staff recommends that the City of Asheville enter into an agreement with the State Historic Preservation Office to receive grant funds to hire a consultant to complete the nomination report for the Clingman/Riverside Industrial Historic District.

#### **RESOLUTION BOOK NO. 27 – PAGE 423**

#### **G. RESOLUTION NO. 03-99 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR AN ASHEVILLE POLICE DEPARTMENT TRAFFIC UNIT**

Summary: The consideration of a resolution to apply for and enter into an agreement with the North Carolina Governor's Highway Safety Program for personnel and equipment funds for an Asheville Police Department traffic unit.

On March 25, 2003, City Council adopted Resolution No. 03-42 authorizing the City to apply for and enter into an agreement with the North Carolina Governor's Highway Safety Program for personnel and equipment funds for an Asheville Police Department traffic unit. Following a meeting with the Grant Program Coordinator for the North Carolina Governor's Highway Safety Program, the amount of the grant has increased to \$498,747.54, while the City's local match has decreased to \$67,765.89.

To remind Council, the Governor's Highway Safety Program offers a four-year grant with graduated match requirements in the personnel, equipment and additional costs categories. The Asheville Police Department is requesting \$498,747.54 in grants from the Governor's Highway Safety Program to hire and train four officers and one supervisor, and to purchase five vehicles and computer equipment for the unit in the first year. The first year of the grant there is a 25% match on equipment and training, but there is no match for personnel. The match is \$67,765.89 for the first year, which will require an appropriation of \$67,765.89 from the Contingency account. Upon notification of grant award, a budget amendment will be brought to Council for the full amount of the grant award, including the City's local match. The original grant amount was for \$474,438 and the original local match was \$71,365.82. The formal grant application requires that the Mayor sign a pre-formatted resolution created by the North Carolina Governor's Highway Safety Program.

City staff recommends the City of Asheville apply for and enter into an agreement for grant funds to hire and train a traffic unit with four officers and one supervisor to reduce the incidence of aggressive driving in the City of Asheville and allow the Mayor to sign the GHSP-02 Local Governmental Resolution from the Governor's Highway Safety Program.

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#### **RESOLUTION BOOK NO. 27 – PAGE 424**

#### **H. MOTION ACCEPTING A GRANT FROM THE N.C. DIVISION OF AIR QUALITY TO CONSTRUCT A COMPRESSED NATURAL GAS FUELING STATION AND IMPLEMENT A LONG-TERM ALTERNATIVE FUELED VEHICLES PROGRAM**

Summary: On November 14, 2000, City Council adopted a resolution supporting an alternative fuel vehicle program and authorized staff to submit grant applications to support it. In April 2001, the City received a \$400,000 grant from NC Division of Air Quality (DAQ) to construct a compressed natural gas (CNG) fueling station in the City. The two primary reasons for the award were:

- a. To complete a State-wide fueling "corridor" master plan along I-40 which would accommodate CNG-powered vehicles from coast-to-coast;
- b. To provide a fast-fill source for locally owned/operated CNG vehicles.

Unfortunately, due to State budget challenges in 2001, the grant was not funded as planned.

Last month DAQ staff contacted the City and expressed interest in re-funding the construction of a CNG fueling station.

If City Council wishes to move forward and accept the grant if received, a resolution authorizing the City to accept the grant and entering into an agreement with the N.C. Division of Air Quality, and a budget amendment will be brought before Council.

City staff recommends City Council (1) accept the Mobile Source Emissions Reduction Grant; (2) construct CNG fuel station; (3) fund/develop a Citywide AFV program; (4) maintain partnership(s) for clean air; and (5) research and implement new AFV technology, as available.

**I. ORDINANCE NO. 3030 - ORDINANCE DELETING APPENDIX F OF THE CODE OF ORDINANCES AND CHANGING THE METHOD OF DESIGNATING METER ZONES AND THE METHOD OF PARKING IN DOUBLE METER SPACES**

Summary: The consideration of an ordinance changing the method of designating meter zones and the method of parking in double meter spaces.

Due to economic expansion and construction in the Central Business District and the ever-changing traffic patterns, there are frequent and continual changes in the layout of parking. Appendix E requires a change by City Council to add meters in these new areas when changes take place. By repealing Appendix E and amending Section 19-162, we will be able to install meters immediately as the traffic engineer designates through expansion, contraction, or alteration, new parking spaces in the Central Business District.

An amendment is also necessary to Section 19-164 regarding the parking at double sided parking meters. As a person parks their vehicle there is no way they can be in compliance with the current ordinance if they park in the forward parking space of a double meter. This amendment will reflect the new meters.

City staff requests City Council approve the ordinance.

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**J. RESOLUTION NO. 03-100 - RESOLUTION REAPPOINTING A MEMBER TO THE CIVIL SERVICE BOARD**

Summary: The term of Gene Bell, as a member (and Chair) of the Civil Service Board, expired on May 21, 2003.

On June 3, 2003, it was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to reappoint Mr. Bell, as a member (and Chair) of the Civil Service Board, to serve an additional two-year term. His term will expire May 21, 2005, or until his successor has been appointed.

**RESOLUTION BOOK NO. 27 – PAGE 425**

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

Councilman Ellis moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

### **III. PUBLIC HEARINGS:**

#### **A. PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF AN UNOPENED ALLEY OFF CATAWBA STREET**

##### **RESOLUTION NO. 03-101 - RESOLUTION CLOSING A PORTION OF AN UNOPENED ALLEY OFF CATAWBA STREET**

Due to a conflict of interest by Mayor Worley, Mayor Worley asked Vice-Mayor Bellamy to preside over the meeting during this item.

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

Vice-Mayor Bellamy opened the public hearing at 5:21 p.m.

Public Works Director Mark Combs said that this is the consideration of a resolution to close a portion of an unopened alley off Catawba Street. This public hearing was advertised on May 16, May 23, May 30 and June 6, 2003.

According to N. C. Gen. Stat. sec. 160-299, a City has the authority to permanently close a street or alley without regard to whether it has actually been opened.

To proceed with this process the adjoining property owners have requested to close a portion of the alley off Catawba Street.

Currently there is a structure that exists in the middle of the alley. The request is being made in an effort to correct this situation and get the structure onto private property.

Public Works Department staff has determined that the portion of the alley off Catawba Street running north to south between PIN Nos. 9649-09-05-4276 and 9649-09-05-3233. The portion for which closure is requested extends from Catawba Street to the rear of the lots stated above. Lots bordering the portion of the unopened alley are PIN Nos. 9649-09-05-4276 and 9649-09-05-3233.

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City staff recommends that City Council adopt the resolution to close a portion of an unopened alley off Catawba Street.

Mr. Gerald Green spoke in support of closing this portion of an unopened alley off Catawba Street.

Vice-Mayor Bellamy closed the public hearing at 5:25 p.m.

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

Councilman Dunn moved for the adoption of Resolution No. 03-101. This motion was seconded by Councilman Ellis and carried unanimously.

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Vice-Mayor Bellamy relinquished the gavel back over to the Mayor to preside.

#### **B. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR HIGHWATER CLAYS INC.**

##### **RESOLUTION NO. 03-102 - RESOLUTION OFFERING HIGHWATER CLAYS INC. AN ECONOMIC DEVELOPMENT INCENTIVE GRANT AND AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT**

Mayor Worley opened the public hearing at 5:26 p.m.

Economic Development Director Mac Williams said that this is the consideration of a resolution to consider offering an economic development incentive grant to Highwater Clays, Inc. This public hearing was advertised on May 30 and June 6, 2003.

Highwater Clays, Inc. is a nationally recognized provider of clays, equipment, and services used to make pottery. The Asheville-based firm employs 27 people. The business is growing and the company is proposing an expansion of its operations in the River District. The owners have requested consideration for an incentive grant under the City of Asheville Economic Development policy. The company is proposing new, taxable, capital investment of \$725,000 for additional production equipment and facility improvements and the creation of 5 new jobs. The City of Asheville is considering offering Highwater Clays, Inc., a grant totaling \$7,500.

City staff recommends Council approve the resolution authorizing an economic development incentive grant to Highwater Clays, Inc.

Upon inquiry of Mr. Fred English, City Manager Westbrook explained the City's economic development incentive policy.

Councilman Dunn spoke in support of awarding this incentive grant. He felt this was a good way to foster small businesses.

Mayor Worley closed the public hearing at 5:31 p.m.

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

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Vice-Mayor Bellamy moved for the adoption of Resolution No. 03-102. This motion was seconded by Councilwoman Jones and carried unanimously.

Vice-Mayor Bellamy thanked Highwater Clays for their investment in the West End/Clingman Avenue area.

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**C. PUBLIC HEARING TO CONSIDER AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE FOR MORE STANDARD MINIMUM LOT SIZES IN ALL RESIDENTIAL DISTRICTS AND TO CLARIFY LOT WIDTH REQUIREMENTS FOR CUL-DE-SAC DEVELOPMENT AND FOR FLAG LOTS**

**ORDINANCE NO. 3031 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE FOR MORE STANDARD MINIMUM LOT SIZES IN ALL RESIDENTIAL DISTRICTS AND TO CLARIFY LOT WIDTH REQUIREMENTS FOR CUL-DE-SAC DEVELOPMENT AND FOR FLAG LOTS**

Mayor Worley opened the public hearing at 5: 34 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance to provide for more standard minimum lot sizes in all residential zoning districts and to clarify lot width requirements for cul-de-sac development and for flag lots. This public hearing was advertised on May 30 and June 6, 2003.

This code amendment provides for more standard minimum lot sizes in all residential zoning districts and clarifies lot width requirements for cul-de-sac development and for flag lots. This amendment was requested by the City-County Housing Task Force and is summarized below.

Minimum Lot Size

<u>Zone</u>	<u>Current</u>	<u>Proposed</u>
RS-2	21,780	20,000
RS-4	10,890	10,000
RS-8	5,445	5,000
RM-6	7,260	7,000
RM-8	5,445	5,000
RM-16	5,445	5,000 for multifamily*

or 2,500 for single family attached (townhomes)  
2,722.5/unit 3,500 for single family detached

### Lot Widths for Cul-de-Sac Developments

New Language: Lots on a cul-de-sac shall be a minimum of 25 feet wide at the right-of-way line and 75% of minimum at the front setback line and shall average the minimum lot width over the entirety of the lot

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### Flag Lots

*Added Language (incorporates an interpretation):*

- No more than one lot in a subdivision of less than 8 units shall be a flag lot
- No more than 2 lots or 10% of the total lots, whichever is greater, shall be flag lots in subdivisions of 8 or more lots

Also included are two "housekeeping" amendments. First, the reference to residential lots having public street access has been corrected to allow for private streets built to public street standards as another option. Second, a correction to an incorrect reference is made.

\* Since the adoption of the Urban Residential District, staff reconsidered the multi-family minimum lot size for the RM-16 district. We recommended a 10,000 square foot minimum to the Planning and Zoning Commission, but are now suggesting a 5,000 square foot minimum lot size to accommodate smaller-scale multifamily development; this would be slightly smaller than the current provision of 5,445 square feet.

On May 7, 2003, the Planning & Zoning Commission recommended approval of the proposed code amendment by a vote of 7-0. City staff recommends approval of the proposed code amendment as well, with the change in the RM-16 multifamily lot area to 5,000 square feet.

Ms. Janet Moore, Chairman of the Asheville-Buncombe Housing Task Force, spoke in support of this code amendment.

Mayor Worley closed the public hearing at 5:37 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. 3031. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

### **ORDINANCE BOOK NO. 20 - PAGE**

#### **D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE APPROVAL AUTHORITY AND PROCESS FOR MODIFICATIONS OF THE SUBDIVISION REGULATIONS**

#### **ORDINANCE NO. 3032 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY TO ASHEVILLE TO REVISE THE APPROVAL AUTHORITY AND PROCESS FOR MODIFICATIONS TO THE SUBDIVISION REGULATIONS**

Mayor Worley opened the public hearing at 5:39 p.m.

Urban Planner II Carter Pettibone said that this is the consideration of an amendment to the Unified Development Ordinance to change the approval authority for subdivision modification requests. This public hearing was advertised on May 30 and June 6, 2003.

Currently, both the Technical Review Committee (TRC) and Planning and Zoning Commission review requests for modifications to the subdivision ordinance prior to review and approval by the City Council. The typical timeframe for review and approval of these requests is

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about 2 months. These are technical modifications that address such issues as lots that don't front on a public right-of-way and similar matters.

This ordinance amendment will help streamline the review process for subdivision modifications by allowing their review and approval by the Technical Review Committee. All applicable city departments would still review these requests as part of the TRC review process. The ordinance amendment would also provide for a more equitable treatment of subdivision issues since the TRC is the review and approval authority for major subdivisions.

The review process would be reduced from 2 months to about 14 days. Staff believes this ordinance amendment provides a more streamlined and equitable alternative for subdivision modifications.

At its May 7, 2003, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the proposed ordinance amendment. The Planning and Development staff also recommends approval of the amendment.

Mr. Pettibone explained two additional "housekeeping" amendments to Section 7-3-1 (a) (5) and Section 7-3-5 (a) (3) which text amendments were adopted in 2000.

Upon inquiry of Councilman Mumpower, Mr. Pettibone explained that the appeals of the TRC go to the Planning & Zoning Commission.

When Councilman Mumpower asked about outside groups reviewing this amendment, Planning & Development Director Scott Shuford said that the Council of Independent Business Owners were satisfied with the amendment.

Mayor Worley closed the public hearing at 5:46 p.m.

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

Vice-Mayor Bellamy moved for the adoption of Ordinance No. 3032, with the two additional amendments to Section 7-3-1 (a) (5) and Section 7-3-5 (a) (3). This motion was seconded by Councilwoman Jones and carried unanimously.

## **ORDINANCE BOOK NO. 20 - PAGE**

### **E. PUBLIC HEARING ON THE FISCAL YEAR 2003-04 ANNUAL OPERATING BUDGET**

Mayor Worley opened the public hearing at 5:47 p.m.

Budget Director Ben Durant said that the City Council conducts a public hearing each year to receive public input on budget issues before the Annual Operating Budget is adopted.

The Fiscal 2003/2004 Annual Operating Budget was presented to City Council on May 12, 2003, and another worksession was held on June 4, 2003. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the Public Hearing was published on May 30 and June 6, 2003. Adoption of the Budget Ordinance is scheduled for June 24, 2003, at the City Council meeting.

The Fiscal Year 2003/2004 Annual Operating Budget is balanced with an Ad Valorem Tax rate of \$0.53 per \$100 assessed value.

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

City staff requests City Council conduct the public hearing on the City of Asheville Fiscal Year 2003/2004 Annual Operating Budget and include public input in consideration on the budget.

Mr. Glenn Holbert, Secretary-Treasurer of the Asheville Firefighters Association, addressed the issue of equity as it relates to the monies the City contributes toward retirement benefits for its employees. Even though this inequity has existed for more than 20 years, he would only address the past 18 months of meetings and discussions the Firefighters Association has had with

Council. In January of 2002 a meeting was requested with the City Manager to discuss this issue. The Association also conducted fact-based meetings with all members of City Council. During those meetings, the most prevailing concern of the present Council was "why now when the Governor is withholding substantial reimbursements from local governments and we will be lucky to survive the cuts that will be necessary." The firefighters softened their approach and continued with their education process. Their initial proposal contained five specific ways to begin to address the inequities. They also included in their proposal a pay enhancement which they placed on the back burner. During the Fiscal Year 2002-03 budget worksession, they appealed to Council to begin the process to determine the cost of a separation allowance. They felt this enhancement had the most promise. It addressed their needs and would, given a better financial climate, not place an unrealistic burden on the City's budget in any one given year. This is where the distrust of the firefighters and Council began. In June of 2002, Council promised that an actuarial study would be conducted prior to the budget deliberations for Fiscal Year 2003-04. That actuarial study would allow all parties to put to rest the debate relative to the cost of this allowance. To date no actuarial has been conducted and the cost of this proposal has yet to be determined. On February 21, 2003, the Fire Department conducted a staff planning session and during that session Assistant City Manager Jeff Richardson gave a report on the annual City Council retreat. He outlined the Council's priority list and we were pleased to see that the retirement benefit had made the top five. This was when they saw Council's attempt to narrow the discussion perimeters. Social security was Council's focus and all other options were fading. During the meetings in May of 2003, the firefighters reiterated their reluctance to embrace social security as the first and/or step in solving this issue. The \$540,000 that will be needed to fund social security at today's salaries seemed the most unrealistic part of this equation. That amount will only increase over time. Secondly, social security does not benefit all firefighters equally. The windfall elimination provisions will penalize firefighters up to 60% of their benefits if they have not been in the social security system for 20 years. Finally, there is no actuarial for the separation allowance costs and we feel those figures would make this issue a no-brainer. It is fiscally irresponsible on the part of this Council not to consider both options and weigh the potential cost and benefits. The funds must be available to administer either program and in your budget worksession, the cost-cutting that would probably have to take place to fund social security would place jobs or the merit-based plan in jeopardy and we will not be the fall guys for that kind of approach. The firefighters have approached this issue in good faith. The City pays 18.32% of salary for benefits for police officers, 16.45% for benefits for all other employees and 10.3% for firefighters. This has been occurring since 1980. What this Council does will send a very strong message to the firefighters that protect the citizens of Asheville. Do their sacrifices count for something other than a pat on the back? Words will no longer suffice. Action is the only thing that will send a clear message. We will not be the scapegoat for tough decisions.

Ms. Paula Robbins, member of the Greenway Commission and Secretary of the Asheville Parks and Greenways Foundation, spoke about the dedicated and talented staff of the Parks and

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Recreation Department. Their accomplishments have been rewarded by their professional peers with this year's award as the best Parks and Recreation Department in the Country for this size city. In addition to all of their past accomplishments, there are many exciting projects in the planning stages and nearing completion, e.g., Asheville Film Festival, Azalea Road Park, Richmond Hill Park and the Reed Creek Greenway. All have been collaborative projects with many other organizations so that funding has come primarily from sources other than taxpayer money. The citizens of Asheville need and want the services brought to them by the Asheville Parks and Recreation Department. She urged Council to maintain financial support for this department.

Mr. Fred English wondered if money could be used from Homeland Security to pay Police Department salaries. He spoke in support of the police officers and firefighters.

Detective Rondell Lance, President of the Fraternal Order of Police in Asheville, has seen Council struggle in the past with difficult decisions and how they strive to do what is right. He has seen Council listen and weigh each issue carefully. There are two issues he would like to address. One is the Advanced Certificate Program. As a law enforcement officer, we receive certifications in many different fields, such as radar, breathalyzer, etc. The highest certification that a law enforcement officer can receive is the Advanced Certificate issued by the State of North Carolina Criminal Education and Justice Standard Commission. This program awards officers for their time and service, as well as their education and training. He has been a police officer for 15 years and it has taken him 10 years to achieve his Advanced Certificate. You can be an officer for 20 years and not achieve the Advanced Certificate. It is something that an officer has to strive for and work to achieve. This program can be the difference between an officer deciding to go to Charlotte or the Highway Patrol or Winston-Salem to work because of higher wages. This would also be an incentive for the new officers to work toward and a benefit for those considering employment with the City. He encouraged Council to implement the program to reward the officers for the time, education and training. The second issue is the merit pay. Last year the City Manager sent an email to all employees and said that due to the financial difficulties with the state budget and lack of reimbursements, the City would not be able to give its employees a merit raise as it had in the past. After talking with his organization, they decided it was a legitimate reason for not receiving a merit pay. Being the professional and dedicated public servants that we are, we bit the bullet and did not complain. It was difficult, but we believed that once the City was able, they would once again implement the merit program. We waited in anticipation for the new budget. Also last year, there

was an increase in our health insurance so employees were faced with no merit raise and less take-home pay. Last year was a difficult year for City employees. Now this new budget. He attended the first worksession and observed the City Manager and Budget Director present Council with a balanced budget that included the reinstatement of merit pay for employees, as well as the Advanced Certificate Program for law enforcement officers. We were pleased. Then we heard some of Council had a problem with employees receiving their merit raise and some had a problem with the Advanced Certificate Program. Then we were again faced with the possibility of no raise for the second year in a row. What was worse was that we knew that the money was there to implement the programs. He heard a Council member state "when I worked I did not get a merit raise" and as soon as he heard this, he hoped that Council member was just thinking out loud because such a statement has no bearing on raises for City employees. To say he didn't get a raise when he worked so no one else should get one seems selfish and not a reason to deny dedicated employees their merit pay. He also heard a Council member make the statement "that many businesses in our area are not getting raises this year." This is probably true, but there are many businesses in our area that are getting raises this year. And probably one of those reasons for not receiving a raise is the economy, but another one could be poor management. To use this as an excuse to not give the City employees raises has no value and is not a valid reason. To say everyone in our area is not getting a raise, so he employees of Asheville should not get one is ridiculous and based on that theory, we would never get a raise. Council should reinstate the

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merit raise and Advanced Certificate Program for the following three reasons: (1) Council is investing in the economy of the City. We as City employees eat in the City, buy gas in the City, bring our families to the City, we support charities in the City, and we buy clothes and shop in the City. (2) The money is there. We know from the worksession that the money is there for the programs and for Council to look into the faces of City employees and their families and say "we are not giving you these programs" is a discredit to the employees, to their families, and to the citizens of Asheville. (3) The employees deserve these programs. The City of Asheville is second to none. Our employees receive awards continually on federal, county and state levels. The employees of Asheville are some of the best in the state. The service that they provide on a daily basis is to be commended. The City triples in population daily by people coming from McDowell, Henderson, Haywood, Madison, Polk and all surrounding counties to enjoy what Asheville has to offer. The City is growing because of the efforts of the employees of this City. It's a great City and it's made so by it's employees. Council members come and go and many of you here to today may, in five years, will not be sitting up there on Council. But we employees will still be here, working days, working nights, working in the snow and rain, sleet, during Bele Chere, during Christmas parades and all the other activities the City provides. To have Council tell us that we do not deserve a raise – we can give you one, but we aren't – hurts the City, the employees, citizens and tourism of this City. He encouraged Council to implement these programs. He begged Council to invest in the employees and watch the employees make the City better than it is. Watch us maintain a place that people from all over the country can come and enjoy all that the City has to offer. All we ask is for Council to give the employees what they deserve and earn as dedicated professional employees of this great City.

Mr. James Grant, member of the Recreation Board and commissioner of the National Parks and Recreation Association, challenged Council to keep our parks and recreation alive. We are a health care provider to the residents of Asheville. He explained how inactivity and poor nutrition have a disastrous impact on the health of North Carolinians. As a National Gold Medal Winner for Recreation and Park Management, Asheville provides services to all persons in our region. He explained the Pool Pal Program. All recreation centers help to prevent crime and the fear of crime in our neighborhoods.

Mr. Jim Drummond, Commissioner for the Asheville Youth Sports Program, explained how the Parks and Recreation Department has an economic impact, a wellness impact and an education impact on our citizens.

Ms. Ann Babcock, member of the Recreation Board, explained how parks, recreation programs and greenways define the quality of life in a community.

Mr. Dennis Justice, Fletcher resident, was concerned over the Civic Center. He explained how it is hard to recruit teams and events there due to the condition of the Civic Center. He believed the City should take the auditorium and performing arts center out of the equation and hire an engineer to tell the City what will extend the life of the arena by 20 years or more.

Mr. Mike Lanning, representing the Police Benevolent Association, spoke in support of the Advanced Certificate Program as an incentive to keep trained officers, as well as an inducement to hire new officers.

Mayor Worley closed the public hearing at 6:21 p.m.

After a short discussion, it was the consensus of City Council to begin their June 17, 2003, worksession at 2:00 p.m. in the First Floor Conference Room to discuss the budget prior to their regular worksession items.

It was also the consensus of City Council to postpone the update on the Minimum Housing Code from their June 17 worksession until July 15, 2003, since some key voices will not be available on June 17. City Manager Westbrook noted that City staff is ready to present their recommendations.

Mayor Worley announced that on June 24, 2003, City Council will consider adoption of the Fiscal Year 2003-04 Annual Operating Budget.

At 6:30 p.m., Mayor Worley announced a short break.

**IV. UNFINISHED BUSINESS:**

**A. RESOLUTION NO. 03-103 - RESOLUTION AMENDING THE ANNEXATION SERVICES PLAN FOR THE 2004 ANNEXATION AREAS TO REFLECT REVISED PERIMETER AND CONTIGUITY FOR THE ANNEXATION AREAS**

Urban Planner II Carter Pettibone said that this is the consideration of a resolution amending the Annexation Services Plan for the 2004 Annexation Areas to reflect revised perimeter and contiguity calculations for the five annexation areas.

In adopting an annexation ordinance, the City has the authority to annex all or some of an area proposed for annexation, as long as that area qualifies for annexation. The City may also amend the services plan, as long as the requirements for providing service to the annexation areas continue to be met.

At the public hearing on May 27, 2003, City staff recommended that the perimeter and contiguity calculations for the annexation areas be revised to reflect more detailed metes and bounds descriptions for the annexation areas. These revised metes and bounds descriptions were developed after the adoption of the Resolutions of Intent and the Annexation Services Plan and reflect more detailed and thorough descriptions of the areas. The proposed amendment to the Services Plan results from these revised boundary descriptions. The effects of this change are that it causes the contiguity of the Deaverview Road Area to be increased significantly and the contiguity of the other areas to be revised slightly, but does not cause any of the areas to qualify under any additional tests.

This technical amendment allows us to incorporate improved information for these calculations into the Services Plan. It also does not increase the size of areas under consideration or add any additional property to the annexation areas. There are no changes to proposed services, costs, or revenues associated with this amendment.

As long as the Annexation Services Plan does not show the annexation areas as qualifying under any additional statutory tests, no additional public hearing is required for this amendment to the Plan.

City staff recommends City Council adopt a resolution amending the Annexation Services Plan to revise perimeter and contiguity calculations for the five annexation areas.

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

Councilman Peterson moved for the adoption of Resolution No. 03-103. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

**RESOLUTION BOOK NO. 27 – PAGE 428**

**B. ORDINANCE NO. 3033 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE DEAVERVERVIEW ROAD AREA**

Mayor Worley said that the public hearing on this matter was held on June 10, 2003.

Urban Planner II Carter Pettibone said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Deaverview Road area.

On March 25, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas:

Deaverview Road area, Crowell Road area, Smoky Park Highway area, Sand Hill Road area, and Hendersonville Road area. The Annexation Services Plan for all of these areas was approved on April 8, 2003, and the Plan was amended on June 10, 2003. A public information meeting was held on May 15, 2003. Public hearings on each of annexations were held by City Council on June 10, 2003. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Pettibone said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2004.

Staff recommends adoption of annexation ordinance for the Deaverview Road area, with an effective date of June 30, 2004.

Upon inquiry of Councilman Mumpower, Mr. Pettibone reminded Council what was located on this site.

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

Councilman Peterson moved for the adoption of Ordinance No. 3033. This motion was seconded by Councilwoman Jones.

Councilman Dunn said that it's not because it's politically good to vote against an unpopular theme but rather his negative vote stems from a much bigger issue. Council ran for their City to be a better place. After one year or more, he sees little headway on big issues that affect the City revenues. He has seen a lot on Unified Development Ordinance amendments, proclamations and rezoning issues, but there are much bigger issues that we need to start taking care of if we are going to continue annexing. He doesn't think we are making enough of a strong voice. The room tax. The room tax in Asheville is 4 cents. This Council should go on record, in my opinion, of supporting a 7-cent room tax to go directly to Asheville to support infrastructure, police, and parks and recreation. That's \$2-3 Million we would have in our coffers if we would go on record as supporting this. He knows our legislators are the only ones who can do this. They have been voting for room tax increases all over this state continuously as seen by their records, but they will not do it in their own back yard. This is an abomination. The Republicans and Democrats in Raleigh need to hear from this Council. It's time for us to get that room tax to use for these various projects. This is something we need to do. He felt we need to stop wasting money on two school systems. Our citizens are paying 20-cents to supplemental school tax. We are duplicating services and he has the records to prove it. Although we are making headway, he didn't see that we need an administrative top hierarchy to continue using tax dollars on. Part of that supplemental school tax could be used as a tax break to our citizens. He's talked to teachers and they don't really care if the administration is one way or the other, as long as they get their

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supplements and as long as they have autonomy for the Asheville High School and the other parts of the Asheville School System. That is a significant tax break for some of our citizens. If we were diligent in placing real pressure on our state representatives we could be receiving room tax revenue paid by tourists for roads, streets and the Civic Center. The Mayor will say that we have done that and we have asked them for a menu. That's fine, but it has taken years for that to really happen. It's time for voters in our City to decide if they are going to keep voting for our state legislators when they continue to not support this City. It takes infrastructure money for the hotels and it's time to hit that issue. That is one of the things we need to do. Why pick on schools? It's a political hot potato, but in reality we could save the taxpayers even more dollars. The Blue Ridge Parkway costs our City \$10,000 or more a month to haul dirt across the County into Fairview. We are being held hostage by the Blue Ridge Parkway that is costing our taxpayers big dollars. We ought to be incensed about that. We should not allow that to continue. We need to merge some of these City and County government issues. We have done a wonderful job with the 911 and the Joint Planning Agency. By just annexing these areas, we are trying to gain a tax base without the trouble of getting involved politically with the ones he just mentioned. By annexing businesses, like Day International, we are working against the large companies that employ people. When you look at the population of Asheville, which is roughly 70,000 people, it's the same as it was 60 years ago. Annexation is not being the catalyst to keep our density and our population here in Asheville. Look at history, it's failing. What are we offering the people we annex? He personally doesn't think we're offering them a great deal. Some say that the folks should pay taxes to the City because they benefit from being in the City. He would argue that and say he thinks some of the people living in our City are not getting the fair shake they deserve either. He lives in Wilshire Park and it's been in the City 50 years and still no sidewalks there. We talk about 1,700 miles of water lines and only a handful is going to be repaired. Three hundred and fifty miles of streets - \$1.2 Million, and we're still 35 years behind. Some of you will argue that we have no control over these issues. He would argue that what Council says and what we do means a lot. We need to become more vocal and push this agenda. Nothing like pressure – that's when things happen. When he leaves this Council after four years of service he wants to make Asheville a better place. But the status quo has got to stop. We have got to take a stand on the room tax and

other things to help us pay our bills. They say that by attacking the room tax, we are killing the goose that lays the golden egg. He would say that every goose needs a nest and the nest is Asheville. We need to be giving this some more service besides a little behind the back nudging. He would encourage Council, if we keep annexing, to get vocal about these issues. He would support annexation if he thought we were doing everything we could do to bring more revenue.

Councilman Mumpower said that focusing specifically on annexation, he doesn't like it, he finds it unpleasant and personally it's a distasteful activity, but it's fairness issue. If people live in the immediate proximity of the City or do business in the immediate proximity of the City, then they should share in the cost of running the City. A lot of people that live near the City benefit from the City and a lot of the people that do business near the City benefit from being around all these people. Distasteful as it may be, if we're going to be fair to the people who pay for this City then he thinks that we have to ask some of those people to step up and do their fair share.

The motion made by Councilman Peterson and seconded by Councilwoman Jones carried on a 6-1 vote, with Councilman Dunn voting "no."

#### **ORDINANCE BOOK NO. 20 – PAGE**

#### **C. ORDINANCE NO. 3034 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE CROWELL ROAD AREA**

Mayor Worley said that the public hearing on this matter was held on June 10, 2003.

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Urban Planner II Carter Pettibone said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Crowell Road area.

On March 25, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Deaverview Road area, Crowell Road area, Smoky Park Highway area, Sand Hill Road area, and Hendersonville Road area. The Annexation Services Plan for all of these areas was approved on April 8, 2003, and the Plan was amended on June 10, 2003. A public information meeting was held on May 15, 2003. Public hearings on each of annexations were held by City Council on June 10, 2003. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Pettibone said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2004.

Staff recommends adoption of annexation ordinance for the Crowell Road area, with an effective date of June 30, 2004.

Mr. Pettibone explained Council what is located on this site and what is located in the surrounding area.

Upon inquiry of Councilman Mumpower, Mr. Pettibone said that property tax for the motel would be approximately \$11,336 and the property tax for the Smoky Mountain Auto Service would be approximately \$1,283. Fire Chief Greg Grayson also responded that the property owner for the Auto Service said that his insurance company had told him that he would have approximately \$300 in savings in insurance premiums and he will also experience a 7.5 cents per \$100 value in fire tax savings (approximately \$200).

Councilman Ellis said that there are several other motels in that immediate vicinity and not annexing this one puts the other motels at a disadvantage.

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

Councilman Peterson moved for the adoption of Ordinance No. 3034. This motion was seconded by Councilman Ellis.

Councilwoman Jones felt that the non-residential use test, when utilizing small parcels, isn't really strong and she would therefore vote against this annexation.

The motion made by Councilman Peterson and seconded by Councilman Ellis carried on a 5-2 vote, with Councilwoman

Jones and Councilman Dunn voting "no."

**ORDINANCE BOOK NO. 20 – PAGE**

**D. ORDINANCE NO. 3035 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE SMOKY PARK HIGHWAY AREA**

Mayor Worley said that the public hearing on this matter was held on June 10, 2003.

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Urban Planner II Carter Pettibone said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Smoky Park Highway area.

On March 25, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Deaverview Road area, Crowell Road area, Smoky Park Highway area, Sand Hill Road area, and Hendersonville Road area. The Annexation Services Plan for all of these areas was approved on April 8, 2003, and the Plan was amended on June 10, 2003. A public information meeting was held on May 15, 2003. Public hearings on each of annexations were held by City Council on June 10, 2003. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Pettibone said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2004.

Staff recommends adoption of annexation ordinance for the Smoky Park Highway area, with an effective date of June 30, 2004.

Mr. Pettibone explained Council what is located on this site and what is located in the surrounding area.

Upon inquiry of Vice-Mayor Bellamy, Assistant City Manager Jeff Richardson explained the resolution of the property owner's concern regarding the tax issue of the property.

Mr. Mike Fryar, property owner, explained how the building and property were improperly assessed by Buncombe County.

Upon inquiry of Vice-Mayor Bellamy, Mr. Shuford explained that there is potential for further development in this area and every time we annex property, we improve the future contiguity for the new property to come into the City.

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

After discussion, Councilman Mumpower moved for the adoption of Ordinance No. 3035. This motion was seconded by Vice-Mayor Bellamy.

Councilman Ellis felt that we should wait to annex this property until the land around it develops further. Planning & Development Director Scott Shuford said that this is really the dead-end of where the City limits line can go absent the development on the old BASF property.

Councilwoman Jones felt that the non-residential use test, when utilizing small parcels, isn't really strong and she would therefore vote against this annexation.

Upon inquiry of Mayor Worley, Fire Chief Greg Grayson explained how the area would be served for fire protection.

Councilman Ellis decided to vote in favor of this annexation and hoped that in the future the value of the property will be increased considerably though this annexation.

The motion made by Councilman Mumpower and seconded by Vice-Mayor Bellamy carried on a 5-2 vote, with Councilwoman Jones and Councilman Dunn voting "no."

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**ORDINANCE BOOK NO. 20 – PAGE**

**E. ORDINANCE NO. 3036 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE SAND HILL ROAD AREA**

Mayor Worley said that the public hearing on this matter was held on June 10, 2003.

Urban Planner II Carter Pettibone said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Sand Hill Road area.

On March 25, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Deaverview Road area, Crowell Road area, Smoky Park Highway area, Sand Hill Road area, and Hendersonville Road area. The Annexation Services Plan for all of these areas was approved on April 8, 2003, and the Plan was amended on June 10, 2003. A public information meeting was held on May 15, 2003. Public hearings on each of annexations were held by City Council on June 10, 2003. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Pettibone said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2004.

Staff recommends adoption of annexation ordinance for the Sand Hill Road area, with an effective date of June 30, 2004.

Mr. Pettibone explained Council what is located on this site and what is located in the surrounding area.

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

Councilwoman Jones moved for the adoption of Ordinance No. 3036. This motion was seconded by Councilman Peterson and carried on a 6-1 vote, with Councilman Dunn voting "no."

**ORDINANCE BOOK NO. 20 – PAGE**

**F. ORDINANCE NO. 3037 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE HENDERSONVILLE ROAD AREA**

Mayor Worley said that the public hearing on this matter was held on June 10, 2003.

Urban Planner II Carter Pettibone said that this is the consideration of adopting an ordinance to extend the corporate limits of the City of Asheville to the Hendersonville Road area.

On March 25, City Council adopted Resolutions of Intent beginning the annexation process for the following five areas: Deaverview Road area, Crowell Road area, Smoky Park Highway area, Sand Hill Road area, and Hendersonville Road area. The Annexation Services Plan for all of these areas was approved on April 8, 2003, and the Plan was amended on June 10, 2003. A public information meeting was held on May 15, 2003. Public hearings on each of

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annexations were held by City Council on June 10, 2003. Adoption of the annexation ordinances is the final step in the annexation process.

Mr. Pettibone said that a metes and bounds description and a map are attached to the ordinance. The annexation area does meet the requirements of General Statutes. It is the intent of the City to extend City services outlined in the Annexation Services Plan. On the effective date of the annexation, the City will have funds in sufficient amount to finance all capital expenditures. The effective date of this annexation is June 30, 2004.

Staff recommends adoption of annexation ordinance for the Hendersonville Road area, with an effective date of June 30, 2004.



Mr. Pettibone explained Council what is located on this site and what is located in the surrounding area.

When Councilman Mumpower asked if the City has contacted Day International, Mr. Pettibone said that he had and they expressed concern over rising taxes.

Councilman Mumpower expressed concern that this is a less than ideal time to annex the export business of Day International and risk the loss of jobs. He explained how industrial jobs are at a high risk and how we should try to hold onto them. He asked if Council would be willing to consider deleting the Day International property from this annexation.

Councilman Peterson appreciated the concern about Day International, but noted that they will not have to be paying Skyland Volunteer Fire Department taxes and they might have other savings. If we looked at every major employer in Asheville and said we want to protect those jobs by not charging them property taxes, then all the residents would have to pay 20-40% more for the services. That's not fair. If they are looking to expand, they would have the advantage of applying for the City's economic development incentive grant and get a property tax rebate for a number of years. Cities that are growing have done well economically and there has been job growth and rising incomes. The more people that are brought into the system, the less that everyone else has to pay. If we say we don't want to burden this one, and we don't want to burden that one, what we end up doing is shifting that burden to everyone else. Our job is to look at the bigger picture. If Day International had some particular concern and they wanted some economic rebate, we have a lot of programs to try to encourage jobs to stay here and to bring jobs to the City so we can address that on that front.

Councilman Dunn said that Asheville is becoming the most expensive City in the state to live and we are going to have to find other sources of revenue.

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

Councilman Ellis moved for the adoption of Ordinance No. 3037. This motion was seconded by Councilman Peterson and carried on a 5-2 vote, with Councilman Dunn and Councilman Mumpower voting "no."

#### **ORDINANCE BOOK NO. 20 – PAGE**

Mr. Shuford showed a chart explaining that the trend around our state is urban growth through annexation.

City Manager Westbrook explained how not growing in population affects other monies the City receives.

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#### **V. NEW BUSINESS:**

##### **A. RESOLUTION NO. 03-104 - RESOLUTION INITIATING THE CANDIDATE INFORMATION SESSION**

City Manager Jim Westbrook said that several months ago City Council asked the City Manager to develop a program of information for members of the public who run for City Council. The feeling was that in the past, if there had been general information sessions about City government and specific programs, misinformation would have been less likely to develop during the election process. In preparing the proposed agenda, all City departments were consulted, as well as the City Attorney, the City Clerk and the Institute of Government.

As you know, City staff could literally take hours going into detail on various programs that would be of interest. However, the City Manager felt it most important to allow potential candidates to ask questions so they could decide what is important. In talking with staff at the Institute of Government about this particular initiative, they indicated that they were changing their program for new council members to include processes for working as a group, the need for personal time commitment, and taking a long-term view of both issues and relationships, among other things. Therefore, that is included in the agenda, too.

The City Manager would ask that Mayor Worley or a similar elected official act as the leader of the meeting, setting up the ground rules, as well as keeping time and moderating as necessary. After a brief welcome and introduction, the City Manager would present some information concerning the City's relationship to the state, as well as the council-manager form of government. He would be followed by the City Attorney who would present information on state law, local law, conflicts of interest, Open Meetings law, etc. The Finance Director and the Budget Director would follow with brief explanations of the budget and financial condition. This general information would be followed by a question and answer session with all candidates, moderated by Mayor Worley.

The last session would be led by a former Mayor and Council Members. The purpose is to follow up on the Institute of Government's suggestion about the need to hear and discuss the democratic process, personal commitments, working as a group, the need for public trust, etc. This would allow persons who are running for Council to hear from a previous Mayor and Council Members who are no longer in elected office their views on these important facets of being an elected Council Member.

The purpose of this report is to explain the program and asks Council's approval to move forward with it.

The City Manager recommends that City Council approve the resolution authorizing the Candidate Information Session.

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

Vice-Mayor Bellamy moved for the adoption of Resolution No. 03-104. This motion was seconded by Councilwoman Jones and carried unanimously.

## **RESOLUTION BOOK NO. 27 – PAGE 435**

### **VI. OTHER BUSINESS:**

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#### **Award**

Mayor Worley proudly announced that Asheville has received City Livability Award for Cities under 100,000 for the Grove Arcade Project from the U.S. Conference of Mayors.

#### **Claims**

The following claims were received by the City of Asheville during the period of May 16-22, 2003: John W. Williams (Streets), Delicia Deen (Civic Center) and Kenneth D. Roberts II (Police).

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

### **VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Alan Ditmore spoke about his concern with the growth of density limits and the affect of cost of living.

Mr. Fred English commented about the pushcart provisions of the ordinance and the City's application of those provisions.

Mr. David Lynch, representing Asheville Justice Watch, spoke about the Police Chief's alleged violation of the City's Police Department's Policy No. 1231 (media relations), Procedure 2 (e) with regard to the incident involving Councilman Brian Peterson. A breach of such policy would put an internal review officer in the uncomfortable position of investigating his own chief. Since the Chief has the sole responsibility for issuing findings of fact in such an investigation, he would be charged with determining his own guilt or innocence. We feel that the citizens and leaders of Asheville need to find a way to ensure that our Police Department's professional body is kept as separate as possible from actual or apparent political influence. We submit that this breach of policy illustrates that an independent oversight board is an appropriate and necessary step to provide the safeguards that our community needs and deserves. City Attorney Oast said that he doesn't have any first-hand knowledge, but it is his understanding that the information was already being circulated at the time the Police Chief made a visit to the Citizen-Times.

Mr. Peter Dawes, from the Mountain Guardian, explained an unsatisfactory incident where he asked for information concerning the Councilman Peterson incident from the City Attorney's Office.

Mr. Michael Morgan felt it was wrong of Council to censure Councilman Peterson since he has not been tried in a court of law.

Mr. Dennis Justice, Fletcher resident, felt that Council should close the door on bringing hockey in the Civic Center until the facility is addressed. He passed out additional information concerning the Civic Center and it's budget.

Mr. Mike Fryar supported the City tearing down the Civic Center and building it somewhere else since there is no parking

in the downtown area.

Mr. Walter Plaue expressed his appreciation of Council's support of the Memorial Day celebration at the City-County Plaza. He hoped it would become an annual event.

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**VIII. ADJOURNMENT:**

Mayor Worley adjourned the meeting at 8:43 p.m.

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CITY CLERK

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MAYOR