

Regular Meeting

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

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Worley led City Council in the Pledge of Allegiance.

INVOCATION

Councilwoman Bellamy gave the invocation.

I. PROCLAMATIONS:

II. CONSENT:

Councilwoman Bellamy asked that Consent Agenda "X" be removed from the Consent Agenda for an individual vote.

Councilman Newman asked that Consent Agenda "A" be removed from the Consent Agenda to be discussed under "Other Business."

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 13, 2004, AND THE WORKSESSION HELD ON JANUARY 20, 2004

This item was removed from the Consent Agenda to be discussed under "Other Business"

B. RESOLUTION NO. 04-10 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A PERMANENT EASEMENT FOR THE METROPOLITAN SEWERAGE DISTRICT TO MAKE IMPROVEMENTS AT BROADWAY AT FIVE POINTS

Summary: The consideration of a resolution authorizing the Mayor to execute a permanent easement for Metropolitan Sewerage District (MSD) to make improvements on a sanitary sewer line and associated manholes within portions of the Reed Creek Greenway.

During the past year the Metropolitan Sewerage District has been working with the City of Asheville regarding a sanitary sewer project proposed within the Reed Creek Greenway corridor. City staff, along with the Metropolitan Sewerage District, would like to improve this important line that is in disrepair with minimum impact to municipal property. MSD staff has worked closely with City of Asheville staff regarding an appropriate design and implementation strategy that will enable project improvement while retaining the integrity of the proposed greenway and its natural resources.

The Parks and Recreation staff recommends the approval of the improvements as proposed by the Metropolitan District in the Broadway at Five Points Sanitary Sewer Rehabilitation Project along with the associated permanent easement for the new line of pipe.

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C. RESOLUTION NO. 04-11 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A PERMANENT EASEMENT FOR THE METROPOLITAN SEWERAGE DISTRICT TO MAKE IMPROVEMENTS ON BROADWAY AVENUE

Summary: The consideration of a resolution authorizing the Mayor to execute a permanent easement for Metropolitan Sewerage District (MSD) to make improvements on a sanitary sewer line and associated manholes within portions of the Reed

Creek Greenway.

During the past year the Metropolitan Sewerage District has been working with the City of Asheville regarding a sanitary sewer project proposed within the Reed Creek Greenway corridor. City staff, along with the Metropolitan Sewerage District, would like to improve this important line that is in disrepair with minimum impact to municipal property. MSD staff has worked closely with City of Asheville staff regarding an appropriate design and implementation strategy that will enable project improvement while retaining the integrity of the proposed greenway and its natural resources.

The Parks and Recreation staff recommends the approval of the improvements as proposed by the Metropolitan District in the Broadway Avenue Sanitary Sewer Rehabilitation Project along with the associated permanent easement for the new line of pipe.

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D. RESOLUTION NO. 04-12 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A PERMANENT EASEMENT FOR THE METROPOLITAN SEWERAGE DISTRICT TO MAKE IMPROVEMENTS ON A SANITARY SEWER LINE WITHIN WEAVER PARK ON MERRIMON AVENUE

Summary: The consideration of a resolution authorizing the Mayor to execute a permanent easement for Metropolitan Sewerage District (MSD) to make improvements on a sanitary sewer line and associated manholes within Weaver Park.

During the past year the Metropolitan Sewerage District has been working with the City of Asheville regarding a sanitary sewer project proposed within Weaver Park. The Metropolitan Sewerage District would like to improve this line that presently is in need of repair. The current line is located within the center of the park and it will be moved to the northern edge of the property to minimize current and future impact on the park. MSD staff has worked closely with City of Asheville staff regarding a sensitive engineering solution that will include the replacement of a substantially deteriorated parking lot and basketball court at no cost to the Parks & Recreation Department.

The Parks and Recreation staff recommends the approval of the improvements as proposed by the Metropolitan District in Weaver Park along with the associated permanent easement for the new line of pipe.

RESOLUTION BOOK NO. 28 – PAGE 108

E. MOTION ADOPTING THE 2004-2005 BUDGET SCHEDULE

Summary: The consideration of a motion approving the Fiscal Year 2004/2005 budget schedule.

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The proposed Fiscal Year 2004/2005 budget schedule identifies key dates for completion of all phases of the budget process leading to adoption. Key phases of the budget process include the City Council Annual Retreat, presentation of the proposed budget to City Council, a public hearing and formal adoption. This year's schedule includes five scheduled budget worksessions, allowing City Council sufficient time for effective budget deliberations. Adoption of the Fiscal Year 2004/2005 budget is scheduled for June 22, 2004.

City staff recommends City Council to adopt the Fiscal Year 2004/2005 budget schedule.

F. RESOLUTION NO. 04-13 - RESOLUTION SETTING A PUBLIC HEARING FOR FEBRUARY 10, 2004, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR DAVE STEEL COMPANY

Summary: The consideration of a resolution setting a public hearing on February 10, 2004, for an economic development incentive grant for Dave Steel Company.

Dave Steel Company, a local fabricator of structural steel, is adding new production equipment valued at \$600,000. This equipment diversifies the company's capabilities allowing them to expand into new markets. This, in turn, will help stabilize employment for the current workforce and lead to the creation of 25 new jobs in 2004. The project qualifies for a Level 1 grant under the City Economic Development Incentive Policy.

City staff recommends Council approve the resolution setting a public hearing on February 10, 2004, for an economic development incentive grant for Dave Steel Company.

G. ORDINANCE NO. 3085 - BUDGET AMENDMENT FOR REIMBURSEMENT FROM THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY, EMERGENCY MANAGEMENT DIVISION, FOR HAZARDOUS MATERIALS RESPONSE AS A RESULT OF THE BEACON MANUFACTURING FIRE

Summary: The consideration of a budget amendment, in the amount of \$31,836, for reimbursement from the North Carolina Department of Crime Control and Public Safety, Emergency Management Division, for hazardous materials response as a result of the Beacon Manufacturing fire.

The City of Asheville Fire and Rescue Department responded to the Beacon fire in two capacities. One was mutual aid for fire suppression. The other was a request by North Carolina Emergency Management due to a spill of hazardous materials as a result of the fire. An extreme amount of equipment and resources was required that exceeded the Fire and Rescue Department's inventory. Therefore, a private contractor was contacted to assist the Asheville Fire and Rescue Department. These funds will replace equipment supplied by the Fire and Rescue Department used at multiple locations to contain the spill and replace funds used to pay for the resources from the private contractor.

City staff recommends City Council approve the budget amendment to receive the reimbursement from the N. C. Department of Crime Control and Public Safety, Emergency Management Division.

ORDINANCE BOOK NO. 21 – PAGE

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H. ORDINANCE NO. 3086 - BUDGET AMENDMENT TO RECEIVE GRANT MONEY FROM THE U.S. DEPT. OF HOMELAND SECURITY FOR REPLACEMENT OF SELF-CONTAINED BREATHING APPARATUS AND REPLACEMENT OF PORTABLE RADIOS

Summary: The consideration of a budget amendment, in the amount of \$174,578, to receive grant money from the U.S. Department of Homeland Security (DHS), sub-granted through the Federal Emergency Management Agency's (FEMA) FY 03 Assistance to Firefighter's Grant Program, for procurement of replacement self contained breathing apparatus (air packs) and replacement portable radios (walkie-talkies).

The City of Asheville Fire and Rescue Department with endorsement of the Asheville City Council in March, 2003 requested \$122,205 from the U.S. Department of Homeland Security to replace 44 of the department's self contained breathing apparatus (air packs) and 24 of the department's VHF portable radios (walkie-talkies). The Federal grant was for 70% of the costs with the City to match 30%, or \$52,373 from our contingency account. Staff was successful in obtaining those Federal funds.

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Air packs and walkie-talkies are daily use equipment by firefighters and are used on virtually every emergency that occurs within the city.

Fire and Rescue staff plans to request funds in the Fiscal Year 2004 Assistance to Firefighter's Grant Program to complete replacement of the department's self contained breathing apparatus (air packs).

City staff recommends City Council approve the budget amendment to receive grant money from the U.S. Department of Homeland Security.

ORDINANCE BOOK NO. 21 – PAGE

I. RESOLUTION NO. 04-14 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WHEELER CONSTRUCTION COMPANY FOR WEST AREA ANNEXATION, PHASE IV, SANITARY SEWER SYSTEM IMPROVEMENTS

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Wheeler Construction Company Inc., for West Area Annexation - Phase IV- Sanitary Sewer System Improvements.

This project is the last Phase of the West Annexation Area. It is called the West Area Annexation - Phase IV- Sanitary Sewer System Improvements and consists of the installation of approximately 2,105 linear feet of eight inch (8") diameter sanitary

sewer line and related appurtenances.

The Engineering Department received and publicly opened six (6) bids on Thursday, January 8, 2004, 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 \$ 218,434.50.

Project will be financed with moneys generated by General Obligation Bonds Series 2000 of December, 2000.

Wheeler Construction Company, Inc., has performed several projects of this nature in the past in a satisfactory way.

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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 West Area Annexation - Phase IV- Sanitary Sewer System Improvements to Wheeler Construction Company, Inc., the responsible low bidder.

RESOLUTION BOOK NO. 28 – PAGE 110

J. ORDINANCE NO. 3087 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF HEALTH AND HUMAN SERVICES FOR THE HARVEST HOUSE AND SENIOR OPPORTUNITY CENTER

Summary: The consideration of a budget amendment, in the amount of \$14,519, for the annual appropriation from the N.C. Dept. of Health and Human Services, Division on Aging, for the Harvest House and Senior Opportunity Center.

Funds will be used at Harvest House to purchase equipment and supplies, improve landscaping and to assist with special needs transportation. Funds will be used at Senior Opportunity Center to purchase equipment and supplies, replace the heating and air conditioning unit and make improvements in the sewer lines.

The Parks and Recreation Department recommends City Council approve the budget amendment, in the amount of \$14,519, to establish a budget for the projects at Harvest House and Senior Opportunity Center.

ORDINANCE BOOK NO. 21 – PAGE

K. RESOLUTION NO. 04-15 - RESOLUTION CANCELING THE FEBRUARY 3, 2004, CITY COUNCIL WORKSESSION

RESOLUTION BOOK NO. 28 – PAGE 111

L. RESOLUTION NO. 04-16 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Summary: The term of Clara Jeter, as a member on the Asheville-Buncombe Community Relations Council, expired on December 31, 2003.

On January 20, 2004, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Ms. Jeter to serve an additional three year term, term to expire December 31, 2006, or until her successor has been appointed.

RESOLUTION BOOK NO. 28 – PAGE 112

M. RESOLUTION NO. 04-17 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABLE ECONOMIC DEVELOPMENT STRATEGIC PLAN IMPLEMENTATION TASK FORCE

Summary: The consideration of a resolution appointing a member to the Sustainable Economic Development Implementation Task Force.

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In June 2003, the Task Force, initially appointed in June 2000, was re-appointed. All original Task Force members were re-appointed except three who resigned at the end of the original three-year term. Three new members were appointed from a slate of six candidates submitted by the Task Force. One of those new members, Daniel Prevost, later resigned (due to unforeseen business related issues), after the official appointment was made, leaving a vacancy.

The Task Force is recommending David McConville, Founder, Black Box Studios, as the replacement for the vacancy created by Mr. Prevost's resignation. Mr. McConville was among those six candidates originally proposed by the Task Force in June 2003. Task Force Chairman, Jack Cecil, has contacted Mr. McConville and he (Mr. McConville) has agreed to serve if appointed.

RESOLUTION BOOK NO. 28 – PAGE 113

N. RESOLUTION NO. 04-18 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Summary: The term of Bill Schaefer, as a member of the Firemen's Relief Fund, expired on January 1, 2004.

On January 20, 2004, it was the consensus of City Council to reappoint Bill Schaefer to serve an additional two year term, term to expire January 1, 2006, or until his successor has been appointed.

RESOLUTION BOOK NO. 28 – PAGE 114

O. RESOLUTION NO. 04-19 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary: The term of Barbara Field, as a member on the Metropolitan Sewerage District Board, expired on January 19, 2004.

On January 20, 2004, it was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Councilwoman Terry Bellamy to serve a three year term, term to expire January 19, 2007, or until her successor has been appointed.

RESOLUTION BOOK NO. 28 – PAGE 115

P. RESOLUTION NO. 04-20 - RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION

Summary: The terms of Monty Wooten and Robert Halliday, as members on the Asheville Tree Commission, expired on December 31, 2003.

On January 20, 2004, it was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to reappoint Monty Wooten and Robert Halliday to each serve an additional three year term respectively, terms to expire December 31, 2006, or until their successors have been appointed.

RESOLUTION BOOK NO. 28 – PAGE 116

Q. RESOLUTION NO. 04-21 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY ECONOMIC DEVELOPMENT COMMISSION

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Summary: At the City Council worksession held on January 20, 2004, the City Clerk was instructed to prepare the proper paperwork to appoint Councilman Newman, as the City's representative to the Buncombe County Economic Development Commission, to serve according to the length of his office.

RESOLUTION BOOK NO. 28 – PAGE 117

R. RESOLUTION NO. 04-22 - RESOLUTION APPOINTING THE CHAIRMAN OF THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: At the City Council worksession held on January 20, 2004, the City Clerk was instructed to prepare the proper paperwork to appoint Vice-Mayor Mumpower as the Chairman to the Police Officers & Firefighters Disability Review Board to serve

a term according to the length of his Vice-Mayor term of office.

RESOLUTION BOOK NO. 28 – PAGE 118

S. RESOLUTION NO. 04-23 - RESOLUTION APPOINTING A MEMBER TO THE DOWNTOWN COMMISSION

Summary: At the City Council worksession held on January 20, 2004, the City Clerk was instructed to prepare the proper paperwork to appoint Councilman Davis, as the City Council representative, to the Asheville Downtown Commission to serve according to the length of his office.

RESOLUTION BOOK NO. 28 – PAGE 119

T. RESOLUTION NO. 04-24 - RESOLUTION APPOINTING A MEMBER TO THE PACK SQUARE CONSERVANCY BOARD OF TRUSTEES

Summary: At the City Council worksession held on January 20, 2004, the City Clerk was instructed to prepare the proper paperwork to reappoint Mayor Worley, as the City Council representative, to the Pack Square Conservancy Board of Trustees, to serve a two-year term, term to expire January 1, 2006, or until his term of office expires, whichever occurs first.

RESOLUTION BOOK NO. 28 – PAGE 120

U. RESOLUTION NO. 04-25 - RESOLUTION APPOINTING A MEMBER TO THE REGIONAL WATER AUTHORITY OF ASHEVILLE, BUNCOMBE AND HENDERSON

Summary: At the City Council worksession held on January 20, 2004, Mayor Charles Worley announced his resignation from the Regional Water Authority.

Also at the January 20, 2004, worksession, the City Clerk was instructed to prepare the proper paperwork to appoint Councilman Dunn to serve the unexpired term of Mayor Worley, term to expire September 30, 2004, or until his successor has been appointed.

RESOLUTION BOOK NO. 28 – PAGE 121

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V. RESOLUTION NO. 04-26 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENTAL & NATURAL RESOURCES DIVISION OF PARKS & RECREATION IN THE N.C. PARKS & RECREATION TRUST FUND, TO ASSIST WITH THE RENOVATIONS TO MEMORIAL STADIUM

Summary: The consideration of a resolution authorizing the City Manager to apply for and enter into an agreement with the N.C. Dept. of Environment and Natural Resources, Division of Parks and Recreation in the N.C. Parks and Recreation Trust Fund, to assist with the renovations to Memorial Stadium, and an associated budget amendment, in the amount of \$550,000.

The renovation of Memorial Stadium has been identified as a high priority with the Parks and Recreation Department and the community. The Stadium was originally constructed in the late 1920's and dedicated in the early 1930's as a memorial for veterans who served and died in WWI. The Stadium was dedicated again to WWI and WWII veterans in the 1940's. However, a true memorial to the men and women who gave the ultimate sacrifice to our country was never properly constructed.

In addition, Memorial Stadium was for years the home of both Lee Edwards/Asheville High Cougars and the Stephens-Lee Bears. Today, a number of youth sports groups including the Asheville Youth Sports, Asheville Grizzlies, WNC Bears, Asheville Assault, Asheville Splash, Asheville-Buncombe Youth Soccer Association, and a number of other groups currently call Memorial Stadium home.

The Stadium is in desperate need of repairs to a number of features including the lights, press box and Stadium seating. More importantly, a proper recognition to our war dead as originally planned still needs to be constructed at this site. A plan has been developed by the Parks and Recreation staff to incorporate these issues into a conceptual design for the Stadium. This plan will address a number of funding options that include local civic club contributions, veterans groups, grants and foundation funding, and sponsorships. It is anticipated that the cost for the renovations and upgrades will total \$2 million. This conceptual plan was approved by City Council in November, 2003. An Action Committee has been formed and is working with the Parks and

Recreation Department to aggressively secure funding through grants, foundations and sponsorships, as well as the Capital Improvement Plan for the City of Asheville.

The Parks and Recreation Department is requesting \$250,000 in grant funds from the North Carolina Parks and Recreation Trust Fund, which requires a dollar-for-dollar cash match. The cash match is available through a partnership with the Eblen Children Charities and through grass root fundraising efforts with a number of individuals and groups. Funds from the grant will be used to renovate the playground, build new basketball courts, construct a new picnic shelter, add and renovate a new walking trail, and create a new public event plaza area recognizing those who served our country.

In addition, staff is requesting approval of a budget amendment totaling \$550,000 that incorporates the contribution of Eblen Children Charities and individual donations.

The Parks and Recreation Department recommends the City of Asheville to apply for and enter into an agreement for grant funds through the North Carolina Parks and Recreation Trust Fund to assist with the renovations to Memorial Stadium and to adopt the associated budget amendment in the amount of \$550,000.

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Upon inquiry of Councilman Dunn, Parks & Recreation Director Irby Brinson explained the entire project. He said the Veterans Memorial and the enhancements to the stadium for the Memorial will be non-taxpayer dollars.

RESOLUTION BOOK NO. 28 – PAGE 122

W. ORDINANCE NO. 3088 - BUDGET AMENDMENT TO ALLOCATE FUNDS FROM THE EBLEN CHILDREN CHARITIES AND INDIVIDUAL DONATIONS TO THE MEMORIAL STADIUM RENOVATION PROJECT

Summary: See Consent Agenda Item "V" above.

ORDINANCE BOOK NO. 21 – PAGE

X. RESOLUTION ALLOCATING \$730,000 IN HOUSING TRUST FUND LOANS FOR AFFORDABLE HOUSING DEVELOPMENT

This item was removed from the Consent Agenda for an individual vote.

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.

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

ITEM REMOVED FROM THE CONSENT AGENDA FOR AN INDIVIDUAL VOTE

RESOLUTION NO. 04-27 - RESOLUTION ALLOCATING \$730,000 IN HOUSING TRUST FUND LOANS FOR AFFORDABLE HOUSING DEVELOPMENT

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

Summary: The consideration of a resolution allocating \$730,000 in Housing Trust Fund loans for affordable housing development

This is the fourth annual allocation of funds from the City's Housing Trust Fund (HTF). The 2004 budget included an appropriation of \$600,000 for the HTF and \$130,000 has accrued in loan repayments, making a total of \$730,000 available for lending in this round. The application process was opened on October 15, 2003, and eight applications were received by the December 8 deadline, requesting a total of \$1,275,000. All of the applications received this year were for rental projects.

The applications were evaluated by a panel of City staff and outside experts and then reviewed by the Housing and Community Development (HCD) Committee. The HCD Committee has recommended funding the following six projects:

Mountain Housing Opportunities - 50 units on Grove St. \$140,000 (20 years at 2%)

Gateway Construction -100 units on Swannanoa River Rd. \$125,000 (30 years at 0%)
 Tim & Wendy Vorst - 2 units on Beaucatcher Rd \$ 50,000 (30 years at 2%)
 Spicewood Development - 42 units on Cedar Hill Rd \$185,000 (30 years at 2%)
 Thomas Yurchenko - 6 units on Campground Rd. \$150,000 (30 years at 2%)

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Paul Saylor - 2 units on West St. \$ 80,000 (2 years at 2%)
 Total (202 units) \$730,000

She summarized with Council all applications submitted and reported on the progress of prior years' projects.

Staff recommends approval of the HTF loans listed above.

Councilwoman Jones moved for the adoption of Resolution No. 04-27. This motion was seconded by Councilman Dunn and carried unanimously.

RESOLUTION BOOK NO. 28 – PAGE 123

III. PUBLIC HEARINGS:

IV. UNFINISHED BUSINESS:

A. BUDGET AMENDMENT FOR THE SECTION 108 GUARANTEED LOAN AND ECONOMIC DEVELOPMENT GRANT

Planning & Development Director Scott Shuford said that this is the consideration of a budget amendment, in the amount of \$1,140,000, to recognize receipt of a Section 108 Guaranteed Loan and an Economic Development Initiative (EDI) grant from the U.S. Dept. of Housing and Urban Development and expenditure of the proceeds on the redevelopment of South Pack Square.

Prior staff reports have provided considerable information concerning this budget amendment request to allocate \$800,000 of HUD Section 108 loan funds and \$340,000 of EDI grant monies to the Eagle Market Streets Development Corporation (EMSDC) project that would, by itself, create 8,700 square feet of additional retail and office space, 14 residential units (market rents) and 17 garage parking spaces. The allocation would also leverage additional monies to be spent in a Mt. Zion Church project resulting in a total of over 12,000 square feet of retail and office space and a total of 47 residential units. Five historically significant buildings will be restored to Secretary of Interior standards and a new infill building will be constructed on vacant property if these two projects are realized.

This is an economic development project that will be funded through private investment using historic tax credits and conventional financing, along with the funding sources from this budget amendment. It is important to note that this project is not an affordable housing project, although the units will be affordable (renting at 95 cents a square foot) to service workers, City employees, and other people that make up our local workforce. This is a greatly underserved group in our downtown housing market.

Staff finds that the proposed project will be fully consistent with the South Pack Square Redevelopment Plan. In addition, the project is fully consistent with all applicable financial review criteria necessary for the City to carry out its responsibility in monitoring the allocation of federal funds and in securing the consequent City financial interest in the project.

Staff recommends that the City Council approve the budget amendment that allocates \$800,000 of HUD Section 108 loan funds and \$340,000 of EDI grant monies to the EMSDC project.

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Mr. Shuford then said that the project has been a long time coming beginning in 1993. He reviewed the goals for the South Pack Square Redevelopment Plan and briefed Council on how the project will meet the Plan's goals. He then outlined for Council reasons to support the project.

Mr. Marvin Chambers, Assistant Treasurer of EMSDC, gave City Council a letter from Robert F. Barron, Jr., President and

Chief Executive of Enterprise Real Estate Services dated January 26, 2004; a letter from Mr. Chambers dated January 27, 2004, and a petition (containing 500 signatures) which states "This community, as represented by the signatures listed and attached letters received, requests the Asheville City Council to approve the grant and loan funding for the Eagle, Market Streets Development Corporation Redevelopment Project Phase 1 in order for the renovation and construction to begin without delay. We the undersigned urge that Asheville City Council as our elected representatives move forward swiftly with this project. It is imperative that you hear our call for action to permit this community to fully participate in the asset-building, redevelopment and revitalization of the downtown and preservation of its African American heritage. We wholeheartedly support the work of the Eagle, Market Streets Development Corporation." He said that the EMSDC was established ten years ago to receive federal funding to resolve the blight on the Block. They have worked closely with the City of Asheville to eliminate crime in this part of the downtown and to create an atmosphere conducive to revitalized commerce and rebuilding of a residential neighborhood. They have applied for funding over the last 6 years in order to develop bricks and mortar projects that will encourage and sustain the investments made by other non-profits, private investors, businesses and individuals. The South Market District Project is designed to provide a framework on which to rebuild and stimulate the economic pulse of the historic African American commercial community. They have entered into annual contracts to attain specific goals with respect to the development and job program, and have therefore completed tasks, activities, acquisitions, designs and partnerships that we were asked to do. They need Council's continued support.

Mr. Chambers said that they have learned that (1) the work is difficult and expensive; (2) whatever accomplishment they achieved, they wish they could have done it better – including the creative process, the community involvement process, and in the timing of related events and activities; (3) they were fortunate in finding partners willing to go the extra mile; (4) the partnerships, carefully structured, are complicated; (5) in combining the project with Mt. Zion, they were able to attract a "best in the country" organization to assist Asheville, and draw a developer who is recognized across the state for completing community reinvestment projects and for historic rehabilitation that meets or exceeds the Department of Interior standards; (6) the work is complex and difficult to explain; (7) delay is costly – the \$6.3 Million Redevelopment Plan of 1996 is presently \$22 Million redevelopment that must be done in phases; (8) developers must be willing to invest personally and to put their reputations on the line; and (9) bringing a project to the point where it can be examined by interested and necessary reviewers means investing a considerable amount of capital. He explained that the advantage of the EMSDC owning property in the area is the assurance of long term community control. He explained why they asked the Enterprise Real Estate Services to provide technical assistance. He said that they have already been receiving calls asking when the apartments will be ready for occupancy. On their visits to neighborhoods in the Community Based Development Area served by the EMSDC, they have been asked by African Americans of all social and income backgrounds on what they can do to invest in the project. He said there is a waiting list of individuals wanting to work in the construction of this project.

Mr. Chambers said that if Council funds the project, (1) within 18 months the return in equity to the area property owners will be substantial; (2) local financial institutions will participate and project leverage will improve for others seeking loans in the area; and (3) African Americans living in Asheville will have tangible evidence that their federal dollars are returning to their community in a way that many have doubted could happen for the last 26 years. To not fund the

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project repeats an old pattern whereby government holds out the promise of funding but in the end does not. The economic reality is that gentrification of Eagle and South Market Street is just around the corner, knocking at the door.

Mr. Chambers asked Council to help them complete the work that they were asked to start. They are humbled by the task and apologetic for those aspects that they have not handled perfectly or well. They have heard Council's concerns and have begun to address them in terms of community involvement and in terms of compliance with the Redevelopment Plan. He asked that City Council support Phase I and release the funds committed to the project.

The following individuals spoke in support of Council releasing the funds for this project for various reasons, some being, but are not limited to: this project is as close to perfect as we have ever come; if we are waiting for a perfect plan, we'll be still talking in 20 years; one can always find fault in a Plan; now is the time to facilitate the project so the community can move forward; the progress must not be held hostage any longer; it took a number of years to purchase the buildings to keep the heritage of the Block and in the hands of the African American community; even though EMSDC has not done everything correctly, they are learning through their mistakes; EMSDC continues to meet with outside groups to talk about the development; people in the area have waited a long time for development to happen; support this effort so that progress can start being made; and this project is a win/win situation – for the Block and for Asheville:

Ms. Althea Goode, concerned citizen

Ms. Andrea Wright, consultant with Eagle-Market Streets Development

The Reverend John Grant, Mt. Zion Missionary Baptist Church

Mr. James Geter, Board Chair and President of EMSDC
The Reverend Charles Mosley, Nazareth First Baptist Church
The Reverend L. C. Ray
Mr. Mike Morgan
Ms. Esther Hart
Mr. Samuel Camp (presented Council with newspaper articles)
Dr. Charles Blair

Mr. Jesse Plaster, representing the property owners, asked City Council to deny Eagle-Market Streets request for funding to continue this project. This is based on a number of arguments. There are a series of violations to the South Pack Square Redevelopment Plan adopted by City Council, with assistance from EMSDC. First are aspects of community involvement which are set forth in this Plan. The EMSDC Board is supposed to be comprised of community members and appointments from within the corporation but also property owners. When Rev. Grant was Chairman of the EMSDC, he told us that all property owners had a seat on that board. It's set forth in the Plan that that should be the composition of the Board. We feel like without a place in that decision-making body we have been left out of the process. Furthermore, community members, business owners and property owners should be updated monthly, as set forth in the Plan. There have been no updates in over three years. There were also supposed to be community design charettes to allow the community at large and any interested parties to participate in the development of the Eagle-Market Streets Plan. There has not been a community design charette in 10 years. A charette held in September of 2002 was a charette open to architects and that was sponsored by the local AIA, but it was not specifically a community charette. The Plan also addresses the involvement of local minority contractors in the redevelopment of the Block. That has not been addressed by the EMSDC. A question was asked, at a public meeting at the Public Works Facility, if the developer had any goals for minority contractor involvement. The developer's response was that they are not required by law to have such goals, and therefore, he does not. Another requirement of the Plan was the preservation of local property owners. As a last resort, EMSDC was given the authority to act on the City's behalf

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to purchase properties that would be demolished or taken out of the market place. It seems that they have acted in opposition to this requirement of the Plan. A final change to the Plan is the infill proposal. It is clearly laid out in the Plan that it is the intention for infill development but there is nothing in the maps or information documented in the Plan that shows the current site as a potential infill site. And furthermore, it's supposed to be put off until a further, later stage of redevelopment. The first stage of redevelopment is meant to be rehabilitation of existing properties. That is not what is being proposed. A question that keeps coming up about the Plan is the issue of trust. We are told we should trust the developer, even though the buy-back plans are not in place, the long-term agreements are to be held in trust, but our trust has been consistently met with misrepresentation and fabrication. Another issue is the idea of feasibility. This project was first presented as a renovation project of the Dr. Collette Building, the Campbell Building and 3 Wilson Alley. That was presented as a feasible project. EMSDC came back in 2003 and presented the project as infeasible without an infill building. Now the project is presented as infeasible without the inclusion of Mt. Zion, which really doesn't have any relevance in these hearings. That compromises the public trust in their abilities and in their stewardship of these City-owned properties. An important issue to the community is the long-term community control of the buildings. That is one of the reasons that EMSDC should be allowed to purchase properties to assure that they stay within the community and serve the greater good of the community. However, without buy-back agreements in place without a guarantee that the City or the EMSDC will maintain ownership of these properties, it is questionable, after five years, what will take place. A Charlotte-area developer will gain 50% control of the properties after five years and he will also receive 50% of the net proceeds of the properties during the five year period. At that point, the City is given the option of buying back the properties and it's not laid out as yet what that agreement should entail. The property owners are not alone in their opposition to the EMSDC's plans. Fourteen business owners have signed an agreement stating that the EMSDC has failed the community. If the property owners and businesses who are there on the Block now feel like the EMSDC has failed them, it asks serious questions about how they can proceed with the project under those circumstances. If EMSDC loses these funds, the money will not go away. There are a number of private investors who are interested in the area. These properties would have been renovated by now had the EMSDC not purchased them and held them for a number of years. They have owned the Campbell Building for over three years and they have owned the Dr. Collette Building for six months. Given the failures of the EMSDC (inadequate community involvement, numbers that don't agree, and a number of other failures), should they be given license to proceed?

Ms. Amy Plaster, co-owner of the Wilson Building, said that the project contains irregularities and lack of accountability in this public money. We deserve accountability and to see the money used for the community, not having people tell the community what is best for them. Many of us have talked about alternatives to having an infill building. A building is not necessarily progress. We would like to see a space that gives back to the community as well as generating income. We have drawn up some ideas of what that could be.

Upon inquiry of Vice-Mayor Mumpower, Mr. David Rogers, one of the developers on the project, responded to various

questions. He explained that when they first looked at the project, it became obvious that tax credits was one of the things that could make the project happen. Since a non-profit cannot use the tax credit, they brought in a tax investor. The tax investor will own the project for five years. At the end of five years, in the agreement, there will be a buy-back procedure where we buy the tax investor out and then EMSDC can buy the developers out of the project. The developers have no desire to own this real estate long-term. His purpose is to get the project developed, active, successful and then turn it back over to the EMSDC. In order to buy us out, the EMSDC will be able to leverage the real estate as an asset to refinance the project. They should be able to borrow 75-80% of the value of the building at a very reasonable rate. Right now we are 50/50 partners with the EMSDC. During the five-year period, the majority of the cash flow will go to the tax credit investor and there will be little money to be shared

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between the EMSDC and the developer. The rates from the rental apartments will hopefully go up during the five year period of time and the existing loans will be paid down. They will be able to refinance the project and take over 100% control of the project. Mr. Rogers said that the buy-out procedure is in writing and waiting for their lender and tax credit investor to approve.

Upon inquiry of Vice-Mayor Mumpower, Mr. Rogers said that they did a market study on this project. In addition, the Enterprise Real Estate Services did a market study prior to their involvement. Also, they have had it appraised and their lender has checked the market as well.

Upon inquiry of Councilwoman Bellamy, Community Development Director Charlotte Caplan explained the difference between tax credit projects for low income housing and these tax credits, which are for historic rehabilitation. Mayor Worley further explained that if you use the historic tax credits, you are required to own that property for a minimum of five years. If you divest yourself of that property before the five years are up, you are subject to recapture of the income tax benefit that you gained by using those tax credits.

Upon inquiry of Councilwoman Bellamy, Mr. Rogers said the rent for the apartments will be range from approximately \$600-850 a month, based on the number of bedrooms.

In response to Councilwoman Bellamy, Ms. Caplan said that there are no requirements on the rent for the EDI grant monies nor for the Section 108 monies because this is an economic development project and not an affordable housing project. These apartments are not required to be affordable by HUD regulations. It is the revitalization and the elimination of slum and blight as the national objective being achieved in HUD terms through this project.

Regarding the heritage of the Block, Councilwoman Bellamy asked how we can ensure that gentrification will not occur. Mr. Shuford said that this is an area that was traditionally not a residential area for the African American community but an area of commerce, retail, restaurants and other activity. That aspect would be covered by the fact that EMSDC will continue to coordinate and be involved in the retail, restaurant and office leases that occur as part of this project. There is no guarantee what the income range or the ethnic background of the people who will be living in the apartments will be, but the fact that the restaurant and retail aspect of it would remain under control of the EMSDC. Secondly, one of the most important parts of the heritage of this area is its architectural heritage and the Campbell and Collette buildings will be preserved and brought back to their original stature as part of this project. One of the difficulties of doing something different, like a market-type situation, is that we would lose those two buildings as a result of a private sector involvement because there is not going to be an interest in trying to rehabilitate those functionally obsolete buildings. We have certainly learned from this project that renovating existing buildings to historic standards is a lot more expensive than new construction. As a result of that, we would tend to see the rents of any private sector development that would occur here would either not support the retention of the existing buildings or we would end up with a much higher rents as seen in other areas of downtown.

Upon inquiry of Councilwoman Bellamy, Ms. Caplan said that the release of the funds will based on the contract between the City and the EMSDC. We have no financial commitment to the Mt. Zion site of the project.

Councilwoman Bellamy was concerned about the public trust aspect. Ms. Caplan said that there have been imperfections in the public consultation process. Over the years, Eagle-Market Streets have had periods when it has been very active in seeking ideas and periods when it has been less active. However, they went public with these plans at the beginning of October of 2003 and have had 16 weeks of continuous, intense dialog since then. Public consultation does not always lead to 100% agreement by all stakeholders. In fact, over the years she has been involved with the Block, various proposals, not of such a major nature, have been made and

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in every case there has been opponents. It has not been an area in which it is easy to get 100% agreement. Everyone has

different visions and interests in the area. We did advise EMSDC several years ago that they should not have on their Board property owners whose property they might wish, as part of the Redevelopment Plan, to purchase in the future. Obviously to purchase property from one of their own Board members would be a conflict of interest. They do have on their Board at least one property owner in that area, but not from South Market Street or Eagle Street.

In response to Councilwoman Bellamy about the 1993 by-laws regarding Board members, Ms. Caplan said that there was nothing in the Plan that stated how the EMSDC's Board should be composed or what its by-laws should be. It states that EMSDC's Board does contain property owners. That was a statement of fact. Mr. Shuford also noted that at the time the Redevelopment Plan started forward there was an active organization called the South Pack Square Association, which is now defunct. That was one of the key ways communication was to occur. We certainly have not been fully satisfied, up until October, with the performance of EMSDC in getting word out to people. But, at this point in time, everyone should know the specifics about this particular process. One other piece of advice is the process is always suspect when people are not happy with the outcome.

In response to Councilwoman Bellamy's concern about the process, Mr. Shuford said that there is a need for Council to balance different issues and Council needs to decide whether the process flaws outweigh the importance of this project to the community. In his opinion, he thinks that certainly since October when it became apparent that there was a lack of knowledge about the specifics, the EMSDC has been pretty responsive to that. Their Board has been working very hard to look for ways to be more inclusive. In fact, we have basically put them on notice that should we have another project, we will expect them to have a public involvement plan prior to the initiation of even the beginnings of the project. The people who seem most opposed to this have been able to avail themselves of vast amount of documents and other materials. There has been no attempt to hide any of that information. This is a public process but if Council decides that that is a fatal flaw, then that is part of the balancing act that City Council has to do.

Councilwoman Bellamy wondered if we can look through some of the information that was on the table, that didn't go anywhere, for possible compromises that can be developed going forward.

Ms. Elizabeth Russell, Executive Director of EMSDC, said that over the last month they have been trying to distribute Board membership applications. They subsequently went to all the businesses with correspondence to make sure that Board applications were out in order to get interested persons to respond. To date we have not received any completed Board applications. However, in order to keep the dialog continuing, we recently met with the YMI Cultural Center's Vice-Chairman and Executive Director and members of the Mt. Zion Community Development to try to see what we need to do to advance this. The outcome of that meeting was that the YMI and the EMSDC are to work together to send a letter to all the previously defined area property owners (going back to the Plan of 1996) to try to put out another call to the South Pack Square Association and make sure we have reached out to everyone who would like to provide input. In addition, at their Board meeting on January 15, the Board has put in place a Redevelopment Advisory Panel composed of property owners, business owners, and tenants in the area, to try to keep dialog open to the EMSDC Board. We are trying to address this on multiple levels.

Councilwoman Bellamy said that not only is she concerned about public trust and public input, but she's concerned about the financial issues as well.

Upon inquiry of Councilwoman Bellamy, Ms. Caplan said that the City will be making the \$18,000 payment (because we have already drawn down the \$800,000), noting that there will be

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that much less money to spend on the project. That interest was built in as a construction interest cost. She explained that if the project is further delayed, the City must repay the interest on that loan. That is a loan from HUD to the City, but the way that the project is structured, those loan repayments (principle and interest) will be made from the project revenues.

In response to Councilman Newman, Ms. Caplan said that if this project does not go forward, then the City will have to find another use for those monies that satisfies HUD's criteria. We will have to look around for other projects and get HUD's permission to use the Section 108 loan for these other projects instead. The EDI grant is more difficult. That was a competitive grant and HUD may not allow us to retain that. Most likely they will expect us to reapply for it for new projects and they will make us compete against all the people who got it the same year that we did. We will have to do at least as well as those other EDI recipients in order to retain the money; otherwise they will take it back.

Councilman Dunn asked why we started drawing on the grant without a plan in place. Ms. Caplan responded that we had the option in August of 2002 to take the loan or not. Our view was that its interest rates at that point were historically low and that it was in the City's interest to draw down the loan funds at that time. She consulted with the City's Finance Director and that decision was made by staff that it was a good financial decision to take the loan at that time because interest rates were so low.

Mr. Shuford further explained that in 2001 City Council authorized staff to apply for the Section 108 and EDI funds. The City went to HUD and said we have a project that we would like to pursue, which included the infill building and renovation of a building. It was a similar project. It has taken EMSDC awhile to make final acquisition of the property. Again, with the help of our Finance Director, it was a decision made in August because of interest rates being so low. We did not anticipate the level of discord that we have had on this issue. If we have to allocate the money to a new project, we will do our best to make sure that new project reimburses us for the monies because it will still be at a very favorable interest rate.

Councilwoman Bellamy asked how we achieve one of the Plan's goals, which is to ensure that the implemented development is sensitive and responsive to the needs of the people who have traditionally inhabited and conducted business in the area. She wants to make sure that African American businesses have the opportunity to locate in the area. Mr. Shuford said that there are two things Council can physically ensure. The new infill building is going to have to meet the design standards and the five historic buildings will have their own separate standards. Ms. Caplan also responded that Council has heard from many people who did traditionally use and conduct business in this area. One thing we have committed to HUD is that the preponderance of businesses located in this area will be serving the local population, rather than for example high-end art galleries. Wherever possible tenants will be selected who provide goods and services needed by the people who live in the surrounding areas.

In responding to Councilwoman Bellamy, Mr. Geter said that we are living in a time now where we can't guarantee anyone that they will live anywhere or have a business anywhere, but we can ensure that these properties remain in this community and that the income from these properties will help the community. We are actively looking for African American businesses to come in now and get ahead of the curve. The EMSDC wants to continue to help them develop their business. He said they do have people on a waiting list for their businesses to open once the properties have been developed. Ms. Wright was pleased to note that they have nine African American businesses and other minorities ready to go – we just need the buildings.

When Councilwoman Bellamy asked why the project is for 17 parking spaces vs. more business space, Mr. Geter said that parking is at a premium downtown and they tried to keep the building within the same standards as the other buildings. Ms. Russell also responded that part of the parking will be for tenants living in the infill building and in the Del Cardo building, but their

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intent was to make sure that people utilizing those structures would not glut the traffic parking that was available for other businesses in the area.

Upon inquiry of Councilman Davis, Mr. Rogers said the rent on the commercial space will be \$12.50 a square foot, but that provides all the improvements for the tenants. Regarding the size, they will be fitting the spaces to the tenants.

Vice-Mayor Mumpower said that the benefits the developer will reap are dramatic, but the point of balance concerns him. He questioned what would happen if they don't get the rent for the commercial space or if the apartments are not filled, noting that the Grove Arcade is struggling. Mr. Rogers responded that he has been doing this business for 30 years and they have never had a project go over budget nor have they ever had a project fail. They own extensive real estate in North Carolina. He said that most, if not all, of their projects are 100% leased. He then responded specifically to his part in the Grove Arcade pointing out that if the project is failing because of the marketing or how it was put together, he had nothing to do with that.

When Councilman Dunn asked what happens if the EMSDC can't buy the developers out, Mr. Rogers said that they would stay. Again, they are not long-term owners of this real estate. They have set up a three year period for everyone to try to buy us out. If after the 7th year period, we would seek another buyer for the project. But the project is put together as leases from EMSDC and Mt. Zion. Under no circumstances would they ever lose control of the property.

Upon inquiry of Councilman Dunn, Mr. Rogers explained how long the corporations have been in existence and what the assets of his corporation are.

At the request of Councilman Newman, Mr. Rogers talked about the significance of the Enterprise Real Estate Services Inc., a for-profit developer set up by the Enterprise Foundation, in the project. He explained what their function will be and what they will bring to the table.

Upon inquiry of Councilman Davis, Mr. Rogers said that this phase of the project contains no affordable apartments. However, they are trying to earmark eight affordable apartments in the Mt. Zion project. In addition, the second and third phase of this project will have affordable housing. He said that Enterprise Real Estate Services Inc. would be involved in this phase of the project even if there was no affordable housing component in it.

Upon inquiry of Mayor Worley about there being no buy-back agreements in place, Mr. Rogers again said that the

documentation is in the leases drawn up. The EMSDC and the developers have agreed to the documentation and have finalized that. What has not been done is the lender and the tax credit investor have not approved them. His lender is waiting for City Council's decision before they will give him a final commitment.

Councilwoman Jones said that she hasn't seen a recent audit of the EMSDC. She felt that a loan of this magnitude would require a completed audit and asked if that is a requirement for HUD. Ms. Caplan said that it is not a requirement for HUD until the agency receives more than \$300,000 in one year. However, it is a requirement from the City and we are expecting to receive the 2002 audit very shortly, noting they been late in producing it.

Councilwoman Jones said she would like to see the most recent audit concerning EMSDC's financial capability before the City releases \$1.1 Million.

Councilwoman Jones read that the EMSDC's by-laws, in terms of the Board's composition, and I have concerns of how it is being interpreted in terms of business, property

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owners and tenants and then trying to cross check with the current board list. Seems like the Board make-up is a huge stretch from their by-laws.

When Councilwoman Jones asked if HUD reviews whether or not organizations follow their by-laws. Ms. Caplan said that HUD will not look at in detail at whether an organization is following its by-laws, except in areas that affect HUD regulations. One of the key HUD regulations here is that EMSDC qualifies as a community-based development organization. They have changed their by-laws and have slightly amended their Board composition specifically in order to qualify as such an organization. She did note that the City does monitor the compliance of the EMSDC's Board with the requirements of their status as a community-based development organization.

Councilwoman Jones said that in terms of the audit that we do have and the findings from the auditor, has City staff received documentation that makes them feel that they have addressed the concerns that the auditor found in the last audit. Ms. Caplan said that she has not recently looked at that audit. It has been a year since she has looked at that audit; however, she strongly suspects that they had comments in the audit about separation of duties because that is a constant issue for very small organizations.

Councilwoman Jones said she feels like Council is being put on the spot to make a decision that will either stop 25 years of progress or they will be asked to look the other way about the organizational capacity and public credibility of EMSDC. She wasn't sure if there would be a way to work closer down the road on some of Council's concerns, but that would be her plea.

Councilwoman Bellamy said she wants to see the Block redeveloped, but she has a concern regarding accountability. She wants to make sure that if Council moves ahead, that we they are doing it with the right fiscal responsibilities as well as with the neighbors of EMSDC.

Mayor Worley said that Council has heard that there are irregularities in terms of the process that has been followed and there is an acknowledgment that the process certainly could have been better. He asked if from a legal standpoint, not from a standpoint of is it the best process and what we would traditionally try and follow, are there irregularities that would preclude us from considering this or violate the terms of the Redevelopment Plan. City Attorney Oast responded that the process by which the Eagle-Market Streets Project, and in particular the infill development building was approved, did comply with the law in the Plan.

Upon inquiry of Mayor Worley, Ms. Caplan explained that several hundred thousand dollars, as well as property acquisition, has already gone into this project since 1993.

At 7:33 p.m., Mayor Worley announced a recess.

Mayor Worley said that this is a difficult decision and the process has a lot of flaws but they don't rise to the level of legal impediment. He said that for the EMSDC, the history of the project goes back over 10 years of efforts to revitalize and resurrect the Block. There have already been considerable funds expended in this process. He felt the project itself would do a good job for the Block. It would restore the Block and bring about economic development we have long desired in the Block. He asked that Council not halt the project because of process flaws because the end result will be what the City has long envisioned for the Block, with the developer and the other funding in place to bring that about. A very important question was raised about the 2002 audit and he has already expressed his concerns over the agreement process. However, he would support approval of the project, subject to the receipt of a satisfactory audit for 2002, with a deadline for that audit to be received, and subject to the drafting and

execution of a document clearly setting forth the expectations of this City in terms of the

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processes to be followed by EMSDC for public input and public involvement going forward for the remainder of this project and for any other phases that might come down the road. He did think it was important for this City to move forward with the redevelopment of the Block and he thinks that turning this project down will bring about substantial additional delay in any substantive progress on the Block and in the desirability of returning the Block to what it was for the community and making it something for the community going forward.

Councilwoman Bellamy said that it was important that Council address the concerns going forward and not be misleading to say that we support you, but the only way we're going to support you is if you get this information together. She thinks that we should create that understanding and give it to them and say, this is what we want and when they present Council with the information, then move forward. Ms. Russell said that they are meeting with individuals and group members to resolve some of the issues, but that isn't working. She thinks City Council needs to get involved because we all want to see this happen. She felt Council should have a heavier hand in making the process occur, even if we have to hold their hands. We all need to be satisfied with the process and the project. We need to do whatever it takes to get people at the table, receive the audit, look at the performance, and to deal with those issues before we move forward. She suggested postponing the vote for four weeks because they need time to get together more than once. She said maybe a committee of Council could meet with the parties involved to make this process work and she would be happy to be available. If the parties involved don't want to meet or provide what Council has asked for - receipt of the 2002 audit, review of the pro forma, to look at the issues of sustainability - then that shows Council has done what they could to make the project work.

Councilman Dunn voiced concern over the fence was put up by EMSDC that divided the community. He said that the City has a lot of money invested and a fiduciary responsibility to use this money somewhere. If the parties can't come together, he is prepared to go somewhere else.

Councilman Davis said he was disappointed that we have some trust issues that haven't been dealt with. There is a fairly huge rift in the community because of this and there was hope that there was some progress being made. He too asked that they go to the table again to see if there can't be inclusiveness. He was not in a position to be able to vote on the project at this time.

When Mayor Worley asked what a delay would mean to EMSDC, Mr. Geter said that they have already waited for years to revitalize the Block. He asked for Council's decision at this time. He explained that it's wrong to think that an entire community needs to speak with one voice and you don't find that in any community. We are all individuals and don't think alike. If some people say yes and some no, that's a good thing because it tells us that we are all thinking. They have sent Council a plan for inclusion and their Vice-Chair has taken over that task to make sure that all of the property owners and business people on the Block have a voice. We already said that EMSDC, the YMI, the City and Mt. Zion have met and agree they need to look at a plan that is more inclusive. It was all of us because we don't know who the other players are but those are items that we sat down to discuss. It was then decided to have another meeting in February but in the meantime the Executive Directors from EMSDC and the YMI will meet and form these lists to bring back to the complete body. Then we can start to bring everyone else in. We are also working to be more inclusive by having an advisory committee made up of all the property owners and all of the business people on the Block to advise the EMSDC. We are doing the things we can do to be more inclusive.

Mr. Geter asked what would happen if after the four weeks are over and Council still doesn't have enough information. He wondered if Council will continue this until they don't have the backing of the developers. Vice-Mayor Mumpower said we want the matter continued until

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we find solutions and City Council is not convinced that we have exhausted that run yet. We feel like there is a little bit more room to work, talk and find some solutions.

Mayor Worley said that this Council is not asking EMSDC to come back with a consensus from the entire community. He sensed Council is asking for (1) receipt of the 2002 audit and time within which to review it; (2) time within which to review the pro forma; and (3) a signed memorandum of understanding setting forth the expectations of this City in terms of the processes to be followed by EMSDC for public input and public involvement going forward for the remainder of this project and for any other phases that might come down the road.

Mr. Geter asked for Council to vote on this issue tonight contingent upon EMSDC having certain things in place as outlined by Council, including City Council sitting down and talking with them.

Councilman Newman said that the audit is reasonable information to have. If the audit is received and it is a good audit, the infill building will still be a controversial issue. If the majority of the members of Council don't believe this infill building should be constructed, then we should just make that decision and move on. Or, if the audit can be supplied and it indicates that they are a sound financial operation, and based on that we do want to move forward, then we should. He doesn't think that any number of weeks the fundamental issues around the development will be any less controversial than they are right now.

City Attorney Oast said that the Community Development Block Grant Agreement that the City has entered into with EMSDC provides the framework for insisting on the provision of certain information. In fact, it provides that cause for suspension or termination of the Agreement is a failure to comply with the terms and conditions of the Agreement or submission to the City of reports that are incorrect or incomplete. The City has the authority, irrespective of what happens tonight to terminate our Agreement with the EMSDC for any material failure of that nature.

City Attorney Oast also noted that this is a budget ordinance amendment and even if it is voted down tonight, it can be brought up again in two weeks. Council is not prevented from reconsidering it at any time.

Councilman Dunn said that his decision will be based on other things – not solely the audit. He felt that the pro forma provided has problems.

Councilwoman Jones said that the infill building is not an issue with her, but her concerns are more of the organizational capacity and credibility. She will be looking at the audit in other places as well. She was, however, pleased that EMSDC has an organizational consultant working with them.

Councilman Newman said that it would be helpful for him to understand what information other members of Council feel like they need to make a decision. He feels like the audit is information that would be helpful for him. Other than that, he has the information he needs to make a decision.

Vice-Mayor Mumpower said that there was a meeting over a month ago at a worksession where a lot of the parties at the table felt like there was a plan in place, but it didn't happen. There was some opportunity there that he personally doesn't think was fulfilled. Subsequent to that, the organized opposition took out a lawsuit. He was still wondering if there is opportunity to get back to that table and try to find some more common ground. Secondly, he's not terribly concerned about the audit, but the pro forma is a big issue for him. EMSDC is initiating a new adventure in an area that has not thrived for a long time and to assume that level of performance

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that quickly to me steps beyond the balance of common sense. He needs more solid reassurance before he could feel comfortable with that.

Mr. Geter responded that they have asked for a number of banks to look at the pro forma and wondered what other kind of assurance is needed.

Councilman Davis said that the audit is probably the one tangible piece Council needs to make a decision, but the intangibles is what bothers him most of all. We have talked about getting people back to the table. To not consider some of the property owners in the area who have invested a lot of money is not a good thing. He would like to try to heal some of problems in the community. This is a very important project. When we get into the Block itself, that was a commercial place in nature. These people who have taken their private money and invested in it in order to develop it and attract other private developers down there, might do a better job of keeping the heritage of the Block. Again, he felt that the people who have already made an investment in that area should be brought back to the table. More than waiting for the audit, he wanted to try to get the people back together and see if we can't develop together a good project.

Mayor Worley felt that if Council is going to consider a delay then it should be for tangible reasons. Healing the problems in the community is an intangible, and he didn't see how we can quantify that over a 2 or 4 week period – that is a much longer process. Tangible reasons might include the receipt of the audit and any other specific documentation, and perhaps an agreement to provide for the inclusionary process. Questions about the pro forma are hard to quantify because you can have different people look at it and say different things about it. You can't quantify who is right and who is wrong on those.

Councilwoman Jones felt the trick with the tangible for the audit is it depends what it says. It should not say there are outstanding checks, the bank statements didn't reconcile, or that there are overdrafts. Those substantial issues and if they are in the audit, she will not feel good about releasing \$1.1 Million to that organization. She would like to have a conversation about how

the by-laws are being implemented and maybe they need to be revised a little bit, because she has some real issues about if they are being followed. A conversation with the organizational consultant would address some of her concerns. She also pointed out that there are no terms for board members. There are some organizational boring things that really matter. Another conversation that she would like to have is to spell out some of those capacity issues, because if we can deal with the capacity, then we can start moving toward the credibility. That is what we need to do to go forward. She also agreed that fleshing out the public involvement plan is needed as well.

Councilman Dunn moved to not allocate the \$1,400,000 of Section 108 Guaranteed Loan and Economic Development Incentive Grant to EMSDC. This motion was seconded by Councilman Davis.

Vice-Mayor Mumpower felt that the intangibles should guide Council's decisions. He would like to see additional work done. He is not convinced that there aren't some solutions to more of our concerns.

Councilwoman Bellamy said that City Council has delayed other matters before them in order to give them an opportunity to meet with the neighborhoods and try to find some common ground. She felt a 4-week delay is necessary to make this project work.

Councilman Newman said he would support a delay if there was a sense that the neighborhood and developers were close together and if Council delayed action there might be some sort of agreement or compromise. However, he felt the infill development is the controversy in the community and a few weeks delay won't change anyone's view on that. His

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sense is that on the substance of this project, beyond the infill building, everyone is happy with the development. He hasn't heard anyone say to not rehabilitate these historic buildings. He has only heard objections to the infill building. He thinks the trust issues are also things that will not be solved in the short-term and he hoped they can be solved in the long run. If Council does approve this loan for this development, it would certainly be a prerequisite for him to provide any future support for public funding for redevelopment in that community to be 100% sure that there is a much better process in terms of inclusion and that the organizational capacity issues that have been brought up are addressed for any future development. His support would be contingent upon that. The substance of the infill building and the trust issues are not things that we can solve in the short-term.

The motion made by Councilman Dunn and seconded by Councilman Davis failed on a 3-4 vote, with Vice-Mayor Mumpower, Councilman Davis and Councilman Dunn voting "yes" and Mayor Worley, Councilwoman Bellamy, Councilwoman Jones and Councilman Newman voting "no."

Councilwoman Jones moved to continue this matter until February 24, 2004, and based on documentation requested by Council at this meeting, Council will make a determination based on that additional information provided at the February 25, 2004, meeting. This motion was seconded by Councilwoman Bellamy.

Councilman Dunn asked Mr. Geter if EMSDC will consider the project dead or will they try to address Council's concerns in the time allotted. Mr. Geter said that he would take this back to the full EMSDC Board and let them make that decision.

Upon inquiry of Councilman Newman, Councilwoman Bellamy said that when Council approves or disapproves the funding, it's for support of the entire project as it stands. We are not voting up or down just on the infill building.

Mr. Geter said that in talking to the developer, one of the issues that they have is whether the investors will stay in this project. If in four weeks from now, after EMSDC provides Council the information requested, would a decision be made on that date? He said the developer and the investors won't stay here forever. Mayor Worley responded that it is the clear intent of City Council to make a decision on February 24, 2004. Mr. Geter replied then he thought the Board wouldn't have a problem with that.

The motion made by Councilwoman Jones and seconded by Councilwoman Bellamy carried unanimously.

Mayor Worley stated that on February 24, 2004, public comment would be limited only to the new information City Council requested at this meeting.

V. NEW BUSINESS:

A. REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE FOLLOWING SIX AREAS PROPOSED FOR ANNEXATION WHICH ARE GENERALLY KNOWN AS (1) THE HERITAGE BUSINESS PARK AREA; (2) THE HONEY DRIVE AREA; (3) THE ENKA VILLAGE AREA; (4) THE ASHWOOD SUBDIVISION AREA; (5) THE

HEATHBROOK AREA; AND (6) THE SWEETEN CREEK ROAD AREA

Urban Planner Carter Pettibone said that the Annexation Services Plan is being submitted for Council's approval for the following areas: the Heritage Business Park area, the

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Honey Drive area, the Enka Park area, the Ashwood area, the Heathbrook area, and the Sweeten Creek Road area.

City Council approval of this document is the second step in the annexation process that began on January 13, 2004, when Council adopted the resolutions of intent to annex these six areas.

Upon review and approval by City Council, the Plan will be made available for public review. The follow steps will complete the annexation process.

Approval of Annexation Services Plan	January 27, 2004
Public information meeting	March 4, 2004
Public hearings	March 23, 2004
Adoption of annexation ordinances	April 13, 2004
Effective date of annexations	June 30, 2004

The N.C. General Statutes require that municipalities exercising annexation authority make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing and public information meeting, prepare a report setting forth such plans.

The Statutes require that the reports include:

- 1) Maps showing: (a) The present and proposed boundaries of the municipality; (b) The present major water and sewer lines, and any proposed extensions; and (c) The general land use pattern in the area to be annexed.
- 2) A statement that the area to be annexed meets the standards of N. C. Gen. Stat. sec. 160A-48 (basically contiguity and urbanization).
- 3) A statement setting forth the plans of the municipality for extending to the annexation area each major municipal service performed within the municipality. Specifically, (a) police protection, fire protection, solid waste collection and street maintenance on the date of annexation; and (b) extension of major trunk water mains and sewer outfall lines so that property owners in the area will be able to secure public water and sewer service according to the municipal policies in effect for extending such service to individuals lots or subdivisions.
- 4) The method under which the municipality plans to finance extension of services into the area to be annexed.
- 5) A statement of the impact of the annexation on any rural fire department providing service in the area to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area to be annexed.
- 6) A statement showing how the proposed annexation will affect the City's finances and services, including City revenue change estimates.

He then reviewed with Council the specifics of how each area qualifies for annexation.

Mr. Pettibone then explained the Plan for extension of services, including police protection, fire protection, solid waste collection, street maintenance, water distribution and sewer collection.

Police protection: The additional land area, street mileage, dwelling units, businesses and improvements will require expansion of the Police Department. Extending service into the

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proposed annexation areas will require operational adjustment in two primary areas (1) configuration of patrol districts covering the proposed annexation areas so as to provide for effective manpower deployment and a balanced response time to calls for service; and (2) filling vacancies in sworn personnel positions to accommodate the anticipated increase in demand for police services. He

explained how each area would be served by an expansion of a particular district. Two police officer positions have been approved at an annual cost of \$70,000 plus associated capital costs for equipment on or before January 1, 2005, in the previous annexation. Based on the projected population increase at the time of annexation, it will be necessary to add one police officer to maintain the current ratio of one officer to 407 residents. The plan of services calls for the addition of this officer, at the annual cost of \$35,000, on or before January 1, 2005.

Fire protection: A Deputy Fire Marshal position has been approved at an annual cost of \$37,000 plus associated capital costs for equipment on or before January 1, 2005, in a previous annexation. The additional land area, street mileage, dwelling units, businesses and improvements in this annexation will require this position to be placed in service on July 1, 2004. The N.C. Gen. Statutes require the City to offer existing fire service entities contract opportunities, which allow for the continued service of annexed areas by existing rural fire departments. The City maintains the responsibility of assuring a level of service comparable to the service level within the existing incorporated areas. The involvement of the suburban fire department may require the City to supplement service where contract service is not comparable to the municipal service. The City recognizes these circumstances and may affect its plan for extending fire protection; therefore, the City has developed a plan that incorporates alternative solutions to extending fire protection to annexed areas.

Solid waste collection: The additional land area, street mileage, dwelling units, businesses and improvements will not require immediate expansion of Public Works Department, Sanitation Division. The City is required to offer existing private service entities contract opportunities which allow for the continued service of annexed areas by existing companies. The City maintains the responsibility of assuring a level of service comparable to the service level within the existing incorporated areas. The involvement of the existing private companies may require the City to supplement service where contract service is not comparable to the municipal service. The City recognizes these circumstances and may affect its plan for extending solid waste collection services; therefore, the City has developed a plan that incorporates alternative solutions to extending solid waste collection services to annexed areas.

Street maintenance services: The additional land area, street mileage, dwelling units, businesses and improvements will not require immediate expansion of Public Works Department, Street Maintenance Division. Existing personnel and equipment are planned to serve the proposed additions to the City maintenance system; therefore, no specific personnel and equipment additions will be made.

Water distribution: On the effective date of annexation, all residents, businesses and property owners within the proposed six annexation areas that are adjacent to existing water facilities will receive service on a basis substantially equal to all current portions of the City. The following four areas require no water line improvements: Heritage Business Park area, Enka Park area, Ashwood area and Heathbrook area. In the Honey Drive area, there is a lack of fire protection coverage. Therefore, there is a need to upgrade the existing two-inch water line to bring fire protection coverage to the same level as other parts of the City. Approximately 1,225 linear feet of six-inch ductile iron water line, 2 fire hydrants and all related appurtenances shall be installed along Honey Drive. All existing water service connections shall be reconnected to the proposed six-inch water line and the existing two-inch water line shall be abandoned. In the Sweeten Creek Road area, there is a lack of fire protection coverage in the northern section. Therefore, there is a need to upgrade the existing two-inch water line along Cedar Lane to bring

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fire protection coverage to the same level as other parts of the City. Approximately 1,035 linear feet of six-inch ductile iron water line, 1 fire hydrant and all related appurtenances shall be installed along Cedar Lane. The proposed water line shall connect to the existing six-inch water line on Sweeten Creek Road at the intersection of Cedar Lane and Sweeten Creek Road. All existing water service connections shall be reconnected to the proposed six-inch water line and the existing two-inch water line shall be abandoned. All water system improvements are planned for completion by June 30, 2006.

Sewer collection: The following five areas require no sanitary sewer system improvements: Heritage Business Park area, Honey Drive area, Enka Park area, Ashwood area and Heathbrook area. In the Sweeten Creek Road area, major sanitary sewer trunk lines and interceptors are currently in place for the majority of this area; however, upgrades will be required to the existing sanitary sewer infrastructure in order to bring this area to substantially the same level as other parts of the City. Approximately 400 linear feet of eight-inch sanitary sewer line and all related appurtenances shall be installed along Sweeten Creek Road, beginning approximately 460 feet north of the intersection of Sweeten Creek Road and Weston Road. All sanitary sewer system improvements are planned for completion by June 30, 2006.

Administrative and other municipal services: The City provides a full range of services. Basically key professional and department directors specializing in public works, police protection, fire protection, urban land use planning and zoning, building code enforcement, legal matters, parks and recreation and various other municipal activities and functions. The City is active in minimum housing code and State building code administration, zoning and subdivision ordinance

administration, recreational programs and parks administration, community revitalization and affordable housing grants administration, economic development efforts and many other planning and related activities.

Financial Impact:

Revenue: Total ad valorem property tax revenue - \$254,055; Total state utility tax revenue - \$22,742; Total local option sales tax - \$91,799; Total Powell Bill allocation - \$21,276; and Total fees, permits, licenses and charges for services - \$38,845. Total revenue - \$424,717.

Annual recurring expenditures: Police (one additional officer) - \$35,000; Fire (rural fire department contracts expected to be in place for at least 5 years. Additionally, there is a general annual expenditure not associated with a particular area of \$17,000 to reflect a portion of the cost for the hiring of a Deputy Fire Marshal. This position will be hired effective January 1, 2005) - \$62,446; Solid waste - \$13,827; Recycling - \$3,922; and Street lighting - \$101. Total recurring expenditures - \$115,296.

Annual capital expenditures: Water lines - \$135,020; Sewer lines - \$31,200; Solid waste (cost equals potential economic loss compensation for private solid waste haulers) - \$60,839; Rollout containers - \$16,760; Street signs - \$2,100; Street repair - \$39,500; Sidewalks - \$232,000. Total annual capital expenditure - \$517,419.

Mr. Pettibone asked City Council to adopt the resolutions approving the report of plans for the six annexation areas.

Councilwoman Bellamy asked if we were looking for any issues regarding traffic calming measures in these areas so we can include them in the revenue and capital expenditures. Planning & Development Scott Shuford said that every year City Council provides a certain funding for traffic calming. The projects are picked based upon the neighborhood desires it and then a process is followed. But, there is also a priority effort to do outreach to the different neighborhoods. What we would typically do in a neighborhood that we are annexing and we do

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not have a known traffic calming issue, would be to evaluate the annexed areas and add them on the list of priorities. This is done just as we do with street paving and other issues so we would not be showing newly annexed areas favoritism over existing areas.

Councilwoman Bellamy suggested City Council consider addressing traffic calming now in our capital expenditures so as we take the annexed areas into the City they don't have to wait.

City Attorney Oast said that traffic calming is one of the services that these areas will become entitled to once they come into the City. It is not one of the services that we are by law required to extend into these areas. He would be hesitant to include a service that we are not required to account for in our Annexation Services Plan.

Mr. Shuford said that perhaps a different way to address Councilwoman Bellamy's issue is that if Council desires, they could direct staff to treat annexed areas with a higher priority than areas that have not been annexed.

Councilwoman Bellamy hoped that we could continue that process with the existing areas within the City and at the same time add to our capital expenditures for the newly annexed areas to address their concerns. It's not something that the City usually does, but we can create another level of service that we give to people as they come into the City.

After a brief discussion about the ratio of police officers to residents, Mr. Pettibone said that the Annexation Services Plan contains one additional police officer.

City Manager Westbrook said that each time Council annexes, we may not need to add police officers or firefighters unless we annex additional people into the City or, in the case of fire, a lot of buildings. There is a standard that needs to be met. There is also a standard that recommends that you have so much park space per population and we don't measure that way either. Another way of considering the need for additional police officers is that is that we have a fairly low crime rate and that speaks well for the citizens and the Police Department.

Councilwoman Bellamy noted that if the City Council believes more police officers are necessary that Council can include that in our general budget process rather than try to make it up through the annexation process.

Mr. Fred English, Haw Creek resident, spoke in opposition to the City annexing stating that he is paying taxes now and not receiving services.

Mr. Mike Fryar spoke against annexation and felt that the Police Department needed additional police officers.

Mr. Wayne Marshall, resident on Honey Drive, asked specific questions about their trash pickup, tax to the Haw Creek Fire Department, School District changes, a new water line and additional sales taxes.

Upon inquiry of Mr. Dick Washam, Chunns Cove area resident, City Engineer Cathy Ball explained the City's street maintenance process.

Councilman Dunn felt that the \$517,419 capital expenditures for this round of annexations should be spent on something more important, like infrastructure improvements. Mr. Shuford explained that the capital improvements have to be accomplished over a two-year period. From a business standpoint, if you are able to have a front-end cost like that and then have an overall positive operating revenue stream that would come from the project, normally you would act on that in a favorable manner.

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

RESOLUTION NO. 04-28 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE HERITAGE BUSINESS PARK AREA

Councilman Newman moved for the adoption of Resolution No. 04-28. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote with Vice-Mayor Mumpower and Councilman Dunn voting "no."

RESOLUTION BOOK NO. 28 – PAGE 124

RESOLUTION NO. 04-29 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE HONEY DRIVE AREA

Councilman Newman moved for the adoption of Resolution No. 04-29. This motion was seconded by Councilman Davis and carried on a 4-3 vote with Vice-Mayor Mumpower, Councilman Dunn and Councilwoman Jones voting "no."

RESOLUTION BOOK NO. 28 – PAGE 125

RESOLUTION NO. 04-30 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE ENKA PARK AREA

Councilman Newman moved for the adoption of Resolution No. 04-30. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote with Vice-Mayor Mumpower and Councilman Dunn voting "no."

RESOLUTION BOOK NO. 28 – PAGE 126

RESOLUTION NO. 04-31 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE ASHWOOD AREA

Councilman Newman moved for the adoption of Resolution No. 04-31. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote with Vice-Mayor Mumpower and Councilman Dunn voting "no."

RESOLUTION BOOK NO. 28 – PAGE 127

RESOLUTION NO. 04-32 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE HEATHBROOK AREA

Councilman Newman moved for the adoption of Resolution No. 04-32. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote with Vice-Mayor Mumpower and Councilman Dunn voting "no."

RESOLUTION BOOK NO. 28 – PAGE 128

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RESOLUTION NO. 04-33 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE SWEETEN CREEK ROAD AREA

Councilman Newman moved for the adoption of Resolution No. 04-33. This motion was seconded by Councilwoman Jones and carried on a 5-2 vote with Vice-Mayor Mumpower and Councilman Dunn voting "no."

RESOLUTION BOOK NO. 28 – PAGE 129

VI. OTHER BUSINESS:

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 13, 2004, AND THE WORKSESSION HELD ON JANUARY 20, 2004

Councilman Newman asked for clarification of the Pack Square Conservancy motion from City Council's January 13, 2004, meeting. He feels like there needs to be some clarity on whether or not the City supports the recommendations of the Pack Square Conservancy to remove from consideration the construction of a high rise building on Site A. It is his understanding that the Conservancy needs that issue to be clarified so that they can refocus on their basic mission of raising funds to develop a plan for the park.

Mayor Worley said the minutes of the January 13, 2004, regarding Pack Square Conservancy's request are accurate. He thinks the understanding differs among various members of Council as to the effect of the motion. He said the maker of the motion intended for all of the recommendations to be subject to a 60 day review period. His belief would be that if that was the intent then that would be the effect of the motion, although that might not necessarily be what was understood and intended at the time by the majority of City Council. He felt that the issue is probably moot because it is highly unlikely for any proposal to come before City Council before the Pack Square Conservancy can report back with their recommendations on March 16, 2004.

Councilman Davis felt it would be strange to take a definitive action without the recommendation being presented in a more formal manner. He thought the Conservancy was bringing their recommendations forth to air their views and then when Vice-Mayor Mumpower made the motion, he felt as though he was saying let's look at this for a sixty-day period and come back in a more final style for a permanent recommendation.

Vice-Mayor Mumpower apologized for his lack of eloquence when he made the motion, but when you look at the repercussions of taking the high rise off the table permanently, it's pretty significant and he wouldn't want to do that without a formal staff report and a lot more discussion and details.

Councilman Brownie said that as unlikely as a high rise may be, it would seem to make sense to get the community rallied around a great park design and bring some sense of closure to the community on the high rise matter.

Vice-Mayor Mumpower said that it is his understanding that the City is going to have some significant infrastructure costs associated with this and that a good bit of that money was going to be coming from the sale of this site and the on-going tax revenue from this site. If we take it off the table, we are eliminating a significant revenue source that has the potential to come back into our City tax dollars.

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City Manager Westbrook said that there were some off-site issues that the City has to take care of as the project progresses and they are quite expensive. It was the understanding from the very beginning was that there would be some real estate that the City would have to sell to make the project move forward and that was a possible revenue source. If that doesn't come about, then the City will have to do their best to get grants and do other things to make that happen.

Mayor Worley said there are two issues here. One is the question of the high rise itself. It was the request of the Conservancy to take the high rise off the table, whatever precisely that means including whatever the definition of high rise is. The other was not to entertain any other developmental proposals for that site until they could review their guidelines. Their request was not to eliminate that site as a potential building site, but simply to eliminate it as a potential building site for a high rise, again, whatever that definition is.

Vice-Mayor Mumpower moved to approve the minutes of the January 13, 2004, meeting and the January 20, 2004, worksession. This motion was seconded by Councilman Newman and carried unanimously.

Councilman Newman moved that it is not the intention of this City Council to pursue the development of a high rise

building on Site A and Council await the proposal from Pack Square Conservancy for the appropriate use of Site A. This motion was seconded by Councilwoman Jones.

Upon inquiry of Councilman Davis, City Attorney Oast said that it will require more than a motion to actually finalize Council's intention, if the motion passes. He was not sure whether City Council can bind their own discretion on that.

Vice-Mayor Mumpower was concerned about the process. He felt it was foolish for City Council to spend months considering the Grove Park Inn proposal which passed on a 6-1 vote, to now just decide to take the high rise building off the table without any foundation or discussion.

The motion made by Councilman Newman and seconded by Councilwoman Jones carried on a 4-3 vote, with Mayor Worley, Councilwoman Bellamy, Councilwoman Jones and Councilman Newman voting "yes" and Vice-Mayor Mumpower, Councilman Davis and Councilman Dunn voting "no."

CLAIMS

The following claims were received by the City of Asheville during the period of January 1-15, 2004: Roy Rogers (Streets), Lorie Poteat (Water), Fred Higginbottom (Streets), Matthew Hartwiger (Water), Dorinda R. Watford (Transit Services), Aerial Dev. (Water), Craig Culbertson (Streets), Martha Papp (Water), and Sondra Peterson (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fred English commented about the Housing Authority audit, the option of the Grove Park Inn, possible economic development in the County, the Public Art sculpture and annexation in general.

Ms. Jan Howard, resident on Reservoir Road, presented City Council with information and asked that City Council close Reservoir Road due traffic concerns, alleging it is her private driveway. City Attorney Oast said that he would submit a report to City Council on this matter.

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Mr. Christopher Fielden reviewed with Council the numerous violations by Wal-Mart on the Sayles Bleacheries site. He urged City Council to advise City staff to closely monitor the development and enforce the Unified Development Ordinance. City Engineer Cathy Ball said that her staff is on the site every day and she personally visits the site every week. She did feel that the developer should do more because of the size and importance to the community. Councilwoman Jones asked that Ms. Ball contact the N.C. Dept. of Environment and Natural Resources and ask that they visit the site just in case there are possible violations.

Mr. Mike Fryar asked for answers to his previous questions from prior meetings. He said that he is trying to figure out what was wrong with the annexation process of his property on Smoky Park Highway. Mayor Worley said that there is concern on Council about his situation and Council will address that concern shortly. At Councilwoman Bellamy's suggestion, Mr. Fryar said that he would be happy to meet with the City Manager. When Councilwoman Bellamy asked Mr. Fryar if he wanted City Council to take a formal vote to say that Council will re-consider his annexation, Mr. Fryar replied "no" that he just wanted City Council to decide what to do and explain why a certification was put on his annexation map after the fact. City Clerk Burleson explained that the certification on the map from the Buncombe County Register of Deeds Office is required by state statute to be included on any maps before recording in their office.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 10:35 p.m.

CITY CLERK

MAYOR