

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

Commander of VFW Post 891 Harold Stines led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Davis gave the invocation.

RECOGNITIONS

Mayor Worley recognized eight students and two educators from Montenegro who are being hosted by Junior Achievement of WNC. The students are attending Asheville High School and are being hosted by ten different Asheville families. Vice-Mayor Mumpower said that he has met the students and was impressed by their achievements.

Councilwoman Bellamy introduced an intern from Mars Hill College who will be working with her this current semester.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING FEBRUARY 2004 AS “BLACK HISTORY MONTH”

Councilwoman Bellamy read the proclamation proclaiming February, 2004, as "Black History Month" in the City of Asheville. She briefed City Council on some activities taking place during the month.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 27, 2004

B. RESOLUTION NO. 04-34 - RESOLUTION ACCEPTING THE NEW PROPOSED STREET NAME OF “STEGALL LANE”

Summary: The consideration of a resolution accepting the new proposed street name “Stegall Lane.”

EBJ Inc., owner of lots off of Mountainbrook Road, has petitioned the City of Asheville to accept the street name “ Stegall Lane.” The new street will begin at Mountainbrook Road and end at cul-de-sac on Stegall Lane.

City staff recommends adoption of the resolution accepting “Stegall Lane” as a new street.

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C. RESOLUTION NO. 04-35 - RESOLUTION ACCEPTING THE NEW PROPOSED STREET NAME OF “ TASHA LANE”

Summary: The consideration of a resolution accepting the new proposed street name “Tasha Lane.”

Tamella Spivy Mundy and Curtis J. Gudger, owners of lots off of Grandview Road, have petitioned the City of Asheville to accept the street name “ Tasha Lane.” The new street will begin at Grandview Road and end at “T” turnaround on Tasha Lane.

City staff recommends adoption of the resolution accepting “Tasha Lane” as a new street name.

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D. RESOLUTION NO. 04-36 - RESOLUTION ACCEPTING THE NEW PROPOSED STREET NAME OF “SCOTTISH CIRCLE”

Summary: The consideration of a resolution accepting the new proposed street name “Scottish Circle.”

Harrell and Associates Realty; owner of lots off of Summit Avenue, has petitioned the City of Asheville to accept the street name “ Scottish Circle.”

The new street will begin at Summit Avenue and circle back into Summit Avenue.

City staff recommends adoption of the resolution accepting “Scottish Circle” as a new street name.

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E. RESOLUTION NO. 04-37 - RESOLUTION ACCEPTING THE NEW PROPOSED STREET NAME OF “BLEACHERY BOULEVARD”

Summary: The consideration of a resolution accepting the new proposed street name “Bleachery Boulevard.”

Horne Development - River Bend, LLC, owner of lots in River Bend Marketplace off Swannanoa River Road, has petitioned the City of Asheville to accept the street name “ Bleachery Boulevard.” The new street will begin at Swannanoa River Road and end at Fairview Road.

City staff recommends adoption of the resolution accepting “Bleachery Boulevard” as a new street name

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F. ORDINANCE NO. 3089 – BUDGET AMENDMENT FOR TRANSPORTATION PLANNING FOR PACK SQUARE RENAISSANCE PROJECT

Summary: The consideration of a budget amendment, in the amount of \$25,000, for a grant from North Carolina Department of Transportation (NCDOT) for transportation planning to

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include evaluating pedestrian movement to allow maximum use of the park area and to provide for adequate vehicular traffic as part of the Pack Square Renaissance Project.

The Pack Square Conservancy requested funds in the amount of \$25,000 from the NCDOT for transportation planning to include evaluating pedestrian movement to allow maximum use of the park area and to provide for adequate vehicular traffic as part of the Pack Square Renaissance Project.

Since NCDOT can only provide these funds to municipalities, Pack Square Conservancy and NCDOT originally requested that we accept the money from the state pass it through to the Conservancy. Since that time, Pack Square Conservancy has requested that the City perform this work through a consultant. This grant requires no match from the City.

City Council approved the municipal agreement in March 2004.

City staff recommends City Council adopt the budget amendment, in the amount of \$25,000, for a grant from the NCDOT for transportation planning to include evaluating pedestrian movement to allow maximum use of the park area and to provide for adequate vehicular traffic as part of the Pack Square Renaissance Project.

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G. RESOLUTION NO. 04-38 – RESOLUTION ACCEPTING OZARK SPRING LANE AS A CITY MAINTAINED STREET

Summary: The consideration of a resolution to accept Ozark Spring Lane in Riverwood Subdivision off Bell Road in the

Haw Creek Community as a City maintained street.

Section 7-15-1(f)-4.a requires that streets dedicated for public uses be accepted by resolution of City Council.

Ozark Spring Lane is a developer-constructed street with an average paved width of 18 feet and a 45-foot right-of-way. The street is approximately 397 feet in length and ends with a cul-de-sac. Engineering Department staff inspected this street and finds it to be constructed in accordance with the approved standards.

Following City Council's approval of this resolution, Ozark Spring Lane will be added to the official Powell Bill list. A two-year warranty, from the date of City Council's acceptance, will be required by the developer to cover major failures in the roadway.

City staff requests City Council accept Ozark Spring Lane as a City maintained street.

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H. RESOLUTION 04-39 – RESOLUTION ACCEPTING REMAINDER OF PEACHTREE STREET AS A CITY MAINTAINED STREET

Summary: The consideration of a resolution to accept the remainder of Peachtree Road in Nettlewood Subdivision off Hendersonville Road as a City maintained street.

Section 7-15-1(f)-4.a requires that streets dedicated for public uses be accepted by resolution of City Council.

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This section of Peachtree Road is a developer-constructed street with an average paved width of 25 feet. The street is approximately 0.62 miles in length. It begins at the end of the existing Peachtree Road and continues to Hendersonville Road. A private qualified consultant inspected this street. The data received by the City indicates that the street was constructed in accordance with the approved standards.

Following City Council's approval of this resolution, the remainder of Peachtree Road as described above will be added to the official Powell Bill list. A two-year warranty, from the time of Council's acceptance, will be required by the developer to cover major failures in the roadway.

City staff requests City Council accept the remainder of Peachtree Road as a City maintained street.

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I. RESOLUTION NO. 04-40 – RESOLUTION ACCEPTING A PORTION OF OLD STONE GATE PLACE, A PORTION OF SENATOR REYNOLDS ROAD AND A PORTION OF ALTAMONT ROAD AS CITY MAINTAINED STREETS

Summary: The consideration of a resolution to accept a portion of the following streets, in Reynolds Mountain Subdivision, as City maintained streets: (1) Old Stone Gate Place; (2) Senator Reynolds Road; and (3) Altamont Road.

Section 7-15-1(f)-4.a requires that streets dedicated for public uses be accepted by resolution of City Council.

These sections of Old Stone Gate Place, Senator Reynolds Road and Altamont Road are developer-constructed streets. Old Stone Gate Place has an average paved width of 20 feet and a length of 0.3 miles. Senator Reynolds Road has an average paved width of 20 feet and a length of 0.7 miles. Altamont Road has an average paved width of 20 feet and a length of 0.4 miles. Engineering Department staff has inspected these streets finds them to be constructed in accordance with the approved standards.

Following City Council's approval of this resolution, the portions of Old Stone Gate Place, Senator Reynolds Road and Altamont Road will be added to the official Powell Bill list. A two-year warranty, from the time of Council acceptance, will be required by the developer to cover major failures in the roadways.

City staff recommends City Council accept a portion of the following streets in Reynolds Mountain Subdivision as City maintained streets: (1) Old Stone Gate Place; (2) Senator Reynolds Road; and (3) Altamont Road.

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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.

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

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF AN UNOPENED UNNAMED ALLEY OFF FOREST STREET

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RESOLUTION NO. 04-41 - RESOLUTION TO CLOSE A PORTION OF AN UNOPENED UNNAMED ALLEY OFF FOREST STREET

Mayor Worley opened the public hearing at 5:13 p.m.

Assistant Public Works Director David Cole said that this is the consideration of a resolution to close a portion of an unopened unnamed alley off Forest Street. This public hearing was advertised on January 16, 23, 30 and February 6, 2004.

N. C. Gen. Stat. sec. 160-299 grants cities the authority to permanently close streets and alleys without regard to whether they have actually been opened.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville close a portion of an unopened unnamed alley off Forest Street, the entry of which is located approximately 165 feet east of the intersection of Forest Street and Hendersonville Road (US Hwy 25).

Public Works Department staff has researched and determined that this alley is not a City maintained street and is not in use as a means of ingress or egress for any of the properties abutting the alley. There are three lots that abut this portion of the unnamed alley. They are identified by PIN Nos. 9647.20-90-3952; 9647.20-90-5910; and 9647.20-91-4067.

The developer has agreed to preserve a 17-foot easement to connect future utilities.

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

Councilwoman Bellamy asked if any of the area property owners were notified. Mr. Cole said that all adjoining property owners to the alley signed the petition to close and no notices were sent to area property owners. He did note that the alley was posted on both sides with the resolution of intent along with the legal notice that was in the paper for four successive weeks.

Councilwoman Bellamy said that she recalled this coming before Council a couple of years ago because the alley was the only thing that was stopping a large development on that property. Her concern is that there is a big neighborhood plan that is being worked on and she wanted to wait to see what the neighborhood wanted before considering the closing of the alley. She felt that to close the alley would allow more commercial encroachment into the residential neighborhood.

Mr. George Morosani, developer, said that he was involved with an alley closing on Shiloh Road a couple of years ago, but it was not related to this property. He explained that he has purchased more property in that area and intends to build a multi-use building with a residential component. The property on the other side of the alley will be used for parking. He said that all of his property is zoned commercial and only one parcel that adjoins the alley is zoned office.

Upon inquiry of Councilman Newman, Mr. Cole said that the access to the back side of the alley is off Cornell Street.

Councilwoman Bellamy said that there are a lot of things happening in the Shiloh community and she wished this alley closing would be delayed until the neighborhood plan is formed. She also was concerned that Mr. Morosani might sell the property and the future owner may not wish to build a multi-use building on the property.

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

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

Councilman Dunn moved for the adoption of Resolution No. 04-41. This motion was seconded by Councilman Davis and carried on a 6-1 vote with Councilwoman Bellamy voting "no."

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B. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO DAVE STEEL COMPANY

RESOLUTION NO. 04-42 – RESOLUTION GRANTING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO DAVE STEEL COMPANY

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

Economic Development Director Mac Williams said that this is the consideration of a resolution granting an economic development incentive grant for Dave Steel Company. This public hearing was advertised on January 30 and February 6, 2004.

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.

The terms of the proposed agreement are summarized as follows: Dave Steel is an Asheville-based fabricator of structural steel that proposes to expand operations at its Meadow Road facility. The expansion is in the form of a capital investment of \$600,000 in new production equipment which, in turn, would lead to the creation of approximately 25 new jobs paying at or above the median wage for Buncombe County. Said investment and new jobs are anticipated to be in place during the calendar year 2004.

The City proposes to award to Dave Steel, an incentive grant of \$3,577, payable in January 2005, subject to the terms and conditions of a city-required Performance Agreement to be signed between the City and Dave Steel.

City staff recommends Council approve the resolution granting an economic development incentive grant for Dave Steel Company.

Mr. William Lewin, Vice-President of Finance with Dave Steel Company, asked City Council for their support of this incentive grant.

Mr. Fred English, Haw Creek resident, spoke in support of the grant.

Mayor Worley closed the public hearing at 5:29 p.m.

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

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Councilwoman Bellamy moved for the adoption of Resolution No. 04-42. This motion was seconded by Councilwoman Jones and carried unanimously.

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IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 04-43 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

Vice-Mayor Mumpower said that the terms of Karen Tessier, Carol King, Andy Archie and Peter Alberice, as members on the Asheville Downtown Commission, expired on December 31, 2003.

On January 20, 2003, it was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to reappoint Mr. Archie and Mr. Alberice to each serve a three year term respectively, terms to expire December 31, 2006, or until their successors have been appointed.

In addition, on January 20, 2004, it was the consensus of City Council to instruct the City Clerk to arrange interviews for John Rogers, Barry Olen, Michael McDonough and Jesse Plaster. Other candidates that will be considered but not called in for an interview include: Gerald Green, Barbara Field and Jane Mathews.

After Council spoke about the excellent candidates, John Rogers received 4 votes, Barry Olen received 2 votes, Michael McDonough received no votes, Jesse Plaster received 3 votes, Gerald Green received no votes, Barbara Field received 2 votes and Jane Mathews received 3 votes. Since there was a tie between Jesse Plaster and Jane Mathews (with both receiving 3 votes), another vote was taken. Jesse Plaster received 4 votes and Jane Mathews received 3 votes. Therefore, John Rogers and Jesse Plaster were appointed to the Asheville Downtown Commission to each serve a three year term respectively, terms to expire December 31, 2006, or until their successors have been appointed.

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B. RESOLUTION NO. 04-44 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE GREENWAY COMMISSION

Vice-Mayor Mumpower said that the terms of Jack Saye and Phyllis Stiles, as members on the Greenway Commission, expired on December 31, 2003. Also, Pauline Kaltsunis has resigned from the Commission, thus leaving an unexpired term until December 31, 2004.

On January 20, 2004, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Jack Saye and Phyllis Stiles to each serve a three year term respectively, terms to expire December 31, 2006, or until their successors have been appointed.

In addition, on January 20, 2004, it was the consensus of City Council to instruct the City Clerk to arrange interviews for Scott Jackson and Jill Jones. Ms. Jones asked not to be considered for any board appointments at this time.

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It was the consensus of City Council to appoint Scott Jackson to the Greenway Commission to serve the unexpired term of Ms. Kaltsunis, term to expire December 31, 2004, or until his successor has been appointed.

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C. RESOLUTION NO. 04-45 - RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART BOARD

Vice-Mayor Mumpower said that the terms of Carol Pennell, Barbara Cary, Tina McGuire and Ellen Rickman, as members on the Public Art Board, 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 Barbara Cary and Tina McGuire to each serve a four year term respectively, terms to expire December 31, 2007, or until their successors have been appointed.

In addition, on January 20, 2004, it was the consensus of City Council to instruct the City Clerk to arrange interviews for Jonathan Flaum and Kathleen Peters.

It was the consensus of City Council to appoint Jonathan Flaum and Kathleen Peters as members to the Public Art board to each serve a three year term respectively, terms to expire December 31, 2006, or until their successors have been appointed.

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D. RESOLUTION NO. 04-46 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TRANSIT

COMMISSION

Vice-Mayor Mumpower said that the terms of Claudia Nix, Ron Lambe, Althea Goode and Jennifer Knudtson, as members on the Transit Commission, have expired on December 31, 2003. In addition, James Garner has resigned as a member of the Transit Commission thus leaving a vacancy until December 31, 2004.

In addition, on January 20, 2004, it was the consensus of City Council to instruct the City Clerk to arrange interviews for Bryan Freeborn, Linda Alfredson, Andrew Goldberg, Bill Michie and Karen Austin. Another candidate that will be considered but not called in for an interview is Ryan Pickens.

Bryan Freeborn received 6 votes, Linda Alfredson received 3 votes, Andrew Goldberg received 6 votes, Bill Michie received 5 votes, Karen Austin received 7 votes and Ryan Pickens received 6 votes. Therefore, Bryan Freeborn, Andrew Goldberg, Karen Austin and Ryan Pickens were appointed to each serve a three year term respectively, terms to expire December 31, 2006, or until their successors have been appointed. In addition Bill Michie was appointed to serve the unexpired term of Mr. Garner, term to expire December 31, 2004, or until his successor has been appointed.

A brief discussion was held about whether each Council member had to vote. City Attorney Oast read from City Council Rule No. 30, Appointments, as follows: "During each balloting, a member may case all of his or her votes or fewer than all of them, but he or she shall not cast more than one vote for a single candidate."

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VI. OTHER BUSINESS:

Boy and Girl Scouts

Councilman Mumpower said that we have lost over 500 scouts this past year because no parents will commit to serve in leadership roles. He asked for people to come forward and meet some of the needs of our Boy and Girl Scout programs.

Claims

The following claims were received by the City of Asheville during the period of January 1-15, 2004: BellSouth (Water), Clay Management (Streets), BellSouth (Water), Marie Jordan (Streets) and Gary Branson (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fred English, Haw Creek resident, relayed to Council an incident where 300 cable electrical pieces were scattered in the street and after several calls to the City no one came to clean up the streets.

Mr. Joseph Smith relayed to Council a situation in which he allegedly exposed illegal activities at the local ABC Board and basically lost his job. Mayor Worley said that City Council would look into the situation. Vice-Mayor Mumpower suggested Mr. Smith meet with a couple of Council members to discuss his situation.

Closed Session

At 5:50 p.m., Councilman Dunn moved to go into closed session for the following reasons: (1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in G.S. 143-318.11(a)(4); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N. C. Gen. Stat. 143-318.11(a)(3). This motion was seconded by Councilwoman Bellamy and carried unanimously.

At 8:05 p.m., Councilwoman Bellamy moved to come out of closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 8:05 p.m.

CITY CLERK

MAYOR