

Tuesday - May 12, 1998 - 5:00 p.m.

## Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr.; Councilman M. Charles Cloninger; Councilman Earl Cobb; Councilwoman Barbara Field (arrived in meeting at 5:40 p.m.); Councilman Thomas G. Sellers; and Councilman O.T. Tomes; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

## **INVOCATION**

Mayor Sitnick gave the invocation.

## **I. PROCLAMATIONS:**

### **A. PROCLAMATION PROCLAIMING SATURDAY, MAY 16, 1998, AS "HIT THE PAVEMENT ... NOT YOUR PETS" WALK DAY**

Councilman Cloninger read the proclamation proclaiming Saturday, May 16, 1998, as "Hit the Pavement ... Not your Pets" Walk Day in the City of Asheville and presented a proclamation to Ms. Marilyn Walker who briefed the Council on the day's activities.

### **B. PROCLAMATION PROCLAIMING THE WEEK OF MAY 16-20, 1998, as "THE GARDENERS OF AMERICA/THE MEN'S GARDEN CLUBS OF AMERICA GARDEN DAYS"**

Councilman Cobb read the proclamation proclaiming the week of May 16-20, 1998, as "The Gardeners of America/The Men's Garden Clubs of America Garden Days" in the City of Asheville and presented the proclamation to Mr. Gerry Hardesty who briefed Council on some planned activities taking place during the week and the Club's activities.

At the suggestion of Councilman Cloninger, Mr. Hardesty said that he would be happy to meet with the Parks and Recreation Department to see how the Men's Garden Clubs can assist the City along the W.T. Weaver Boulevard greenway.

### **C. PROCLAMATION PROCLAIMING THE WEEK OF MAY 17-22, 1998, AS "NATIONAL PUBLIC WORKS WEEK"**

Vice-Mayor Hay read the proclamation proclaiming the week of May 17-22, 1998, as "National Public Works Week" in the City of Asheville and presented the proclamation to Mr. Mark Combs, Director of Public Works. Mr. Combs then thanked individual representative employees from not only the City departments, but from the Metropolitan Sewerage District as well.

### **D. PROCLAMATION PROCLAIMING FRIDAY, MAY 29, 1998, AS "STRIVE NOT TO DRIVE DAY"**

Councilman Sellers read the proclamation proclaiming Friday, May 29, 1998, as "Strive Not to Drive Day" in the City of Asheville and presented the proclamation to Ms. Katie Breckheimer, Chair of the Strive Not to Drive Day Planning Committee, and Ms. Elizabeth Teague from the Land-of-Sky Regional Council. Ms. Breckheimer briefed the Council on some activities planned for the day. -2-

## **II. CONSENT:**

At the request of Ms. Dee Williams, Item A. was removed from the Consent Agenda for discussion.

At the request of Mr. Ralph Bishop, Item F. was removed from the Consent Agenda for discussion.

Councilman Cloninger noted that the City Attorney advised him that he does not have a conflict of interest on Item E.

**A. RESOLUTION AUTHORIZING SUBMISSION OF THE CONSOLIDATED PLAN TO THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT AND HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR 1998-99**

This item was pulled from the Consent Agenda for further discussion.

**B. ORDINANCE NO. 2468 - BUDGET AMENDMENT FOR THE PURCHASE OF A CAB AND CHASSIS FOR THE FIRE DEPARTMENT**

Summary: Pursuant to N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish a cab and chassis for the Fire Department. The new cab and chassis will be a replacement for the 1980 Ford cab and chassis portion of the hazardous material rig. The following two bids were received as follows:

Carolina Truck Center, Hickory, NC \$32,968

Matthews Ford Inc., Asheville, NC \$33,400

Bids have been reviewed for technical compliance to specifications by the Fire Department and the Fleet Management Division, and their concurrence received in the following recommendation.

In addition to determining compliance to specifications, the evaluation of bids also considers the time specified in the proposals for the performance of the contract. The low bidder, Carolina Truck Centers, Hickory, N. C., is not recommended to receive award because of the length of time they require for delivery. The recommended award is to the second low bidder with the best delivery.

The budget amendment authorizes a transfer of funds from the Fire Department's appropriations for fleet management charges to a capital outlay account in the Capital Reserve Fund.

Subject to Council's approval, it is recommended that the bid be awarded to the second low bidder, Matthews Ford Inc., Asheville, N. C., in the amount of \$33,400.00 for the purchase of a 1999 'Ford' model F800 cab and chassis and adoption of the budget amendment.

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**C. RESOLUTION NO. 98-48 - RESOLUTION TO AWARD BIDS FOR A CAB AND CHASSIS FOR THE FIRE DEPARTMENT**

Summary: See above Item "B".

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**RESOLUTION BOOK NO. 24 - PAGE 380**

**D. RESOLUTION NO. 98-49 - RESOLUTION SETTING A PUBLIC HEARING FOR MAY 26, 1998, TO DEMOLISH 22 SULPHUR SPRINGS ROAD**

**RESOLUTION BOOK NO. 24 - PAGE 382**

**E. RESOLUTION NO. 98-50 - RESOLUTION APPROVING AN OPTION TO PURCHASE AN APPROXIMATELY TWO ACRE PARCEL OF PROPERTY ALONG TOWN BRANCH TENDERED BY VICTORIA INVESTMENT COMPANY**

Summary: This is consideration of a resolution approving an option to purchase an approximate two acre parcel of property along Town Branch tendered by Victoria Investment Company ("VIC").

Victoria Investment Company has tendered an Option To Purchase a 2.0 +/- portion of East Riverside Park along Town Branch.

The subject parcel is located off Tolula Lane at the rear of and adjacent to a medical office facility owned by VIC and occupied by Mountain Neurological Center, P.A. The proposed Option will allow VIC to explore the feasibility of purchasing the property for construction of additional parking for its current property. It will be necessary for VIC to petition for a change in zoning from RS-8 to Institutional. The Option will make it possible for VIC to initiate the process.

The stated purchase price in the Option is \$45,000.00; however, the purchase price shall not be less than the appraised value and is subject to City of Asheville's Real Property Disposition Policy and the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269. The Option is also subject to VIC being the successful bidder.

Approval of the resolution will authorize the Mayor to sign the Option To Purchase and initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Upon inquiry of Councilman Cobb, Mr. Ed Vess, Field Services Coordinator, said that this property was conveyed to the City over ten years ago.

**RESOLUTION BOOK NO. 24 - PAGE 384**

**F. MOTION TO APPROVE THE 1998 LEGISLATIVE PROGRAM**

This item was removed from the Consent Agenda for further discussion.

**G. MOTION SETTING A PUBLIC HEARING ON MAY 26, 1998, TO CONSIDER A CONDITIONAL USE APPROVAL AND PERMIT FOR A DUPLEX AT THE CORNER OF LONDON ROAD AND SHADY OAK DRIVE**

**H. MOTION SETTING A PUBLIC HEARING ON MAY 26, 1998, TO ZONE SECTION 9 OF BILTMORE PARK RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT**

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**I. MOTION SETTING A PUBLIC HEARING ON MAY 26, 1998, TO ZONE SECTION 10 OF BILTMORE PARK RS-2 RESIDENTIAL SINGLE FAMILY LOW DENSITY DISTRICT**

**J. MOTION SETTING A PUBLIC HEARING ON MAY 26, 1998, TO APPLY THE MANUFACTURED HOME OVERLAY TO TWO LOTS AT 9 EAST STARNES COVE ROAD IN A RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT**

**K. MOTION SETTING A PUBLIC HEARING ON MAY 26, 1998, TO APPLY THE MANUFACTURED HOME**

## **OVERLAY TO TWO LOTS ON PORTER ROAD IN A RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT**

Mayor Sitnick said that members of Council have been previously furnished with copies of the resolutions and ordinances on the Consent Agenda and they will not be read.

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

### **ITEMS PULLED FROM THE CONSENT AGENDA**

#### **A. RESOLUTION NO. 98-51 - RESOLUTION AUTHORIZING SUBMISSION OF THE CONSOLIDATED PLAN TO THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT AND HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR 1998-99**

Ms. Dee Williams, owner of Dee Williams & Company, explained that her company is a professional services firm which provides capacity building to small emerging and historically underutilized business firms in the area along packaging, business development, etc., and also provides services to non-profits and community-based organizations in the areas of organizational development and strategic planning. She said that she has sent a fax to the Mayor and Council and also previously raised pertinent issues about the Eagle/Market Streets Redevelopment Plan. She said that she did not want to hurt other organizations who are very deserving of CDBG funds and who have applications in, but certainly the issues raised in her fax as well as previous correspondence to the City Attorney, as well as some issues about this area being designated as a housing zone as the primary use of it, rather than as a commercial business zone, need to be addressed. She expressed issue in that the City of Asheville has submitted a plan to HUD for CDBG funds that addresses community economic development.

Ms. Cogburn said that Ms. Williams made a number of these comments at the Housing and Community Development Committee ("H&CD") yesterday so Vice-Mayor Hay, Councilwoman Field and Councilman Tomes are very familiar with what she has brought up and can address that as the H&CD Committee saw these issues.

Ms. Cogburn then explained that the City will be applying for \$1,537,000 in CDBG and \$1,047,000 through the HOME program for the coming year. Anticipated program income will increase available revenue for CDBG activities by \$303,400. The City's H&CD Committee has extensively reviewed the applications from agencies for CDBG funds and recommends CDBG funding allocation as described on the proposed project listing. The Asheville Regional Housing Consortium has also extensively reviewed the applications from agencies and local governments -5-

for HOME funds and recommends HOME funding allocation as described on the proposed project listing. Council action will authorize submittal of Consolidated Plan to HUD. Deadline for submittal is May 15, 1998. The Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs.

Vice-Mayor Hay said that this is the City's primary means of funding affordable housing and other efforts in the City with federal money. The application process started in January and this is a culmination of about a five month process. The hardest job usually is not so much in picking the worthy projects, because there are plenty of those, but deciding how to allocate between worthy projects. He noted that's what most of the time the H&CD Committee spent it's time on. He noted that Ms. Williams is here to talk about the allocation to Eagle/Market Street which is in this package, but it along with all the other affordable housing efforts. The HOME funding is decided by another group and the CDBG funding is decided by the H&CD Committee.

Councilman Tomes said, as a member of the H&CD Committee, that the entire Committee realized that every project submitted had merits and warranted financial commitment. However, the problem is that they are dealing with limited resources and they had to turn down some projects.

Ms. Williams said that her concern was that over \$600,000 has been spent and the people targeted for benefit in the depressed area of Eagle/Market Street (the owners) have not gotten one thing out of the CDBG money. She said they have lost faith to the point that they don't even participate in the public participation process. She felt Council has not mandated these sub-recipient agencies that got funding to either perform or leverage funds from other sources. She said the City has been providing almost 100% financing in Eagle/Market Street. She felt that the owners are going to suffer in that they don't have technical assistance to comply with the redevelopment and clean the area up. She said that former Community Development Director suggested that she supply a technical proposal in which these people could be specifically helped. She asked Council to consider amending the Plan so that technical assistance can be given to the property owners. She said this does not have to be with Dee Williams and Company but that she is only interested in helping these people. She suggested the owners to be brought back to the table and be part of the planning process.

At this time (5:40 p.m.), Councilwoman Field arrived from a meeting with the N.C. League of Municipalities in Raleigh, N.C.

Mayor Sitnick asked if Ms. Williams was suggesting City Council not to approve the plan in order to bring the property owners to the table, or could Council approve the plan and create some form for dialogue. Ms. Williams replied that she wanted other projects to go forward. She trusted Council if they said they would bring these owners to the table to see what it was that they wanted. And, if they want to help by participating in cleaning the area up and bringing that community back into the tax base - that's what she wants. She hoped that Council would amend the Plan once Council finds out that there is sufficient interest. She said that this doesn't have a thing to do with her - she's just an implement.

Mayor Sitnick said that City Council could approve the plan and then work with the H&CD Committee to create that dialogue.

Vice-Mayor Hay said that for several years the City has allocated money to the Eagle/Market Street CDC and not all of that money has been spent. Basically it's being held in reserve by the City until projects come on. The Committee, as part of it's oversight, asked about a year ago that they receive a monthly report from Eagle/Market Street CDC and Ms. Jill Arrington has been updating the Committee. He felt that the issues Ms. Williams raises are real -6-

issues and it is important to keep the property owners involved. However, he said the opportunity for dialogue exists presently and they will continue to use that form to review it.

Councilwoman Field, Chair of the H&CD Committee, said that she understood when the property owners were involved, everyone said it was a conflict of interest because they would be making decisions on money spent on their own property. The CDC's response was to evolve the property owners off of the board and get more community people on the board. She said that there are two sides to that issue, but definitely, if the community wants a dialogue, then we should definitely go forward with that. She saw no reason not to approve the allocations for this year.

Ms. Williams said that the property owners are tired of dialoging in that they just want technical assistance and they want to participate. She said that most of the owners have their own access to funds.

Councilman Cobb said that he would like for Ms. Williams to use all the resources that she has to bring some positive things to this Council because we all want to make the area something to be proud of. Ms. Williams

responded that she is willing to help in anyway she can, however, she is a for-profit company. Her proposal was to leverage funds. She stressed the need to work together.

Councilman Tomes said that there is a collaborative effort being put forth where the community is involved. He said that the H&CD Committee does hear updates, and does not want it construed that there is not an effort being put forth in trying to clean up the Eagle/Market Street area. Ms. Williams responded that the only people working on that collaborative effort is the non-profits. The for-profit business owners are not going to stay in that area and not receive the benefit of technical assistance and/or some sort of financial assistance. She felt the non-profits have taken over the area in planning and the tax-paying entities don't have any input.

Councilwoman Field said that the Minority Business Commission is set up specifically to give technical advice. Ms. Williams replied that the Commission is housed by the County and staffed by a person who is a trained social worker, not an economic development specialist.

Councilman Tomes said that he has called property owners in that community and has offered to sit down and discuss their concerns with them. He told them he would bring their concerns to the entire Council if that was what they wanted. To date he has not had a return phone call to take him up on his offer.

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

Councilman Cloninger moved for the adoption of Resolution No. 98-51. This motion was seconded by Councilman Cobb and carried unanimously.

## **RESOLUTION BOOK NO. 24 - PAGE 385**

### **B. MOTION TO APPROVE THE 1998 LEGISLATIVE PROGRAM**

When Mayor Sitnick asked Mr. Ralph Bishop to limit his comments to three minutes (as is the time limit for all individuals not representing a group), Mr. Ralph Bishop felt that Mayor Sitnick was making a mockery out of the Constitution of the United States, the Constitution of the State of North Carolina, and the State law in that she would not let him discuss the issue longer.

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After Mr. Bishop read a statement purported to be by then-Councilwoman Sitnick relative to meetings being held in orderly fashions, Mayor Sitnick noted that there was nothing in the statement he read that said she would not adhere to time limits and conduct the meetings in an orderly fashion.

Vice-Mayor Hay moved to approve the 1998 Legislative Program. This motion was seconded by Councilman Sellers and carried unanimously.

Because Mr. Bishop chose to talk about a different issue during his time on this topic, Mayor Sitnick told him that he could speak for three minutes at the end of the meeting under "Other Business" if he chose.

### **III. UNFINISHED BUSINESS:**

#### **A. SECOND READING OF ORDINANCE NO. 2467 - ORDINANCE AMENDING THE ZONING OF PROPERTY ON OLD HAYWOOD ROAD FROM RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY**

Mayor Sitnick said that the first reading on this ordinance was held on April 28, 1998. She commented that after several days of discussion between herself and City Attorney Bob Oast, the following letter dated May

12, 1998, was received from William F. Slawter, attorney representing the property owners:

"I am writing on behalf of our client, David Evans, who is agent for his mother Hazel Ratcliff Evans, regarding the rezoning of property on Old Haywood Road. We would first like to apologize for any negative response that the Council has received regarding the procedure that has been followed relating to this rezoning.

"I believe it was impossible for any of us to forecast the response that has been received. Since notice had been given that the entire tracts owned by the Petitioners were subject to being rezoned RM-8, we did not foresee that anyone would feel that additional notice should be given to rezone a smaller portion of the area in question. Obviously, a larger area than that for which notice of public hearing has been given cannot be rezoned, but when a smaller area ends up being rezoned, any notice that would be given would be sent to exactly the same people who are given the initial notice, and since the area being rezoned would be smaller and therefore less offensive to the surrounding neighbors, it is hard to imagine that they would have additional objections to the rezoning of the smaller area than they have already expressed to the rezoning of the larger area. It is somewhat like petitioning for the rezoning of two adjacent lots, and then dropping the rezoning request with regard to one of the two lots. If anyone entitled to notice had already been given notice that both lots might be rezoned, what purpose would be achieved in giving new notice that only one lot was going to be rezoned?

"At the April 28, 1998 City Council meeting, during Gerald Green's initial presentation regarding the rezoning, he noted that the petitioners anticipated dropping the rezoning request with regard to the 100 foot buffer strip, and also noted that doing so would negate the protest petition. As I hope you will recall, when I next spoke, I mentioned that Mr. and Mrs. Evans could not be present due to Mr. Evans' being scheduled for heart by-pass surgery in Greensboro. As I stated at that time, we were willing to postpone further consideration of the matter, but were also willing to go ahead without the Evans being present in order not to further inconvenience the protesting neighbors. Although several representatives of the neighborhood thereafter spoke, none of them suggested postponing the matter. All who spoke seemed to want a Council vote on that date, and it appears to us that the concern with the procedure only arise after the outcome of the vote was known.

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"Although we are convinced that the Council acted entirely appropriately at the April 28th meeting, our clients remain dedicated to pursuing this matter with as little ill-will as possible. At no time have they done anything more than to seek the rezoning of their property as allowed by law. They have sought compromise with the neighbors, but have not been able to achieve it. In a further effort by our clients to ensure that appropriate process is followed, the Evans have requested that we proceed as set forth hereinafter. Max and Flora Wilson also join in this request.

"It is our request that the City Council take action at today's meeting to remand this matter back to the Planning and Zoning Commission for further consideration, following which the issue can return to the Council for vote. This action would address the concern expressed by the neighbors regarding a lack of opportunity for them to address the question of the rezoning of the property with a 100 foot buffer strip remaining zoned RS-4, and any other issues which they may feel have arisen due to the change in the rezoning request. While this would cause some delay in the process and additional expense to our clients, they feel this move would be in keeping with the best interest of maintaining harmony in the community. Thank you for your consideration."

Mayor Sitnick said that today City Council will be voting on the second reading to rezoning the property. Because of the proposal presented on April 28, 1998, she was sorry that she didn't think to remand the matter back to the Planning & Zoning Commission ("P&Z Commission"), but it has been discussed by the City Attorney and herself. This Council was very concerned that the public was surprised by the last minute

change of the 100 foot buffer and did not have a chance to understand it, digest it or respond to it. She asked if Council would be willing to hear comments from a representative of the neighborhood and then consider remanding the matter back to the P&Z Commission.

When Councilman Cloninger asked if it was the City Attorney's recommendation that Council remand this back to the P&Z Commission, City Attorney Oast said that based on discussions he has had with Mr. Slawter, with Council members and with staff members, it is his recommendation that it be remanded. One reason is that it will allow the Planning staff and the P&Z Commission to consider this revised proposal and make recommendations to Council. It will allow Council to use the resources that are there for that purpose before the matter comes up for a vote that would change the zoning. He felt that remanding the matter back was sound planning practice, although City Council can legally act on this rezoning at this time. Councilman Cloninger said that he supported the recommendation of the City Attorney.

Ms. Betty Fagan, neighborhood representative, said that at 2:00 today she received a call from Mr. Oast. She said that even though he explained this to her, this was something that the neighborhood was not aware of. She explained to Mr. Oast that she did not have time to contact the community. The last minute 100 buffer proposal on April 28 stunned the neighborhood and allowed no neighborhood thought process. She felt this was the same thing that has happened today - three hours prior to the meeting. "We would therefore request the City Council reinstate the protest petition and consider rezoning the subject property as originally submitted requiring 3/4's approval of City Council or alternately, to reject the petition for rezoning, as amended, of the property owners at the April 28 meeting."

Councilman Cloninger asked for clarification by asking the neighborhood if they do not want City Council to remand the matter back to the P&Z Commission but vote today, Ms. Fagan said that the neighborhood has not had an opportunity to get a consensus and as a community united thus far, they are not objecting and they are not accepting. Councilman Cloninger explained that remanding the matter would give the neighborhood the opportunity to review the proposal more carefully and give their input. Ms. Fagan again said that they are not accepting or rejecting it. -9-

Mayor Sitnick explained that they started talking about this mid-week last week and it takes time for phone calls to be made and returned and Mr. Slawter was trying to get in touch with his clients. By the time there was enough discussion back and forth to realize this was a possibility in order to open up this process again because the neighborhood was stunned by it, and Mr. Slawter mentions that in his letter that there was no intention to do that, the idea was to give the neighbors an opportunity to review this, to have a chance to speak about it before the P&Z Commission and then again before Council. She regretted the inconvenience, the time taken to come to the meetings, and the frustration.

Ms. Fagan again said that the neighborhood is not rejecting Council's proposal at this time to remand it to the P&Z Commission and they are not accepting it. They will leave it entirely in the City Council's hands. It is the Council's decision.

Mayor Sitnick said that if she were a neighbor, she would want another opportunity to try and talk to members of the P&Z Commission and City Council.

Vice-Mayor Hay said that he would be interested in the Planning staff's and the P&Z Commission's recommendations.

Councilman Cobb said that he would be ready to vote now, but saw no problem with remanding the matter back to the P&Z Commission.

Councilman Tomes felt that if there is a faint possibility that some resolution can occur, he would be in favor of remanding the matter back.



Councilwoman Field felt the matter needed to be remanding back to the P&Z Commission, if, for no other reason, than if there are any concerns that City Council has not gone through the process correct.

Councilwoman Field moved to rescind Council's previous action on this rezoning request and remand the matter back to the P&Z Commission. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Cloninger noted that he does support remanding the matter back, however, he made clear that while Council will be open to the suggestions of the P&Z Commission and the feedback from the public, that remanding it to the P&Z Commission does not guarantee a different outcome from what the vote was on April 28. City Attorney Oast noted that City Council is not bound by any vote they take today.

Mayor Sitnick requested, and she did not know if the City had authority to do this, to amend whatever ordinance that allows a major revision in a rezoning request to occur after a public hearing is closed so that this does not happen again.

In response to Mayor Sitnick's request, Councilman Cloninger said that even if Council went ahead and voted on the request to rezone without any buffers and the protest petition had been in effect, and if the rezoning request had failed, City Council would still have the ability to consider a new proposal. One of Council could even make a motion for a new proposal, including a proposal to have a 100 foot buffer. Therefore, even though a vote may not have been taken on the first request to rezone to RM-8, Council would have been right back where they are today, because Council could have proposed what was before Council today (the 100 foot buffer) as the alternative to the original request.

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When Mayor Sitnick asked if there was a way for Council to avoid this kind of situation in the future, City Attorney Oast explained that the protest petition mechanism is specified by State law and City Council can't change that. However, the way Council handles that is something that may depend on the facts of the particular situation. Council always has the options, anytime this kind of matter comes up, to continue the matter or refer it back to the P&Z Commission. He would be happy to go through the options with Council the next time a situation like this occurs.

Mayor Sitnick suggested that the City Attorney outline those options for Council. She asked if there was a time limit that could be considered. City Attorney Oast again said that it is a matter of State law, however, Council can, through it's own procedures and the way they handle this matters, address the concerns that arise in a particular situation. Fortunately this type of matter doesn't happen very often but when it does, staff will try to be prepared.

Councilman Cloninger said that perhaps Council could consider a policy, generally speaking, that where Council gets a proposal that is substantially different from the one on the table, look to remand it back to the P&Z Commission for further review. Mayor Sitnick said that that request could be part of the information City Attorney Oast prepares.

#### **IV. PUBLIC HEARINGS:**

##### **A. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO INCLUDE A REVISED DEFINITION OF SCHOOLS**

##### **ORDINANCE NO. 2469 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO INCLUDE A REVISED DEFINITION OF SCHOOLS**

Mayor Sitnick opened the public hearing at 6:19 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bruce Black, Urban Planner, said that the current definition of a school is rather broad and does not differentiate between traditional schools (i.e. elementary schools, high schools, etc.) and other institutions, such as instructional facilities (i.e. music schools, reading schools, etc.). This could present a problem, particularly with respect to residential zoning districts. The proposed definition is more specific and removes the ambiguity of the existing definition.

The current definition of a school is as follows: "School means a facility that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high schools, middle schools, and high schools."

The proposed definition is as follows: "School means a public or private institution offering a curriculum of education authorized by the State of North Carolina giving regular instruction at the primary and/or secondary level. This definition includes kindergartens, elementary schools, junior high schools, middle schools and high schools but does not include day care facilities, individual instruction, or classes in a specialized subject."

Planning staff is recommending approval of the wording amendment. At the Planning & Zoning Commission meeting on April 1, 1998, meeting, the Commission voted unanimously to recommend approval of the amendment.

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City Council discussed the definition of school and what types of schools this would affect.

Mayor Sitnick closed the public hearing at 6:31 p.m.

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

Councilman Cobb moved for the adoption of Ordinance No. 2469. This motion was seconded by Councilman Sellers and carried unanimously.

## **ORDINANCE BOOK NO. 16 - PAGE 450**

### **B. PUBLIC HEARING TO REZONE 594 EMMA ROAD FROM RM-6 MULTI-FAMILY LOW DENSITY DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS I DISTRICT**

#### **ORDINANCE NO. 2470 - ORDINANCE TO REZONE 594 EMMA ROAD FROM RM-6 MULTI-FAMILY LOW DENSITY DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS I DISTRICT**

Mayor Sitnick opened the public hearing at 6:32 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this is of an ordinance to rezone 594 Emma Road from RM-6 Residential Multi-Family Low Density and Community Business II District to Community Business I District.

The composition of the surrounding area is a residential neighborhood between two commercial/industrial areas, the commercial strip along Louisiana Avenue and the Westside Industrial Park. The 2010 Plan

indicates the surrounding area to be low density residential which the current RM-6 zoning permits.

The review by the Technical Review Committee ("TRC") indicates major concerns: (1) infrastructure (water, stormwater and streets) in the area could not accommodate all the permitted uses allowed in the district; and (2) Emma Road should have some improvements to accommodate the traffic that could be generated by rezoning this lot.

Permitted uses in the Community Business I District would generate as much traffic as projected for the rezoning (to Commercial Industrial) for the tract of land approximately ½ mile east (Appalachian Stove) that was denied by City Council last year.

This property is outside the city limits of Asheville.

The Planning staff reviewed the rezoning request and recommended denial from RM-6 Residential Multi-Family Low Density and Community Business II to Community Business I. However, at the Planning & Zoning Commission meeting on April 1, 1998, the Commission voted 4-3 to approve the rezoning of PIN # 9639.17-10-3989 from RM-6 Residential Multi-Family Low Density and Community Business II to Community Business I. -12-

Upon inquiry of Councilman Seller, Mr. Ownbey said the area is not in a floodplain, however, there is a lot of low land in this area and a lot of creeks that cause flooding.

Upon inquiry of Vice-Mayor Hay about Planning staff's recommendation of denial, Mr. Ownbey said that staff was looking at the area as residential, as well as the infrastructure improvements necessary.

Vice-Mayor Hay said that when he visited the property, he felt it was hard to foresee that property being put to any residential use.

Upon inquiry of Vice-Mayor Hay, Mr. Ownbey said that in order to develop the property, the infrastructure problems must be addressed as part of the permitting process, They would have to make sure there was water and sewer availability and it might be necessary for them to upgrade of streets (depending on the size of the project).

Councilman Cobb also stated that it was hard for him to visualize the area as residential.

Councilman Cloninger noted that residential is allowed in the Community Business I District.

Ms. Jane Mathews felt that the City needs to have some areas for housing and there is also a pattern of housing in this area. She felt the property has potential for commercial as well. But, in looking at the development pattern, it would probably be of more benefit to the residential neighborhood to have it remain zoned residential than to have things that may be more intrusive and to work toward nodes of commercial development.

Ms. Joanne Gunter, petitioner, spoke in support of the proposed rezoning noting that the land has always been used for business and also it is not a good place for homes.

Mr. James Woody spoke in support of the rezoning of this property.

Mr. John Van Dyke, Industrial Real Estate Broker, felt the area was more conducive to commercial development and spoke in support of the rezoning request.

Mr. Brian Peterson suggested City Council look at small area plans or a more comprehensive planning effort instead of looking at individual pieces of property in this area.

Councilwoman Field suggested that since Emma Road is in both the City and the County, that the N.C. Dept. of Transportation ("NC DOT") be contacted to suggest that they upgrade their portion of the road - not necessarily widening it, but improving it. The City needs to look at the portion of the road that is located in the City limits as well for improvements.

Mr. Ownbey said that Mr. Ted Wright, area property owner, was opposed to the rezoning.

Mayor Sitnick closed the public hearing at 6:52 p.m.

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

Councilman Sellers moved for the adoption of Ordinance No. 2470. This motion was seconded by Councilman Cloninger and carried unanimously. -13-

#### **ORDINANCE BOOK NO. 16 - PAGE 451**

#### **C. PUBLIC HEARING TO REZONE 2222 HENDERSONVILLE ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT**

#### **D. PUBLIC HEARING TO REZONE 2200 HENDERSONVILLE ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT**

#### **ORDINANCE NO. 2471 - ORDINANCE TO 2222 HENDERSONVILLE ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT**

#### **ORDINANCE NO. 2472 - ORDINANCE TO 2200 HENDERSONVILLE ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT**

Mayor Sitnick announced that these two public hearings would be combined. She then opened the public hearing at 6:55 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bruce Black, Urban Planner, said that this is the consideration of ordinances to rezone 2222 and 2200 Hendersonville Road from RM-16 Residential Multi-Family High Density to Neighborhood Business and to amend the Comprehensive Plan to reflect this rezoning.

The original petitions requested a rezoning change from RM-16 Residential Multi-Family High Density to Highway Business.

The property at 2222 Hendersonville Road is unimproved, except for a decaying residential looking structure that has been used for commercial purposes in the past. The property at 2200 Hendersonville Road has on it a non-conforming use permitted under the Zoning Ordinance. The use consists of a tanning salon and a store selling spas and related supplies and services.

2222 Hendersonville Road fronts on Hendersonville Road, and is also entered from Forest Lane. The surrounding uses are residential multifamily across Forest Lane, and residential single family behind the

Both properties are zoned RM-16 Residential Multi-Family High Density (16 units per acre). There is commercial use to the south of the properties about one block, and north of the properties about an equal distance. Commercial uses are visible from the properties in both directions. The use across the street is a church.

2200 Hendersonville Road fronts on Hendersonville Road, and is also entered from Blake Terrace. The surrounding uses are residential multi-family across Blake Street, and residential single-family behind the property.

The property immediately to the north to 2222 Hendersonville Road is non-conforming commercial in use and is also requesting a rezoning from RM-16 Residential Multi-Family High Density to Highway Business. - 14-

The property immediately to the south of 2200 Hendersonville Road is vacant, except for a decaying residential looking structure. That property owner is also requesting a rezoning from RM-16 Residential Multi-Family High Density to Highway Business.

The requested use does not conform to the 2010 Plan, which contemplates medium density residential in this area.

The City Planning and Development staff recommended denial of both the rezoning requests.

At the Planning & Zoning Commission meeting on April 1, 1998, the Commission recommended 6-1 to approve rezoning 2222 Hendersonville Road (PIN No. 9654-09-16-4596) and 2200 Hendersonville Road (PIN No. 9654-09-16-3780) to Neighborhood Business.

Councilwoman Field said that under the prohibited uses is a drive-through facility which she understands is to prevent fast-food restaurants. However, one of the things mentioned at a meeting recently while talking about the Head of Montford was the possibility of a branch bank locating there and a branch bank needs to have a drive-up ATM which is not allowed. Obviously there is a difference between the intensity of use for a bank with a drive-up ATM and the intensity of use of a drive-through fast-foot restaurant. She thinks that an error was made in the Unified Development Ordinance because people need to have a bank that can be walked to in a neighborhood commercial development.

Upon inquiry of Councilman Cloninger, Mr. Black said that the Planning staff did recommend denial of the rezoning to Highway Business, but did not take a position on the rezoning to Neighborhood Business.

Councilman Cloninger noted that in Neighborhood Business that residential is still allowed by rights subject to special requirements. Mr. Black said that one of the things staff was looking for was mixed use - so that there would be commercial on the ground floor and residential above it.

When Mayor Sitnick asked if Neighborhood Business would constitute spot zoning, City Attorney Oast said that only a court can really say whether something is spot zoning but the things that Council needs to look at are whether you are taking a small tract of land in single ownership and zone it in such a way that allows the owner of that property to enjoy certain things that other similarly situated properties do not enjoy. It seems to him, however, that there are certainly arguments in support of this rezoning: (1) one of the tracks is already commercially used; (2) there is a scattering of different types of commercial uses up and down the highway; and (3) there is a fairly high density residential use. Those are all points that would be made in a case if it was challenged.

Mayor Sitnick noted that north, south and west is all residential.

Councilman Cloninger noted that the 2010 Plan did not really designate potential areas for neighborhood business designations.

Mr. John Van Dyke, real estate broker and representative of the property owners of 2222 Hendersonville Road, passed out information to Council supporting his request to rezone the property Neighborhood

Business.

Mr. Steve Servais, real estate broker and representative of the property owners of 2200 Hendersonville Road, spoke in support of the rezoning to Neighborhood Business.

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Mayor Sitnick closed the public hearing at 7:15 p.m.

Mayor Sitnick said that members of Council have previously received copies of both ordinances and they would not be read.

Councilman Tomes moved for the adoption of Ordinance No. 2471 to rezone 2222 Hendersonville Road and to amend the Comprehensive Plan to reflect this rezoning. This motion was seconded by Councilman Sellers.

Mayor Sitnick said that while she liked to pay homage to the 2010 Plan, she looks at Hendersonville Road and what it has become and it certainly doesn't comply with the 2010 Plan. She does have a concern about the spot zoning and she doesn't feel that the answer by the City Attorney quieted her concern. However, when you ride past there you realize that it is a heavily commercialized area. She did feel that it does intrude into the neighborhood.

Councilman Cobb said that this property is pretty much surrounded by business and no one has objected to the rezoning, therefore, he would be in favor of rezoning the property Neighborhood Business.

Councilman Cloninger said that he takes comfort in what the permitted uses are for Neighborhood Business District. He felt Council should be encouraging some of that but they also need to be careful where they allow it. He felt this was an appropriate place for it and he felt the surrounding neighborhoods could be well served by the uses that are permitted in this district.

Councilwoman Field agreed with Councilman Cloninger in that if we are going to promote walkable communities and greenways that make an urban environment a healthy environment, then we need to have some mixed use, especially in a positive kind of way in this area.

When Mayor Sitnick asked for a vote on the motion made by Councilman Tomes and seconded by Councilman Sellers, said motion carried unanimously.

#### **ORDINANCE BOOK NO. 16 - PAGE 453**

Councilwoman Field moved to adopt Ordinance No. 2472 to rezone 2200 Hendersonville Road and to amend the Comprehensive Plan to reflect this rezoning. This motion was seconded by Councilman Tomes and carried unanimously.

Mayor Sitnick said that her concerns about rezoning 2200 Hendersonville Road were the same as her concerns about rezoning 2222 Hendersonville Road.

#### **ORDINANCE BOOK NO. 16 - PAGE 455**

At this time, Mayor Sitnick announced a short break.

#### **E. PUBLIC HEARING TO CONSIDER THE PARKS AND RECREATION DEPARTMENT 2015 COMPREHENSIVE MASTER PLAN**

Mayor Sitnick opened the public hearing at 7:32 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing. -16-

Mr. Irby Brinson, Director of Parks and Recreation, said that the Master Plan represents a long-range plan for 17 years of what the parks and recreation needs for the City should be. Three goals were originally established were that the Plan be (1) community driven; (2) needed to be balanced with vision with realism; and (3) needed to recognize budget issues. The Master Plan process actually began in June of 1997, with an orientation meeting with the Parks and Recreation Advisory Board, staff members and a Steering Committee. Processes included review of demographic information, review of natural factors, analysis of facilities and programs, community needs assessment, and an action plan. Public input into the process was accomplished by conducting six meetings with the Project Advisory Team, and 16 focus group meetings in the community dealing with youth sports, special populations, neighborhood issues, government and community leaders. The consultants did review the national recreation standards set by the Recreation and Park Association and there was also a citizens survey that was mailed to 3,500 residents of the City with 481 being returned.

Based upon the information provided from the study, the areas that are needed for improvement are that we are deficient in the number of community parks that we currently have; deficient by six in the number of neighborhood parks; deficient by nine in the number of mini-parks; there is a need for two sports/game field complexes; two mega-center sites - one with an aquatics facility; there's a desperate need to renovate and expand four of our existing larger centers, our pools and all of our park areas. The standards also state the request for the development of one public golf course and the development of greenways. He stated that the Master Plan process for Parks and Recreation just reviews the national standards for greenways and the number of miles for greenways because there is a separate Master Plan that is going on with the Trust for Public Land for the greenway master planning process. Greenways were removed from this Master Plan and funding and the other information concerning greenways will be addressed in the Greenway Master Plan. Staff recognizes \$57 million is a lot of money and they need to digest it and review it and come back with what they think is a realistic proposal for funding for the first phase of this process. They want to involve City Council and the community in the process as well.

Mr. Bill Schaefer; Finance Director, spoke to Council about the funding aspects of the Master Plan. He said the strategies for financing capital improvement costs include (1) pay as you go; (2) revenue bonds; (3) general obligation bonds; and (4) combination of strategies. He then reviewed the debt service requirements by saying the approximate annual debt service per \$1 million at 6.0% for a 20 year term is \$87,200/year and for a 15 year term is \$103,000/year. The sources of debt service include (1) user charges from recreation facilities; and (2) ad valorem tax - currently 1 cent = \$357,000/year (could service approximately \$3.5-\$4 million debt).

Mr. Schaefer then reviewed the general obligation approval process as follows: (1) determine the purpose, amount, timing, etc.; (2) public notice of intent to apply to the Local Government Commission ("LGC") with 10 days minimum prior to application; (3) submit application to the LGC (a) may require preliminary conference; (b) consideration of application by LGC; and (c) order approving application; (4) City Council introduces Bond Order; (5) sworn statement of debt/debt limitation; (6) publication of Bond Order, statement of debt and public hearing with 6 days minimum prior to public hearing; (7) public hearing; (8) pass Bond Order; (9) publish Bond Order; (10) petition for referendum on bond issue (within 30 days following publication of Bond Order) signed by minimum 10% of registered voters; (11) set referendum date within one year of Bond Order; (12) publish two notices of referendum with minimum 14 days and 7 days prior; (13) conduct referendum; and (14) issue approved bonds within 7 years.

When Mayor Sitnick asked if grants are being considered, Mr. Schaefer said that they are a significant part of the funding called for in the Plan, but not of the \$57 million capital side. City Manager Westbrook also

noted that grants are "not a sure shot." -17-

Mr. Brownie Newman, representing the Western North Carolina Alliance, said that they are, in a general sense, very supportive of the Master Plan. The Master Plan seems to de-emphasize the value of creating additional natural parks in the City. There is a need to build more baseball and soccer fields and volleyball courts, etc., but the Master Plan appears to undervalue the establishment of new parks and conserving them for their natural values. Decisions regarding the Master Plan should be made simultaneously with the decisions regarding the Greenway Plan and the greenways should be linked with the new parks. They are concerned about the overall price of the Master Plan and that it might prevent its passage. Because resources are limited, the City should place the highest priority on funding aspects of the Master Plan that will not happen unless the City takes action, e.g. creating new national parks, ballfields and jogging trails. The City should give a lower priority to funding for actions that may happen even if the City takes no action, e.g., if there is a real demand for a golf course, then a private developer will develop those kinds of facilities. They feel the City should give the highest priority to funding the following: maintenance and renovation of existing public parks and recreation facilities, creation of new community and neighborhood parks, and the development of new outdoor recreational facilities; the creation of an interconnected system of greenways; and allocate funding to buy additional areas or establish conservation easements as needed to meet these needs. They support making the Richmond Hill property a City park and not a golf course. The Richmond Hill area may be a good place to build a few ballfields but they think the City should consider building a smaller facility at Richmond Hill which would bring less new traffic into the neighborhood, have less environmental impact on the forest and keep resources available to build facilities in other parts of the City. They also support the idea of holding additional public forums to get more public input on the Master Plan.

Mr. Gary Stewart, consultant from Woolpert, LLP., said that the recommendations regarding the golf course is based on what they heard throughout the process from the public meetings and also looking at comparison recreation standards. When you look at the year 2017 and the planning projections and the population growth, the standards will tell you that you need four public golf courses and they are recommending one, which again goes back to some of the concerns making sure that they were as sensitive as they can with the budget.

Mr. Brian Peterson, representing the Coalition of Asheville Neighborhoods ("CAN"), reminded Council that this is not just a quality of life issue but also a very big economic development issue. CAN feels the City needs to work with the County, schools and other organizations because it is not just something City Council can do. As part of that, CAN is working to arrange a public forum tentatively set for June 25 to educate the public about the parks and recreation needs, what's in the master plan and also help develop some consensus over what the priorities should be. CAN is also looking to convene a stakeholders summit of parks and recreation facility users, neighborhood groups, sports and athletic groups, environmental and outdoor groups, churches, businesses, and non-profits to help begin to prioritize and encouraged City Council to be willing to work with all of these other groups to help develop the priorities. They are concerned that it doesn't appear to be integrated with the Greenway Master Plan and also hope that the City will look at coordinating and possibly merging the Buncombe County Parks and Recreation Department. Perhaps the City and County should work together to develop a common Master Plan. They are concerned there has not been much talk about Memorial Stadium which some feel that there is a great potential for developing the Stadium and the reservoir property for some sort of a downtown park along Beaucatcher Mountain. They hoped the City will be agreeable to working with CAN and letting them know what the City's process will be on this. Any tax increase or bond revenue is going to take a lot of public support and CAN wants to work with the City in developing that public support.

Mr. Ed Stein, West Asheville resident, felt that golf courses is not something Asheville will want in their community because of the chemicals used which seep into the ground water.

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Mr. Andrew George asked Council to remove plans to build a golf course at Richmond Hill because of the thousands of pounds of toxic chemicals that will drain directly into the French Broad River. He encouraged more green spaces.

Mr. Jim Orr, member of the Parks & Recreation Advisory Board, spoke about the tremendous amount of effort made to get information about the process out to virtually organization inside and outside the City because it is a comprehensive plan, not just within the City limits. He felt communication has been great and now the information needs to be processed and move forward. People have had access to these meeting and have chose not to be at the meetings. To have someone come in now and say that they have never had the opportunity for input is erroneous. He is very familiar with golf course management and numerous articles have been written about the benefits of golf courses in communities and also near water sources. He said that chemical and fertilizer applications and stormwater runoff is a major part of golf course development and making sure that those things are adhered to by proper design and proper maintenance. He felt it would be totally beneficial for the City to get involved with golf course development.

Ms. Susan Andrews, President of the Kenilworth Residents Association, said that in general they support the Master Plan and understand that there have been a number of opportunities for public comment. However, she said that no one had every approached CAN with over 20 neighborhoods in the community to see what they would like to contribute to the parks plan. She felt CAN's public forum can educate people about how to divide the \$57 million into manageable chunks. She said the Master Plan didn't do much to prioritize the projects but CAN's forum can do that. She said that a set of prioritizes can be brought back to Council at the end of June. She said the Master Plan states that the master plan scenarios were developed in-house by the consultant and she feels that more ordinary people need to be working on it.

Two Richmond Hill residents felt that a golf course at Richmond Hill would add to the community and increase the quality of life in that area.

Mr. Briggs Sherwood, Director of Development for Asheville-Buncombe Youth Soccer Association, said that there is a lot of room in the plan for dialogue. He said there are some environmentally sensitive ways to develop fields and perhaps, golf courses as well. They would still like to discuss the number of fields and where they are located with City and County Parks Departments and City and County schools. They urge Council to support the parks field efforts because they do not feel that soccer is purely recreational or sporting, but as an important element in the overall well-being of our youth and of our community. They basically support the plan and would like to help generate support for a bond referendum.

Ms. Martha Walz felt that it was just a fad that all small children have to pay in team sports. She is more interested in looking at the community as a whole. She did not think the Richmond Hill property is proper for ballfields. She urged Council not to look at just one segment of the population but at the retired, middle-aged and old people for quiet recreation.

Ms. Berkley Brown displayed pictures of the Richmond Hill property showing a beautiful view of the French Broad River, some really old trees, some streams, etc. She stated this is forest property which just happens to be two miles from downtown Asheville.

Ms. Mary Ann Piney, representing the Southern Appalachian Bio-Diversity Project which is a conservation group based in Asheville, urged Council to connect the parks through greenways. She felt that the entire community would not enjoy a golf course but everyone can enjoy a forest. She felt that there will always be an opportunity to build golf courses, but not always an opportunity to build a forest.

Mr. Samuel Camp, member of the Parks & Recreation Board, stressed that this Master Plan is the culmination of a year worth of efforts. He stressed that they need to look at revenue for the future.

Ms. Ann Whisenhunt, member of the Master Plan Steering Planning Committee, said that all the Master Plan meetings have been very well advertised and there is always opportunity for input. She hoped that everyone will continue to look at the big picture and not be torn apart by neighborhood issue.

Ms. Helen Morrison spoke in support of greenways and parks but wanted the City to stay out of debt. She felt the City should pay for these things as they come along or find a way that they are a pleasure and not a burden on the taxpayers. She felt the City needs a new auditorium and police officers need laptops in their cars. Therefore, community parks should be brought up to standards and then the greenways can come in later.

Ms. Kathy Berry was concerned that future generations will not know what a forest is and urged Council not to build a golf course on the Richmond Hill property.

Mr. Stewart and Mr. Leon Younger, consultants from Woolpert, LLP., generally summarized the comments he heard in that most people were supportive of the plan and there are some issues with some of the details, some of the recommendations that might deal with a facility or two, some recommendations or issues that people want to be part of the process and help implement this plan. No one is really opposed to what is being proposed. He also heard that we have a very diverse community and very diverse recreational needs. Their responsibility is to try and balance out the entire needs of all the people that this plan needs to serve. Hopefully there is something in there for everybody, e.g., greenways and preservation of open space.

Upon inquiry of Vice-Mayor Hay, Mr. Stewart said that the \$5 million for the golf course is included in the \$57 million.

When Vice-Mayor Hay asked if adoption of the Plan represent a commitment by the City to build a golf course, Mr. Younger said that it may be a commitment that a golf course is needed but this is a 17 year plan that will need to be reviewed every five years.

Mayor Sitnick remembered the consultants recommending that the City not sell any existing park space and they specifically recommended the City not sell Memorial Stadium. Therefore, she asked if they thought Memorial Stadium could be retrofitted to become little league ballfields. Mr. Stewart said they would have to take a closer look at it and do a site analysis. However, after some preliminary analysis, most of it will remain open space due to topography but in the ballfields area you could probably end up getting about three youth ballfields. One of their concerns, however, is about access. Their recommendation is that Memorial Stadium basically remain as is - a special use facility.

Mayor Sitnick asked the consultants if they could respond to some of the concerns raised about golf courses next to waterways. Mr. Stewart said that the sensitivity on the design criteria standards for golf course design is so much higher than in the past. The key is the design and what are the specifications that you hold the contractor to. From the prospective of the land, it's important to understand what you have there before you even look at that property for a golf course. He said that many golf courses are maintained with no chemicals.

City Manager Westbrook said that the Plan is coordinated with the Greenway Master Plan. The funding, which will be worked out later, can be part of a bond issue. He said the City cannot afford \$57 million to implement the Plan. It has taken the City a year to complete this -20-

and it may take anywhere from six months to two years to get this through a referendum if Council chooses the route of a bond issue. Then detail plans will be needed before some of these facilities can be built. It may

take anywhere from 2-4 years from now before the first thing is completed. In terms of process, he hoped that before going ahead with any public process that you let the staff come back to you with some recommendations on this. You have heard from the consultants and the public in a number of different forums and now Council needs to hear from the staff and hear what they recommend, in not only on projects, but what is to be funded over what period of time. Then, if Council wants to have additional public hearings as a part of the bond process or in any other form, that the City sponsor those opposed to any one group and invite everyone to be a part of that. It was his opinion that the taxes that would be needed to be raised for the \$57 million would probably not be practical for the Council to think about.

Mr. Brinson said that staff needs to meet with the Finance Department and Planning staff and would prefer to have some members of Council with them to try to hone down what they think would be a legitimate phase one of this process. He took exception to the comments made by Ms. Andrews that no one notified local neighborhood groups. He said that a letter was sent to every neighborhood group, to the President of CAN, letters to the NAACP, every church, the Ministerial Alliance, and the Asheville Downtown Association. In addition, he followed up personally with phone calls to others. At one of the meetings they had, only one representative from that group showed up. The Parks & Recreation Department did make an effort and they are open for additional comments. From what he has heard, he doesn't think they are far off track and that staff can come back to City Council with a plan that they feel is doable and fiscally responsible so they can proceed to the next level. They also realize that they need to involve the public in some form with this process. Ultimately they are going to be the ones who will vote for a bond referendum. They will work internally to try to address those particular issues and get them involved in the process.

Mayor Sitnick closed the public hearing at 9:03 p.m.

Councilman Cloninger said that everyone agrees that (1) we do need a Master Plan and (2) we all feel that the cost of the Master Plan right now is too high. If we want to be successful in presenting this Master Plan to the public and implementing it, we've got to be very smart on how it is presented to them and the way we allow them to participate. We should not start out by trying to sell at \$57 million Master Plan. He suggested (1) that we not formally adopt or endorse this Master Plan at this point - that is not to say we don't accept the concept, but because we recognize there are some things in the Master Plan that will not be ultimately agreed on; (2) we need to carefully coordinate this with the Greenway Master Plan for effectiveness and efficiency and to understand what our total cost will be from a parks and recreation standpoint; (3) we need to prioritize what we are going to realistically try to have in the Master Plan and therefore cut down on the cost we are so concerned about; and (4) we need to develop a game plan for presenting this to the public and also in implementing it. Part of that game plan will be the coordination of the presentation to the public and that's an area where CAN can play a very large role and he looks forward to working with them on that. However, he would ask CAN to work closely and in cooperation with the City in what you do and don't get out ahead of the City. Also, part of the development of the game plan, regardless of the combination of the funding utilized, will be the need for a bond referendum and if Council agrees that's going to have to be part of the game plan, would staff like Council to go ahead and direct them to at least start doing the spade work.

City Manager Westbrook replied that they would like that direction and asked Council to allow staff to not only to come back with a financing plan, but also a Parks and Recreation Development Plan over the next number of years.

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Councilman Cloninger very much endorsed the concept of having a Master Plan but felt we should fine-tune it first.

Councilwoman Field strongly endorsed the Master Plan in concept and the consultant has done an excellent job in assessing what the community has and what it needs. She felt it was Council's job to make some of

the final decisions, but felt this should be given back to staff and let them come back to Council with their recommendations.

When City Manager said that there is a lot of up-front planning time for a bond referendum, Mayor Sitnick and Councilman Cloninger agreed that the sooner we start working on a bond referendum the better.

Councilman Tomes was very pleased that Council will have a Master Plan to better inform Council. He hoped that even as the Plan is refined, he would like to see if they can build in some cost projects as we deal with the incremental stages of this Plan. Sometimes we look at the immediate and if we are pro-active, rather than reactive, we could save money by moving along in stages, realizing that five years from now it may cost us 1/3 or 1/4 more.

Mayor Sitnick said that one of the responsibilities of Council and staff will be as clear and informative as possible. This 17 year plan is now cut down by at least 6 months or possibly a year or two to get a bond referendum through. Then you may not see anything for 3-4 years before the first project is completed. We have to make sure that in order to get the public to buy into this that they know exactly what they're going to get when. It will be our responsibility to define everything as clearly as possible. As part of this, we need to begin immediately in developing a public information process so that when we go to the public to sell \$10 million or \$20 million initially that everyone understands exactly what that means.

Mayor Sitnick moved to (1) informally agree to the concept of the Master Plan, (2) make sure this Master Plan is coordinated with the Greenway Master Plan, (3) make sure we prioritize the game plan properly, (4) instruct staff to move on the referendum, and (5) have staff come back to Council with their recommendations after this public hearing. This motion was seconded by Councilman Cloninger and carried unanimously.

City Attorney Oast made clear that this is not adoption of the Master Plan, just adoption of the concept with expectation that staff will be bringing specific items back to Council with perhaps a more refined Master Plan for eventual consideration as to adoption.

Councilman Cobb said that in Chattanooga, Tennessee, they built a \$49 Million aquarium from grant money. He would like to see 100 people and/or businesses in Asheville come forward with a grant of \$500,000. They could pay \$50,000 a year for ten years.

Mayor Sitnick said that the City will be applying for grants very aggressively.

## **V. NEW BUSINESS:**

### **A. RESOLUTION NO. 98-52 - RESOLUTION AUTHORIZING SUBMISSION OF A GRANT APPLICATION TO THE U.S. ECONOMIC DEVELOPMENT ADMINISTRATION FOR FUNDS TO RENOVATE THE FIRST FLOOR OF THE GROVE ARCADE BUILDING INTO A PUBLIC MARKET**

At the request of Councilman Cloninger, Councilwoman Field moved to excuse Councilman Cloninger from voting on this matter due to a conflict of interest. This motion was seconded by Councilman Sellers and carried unanimously. -22-

Ms. Charlotte Caplan, Community Development Director, said that this is consideration of a resolution authorizing submission of a grant application to the U.S. Economic Development Administration ("EDA") for \$1,006,232 to renovate the First Floor of Grove Arcade Building as a public market.

The City of Asheville and the Grove Arcade Public Market Foundation will be co-applicants in applying to EDA for \$1,006,232 through the Public Works Impact Program. The funds will be used to renovate the First Floor of the Grove Arcade building into a public market. The EDA funds will be matched by \$1,006,232 City

of Asheville Certificates of Participation to fund a portion of the renovation of the First Floor area of the Grove Arcade.

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

Councilman Tomes moved for the adoption of Resolution No. 98-52. This motion was seconded by Councilwoman Field and carried unanimously.

## **RESOLUTION BOOK NO. 24 - PAGE 386**

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

#### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 28 1998, AND THE WORKSESSION HELD ON MAY 5, 1998**

Councilman Sellers moved for the adoption of the minutes of the regular meeting held on April 28, 1998, and the worksession held on May 5, 1998. This motion was seconded by Councilman Cloninger and carried unanimously.

#### **B. WNC AIR POLLUTION CONTROL BOARD**

Mayor Sitnick presented a letter to Council in which Hazel Fobes, Chair of the Citizens for Safe Drinking Water, supported the appointment of Nelda F. Holder to the WNC Air Pollution Control Board.

#### **C. N.C. LEAGUE OF MUNICIPALITIES MEETING**

Councilwoman Field said that the Annexation Study Committee has made it's final recommendations for changes to the annexation policy. A couple of changes she noted were that (1) it increases the required population density from two persons to 2.3 persons; (2) annexation of agricultural, horticultural or forest land in the annexation area that is eligible for present use value taxation does not become effective until it becomes ineligible for its present use; and (3) a public information meeting will be required prior to the annexation. She said that the N.C. League of Municipalities believes that since this was supported by the Study Committee that it will probably go through with some changes.

Councilwoman Field said that there has been adopted and in the Governor's budget a new state enterprise zone process from the Department of Commerce. There will be eight pilot projects - four from cities over 25,000 and four from cities under 25,000. She felt the City should make an application quickly and find out as much as we can. She felt we had a real good possibility of getting one of these enterprise zones and there is a fair amount of money in the budget for that.

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She also said that the League will be supporting an additional one cent local option sales tax authorization provided there is a full municipal share and provided the proceeds are used for capital projects only. The capital projects are only those defined as anything that the statute allows you to set aside in a capital reserve fund.

Mayor Sitnick instructed the City Manager to write a letter to the appropriate federal official to support ISTEAF funding.

#### **D. BIG SOUTH CONFERENCE BASKETBALL TOURNAMENT**

City Manager Westbrook said that UNC-Asheville has requested that the City appropriate \$10,000 for the Big South Conference in 1999 and 2000. He said that it would not be payable until April of 1999, so it will be something that will be appropriated for next year's budget. The Chamber of Commerce and the Asheville Tourism Development Authority has obligated themselves for \$10,000. The Asheville Citizen-Times, the Buncombe County Commissioners, Ingles Markets, UNC-Asheville, one anonymous donor, in addition to smaller donations by other entitles, have all agreed to sponsor the tournament with a \$10,000 donation.

It was the consensus of Council to allocate \$10,000 in next year's budget for the Big South Conference in 1999 and 2000, pending approval of the Tournament coming to Asheville.

## **E. COUNCIL MEETINGS**

City Manager Westbrook stated that the I-26 Corridor briefing by the N.C. Dept. of Transportation has been scheduled for Tuesday, July 21, 1998, at the Public Works Facility as a part of Council's normal worksession beginning at 3:00 p.m.

Due to the July 4th Holiday, It was the consensus of City Council to cancel the Tuesday, July 7, 1998, City Council meeting.

## **F. COMMENTS BY JUNE LAMB - SHELBURNE ROAD REZONING**

Ms. June Lamb expressed concern over the rezoning on Shelburne Road requested by Trinity Baptist Church. She asked Council to either approve or deny the rezoning request.

City Manager Westbrook said that City Council rescheduled the public hearing until July 28, 1998.

Mayor Sitnick said that she would meet with Ms. Lamb and discuss her concerns.

## **G. CLAIMS**

The following claims were received by the City of Asheville during the week of April 24-30, 1998: Renee Harrin (Water), Sharon Sharp (Civic Center), G.C. Green (Water), C&H Auto Parts (Water) and Peggy Knopp (Water).

The following claims were received during the week of May 1-7, 1998: Glen Credle (Water), Cathy Glover (Water), Chris McConnell (Traffic Engineering) and Mack Lawing (Water).

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

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## **H. LAWSUIT**

The City received a Complaint on May 4, 1998, from Rock Steven Edwards. The nature of the proceeding is appeal from Civil Service Board's decision of termination. This matter will be handled in-house.

## **VII. ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 9:34 p.m.

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CITY CLERK MAYOR

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