

Tuesday - October 13, 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; 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 OCTOBER, 1998, AS "SUBSTANCE ABUSE AWARENESS MONTH"

Vice-Mayor Hay read the proclamation proclaiming the month of October, 1998, as "Substance Abuse Awareness Month" in the City of Asheville.

B. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 18-24, 1998, AS "YWCA WEEK WITHOUT VIOLENCE"

Councilman Tomes read the proclamation proclaiming the week of October 18-24, 1998, as "YWCA Week Without Violence" in the City of Asheville. He presented the proclamation to Ms. Debbie Vingle, Women's Services Director of the YWCA.

C. PROCLAMATION PROCLAIMING MONDAY OCTOBER 26, 1998, AS "MASSAGE THERAPY AWARENESS DAY"

Councilwoman Field read the proclamation proclaiming Monday, October 26, 1998, as "Massage Therapy Awareness Day" in the City of Asheville. She presented the proclamation to Ms. Stephanie Keach, Director of the Asheville School of Massage.

D. PROCLAMATION PROCLAIMING OCTOBER, 1998, AS "ARTS & HUMANITIES MONTH"

Councilman Cloninger read the proclamation proclaiming the month of October, 1998, as "Arts & Humanities Month" in the City of Asheville. He presented the proclamation to Ms. Pam Myers who briefed City Council on some activities taking place during the month.

RIVERLINK DONATION OF PROPERTY ALONG THE FRENCH BROAD RIVER

Councilman Tomes moved to add to the agenda the consideration of a resolution authorizing acceptance of donation of real property for park and recreation purposes and a resolution authorizing the Mayor to execute a Conservation Easement to the State of North Carolina. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION NO. 98-145 - RESOLUTION AUTHORIZING ACCEPTANCE OF DONATION OF REAL PROPERTY FOR PARK AND RECREATION PURPOSES

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RESOLUTION NO. 98-146 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONSERVATION EASEMENT WITH THE STATE OF NORTH CAROLINA

Ms. Karen Cragolin, Executive Director of RiverLink, said that RiverLink has long had a partnership with the City in the development of the urban riverfront greenway. The next phase of the greenway is through the partnership with RiverLink, the City of Asheville and the State which will add another half of mile of trails, boating and fishing facilities, and the very first outdoor classroom on the French Broad River over wetlands. During the last several years RiverLink has developed a very close relationship with Mr. Roger Gregg, owner of the Asheville Motor Speedway, as well as other property owners along Amboy Road. This past year, for personal reasons, Mr. Gregg has decided to sell this property. She mentioned several significant contributions the Gregg family has made in the past to the entire community. This summer, RiverLink entered into an option agreement with Mr. Gregg and the Asheville Speedway to acquire the property for \$1.1 million. They devised a confidentiality agreement and both parties agreed that the option agreement would not be recorded. The agreement was that both parties would be confidential regarding all the details of this except when they approached donors. She was pleased to report that, on behalf of the RiverLink Board of Directors, their donors and members, they have raised the money to make this gift possible to the City of Asheville. The donors include the Clean Water Management Trust Fund for \$250,000, the Janirve Foundation, the Stanback Family Foundation and two anonymous donors. She said there are two conditions on the gift. The first condition, imposed by the Clean Water Management Trust Fund, was for a 100 foot riparian buffer on the area closest to the river. The Janirve Foundation's conditions include (1) the property never again be used as a motor speedway facility or any similar use; and (2) that the property be held in perpetuity for the citizens and visitors to our area. In recognition of the fact of what the Gregg family has done for this community and how they have worked with RiverLink to sell and donate a portion of it to RiverLink, they will be calling this the John Gregg Greenway, in honor of Roger Gregg's father and grandfather, both of whom have the same name. RiverLink will continue to work with the City to develop a master plan for the speedway property so that it has it's highest and best use as a greenway and recreation facility for the community. They are selling one foot sections of greenway for \$45 per linear foot and all money will be put into a restricted account to be used to develop the greenway.

Mr. Irby Brinson, Director of Parks & Recreation, said that this was an exciting time for the City of Asheville and noted that this donation is a fitting contribution to the objectives of the Parks & Recreation Master Plan and the Greenways Master Plan. He said this is a tremendous opportunity for the City and thanked Mr. Gregg and RiverLink for their commitment to this community in enhancing not only recreation services, but to help in the development of the French Broad Driver.

On behalf of City Council, Mayor Sitnick thanked Ms. Karen Cragolin, the RiverLink Board of Directors, Mr. Roger Gregg, the Janirve Foundation, the Clean Water Management Trust Fund, Mr. Joe Ferikes, City staff, and all those who made this gift possible.

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

Councilman Field moved to adopt Resolution No. 98-145 to authorize acceptance of real property for park and recreation purposes. This motion was seconded by Councilman Tomes and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 15

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Councilman Cloninger moved to adopt Resolution No. 98-146 to authorize the Mayor to execute a

conservation easement with the State of North Carolina. This motion was seconded by Councilman Cobb and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 17

II. CONSENT:

A. RESOLUTION NO. 98-147 - RESOLUTION MODIFYING THE CITY COUNCIL MEETING SCHEDULE

Summary: This resolution will (1) cancel the October 20, 1998, City Council worksession; (2) reschedule the November 3 worksession until November 4, 1998, beginning at 3:00 p.m. in the First Floor North Conference Room in the City Hall Buildings; (3) change the December 15, 1998, worksession to be a formal meeting beginning at 5:00 p.m. in the Council Chamber located on the Second Floor in the City Hall Building; and (4) cancel the December 22 and December 29, 1998, City Council meetings.

RESOLUTION BOOK NO. 25 - PAGE 18

B. RESOLUTION NO. 98-148 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY TO CAROLINA POWER & LIGHT COMPANY A BLANKET EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF ELECTRIC FACILITIES NECESSARY TO PROVIDE SERVICE TO THE RANKIN HEIGHTS SUBDIVISION

Summary: The consideration of a resolution authorizing the Mayor to convey to Carolina Power and Light Company (CP&L) a blanket easement for the installation and maintenance of electric facilities necessary to provide service to Rankin Heights Subdivision.

Rankin Heights Subdivision is located at the intersection of Stewart Street and Kentucky Drive and consists of seventeen residential lots being developed for single family home ownership.

In order to install underground electric service to all seventeen homes to be constructed in the subdivision, CP&L has requested a blanket easement. The proposed blanket easement will enable the facilities to be placed in "mutually suitable locations." The actual locations will be determined between the owner and CP&L at the time service facilities are installed.

Approval of the resolution will authorize conveyance of the easement to CP&L for the installation and maintenance of electric service facilities.

Community Development staff recommends adoption of the resolution authorizing the Mayor to convey to CP&L a blanket easement for the installation and maintenance of electric facilities necessary to provide service to Rankin Heights Subdivision.

RESOLUTION BOOK NO. 25 - PAGE 19

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C. RESOLUTION NO. 98-149 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE OTEEN VA MEDICAL CENTER'S FIRE PROTECTION AGREEMENT FOR A TERM OF UP TO THREE YEARS

Summary: The consideration of a resolution renewing Oteen VA Medical Center's fire protection contract with the City of Asheville for a term of up to three years.

For more than fifteen years, the City of Asheville has furnished fire protection services under contract to the

Oteen VA Medical Center. The present contract for such services will expire in October. VA Medical Center staff have requested renewal at the same terms presently in place—a payment of \$30,000 per year for Asheville Fire Department fire response, fire prevention activities and fire safety education for VA staff.

Oteen VA Medical Center has petitioned City Council in previous years for annexation, so that full City services would be available to the VA Medical Center at no cost to the Center. The present contract—and the proposed contract—provide for termination of the contract if annexation of the Oteen VA Medical Center were to occur.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a new fire protection contract with the Oteen VA Medical Center.

RESOLUTION BOOK NO. 25 - PAGE 20

D. RESOLUTION NO. 98-150 - RESOLUTION APPOINTING SARAH BLANKENSHIP TO THE ASHEVILLE FILM BOARD

RESOLUTION BOOK NO. 25 - PAGE 21

E. MOTION SETTING A PUBLIC HEARING ON OCTOBER 25, 1998, TO CONSIDER A CONDITIONAL USE APPLICATION TO LOCATE A TELECOMMUNICATION TOWER AT 754 MERRIMON AVENUE

F. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 10, 1998, TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE REGARDING SHORT TERM RENTAL IN RESIDENTIAL DISTRICTS (VACATION RENTALS)

G. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 10, 1998, TO REZONE 910 SWANNANOA RIVER ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT

H. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 10, 1998, TO REZONE 980 HENDERSONVILLE ROAD FROM HIGHWAY BUSINESS DISTRICT AND RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO OFFICE BUSINESS AND 45 SEMINOLE ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO OFFICE BUSINESS DISTRICT

I. ORDINANCE NO. 2515 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR FUNDS RECEIVED FROM THE N.C. GENERAL ASSEMBLY FOR IMPROVEMENTS AT HARVEST HOUSE AND THE SENIOR OPPORTUNITY CENTER -5-

Summary: The consideration of a budget amendment, in the amount of \$13,514, to establish a budget for funds received from the North Carolina General Assembly for improvements at Harvest House and the Senior Opportunity Center.

The Senior Center Appropriation is designed to provide funds to senior centers throughout North Carolina for a variety of services including capital improvement, supplies, equipment, and staff. The funds will be used at the Harvest House to remodel the reception area and office, and to renovate two outdoor shuffle boards and shelters. Senior Opportunity Center will purchase a new ceramic kiln and commercial kitchen equipment to update the existing kitchen.

The Parks and Recreation Department staff recommends City Council accept the legislative appropriation for improvements at Harvest House and the Senior Opportunity Center.

ORDINANCE BOOK NO. 17 - PAGE 149

J. ORDINANCE NO. 2516 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR FUNDS RECEIVED FROM THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP THE MASTER STREET TREE PLAN, PHASE I

Summary: The consideration of a budget amendment in the amount of \$9,873 to establish a budget for funds received from the N.C. Dept. of Environment and Natural Resources for the development of a Master Street Tree Plan, Phase I.

The Parks and Recreation Department is responsible for developing a Master Street Tree Plan (MSTP) for street trees on City rights-of-way located within the City limits of Asheville. The existing inventory is almost fifteen years old and no longer accurately reflects the trees of the City. Phase I of the process will specifically identify the location, size, condition, and site conditions of trees located in the central area of Asheville. The MSTP will help serve as a critical link in developing a long term management plan for Asheville's urban trees, provide information for future tree planting and forestry planning, and provide educational and volunteer opportunities for community organizations.

If funding is available, future phases of the Master Street Tree Plan will identify the location, size, condition, and site conditions for street trees in the north, west, south, and east areas of Asheville.

The Parks and Recreation Department staff recommends City Council accept the grant funds for the development of the Master Street Tree Plan, Phase I.

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K. ORDINANCE NO. 2517 - BUDGET AMENDMENT TO ESTABLISH A PROJECT BUDGET FOR REPLACEMENT AND/OR IMPROVEMENTS TO THE HEATING, VENTILATION AND AIR CONDITIONING SYSTEM AT THE SHILOH COMMUNITY CENTER

Summary: The consideration of a budget amendment, in the amount of \$30,000, to establish a project budget for replacement and/or improvement to the Heating, Ventilation and Air Conditioning (HVAC) system at the Shiloh Community Center.

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In a prior budget year, City Council appropriated \$30,000 to the City's Capital Reserve Fund for Parks & Recreation to undertake various HVAC replacement and improvement projects. Thirty thousand dollars was then transferred from the Capital Reserve Fund to the City's General Capital Projects Fund to provide funding for HVAC projects. To officially appropriate the cash received from the Capital Reserve Fund, and to properly establish an HVAC project budget, a budget ordinance amendment authorizing a \$30,000 increase in budgeted revenues and expenditures in the General Capital Projects Fund needs to be approved by City Council. This is not a request for additional funding since funds were initially authorized and budgeted in the City's Capital Reserve Fund.

The Parks and Recreation Department requests City Council amend the City's General Capital Projects Fund by appropriating revenues and expenditures in the amount of \$30,000 for HVAC replacement and improvements at the Shiloh Community Center.

ORDINANCE BOOK NO. 17 - PAGE 153

L. ORDINANCE NO. 2518 - BUDGET AMENDMENT TO ESTABLISH A PUBLIC SKATING PROGRAM

Summary: The consideration of a budget amendment, in the amount of \$35,000, to establish a public skating

program at the Civic Center.

Public skating offers a new recreational opportunity for the citizens of Asheville and Buncombe County. It provides the Civic Center with the potential to develop a significant new event category. The public skating program is expected in future years to be self-funding through internally generated funds. Funds are requested, however, in the initial year to establish the event. Monies will be used to purchase skates, rubber matting, and a skate sharpener. It is expected that revenues will be sufficient in the first year to recoup the \$35,000 small capital fund expenditure. Based on sixty (60) skating sessions, the average attendance necessary to recoup the city's investment in the first year, would be a 150 participants per session. Ninety sessions would require only 100 participants per session. Once the initial investment was recouped, skating would produce very high profit margins for this activity.

The Civic Center requests that City Council amend the city's small capital projects fund by appropriating \$35,000 for this activity.

ORDINANCE BOOK NO. 17 - PAGE 155

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

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

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CLOSE WILSON ALLEY LOCATED BETWEEN HENDERSONVILLE ROAD AND SUMMIT STREET

At the request of City staff, Councilman Tomes moved to continue the public hearing until October 27, 1998, without further advertisement. This motion was seconded by Councilwoman Field and carried unanimously.

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B. PUBLIC HEARING RELATIVE TO REZONING THREE LOTS ON BURTON STREET AT BUFFALO STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS

ORDINANCE NO. 2519 - ORDINANCE TO REZONE THREE LOTS ON BURTON STREET AT BUFFALO STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS

Mayor Sitnick opened the public hearing at 5:32 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 the consideration of an ordinance to rezone three lots on Burton Street at Buffalo Street from RM-8 Residential Multi-Family Medium Density District to Neighborhood Business.

The owners/applicants Roy and Pauline Young and Ross and Laurie Peterson have requested three lots (PIN Nos. 9638.10-46-6298, 6393, and 6397) on Burton Street at Buffalo Street be rezoned from RM-8 Residential Multi-Family Medium Density District to Neighborhood Business.

The Neighborhood Business District is established to indicate areas for low density commercial uses that are compatible with and accessible to pedestrians from the surrounding neighborhood. This area of Burton Street, in conjunction with the existing community center, complies with the definition of the Neighborhood Business District. However, due to the small size of the 3 lots (approximately 0.75 acre for the three lots together), the City Attorney's Office has pointed out that there is a question as to whether or not this request could be determined to be "illegal spot zoning". There is no known published case in North Carolina which directly matches the facts in this request in order to answer the question.

The Planning staff reviewed the rezoning request and recommended approval. At the September 2, 1998, Planning & Zoning Commission meeting, the Commissioners voted unanimously to recommend approval of the rezoning request.

Ms. Gloria Johnson, President of the Burton Street Community, spoke in support of the rezoning. She said that the proposed community store will benefit the community

City Attorney Oast reminded the Council that when they consider the rezoning request, they must consider all the uses available in the Neighborhood Business District.

Mayor Sitnick closed the public hearing at 5:38 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. 2519. This motion was seconded by Councilman Tomes and carried unanimously.

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C. PUBLIC HEARING RELATIVE TO REZONING 418 and 422 McDOWELL STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO INSTITUTIONAL

ORDINANCE NO. 2520 - ORDINANCE TO REZONE 418 and 422 McDOWELL STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO INSTITUTIONAL

Mayor Sitnick opened the public hearing at 5:40 p.m.

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

Mr. Mike Matteson, Urban Planner, said that this is the consideration of an ordinance to rezone 418 and 422 McDowell Street from RS-8 Residential Single-Family High Density District to Institutional.

Joe C. Swicegood is requesting a rezoning of 418 and 422 McDowell Street from RS-8 Residential Single-Family High Density District to Institutional.

The two properties total approximately 0.47 acres and are located across from Asheville High School at the corner of McDowell Street and Grindstaff Place. Surrounding zoning consists of Institutional to the west, RM-16 to the north and RS-8 to the south and east. The two properties have historically been used for commercial purposes and were zoned Office Institutional prior to the adoption of the Unified Development Ordinance.

At their September 2, 1998, meeting, the Planning and Zoning Commission voted 5-1 to recommend

approval of the rezoning. The Planning and Development staff also is recommending approval of the rezoning. Mr. Matteson briefed Council on the phone calls he received concerning this rezoning request.

Mayor Sitnick closed the public hearing at 5:42 p.m.

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

Councilwoman Field moved for the adoption of Ordinance No. 2520. This motion was seconded by Councilman Tomes and carried unanimously.

ORDINANCE BOOK NO. 17 - PAGE 159

D. PUBLIC HEARING RELATIVE TO ADOPTING THE PARKS & RECREATION MASTER PLAN, THE GREENWAYS MASTER PLAN AND DIRECTING THE ENGAGEMENT OF BOND COUNSEL

RESOLUTION NO. 98-151 - RESOLUTION ADOPTING THE PARKS & RECREATION MASTER PLAN, THE GREENWAY MASTER PLAN AND DIRECTING THE ENGAGEMENT OF BOND COUNSEL

Mayor Sitnick opened the public hearing at 5:44 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing. -9-

Mr. Irby Brinson, Director of Parks & Recreation, said that staff was given direction by City Council to examine the draft of the Parks and Recreation Master Plan and to bring back recommendations for prioritization of needs for the next five to seven years.

On May 12, 1998, staff presented to City Council the Comprehensive Master Plan for Parks and Recreation. During that meeting, City Council directed staff to carry out the following objectives and to report back to City Council at a later date their recommendations. These directives included the informal agreement to the concept of the Master Plan, making sure the Parks and Recreation Master Plan is coordinated with the Greenway Master Plan, properly prioritizing needs for the next five to seven years, instructing staff to move toward a bond referendum, and reporting back to City Council their recommendations. In an effort to achieve the above objectives, staff expanded the Parks and Recreation Master Plan Steering Committee to include a greater diversity of representation on the Committee. This Steering Committee is made up of over 75 members of the community and has been working since June to develop the recommendations which are presented in this report. The process has been inclusive and based upon input from a broader range of community interest. He summarized by saying that the Steering Committee is recommending the following elements to be included in an \$18 million bond referendum.

New Facility Development \$6.4 million

Renovations and upgrades to existing facilities \$6.6 million

Greenway Development \$3.0 million

Land Acquisition \$2.0 million

The Parks and Recreation Master Plan Steering Committee recommends including the Greenway Master Plan as an addendum to the Parks and Recreation Master Plan.

Representatives from the Trust for Public Land briefed Council on the process implemented to arrive at the Greenways Master Plan noting that the plan is the community's plan.

Ms. Cindy Miller, Finance Operations Manager, said that the City will need to retain bond counsel for the preparation of documentation for the bond referendum and sale. Parker, Poe, Adams & Bernstein, L.L.P., has ably represented the City during past financings and has consented to assist the City with this bond issue. Their fee will be based on actual hours worked, plus expenses incurred on behalf of the City for photocopies, long distance phone, travel, etc. City staff recommends City Council retain Parker, Poe, Adams & Bernstein, L.L.P., as bond counsel.

City Manager Westbrook said that action required today would be to complete the public hearing, adopt the Parks & Recreation Master Plan, adopt the Greenways Master Plan, direct staff to employ bond counsel, and direct City staff to plan for a May bond election. From that point on, City staff will work with the Local Government Commission and the bond attorney to bring back to the Council on an intermittent basis all the legal procedures.

Mr. H. K. Edgerton, President of the Asheville Branch of the NAACP, hoped that the money is utilized for the things it is targeted for, however, he has some concerns about infrastructure, economic development, and business development.

Ms. Geraldine Melendez, President of the West End/Clingman Avenue Neighborhood Organization, voiced concern over the closing of Merritt Street and expansion of the maintenance facility on the corner of Hilliard and Clingman Avenue. She stated they did not want any infringement into their neighborhood of the expanded maintenance facility.

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Mr. Brinson said that at this point staff has determined that they will not expand the maintenance facility but will make some improvements to the exterior that will hopefully address a lot of the concerns of the community and try to buffer the community from their particular needs.

Ms. Laura Copeland, representative of the Asheville Area Chamber of Commerce, spoke in support of the Master Plans.

Mr. Brian Peterson, representing the Coalition of Asheville Neighborhoods, Vice-Chair of the Parks & Recreation Master Plan Steering Committee and member of the Greenways Citizen Advisory Committee, spoke in support of the Master Plans and briefly reviewed with Council the process that was undertaken by the Steering Committee. He did, however, have one concern about the timing of when a special election would be held. If it is held in May of 1999, the City would have to be responsible for the estimated \$15-20,000 to conduct a special election. However, the City would not have to incur this cost if it was held during the regular City elections in the fall of 1999.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities and resident on Cumberland Avenue, spoke in support of the Parks & Recreation Master Plan and hoped City Council would move ahead with adoption. He then spoke about the importance of the connection between homes and parks and the importance of considering them together in their design and their funding. He said that if there are any vacant or abandoned properties around the proposed parks and greenways, that the planning and funding be done for the parks and neighborhoods together as an overall quality of life package. Again, he asked that these issues be considered together in coming weeks as compatible and supportive of each other.

On behalf of City Council, Mayor Sitnick thanked all the members of the community who worked on the Parks & Recreation Master Plan Steering Committee and the Citizens Advisory Committee on the Greenway Master Plan and the City Council Greenways Subcommittee. Greenways forces.

Mayor Sitnick closed the public hearing at 6:07 p.m.

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. 98-151 adopting the Parks & Recreation Master Plan, adopting the Greenways Master Plan, authorizing the engagement of Parker, Poe, Adams & Bernstein, L.L.P., as bond counsel, and directing staff to work toward a May bond referendum election, if feasible in their judgment. This motion was seconded by Councilman Sellers.

Councilwoman Field wanted to make sure that the community understands that the bond referendum will go before the public and it will be the public who will vote it up or down on whether or not the City moves forward with this. If they vote for it, there will be a tax increase. She wanted to make it very clear that general obligation bonds are backed up by the City's taxing ability and that the public is going to be who says they are willing to pay a little bit more money on their property taxes in order to pay for this wonderful opportunity for the City of Asheville. It will take the whole community to make this happen.

Mayor Sitnick said that she hoped that as an extension of the adoption of these two Plans and the go-ahead from the public on the bond referendum that when the Unified Development Ordinance is reviewed that the City also consider the designation of a parks district, along with all the other districts. That way, the City won't zone our parks according to the -11-

land use around them but that we actually zone them to make sure they are retained as parks. She said that parks, recreation, greenways, and green spaces are all part of economic development.

Councilwoman Field said that one piece that hasn't come up as quickly as the Parks & Recreation Master Plan and the Greenways Master Plan is the Pedestrian Thoroughfare Plan. She said that will need to be rolled into this as the City moves into the future.

The motion made by Councilman Cloninger and seconded by Councilman Sellers was unanimously adopted.

RESOLUTION BOOK NO. 25 - PAGE 22

IV. UNFINISHED BUSINESS:

A. ORDINANCE TO REZONE A PORTION OF PROPERTY ON TOLULA LANE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE BUSINESS

Mayor Sitnick said that the public hearing on this matter was held on September 22, 1998, and continued until this date in order to give City Council time to visit the property in question.

Mr. Mike Matteson, Urban Planner, reviewed the rezoning request by said that this is the consideration of an ordinance rezoning a portion of property located on Tolula Lane from RS-8 Residential Single-Family High Density to Office Business District.

City Attorney Oast said that pursuant to discussions at Council's meeting of September 22, Victoria Investment Company, ("VIC") the doctors group that operates Mountain Neurological Center on McDowell Street), has submitted a proposed amendment to the option it currently holds for the purchase of the City's property, adjacent to Mountain Neurological Center ("MNC"). This amendment enables the following conditions to be added to the City's deed to VIC, if the transaction is consummated:

1. The property may be used for no commercial purpose other than parking, and access via Tolula Lane is prohibited.
2. All trees bigger than 6 inch diameter along the eastern side of the property (adjacent to MNC) will remain.

Removal of some trees may be permitted as necessary to provide vehicular access to the parking lot. If a variance is obtained, even this will be unnecessary.

3. The City may reserve part of the property for a greenway, to be located in consultation with VIC's architect.

4. VIC will provide a landscaped buffer along the western line of the property, (adjacent to Tolula Lane) sufficient to screen the parking lot from view.

These proposed amendments are intended to limit the use of the property to parking associated with MNC, and to minimize the impact on the use, visually and functionally, on the adjacent residential properties. Because these proposed amendments do not impair the City's position with respect to the transaction (with the right to reserve a greenway, the City's position is -12-

actually improved) and because there is no change in the consideration for the property, no additional approvals by Council are necessary in order for the amendments to be valid, or for the Mayor to execute the amendment.

City Attorney Oast reminded Council that in consideration of any rezoning request, Council must be cognizant that the property may be used for any purpose permitted by the zoning classification. Legal restrictions on the use of property, however, are matters of public record, and may be taken into account to the same extent that the physical, geological or topographical features of a site may be considered.

Mr. George Young, Tolula Lane community member, said that regardless of how beautifully they make the property into a parking lot, it is still a parking lot in a low density residential neighborhood. He implored City Council to take into consideration the sensitive feeling of the neighborhood and not allow this encroachment into their residential neighborhood.

Mr. Phil Carson, attorney for VIC, said that the option agreement was amended as directed by City Council in order to try to meet as many requests and considerations by the neighborhood as possible. He stressed that MNC wants to be a good neighbor. He said that a parking lot is absolutely the lowest use of this property that can be made. He noted that when this property was first offered for sale, that City departments said they had no use for the property. He urged City Council to rezone the property.

Upon inquiry of Councilman Sellers, Mr. Carson said that the VIC now has a reciprocal agreement with St. John's Church to allow the MNC to park at the Church during the day and then the Church uses MNC's parking lot during Sundays and evenings. Since the Church plans to tear the Church down and build a new Church, the parking may be less than what is currently there now.

Upon inquiry of Councilman Cobb about the feasibility of building a parking lot on the property they currently own, Mr. Carson said that in some ways a deck would be more intrusive on the neighborhood than a well-landscaped parking lot.

Upon inquiry of Mayor Sitnick about the meeting between the neighborhood and Mr. Camille and Dr. Durham, he said that according to Dr. Durham the meeting was very cordial and a lot of discussion took place, however, the neighbors agreed that they did not want a parking lot there.

Mr. H. K. Edgerton said that to rezone this property would be the traditional African American neighborhood encroachment. He asked City Council to table this matter until they find out more on what the residents want.

Mayor Sitnick responded that it would be unfair to table this matter again since City Council held a public hearing on this issue on September 22, 1998, and tabled it until this date. She felt that City Council was well informed on the stance the neighborhood was taking.

Mr. Robert Camille, Camille-Alberice Architects, responded to Councilman Cobb's question as it related to building a parking deck on the property currently owned by VIC. He took issue that they are doing this to an African American neighborhood. He said it is happening everywhere in Asheville and is part of a City being healthy and growing. He did hope that Council would rezone this property because he hoped to be able to use this parking lot as an example of how a nice parking lot should be done and we can hold future development up to this standard. -13-

There was some discussion about the number of parking spaces needed versus the number of spaces at the current location and at the Church.

Councilman Tomes agreed with the neighborhood in that the rezoning will infringe on this African American residential neighborhood.

Councilman Sellers moved to rezone a portion of property located on Tolula Lane from RS-8 Residential Single-Family High Density to Office Business District. This motion was seconded by Councilwoman Field.

City Attorney reminded Council that if the property is rezoned, all possible uses in the Office Business District will be allowed. However, Council may take into consideration, as you could any natural or topographic feature of the lot, what is or will be matter of public record, and that is the restrictions that the City will sell this subject to.

Mayor Sitnick said that while she appreciated the needs of the physicians and the fact that they were willing to go an extra mile to accommodate the neighborhood and to allow the City to impose restrictions, however, the lowest impact use of this property is to leave it natural. She said as the McDowell Street bridge nears completion, much of the traffic from Biltmore will be re-routed onto McDowell and there is no buffer like a tree buffer. She felt that 42 parking spaces in the parking lot will not allow for an adequate number of trees and she would recommend that at some point in the near future, in anticipation of the increased traffic and auto noise and omissions that will occur on McDowell Street, that as the City retains ownership of that property, that we actually plant some additional trees.

The motion made by Councilman Sellers and seconded by Councilwoman Field failed on a 3-4 vote, with Vice-Mayor Hay, Councilwoman Field and Councilman Sellers voting "yes," and Mayor Sitnick and Councilmen Cloninger, Cobb and Tomes voting "no."

V. NEW BUSINESS:

A. RESOLUTION NO. 98-152 - RESOLUTION IN SUPPORT OF THE PROPOSED STATE BOND ISSUES FOR WATER, SEWER AND NATURAL GAS

City Manager Westbrook said that in just a few weeks voters will go to the polls for the November 3 election. On the ballot are two very important bond referenda. One authorizes \$800 million in loans and grants for clean water bonds, and one provides \$200 million in loans and grants to extend natural gas to underserved areas in the state. The clean water bonds will provide much needed funding assistance for communities all across the state, including the citizens of Asheville. A recent study revealed that more than \$11 billion in water and sewer capital needs exist across the state over the next 20 years. The Regional Water Authority has millions of dollars in capital needs over the next decade, a portion of which could be eligible for receipt of the clean water bond money. The bond funds can be used by local governments to build new water and sewer treatment facilities, expand capacity to new businesses and homes, and upgrade deteriorating facilities.

He recommended that the Council support the clean water and natural gas bonds, and adopt the resolution titled "Resolution in Support of the Proposed State Bond Issues for Water, Sewer and Natural Gas" which

calls on the citizens of Asheville to vote in favor of the bond issues at the polls on November 3, 1998.

City Manager Westbrook responded to questions from Councilman Tomes. -14-

Upon inquiry of Mayor Sitnick, City Manager Westbrook said that this doesn't include any stormwater money.

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. 98-152. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 23

At 6:50 p.m., Mayor Sitnick announced a short break.

B. RESOLUTION NO. 98-153 - RESOLUTION TO APPROVE THE HOUSING ACTION PLAN

Ms. Charlotte Caplan, Community Development Director, said that this is the consideration of a Housing Action Plan which recommends specific actions to be taken by the City and its partner agencies in 1998/99 to increase the production of affordable housing in Asheville and Buncombe County. She then briefly reviewed the Plan which sets out a response to each of the study's recommendations, concentrating on those actions that can be implemented by June 30, 1999.

Councilwoman Field, Chair of the Housing & Community Development Committee, spoke in support of the Plan and its implementation. She said that she supported using mediation to resolved land use debates. She then explained how a residential land use efficiency analysis would be helpful and asked that it be included in next year's budgeted. She also spoke in support of a Housing Trust Fund.

Councilman Tomes expressed concern over developers who build affordable homes but then sell them for higher prices making them not affordable. He felt it should be declared unethical and even immoral.

Mayor Sitnick spoke in support of the Housing Action Plan and stressed that the Plan cannot be implemented with no funding. She said that the City is going to work with the County and private developers to find a funding mechanism that is fair and that even-handedly spreads out the burden of cost for affordable housing. She said Ms. Caplan has information that provides vast information to private developers of all of the funding potential available to them from the federal, state and local level. In addition, she has asked the City Manager to look at ways the City can find properties before they are condemned that can be given to either urban homesteaders or to members of the housing coalition for repair and redevelopment.

Vice-Mayor Hay said that the objective to institute formal, on-going collaboration with the County, should be direction to staff to work with the County. He would like the County to follow our lead and take on affordable housing as an issue as their own. He understands that the County has no staff, no plan and no funding, however, we are one large community, especially when it comes to issues like housing. He hoped that this challenge will result in something community-wide.

Councilman Cobb felt that the City needs to address not only the need for housing, but the job market which restricts some people from owning their own homes or even renting.

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Mayor Sitnick said that she would draft a letter to our state and federal representatives asking for them to re-prioritize our tax dollars and send some money back to the communities to meet their needs.

Mr. H.K. Edgerton, President of the Local Branch of the NAACP, urged City Council to seek evidence as to why there is under-representation of African Americans in the home buyer market. To do so will either substantiate or dispense with allegations of wrong-doings as outlined by Marvin Vierra in the Analysis of Impediments to Fair Housing dated November 12, 1997. He said that many of the impediments appear to be unconstitutional and in violation of several Civil Rights Acts.

Mr. David Lee, President of the Mortgage Lenders Association of Western North Carolina, presented City Council with a resolution adopted by his Association which supports the concept of a Housing Bond, or Quality of Life Bond to increase and improve the housing stock in Asheville and Buncombe County.

There was a brief discussion about the percentage of approved applications by lending institutions for affordable housing.

Mr. Brian Peterson, representing the Coalition of Asheville Neighborhoods, spoke in support of the Housing Action Plan and said the Coalition felt it was a good start. He said that they do have two concerns, however, both focus on preserving and improving the existing housing stock. They would like to see some stronger language about enforcing the Minimum Housing Code on all rental units, and to include some very stiff fines for those who are violating that Code. Their second concern is to protect residential neighborhoods from commercial intrusions. He said that if there is a shortage of commercial space in downtown Asheville or some of the outer lying areas, that maybe we should re-look at the Unified Development Ordinance to allow a greater commercial density or possibly provide some incentive for commercial developers to include residential units.

Ms. Laura Copeland, representing the Chamber of Commerce, thanked City Council for their leadership in this Plan. The Homes for Asheville-Buncombe Task Force would like to accept the offer to begin planning to address the funding issue and bring a plan back to Council. She hoped that City Council would look to the Task Force for support of any letter sent to the federal and state representatives to look at issues that affect priorities, especially unfunded mandates.

Vice-Mayor Hay said that the Homes for Asheville-Buncombe Task Force is a new entity and yet has emerged as a very important component in our whole community based housing initiative and we are relying heavily on them to provide the kind of input that we need.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities and Co-Chair of the Homes for Asheville-Buncombe Task Force, felt that this was the best Plan Asheville has had in many years. It has been mentioned that without significant new funding, whether by a local housing trust fund, bond, private revenues or other revenue sources, we cannot move ahead significantly on this plan. A number of local groups have passed resolutions supporting a housing trust fund, a dedicated revenue source for homes for working families, elderly and disabled residents of our community, or a bond. Two important elements of these requests are that it should include private funds and that it be designed with a pay-back feature. He asked for City Council's commitment in support and their leadership first to approve the plan and then to work with them in the coming weeks to determine the best sources or combination of new resources to bring to bear in this critical effort.

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Mr. Larry Thompson, Director of the Blue Ridge Center, felt that this is the first time the needs of the special population have been recognized in a Plan. He said there is a real need for housing for the special population and urged City Council to support the Plan which will focus on these needs.

Ms. Geraldine Melendez, President of the West End/Clingman Avenue Neighborhood Organization and Office Manager at the Affordable Housing Coalition, gave examples of phone calls she receives daily by

people who are forced out into the street. She spoke in support of the Housing Action Plan.

Ms. Caplan responded to questions from Mr. Darryl Hart regarding what is considered the range for affordable housing and who is it affordable to.

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

Councilwoman Field moved for the adoption of Resolution No. 98-153. This motion was seconded by Vice-Mayor Hay and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 24

AT 7:55 P.M., MAYOR SITNICK MADE THE FOLLOWING ANNOUNCEMENT - THE MEDIA HAS REQUESTED THAT THE MAYOR AND CITY COUNCIL MEMBERS MAKE AVAILABLE TO REPORTERS CITY-RELATED CORRESPONDENCE RECEIVED BY THEM. CORRESPONDENCE IS DEFINED BY STATE LAW AS LETTERS RECEIVED BY LOCAL ELECTED OFFICIALS AND THIS INCLUDES MAIL RECEIVED BY THE MAYOR AND CITY COUNCIL. MAYOR SITNICK SAID THAT SHE AND CITY COUNCIL MEMBERS FEEL THAT THEY HAVE A RESPONSIBILITY TO THE CITIZENS OF ASHEVILLE TO LET THEM KNOW THAT THE MEDIA WILL BE READING THEIR MAIL SENT TO THEM

B. MOTION RELATIVE TO A ZONING STUDY FOR WOODSIDE HILLS SUBDIVISION

Mr. Carl Ownbey, Urban Planner, said that the Planning and Development Department has received a petition for a zoning study which includes six properties in the Woodside Hills Subdivision.

City staff has been directed to conduct a zoning study of six properties in the Woodside Hills Subdivision. The six properties total approximately 21.4 acres. The petition received by City Council included signatures of individuals who own five of the six properties. These five properties total approximately 18.7 acres or 87% of the total acreage of the requested study.

Section 7-7-2 of the Unified Development Ordinance states that "a zoning study of a defined area may be requested upon submittal to the Planning and Development Department of a petition signed by 51% of the property owners in the defined area for which the zoning study is requested who own at least 51% of the property (acreage) in the defined area for which the zoning study is requested". The petition does meet the above referenced criteria.

Council is asked to determine whether a zoning study should be initiated for this defined area (or a portion thereof). The concern of residents in the Woodside Hills Subdivision stemmed from the proposed development of a duplex on the property designated as PIN No. 9617.05-07-4718. Both this parcel, as well as the majority of PIN No. 9617.09-17-5215, are zoned RM-6. This zoning district allows a duplex as a permitted use. The areas adjacent to Woodside Hills -17-

Subdivision are zoned RS-4. This zoning district allows duplexes as a conditional use. At this time, the property owner has applied for a building permit for the duplex, noting that the wastewater allocation, the water allocation, and letters relative to the building of a culvert have been received and approved for this property.

City Council may direct staff to initiate the zoning study, elect not to initiate the zoning study, or reduce the size of the area to be included in the zoning study and initiate a zoning study of the reduced area.

When Councilman Cloninger asked why the request is to rezone six properties when only five of the property

owners signed the petition, Mr. Ownbey said that the sixth property owner did not sign the petition because he is the one who is developing the duplex and has not indicated any desire to have his property rezoned to single-family.

Upon inquiry of Vice-Mayor Hay, Mr. Ownbey said that if the property were rezoned from RM-6 to RS-4, duplexes would be allowed as a permitted use versus duplexes being allowed as a conditional use. Mr. Ownbey also said that it would also decrease the density.

Mayor Sitnick confirmed that the duplex can be built under the RM-6 zoning designation.

When Councilman Cobb asked approximately how long a study of this area would take, Mr. Ownbey said that it would take approximately 4-5 months.

Councilman Cobb felt that as a common courtesy, City Council should initiate the study since they are City residents, owners of the property and the surrounding property is zoned RS-4.

Mr. Paul Sweeney, President of the Woodside Hills Recreation Association, reinforced their concern about not wanting any of the forest removed which currently serves as a buffer for the noise from the I-40 traffic which runs along the ridge overlooking the housing development. They also have some concern about the density of population that a larger development might bring to this area since it is completely isolated from the outside world, with the only access through this residential area. When Mr. Heyward bought the approximately 12 acres, he bought them with the express purpose of maintaining that buffer area between the park and I-40. It was with distress to some of the property owners that some of that buffer might be eliminated. He urged City Council to initiate the zoning study.

Mr. Earl Shelton expressed his concern over the increased traffic in the area if any additional in the housing in the area is built.

Mr. Ken Hamlin, property owner in the area, stated also that any development will increase the traffic in the area.

Upon inquiry of Councilwoman Field, Mr. Ownbey explained why the Planning staff zoned the area RM-6 during the recent Unified Development Ordinance adoption.

When Vice-Mayor Hay asked about the procedure involved for the zoning study, Mr. Ownbey said that Planning staff would take the zoning study to the Planning and Zoning Commission, get their recommendation and then it would come back to City Council. But in the meantime the construction plans that are on the table now for a single duplex, could go forward.

City Manager Westbrook pointed out that if Council instructs the Planning staff to initiate this zoning study, they need to remember that the Planning staff already has direction to do a number of other things, including some other small area plans, the Unified Development -18-

Ordinance annual review issues, the church designation, signs, etc. He felt that City Council would need to re-prioritize those issues for staff to let them know what Council's priorities are, in addition to the length of time a zoning study would take.

Councilman Cobb moved to direct the Planning staff to initiate the zoning study as soon as possible, however, not to put it ahead of any of the other issues City Council has instructed the Planning staff to work on. This motion was seconded by Councilman Sellers.

Councilman Cloninger was concerned that the request includes property owned by someone who doesn't want to be rezoned. His broader concern was that if City Council moves forward with this study, noting that

City staff has said they are not aware of any reason why it should be rezoned, it may well set a precedent that Council is going to become inundated with relatively small areas requesting rezoning changes. He said Council has just went through the Unified Development Ordinance process in which staff looked at all the areas and he felt it was a little early that we start looking at individual small areas throughout the City.

Councilwoman Field said that the RM-6 designation was really designed to provide a little bit of flexibility in terms of mixing uses to encourage duplex, quadraplexes and triplexes and to encourage affordable housing.

The motion made by Councilman Cobb and seconded by Council Tomes failed on a 3-4 vote, with Councilmen Cobb, Sellers and Tomes voting "yes," and Mayor Sitnick, Vice-Mayor Hay, Councilwoman Field and Councilman Cloninger voting "no".

VI. OTHER BUSINESS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 22, 1998; THE COMMUNITY MEETING HELD ON SEPTEMBER 29, 1998; AND THE WORKSESSION HELD ON OCTOBER 6, 1998

Vice-Mayor Hay moved for the adoption of the minutes of the regular meeting held on September 22, 1998; the community meeting held on September 29, 1998; and the worksession held on October 6, 1998. This motion was seconded by Councilman Tomes and carried unanimously.

B. CANCELLATION OF MAYOR'S ROUNDTABLE ON NOVEMBER 19, 1998

Councilman Tomes moved to cancel the Mayor's Roundtable on "The Block" currently scheduled for November 19, 1998, due to the fact that this topic will take more staff time to adequately prepare for the Roundtable discussion and also due to the upcoming holidays. This motion was seconded by Councilman Sellers and carried unanimously.

Mayor Sitnick noted that when the next Roundtable is scheduled, the topic will not necessarily be "The Block" and when the date it scheduled, she will once again ask Council members for suggested topics.

C. CLAIMS

The following claims were received by the City of Asheville during September 11-October 1, 1998: Trecia Tucker (Water), Wendy Rathburn (Water), Holly Grotzinger (Water), Martin Beckman (Sanitation), Tracey Boles (Water), Harold Bradley (Water), Louise K. Dodson (Streets), Clayton Lewis (Water), Givens Estate (Water) and Rebecca Metcalf (Streets).

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The following claims were received during the week of October 2-8, 1998: Mae Tucker (Streets), Scott Goodman (Water), Asheville Transit (Sanitation), David Langrall (Sanitation) and Rickey Capps (Water).

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

D. LAWSUIT

The City has received a Notice of Appeal on September 3, 1998, which is generally described as follows: Elijah Ulysses Jones v. City; Nature of Proceeding: Appeal to District Court from Towing Appeals Committee decision that certain vehicles should be removed from property located at 52 South Market Street.

This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A. COMMENTS RELATIVE TO CITY COUNCIL SALARY

Mr. David Gould felt that the Mayor and City Council members were grossly underpaid for the amount of work and time they devote to their position on City Council and their salaries should be increased.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 8:35 p.m.

CITY CLERK MAYOR
