

Tuesday - December 8, 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

Councilman Tomes gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

Councilman Cobb requested that Consent Agenda Item O. be pulled for discussion.

A. RESOLUTION NO. 98-188 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AND MEMORANDUM OF LEASE FOR PROPERTY KNOWN AS THE PACK PLACE EDUCATION ARTS & SCIENCE CENTER

Summary: This resolution authorizes the Mayor to execute a lease and a memorandum of lease for the property known as the Pack Place Education Arts & Science Center.

The City of Asheville owns the property on which the Pack Place Education Arts & Science Center is located. That property was leased to Pack Place Education Arts & Science Center, Inc. on December 13, 1988, for a ten (10) year term for the construction, operation and maintenance of the education, arts & science center.

The current lease with Pack Place Education Arts & Science Center, Inc. expires on December 12, 1998. Pack Place Education Arts & Science Center, Inc. has offered to lease the property again from the City for the continuing operation and maintenance of the education, arts and science center. Pack Place Education Arts & Science Center, Inc. desires to lease the property for more than ten (10) years.

N. C. Gen. Stat. sec. 160A-272 authorizes North Carolina cities to lease property for longer than ten (10) years if the lease is treated as a sale of property and is executed by following any of the procedures authorized for sale of real property in Article 12 of Chapter 160A of the North Carolina General Statutes. Of those procedures, N. C. Gen. Stat. sec. 160A-269 appears to be the most appropriate method for execution of a lease for more than ten (10) years for this property and requires that when an offer is made and the City Council proposes to accept it, a deposit shall be made with the City Clerk and the City Clerk shall publish a notice of the offer.

A deposit was received and the notice required was advertised in the Asheville Citizen-Times on Friday, November 27, 1998. The time period for upset bids as set forth in N. C. Gen. Stat. sec. 160A-269 has run and no upset bids have been received.

The resolution authorizing the execution of the lease and memorandum of lease be adopted. -2-

RESOLUTION BOOK NO. 25 - PAGE 76

B. RESOLUTION NO. 98-189 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON JANUARY 12, 1999, TO CLOSE AN ALLEY BETWEEN RICHMOND AND MICHIGAN AVENUES

RESOLUTION BOOK NO. 25 - PAGE 78

C. INTRODUCTION OF BOND ORDER AUTHORIZING THE ISSUANCE OF \$18,000,000 GENERAL OBLIGATION PARKS, RECREATION AND GREENWAY BONDS FOR THE CITY OF ASHEVILLE, N.C.

Summary: Introduction of a Bond Order Authorizing the Issuance of \$18,000,000 General Obligation Parks, Recreation and Greenway Bonds for the City of Asheville and consideration of a resolution setting a public hearing thereon.

Having previously instructed staff to apply to the Local Government Commission for approval to issue \$18,000,000 General Obligation Parks, Recreation and Greenway Bonds; the next step in the process is the introduction of the Bond Order and setting a public hearing thereon.

The Bond Order provides the purpose and amount of the bonds; states that the projects to be funded by the proceeds of the bonds are necessary; states that taxes shall be levied annually to pay the principal and interest on the bonds; indicates that a sworn statement of debt has been filed with the City Clerk and is open to public inspection; and states that the bond order shall take effect when approved by the voters of the City at a referendum scheduled for May 11, 1999.

The proposed resolution sets a public hearing regarding the bond order to be held at 5:00 p.m. January 12, 1999 in the Council Chambers of the City Building and directs the City Clerk to cause notice of said public hearing to be published. It also directs the Finance Director to file with the City Clerk a statement of debt of the City.

City staff recommends City Council adopt the resolution.

D. RESOLUTION NO. 98-190 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JANUARY 12, 1999, ON THE BOND ORDER AUTHORIZING THE ISSUANCE OF \$18,000,000 GENERAL OBLIGATION PARKS, RECREATION AND GREENWAY BONDS AND DIRECTING PUBLICATION OF SAID PUBLIC HEARING AND FILING OF A DEBT STATEMENT

Summary: See Item C above.

RESOLUTION BOOK NO. 25 - PAGE 79

E. RESOLUTION NO. 98-191 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE REMAINING PORTION OF BEAR KNOLL DRIVE FOR STREET MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to accept the remaining portion of Bear Knoll Drive for street maintenance.

Trappers Run is an existing subdivision in the City. The developer completed the streets in the subdivision several years ago and turned the streets over to the City to maintain. Since -3-

that time, Bear Knoll Drive has been extended and a cul-de-sac constructed. The developer has now completed this portion of the street and is requesting that the City accept the street for maintenance. Engineering Department staff along with Public Works staff have inspected the road and found it to be in compliance with our Standard Specifications.

Staff requests Council authorize the City Manager accept the remaining portion of Bear Knoll Drive for City

maintenance.

RESOLUTION BOOK NO. 25 - PAGE 81

F. RESOLUTION NO. 98-192 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A TWO YEAR LEASE WITH ASHEVILLE AREA HABITAT FOR HUMANITY INC. FOR PROPERTY AT 9 BILTMORE AVENUE

Summary: The consideration of a lease of 9 Biltmore Avenue to the current tenant Asheville Area Habitat for Humanity, Inc.

City Council previously authorized holding the subject property for a period of two years (until August, 2000) before considering its sale. In the interim the property is being leased. The current tenant, Asheville Area Habitat for Humanity, Inc., has been paying \$150.00 per month. The proposed lease calls for incremental increases beginning December 1, 1998, as follows:

12/1/98 - 11/30/99	12/1/99 - 5/31/00	6/1/00 - 8/31/00
\$300.00 per mo.	\$400.00 per mo.	\$1,100.00 per mo.

The property comprises 2,070.5 sq. ft. in a 20.5' X 101' space. The space has heat but not air conditioning. The Lessee is responsible for paying utilities and maintenance of the interior including cleaning, glass breakage, electrical, heating, and plumbing. The Lessor is responsible for the exterior walls and roof along with the parking area.

Asheville Area Habitat for Humanity operates a used furniture and home accessories store on the premises. The store proceeds are used for Habitat's non-profit housing production.

Community Development staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 25 - PAGE 82

G. RESOLUTION NO. 98-193 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE SECTION 108 LOAN GUARANTEE CONTRACT WITH THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT

Summary: The consideration of a resolution to authorize the mayor to execute a Contract for Loan Guarantee Assistance, Fiscal Agency Agreement, Notes, and other documents in connection with a Section 108 Loan Guarantee from the U. S. Department of Housing and Urban Development (HUD) to generate \$1.5 million for rental rehabilitation loans.

On April 1, 1998, the Mayor executed a Funding Approval/Agreement with the Dept. of HUD for a 1.5 million dollars Section 108 loan guarantee pursuant to the application for same approved by City Council Resolution No. 97-211 and -4-

submitted by the City of Asheville on December 16, 1997. The Section 108 loan guarantee program enables Community Development Block Grant (CDBG) entitlement grantees to borrow money from the federal government at low interest rates for CDBG eligible activities. The proceeds of the proposed loan will be loaned to investor owners through the City of Asheville Rental Rehabilitation for Owners and Tenants (CARROT) loan program. The Section 108 loan funds will be used to provide decent housing opportunities for low and moderate income households at affordable rents.

The Section 108 loan will be secured by a series of ten (10) Notes of \$150,000 each with different maturity

dates ranging from one to ten years to be repaid using program income from the CARROT loans, program income from the existing rehabilitation loan portfolio and as necessary a portion of the CDBG entitlement funds. The CARROT loans will be secured by deeds of trust which will be assigned to the Dept. of HUD. The goal of the Section 108 project is to rehabilitate 150 rental units over a three year period of time.

Community Development staff recommends approval of the resolution.

RESOLUTION BOOK NO. 25 - PAGE 83

H. RESOLUTION NO. 98-194 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH R.P.F. CONSTRUCTION INC. TO REPLACE STOREFRONT DOORS AT THE CIVIC CENTER

Summary: The consideration of a resolution to authorize the City Manager to enter into a construction contract to replace the storefront doors at the Civic Center.

An ADA accessibility study was completed for the Civic Center and City staff has determined that the storefront doors at the entrance to the Civic Center do not meet Federal Guidelines for accessibility. City staff solicited sealed bids from ten (10) General Contractors, three (3) of which were minority contractors, for the replacement of storefront doors at the Civic Center. The following bids were received:

KEKO, Inc. \$ 179,672

Carolina Construction and Investment Co. \$ 180,909

R P F Construction, Inc. \$ 142,880

Approved funding is available in the Civic Center account to pay for this renovation to replace the storefront doors at the Civic Center.

The Parks and Recreation Department staff requests City Council to direct the City Manager to enter into a contract for \$142,880 with R P F Construction, Inc. to replace the storefront doors at the Civic Center.

RESOLUTION BOOK NO. 25 - PAGE 84

I. ORDINANCE NO. 2532 - BUDGET AMENDMENT TO OFFICIALLY ESTABLISH BUDGETS FOR W.T. WEAVER BOULEVARD GREENWAY, PRITCHARD PARK, HAW CREEK PARK AND OTHER PARK IMPROVEMENTS

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Summary: The consideration of a budget amendment to officially establish project budgets in the amount of \$220,000 for Phase II of W.T. Weaver Boulevard Greenway, \$200,000 for Pritchard Park, \$50,000 for Haw Creek Park, and \$20,000 for park improvements.

Funds for Phase II of the W.T. Weaver Boulevard Greenway, Pritchard Park development, Haw Creek Park, and park repairs and renovations were authorized through the City of Asheville's Capital Improvement Program. Funds had been held in a capital reserve account until it was necessary to begin work on these projects. This ordinance will officially establish project budgets for W.T. Weaver Boulevard, Pritchard Park, Haw Creek Park, and park improvements using funds formerly held in capital reserve.

Staff recommends City Council officially establish budgets for the aforementioned projects.

ORDINANCE BOOK NO. 17 - PAGE 191

J. RESOLUTION NO. 98-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY THROUGH ITS MOUNTAIN MOBILITY SYSTEM PROGRAM IN ORDER TO TAKE ADVANTAGE OF A GRANT TO TRANSPORT ELDERLY TO RECREATION PROGRAMS

Summary: The consideration of entering into an agreement with Buncombe County through its Mountain Mobility System program in order to take advantage of a \$5,000 grant to transport the elderly to recreation programs.

The City of Asheville has obtained a \$5,000 grant of state money routed through Buncombe County for use in the Mountain Mobility System, and which may only be used to transport the elderly to recreation programs. The Parks and Recreation Department will use this money for special events and additional transportation to events for seniors. These events include such things as the Asheville Symphony, Home Shows, The WNC Fair, concerts at Civic Center, the N.C. Arboretum, etc. These are new trips which the Department has not provided prior to this grant.

This grant involves no commitment of City funds to match or otherwise contribute to this grant. The grant will take the form of a credit, and will be applied to Mountain Mobility System use by the Parks and Recreation Department.

City staff recommends City Council authorize the City Manager to enter into an agreement with Buncombe County through its Mountain Mobility System program to transport the elderly to recreation programs.

RESOLUTION BOOK NO. 25 - PAGE 86

K. MOTION AUTHORIZING STAFF TO INITIATE AND ORGANIZE A DEVELOPMENT ISSUES FORUM

Summary: Staff requests authority to establish a Development Issues Forum to provide a forum to discuss with the entire development community the City's development review process and regulations.

City staff would like to formalize our relationship with developers and the building/ construction community by establishing a Development Issues Forum. The purpose of the forum -6-

would be to discuss the City's processes beginning with land use through the issuance of Certificates of Compliance. Through the ongoing issues forum, staff could receive invaluable input on needed changes with development ordinances, create a better understanding of existing ordinances, seek input on recommended changes to the UDO and the Engineering Standard Specifications and Details Manual, and establish better lines of communication between the development community and City staff.

We feel having operated under the Unified Development Ordinance and Engineering Standard Specifications Manual for more than a year, it is an opportune time to establish a mechanism for discussion on these and other issues to take place. Other cities having completed major revisions to their UDO, Standard Specifications, and other development ordinances have found this a useful tool in helping the development community understand the ordinances and having the development community assist staff in understanding the impact, whether positive or negative, on them.

City staff would like to organize and insure participation by a broad spectrum of individuals and organizations in the development community. Knowledgeable persons from the Planning and Development Department, the Water Resources Department, the Building Safety Department, the Engineering Department and the Fire Department would be present to discuss issues. Staff sees this as an ongoing process and a means of receiving continuous feedback from the development community.

The staff recommends that Council authorize staff to initiate and organize a Development Issues Forum for the purpose and reasons outlined in this report.

L. MOTION SETTING A PUBLIC HEARING ON JANUARY 12, 1999, TO REALLOCATE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FROM HILL STREET/CHERRY STREET TO CITY-WIDE REHABILITATION

M. MOTION ENDORSING THE ANNUAL REPORT FOR BELE CHERE

Summary: In January of 1997, City Council approved the Bele Chere Strategic Plan for the next five years. Part of that plan included an annual report to City Council each year after the festival. He updated City Council on the Strategic Plan and financial statement for the 1998 Festival. As can be seen from the financial statement, Bele Chere made a total of \$59,140.84. This represents the third year in a row that the Festival has made a profit. This is due largely to an overall increase in sponsorships, souvenir sales and shuttle services. The profit made from Bele Chere will go into the Festival Fund and will be used to enhance Bele Chere as well as other festivals, therefore reducing the City's taxpayers' support of these events. Tremendous headway was made this year in relationships with the downtown merchants which include reducing vendor fees and allowing restaurants rent-free space for the "Taste of Asheville" area. This dialogue has resulted in better communication and trust between both groups. Also he reviewed the results of the survey conducted by Progen during the 1998 Festival. Highlights from this report will be shared during the presentation to City Council. Recognition should be given to all City departments for their involvement with the Festival. Without their support and commitment to improving the quality of Bele Chere, the Festival could not continue to be successful.

The Parks and Recreation Department and the Bele Chere Board recommend City Council's endorsement of the Annual Report for Bele Chere.

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N. MOTION APPROVING THE EXTENSION OF TIME FROM DECEMBER 31, 1998, THROUGH JUNE 30, 1999, FOR VISION FOR ASHEVILLE-BUNCOMBE TO CONTINUE TO USE CITY OFFICE SPACE AT 29 HAYWOOD STREET

Summary: The consideration of a request from the VISION for Asheville-Buncombe for an extension of time for use of city office space.

City staff has received a request from the VISION to extend the commitment for donated office space from the City of Asheville from December 31, 1998 to June 30, 1999. Currently, the VISION utilizes office space in the City Development Office located at 29 Haywood Street. The VISION Board of Directors has indicated that they will call an Executive Committee meeting in the near future to discuss options for VISION office space. They have indicated that they will review available options over the next several months. As of this time, City staff is not aware of any other available space from the City of Asheville that could meet the needs of VISION.

Due to the addition of the Cable Coordinator position and associated equipment, all of which will be housed at the City Development office, it is anticipated that this office space will be needed by the City. This position will likely be filled by February 1, 1999.

Staff recommends that City Council approve the extension of time from December 31, 1998 through June 30, 1999 for the VISION office space to allow them an opportunity to make alternate arrangements for office space.

O. APPROVAL OF CITY MANAGER'S PARTICIPATION IN THE ASHEVILLE AREA CHAMBER OF COMMERCE'S POLITICAL INSTITUTE

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

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.

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

ITEM PULLED FROM THE CONSENT AGENDA FOR FURTHER DISCUSSION

APPROVAL OF CITY MANAGER'S PARTICIPATION IN THE ASHEVILLE AREA CHAMBER OF COMMERCE'S POLITICAL INSTITUTE

Summary: Beginning in January, the Asheville Area Chamber of Commerce will host a Political Institute, which is a nine week program to encourage and educate business people who are interested in running for public office or becoming more involved in political campaigns. From demographic profiles of voters, to press releases, to campaign ethics, this program will look at every aspect of the political campaign process.

City Manager Westbrook asked for City Council's support in being a speaker in one of the sessions which deals with knowledge is power - facts about local government operations.

Councilman Cobb said that he was assured that this is a non-political political institute and would support the City Manager's participation regarding his role as a speaker. He supported the purpose of the program which is to encourage and educate business people who are interested in running for public office or becoming more involved in political campaigns. He -8-

stressed that we need more citizen involvement. However, he felt the cost of the program (\$295 for Chamber members and \$395 for non-Chamber members), would make it cost prohibitive for many people who may want to participate. Also, he felt that to limit the class to 25 participants was too exclusive. He challenged the Chamber of Commerce to (1) eliminate the cost of the program including the elimination of the food costs; (2) open the program up to all interested citizens; and (3) encourage the media to report in detail all the sessions for those who are unable to attend. He felt that if they encourage all interested citizens, he felt that the businesses, neighborhoods, and private citizens could, and would, underwrite the cost. In any event, he applauded any effort to educate and inform our citizens about the political process.

Councilman Tomes applauded the efforts of the Chamber but noticed that the program focused on business and felt the program should try to include the grassroots people.

Vice-Mayor Hay suggested that since the City's government access channel will be running soon, the program can be taped and shown on that channel.

City Manager Westbrook said that his part in the program will be to talk about the Council/Manager form of government and about local government operations. His part will be strictly non-political.

Mr. Clay Dover, representative of the Chamber of Commerce and Chairman of the Local Issues Task Force, assured City Council that their intent is nothing at all targeted toward any individual or any group. They have been organizing this program for over two years. He said that one reason for the limitation of 25 people is that the location is somewhat restrictive due to the number of seats available. Regarding the cost of the program, the Chamber is a private institution and it does try to break-even on programs like this. In fact, they felt that \$300 was a very reasonable cost. Included in that \$300 is materials, a meal, and costs incurred in

bring outside people to speak. He said that he would invite the taping of the program. The program is aimed at getting more people involved in the political process of not only our City, but our County and State as well.

Regarding Councilman Tomes suggestion about embracing the grassroots community, Mr. Dover said that he would be happy to re-consider possible scholarships.

Councilman Sellers moved to approve the City Manager's participation in the Asheville Area Chamber of Commerce's Political Institute. This motion was seconded by Councilwoman Field and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE ADOPTION OF BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$18,500,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 1999, OF THE CITY OF ASHEVILLE, N.C.

RESOLUTION NO. 98-196 - RESOLUTION OF THE CITY OF ASHEVILLE, N.C., PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$18,500,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 1999, OF THE CITY OF ASHEVILLE, N.C.

Mayor Sitnick opened the public hearing at 5:22 p.m.

City Clerk Burleson reported that the bond order entitled "Bond Order Authorizing the Issuance of Not to Exceed \$18,500,000 General Obligation Refunding Bonds, Series 1999, of -9-

the City of Asheville, N.C.," which was introduced at the regular meeting of the City Council on November 24, 1998, was published on November 27, 1998. She then presented the notice to the public setting the time and date of the public hearing. She also reported that she had filed in her office a statement of debt complying with provisions of the Local Government Bond Act, and such statement as filed showed the net indebtedness of the City to be 1.675% of the appraised valuation of property in said City subject to taxation.

Finance Director Bill Schaefer said that this is the consideration of a resolution providing for the issuance of not to exceed \$18,500,000 General Obligation Refunding Bonds, Series 1999.

Having previously given notice of the City's intent to issue bonds and having held a public hearing regarding the bond issue; the next step in the process is for Council to provide for the issuance of the bonds.

The proposed resolution describes in detail the bonds which are to be refunded (series; principal amounts and maturities); the bonds to be issued (principal not to exceed \$18,500,000; annual maturities; interest payment dates; provisions for registration of the bonds; etc.) The resolution also authorizes the selection of paying and transfer agents and a bond registrar; requests that the Local Government Commission sell the bonds through competitive bid; authorizes and directs the Mayor, City Manager and Finance Director to prepare the bonds for delivery after sale; authorizes and approves the form and content of the Official Statement which will be dated on or about January 8, 1999 and the Supplement to the Official Statement which will be dated on or about January 19, 1999; authorizes and approves the form and content of the Escrow Agreement; authorizes and directs the Mayor, City Manager, Finance Director and City Clerk to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions or other papers necessary to implement and carry out the purpose of the resolution; and provides for continuing disclosure of financial information of interest to bond holders.

In response to Councilman Cobb about the projected savings, Mr. Schaefer said that an annual savings throughout the life of the bonds is approximately \$60,000 per year.

City staff recommends City Council adopt the bond order and resolution.

Mayor Sitnick closed the public hearing at 5:25 p.m.

Mayor Sitnick said that members of Council have previously received a copy of the bond order and resolution and they would not be read.

Councilwoman Field moved to adopt the bond order without change and direct the City Clerk to publish a notice of adoption, as prescribed by The Local Government Bond Act, of the bond order entitled "Bond Order Authorizing the Issuance of Not to Exceed \$18,500,000 General Obligation Refunding Bonds, Series 1999, of the City of Asheville, N.C.," which was introduced at the regular meeting of the City Council held on November 24, 1998. This motion was seconded by Councilman Cobb and carried unanimously.

Councilwoman Field moved for the adoption of Resolution No. 98-196, Resolution of the City of Asheville, N.C., providing for the issuance of not to exceed \$18,500,000 General Obligation Refunding Bonds, Series 1999, of the City of Asheville, N.C. This motion was seconded by Councilman Sellers and carried unanimously.

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IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 98-197 - RESOLUTION TO WAIVER THE ASHEVILLE STANDARD SPECIFICATIONS AND DETAILS MANUAL SIDEWALK REQUIREMENT FOR SARDIS ROAD STOR MOR

Mr. John Echeverra, Assistant City Engineer, said that this is the consideration of a resolution waiving the Unified Development Ordinance (UDO) and the Asheville Standard Specifications and Details Manual (Standards Manual) requirement for a sidewalk along Oak Terrace Drive for the Sardis Road Stor Mor Facility.

Section 7-8-16 (f) (10) of the Unified Development Ordinance requires that new construction on property zoned Regional Business District place sidewalks as specified in the Asheville Standard Specifications and Details Manual (Standards Manual) along street rights-of-way. The Sardis Road Stor Mor proposes to build a self-storage facility on Oak Terrace Drive. Oak Terrace Drive has a dedicated right-of-way but is not a City maintained street. Oak Terrace Drive is a dirt road.

The Standards Manual requires a five foot sidewalk along the rights-of-way for all newly developed projects. The Standards Manual stipulates that for any requirements for sidewalks to be waived the City Council must take action to grant the waiver.

Staff recommends that City Council waive the requirement that a sidewalk be placed on Oak Terrace Drive for the Sardis Road Stor Mor due to the fact that Oak Terrace Drive is not a City maintained street or paved road. Additionally, this corridor is not identified on any future corridor or pedestrian thoroughfare plan.

Vice-Mayor Hay said that this does seem like the appropriate instance to make an exception. However, one of Council's goals in the UDO is to create sidewalks where ever sidewalks are appropriate and he does not want to send the message that Council is opening the door to consider a lot of sidewalk waivers.

Councilwoman Field said that one of the things the pedestrian thoroughfare plan includes is an option if

someone wants to ask for a sidewalk waiver that City Council request that they take the lump sum of money it would have cost to build it and put it into a fund to build sidewalks in other more appropriate locations. She supported City Council's adoption of the pedestrian thoroughfare plan..

City Attorney Oast responded to Councilman Cobb's inquiry about Oak Terrace Drive not being a City maintained street.

Upon inquiry of Mayor Sitnick, City Attorney Oast said that he did not think that City could require a developer to install sidewalks if, in the future, the street is paved or brought up to City standards.

Councilman Tomes said that since there were commitments made in the past for sidewalks in various areas of the City and they have not been installed yet, he felt Council needed to be very intentional about the message they send about sidewalk construction.

Mr. John Broadbooks, landscape architect and planner for the Sardis Road Stor Mor Project, explained why City Council should support waiving the sidewalk requirement.

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City Manager Westbrook said that this is the first time a request to waive a sidewalk requirement has come before City Council since adoption of the UDO, showing that staff, in addition to City Council, feels that sidewalks are equally important.

Upon request of Councilman Cloninger, and as recommended by City Attorney Oast, Vice-Mayor Hay moved to excuse Councilman Cloninger from voting on this matter due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

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

Councilman Sellers moved for the adoption of Resolution No. 98-197. This motion was seconded by Councilman Tomes and carried unanimously.

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B. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT AND RESTATEMENT OF AGREEMENT REGARDING CONSTRUCTION OF A HIGH-TECH/FLEX BUILDING TO BE LOCATED IN BILTMORE PARK TECHNOLOGY CENTER (FORMERLY TECHNOLOGY PARK AT BROADLANDS)

At the request of City staff, Councilman Cobb moved to continue this item to the December 15, 1998, City Council meeting. This motion was seconded by Councilman Tomes and carried unanimously.

C. UPDATE ON GOVERNMENT ACCESS CHANNEL

Ms. Robin Westbrook, Public and Community Information Coordinator, said that in August 1998, City Council adopted a Cable Franchise Agreement allowing InterMedia to provide cable service within the city limits of Asheville. As part of this agreement, InterMedia was required to provide three initial channels to be used for public, educational and/or government programming. A fourth access channel will be provided when certain programming thresholds are met on the other channels.

The Government Access Channel, Channel 20, is scheduled to premier on Wednesday, December 9, 1998. Programming on this channel will include a Community Bulletin Board, taped Asheville City Council

meetings, Open Net, and other varied governmental programming. Open Net, a live feed received from Raleigh, is a live two hour call-in show that focuses on statewide issues of importance. This program will be aired on Tuesday and Thursday evenings from 8:00 p.m. - 10:00 p.m.

Channel 20 will include limited programming initially; however, it is anticipated that the variety and scope of programming will increase as the channel becomes established.

Upon inquiry of Vice-Mayor Hay about the possibility of running the Chamber's political institute on this channel, Ms. Westbrook said that we have no equipment or personnel, however, we can contract to do that with an outside firm.

When Vice-Mayor Hay asked about who will make and how decisions will be made on what will be shown on the governmental channel, Ms. Westbrook said that if the information does not come from a specific City department, she would seek City Manager approval to get clearance on whatever is put on that channel. City Manager Westbrook also said that this is a -12-

factual channel about City government putting forth information that the public might need, opposed to the public channel, which is much broader. He said the focus for the government channel is much narrower. He said we will try to keep it focused strictly on local government and providing factual information to the citizens.

Mayor Sitnick said that she was sure Ms. Westbrook would be open for information from City Council as well.

Upon inquiry of Councilman Cobb about Asheville High School students taping the Chamber's Political Institute, Ms. Westbrook said that she was sure that as long as they were able to get students to do that and we were able to pay their fee, they would be happy to film it.

When Councilman Cobb asked if the City Council meetings could be shown live on the government channel, City Manager Westbrook said that that capability will be a part of the renovations to the Council Chamber.

Councilman Tomes was very supportive of involving youth in the political process.

Upon inquiry of Councilwoman Field about how much money and who decides what equipment will be purchased, City Manager Westbrook said that for the public channel, whoever the Council chooses to run the public channel would be making that decision. For the governmental channel, City staff will make recommendations to the Council based on the level of service Council wants to provide. Ms. Westbrook also said that she felt it would be Council's decision as to what percentage of that money would go to public vs. governmental.

Councilwoman Field said that she was approached with an idea of a regional public access group where everyone can pool their equipment, money, talent, and space to do the work and have the member governments that have cable contracts help support that. Ms. Westbrook said that there are several communities that do that and she does have some contacts if there is interest in pursuing that idea.

Mayor Sitnick suggested that the City pull resources together inside the City so that we can be cost effective.

D. RECONSIDERATION OF PUBLIC ADDRESS TO CITY COUNCIL RULE 7

Mayor Sitnick felt that Council changed their policy relative to public address to City Council based on one incident and one issue. She asked for City Council to reconsider not limiting the number of public speakers under the "Informal Discussion and Public Comment" portion of the agenda. The current policy allows three people to speak for three minutes on an issue or a designated spokesperson can speak for 10 minutes on an issue. She supported the three minute time limit for individuals, however, she felt that Council should not limit

the number of speakers. Regarding the 10 minute time limit for people representing groups, she felt that should possibly be lowered.

Councilwoman Field reviewed the guidelines from the City of Cincinnati regarding their public comment policy. She said that there are so many ways a person can communicate with the Council or with the government. She felt the current policy is certainly a valid and fair amount of time for Council to be aware of an issue, noting that the policy allows City Council the flexibility of waiving it.

Mayor Sitnick felt that since the policy has not been abused in the past and because the policy was changed based on one incident, she felt that not limiting the speakers further -13-

enhances the ability of people to participate in their government. She stressed that public participation is crucial to the way we should conduct our meetings.

Vice-Mayor Hay agreed that the prior policy was not abused, however, by having the current policy in place, it gives Council some control over unexpected situations. He felt that the policy makes people aware that they need to organize their thinking in advance and present their issue effectively.

Councilman Cobb suggested that representative speakers be limited to five minutes and all other individuals three minutes, including a provision that the Mayor or the Council have the authority to not take any more comments on that issue.

Councilman Cloninger voiced support for the current policy.

Councilman Tomes supported the idea of limiting comments on one issue to three speakers in favor and three speakers opposed.

Mr. Mickie McHaffee encouraged Council to broaden their time limits so that people have a chance to speak.

Mr. David Whitley felt that if you encourage more people to participate in the process, you can achieve more solutions. He also felt that it would be difficult to choose three speakers from the many who wish to speak. He said that Councilman Cobb's suggestion might be a good compromise.

Mr. Morrison felt that Council should limit comments, however, they should take opposing views.

Mayor Sitnick said that the Council Chamber is being retrofitted with a speaker timing device that will be fair to everyone who speaks.

Councilman Tomes moved to go back to the original policy of allowing individuals three minutes to address City Council, except for a spokesman of a group who will be allowed 10 minutes.

Councilman Cobb suggested that at a worksession the ten minute time limit be discussed.

Upon inquiry of Councilman Cobb, City Attorney Oast said that since the mayor is the presiding officer, she would have the authority to control the debate and stop taking comments. He also said that City Council Rule 9 (b) would apply in that the mayor has the right "to determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain the rule on objections from other members on this ground."

The motion made by Councilman Tomes failed due to a lack of a second.

E. CONSIDERATION OF WAIVING PARK USE FEES

Mayor Sitnick said that group called "Food Not Bombs" wanted to feed a group of homeless people at Pritchard Park and they did not have a permit, nor could they afford the permit fee of \$25 per day for park use. That group, along with "New Foundation" and a number of churches, have been feeding the homeless and the hungry on our streets for two or three years with no problem. She said that after talking with City staff, it was recommended that Council consider the possibility of adding a provision to the existing ordinance that allows -14-

preachers to obtain a street preaching permit, without fee, to preach in our City parks. She requested City Council, since there is a precedent in the street preaching permit, to (1) instruct staff to draft an amendment to the ordinance governing street preaching permits to include a street feeding permit; and (2) create an interim policy to waive the \$25 park use fee until staff reports back to Council on an ordinance amendment to add a street feeding permit provision.

Discussion surrounded the health issues.

Councilwoman Field said that Council has been approached by a group who wants to waive the fees in one of the community centers because they feel they are serving the community through their activities. She questioned if Council is setting a precedent of waiving fees once they have been established.

Councilman Sellers said that the Fees & Charges Committee will be meeting soon and reviewing the issue about waving the fee at the community center and felt that this issue can be reviewed by the Committee as well.

Mayor Sitnick said that she would be amenable to sending this to the Fees & Charges Committee for their review.

Mr. Mickie McHaffee, Mr. Dave Taber, Mr. Jarod Tabor and Mr. Nathan Smith spoke in support of waiving the park use fee for groups feeding the homeless and hungry for many reasons.

Ms. Regina Trantham, representative of the Merchant Action Coalition and President of the Battery Hill Association, felt that City Council should look at this issue seriously before any decisions are made. Because this is the Christmas season, many merchants could not attend the meeting to give Council their input about their concerns and asked that any decision be postponed until the first of the year. Her organizations are not just business, in that they do care about their community through productive participation in programs that help women, children and the homeless.

Councilwoman Field suggested that some kind of partnership with the churches or another institution downtown might be a way to provide restroom facilities.

Councilman Cobb moved to temporarily waive the \$25 park permit fee only (not the permit) for the groups feeding the homeless and hungry at City/County Plaza until the Fees & Charges Committee reports back to City Council with a recommendation. This motion was seconded by Councilman Tomes and carried unanimously.

VI. OTHER BUSINESS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 24, 1998, AND THE WORKSESSION HELD ON DECEMBER 1, 1998

Councilman Tomes moved for the adoption of the minutes of the regular meeting held on November 24, 1998, and the worksession held on December 1, 1998. This motion was seconded by Councilman Cobb and carried unanimously.

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B. CLAIMS

The following claims were received by the City of Asheville during the week of November 20-December 3, 1998: Jackie Little (Water), Linda Costantine (Water), Rhonda McFadden (Water), Warren Fluharty (Water), Laura Silvernail (Water) and Monty Monteath (Water).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Public Skating at the Asheville Civic Center

Vice-Mayor Hay said that he was pleased that public skating will start at the Asheville Civic Center this month..

CLOSED SESSION

At 7:08 p.m., Councilman Cloninger moved to go into closed session in order to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee - statutory authorization is N.C. Gen. Stat. 143-318.11 (a) (6). This motion was seconded by Councilman Sellers and carried unanimously.

At 7:19 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Vice-Mayor Hay and carried unanimously.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 7:19 p.m.

CITY CLERK MAYOR
