

Tuesday - August 10, 1999 - 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. OFFICIAL WELCOME AND RECOGNITION OF NEW UNC-A CHANCELLOR JIM MULLEN

On behalf of City Council, Mayor Sitnick officially welcomed new UNC-Asheville Chancellor Jim Mullen.

B. BELE CHERE 1999

Mayor Sitnick formally thanked the staff and volunteers who worked to make Bele Chere 1999 a success.

II. CONSENT AGENDA:

Due to a conflict of interest from Councilman Cloninger, Item E. was removed from the consent agenda.

A. RESOLUTION NO. 99-113 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE INSTALLATION OF BICYCLE RACKS IN VARIOUS LOCATIONS IN THE CITY OF ASHEVILLE

Summary: The consideration of (1) a resolution authorizing the Mayor to enter into an agreement with the N. C. Dept. of Transportation (NC DOT) to provide for the installation of bicycle parking racks in various locations in the City of Asheville and (2) a budget amendment, in the amount of \$60,000, for said project.

The 1997-2003 Bicycle Transportation Improvement Program provides for the installation of bicycle racks at various locations throughout the City of Asheville. Public Works staff, in conjunction with the Bicycle Task Force, has developed plans for the installation of approximately 114 bicycle racks in key downtown, park, and other public locations in accordance with the NC DOT standards and specifications. City staff has verified appropriateness based upon pedestrian access issues, streetscape impact, etc. The breakdown of locations is as follows:

Parks and Recreation: 42 - to be installed at park locations throughout the city parks. Some may be stockpiled for future projects.

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Central Business District: 31 - Some locations still need to be verified with adjoining property owners. However, definitive sites are on Biltmore Avenue, Battery Park, Page Avenue, Haywood Street, Wall Street, Broadway, Patton Avenue, City Hall, South Market Street, Public Works Building, etc. City staff will present a

map at the City Council meeting showing the criteria for selecting a site.

Park and Ride Lots: 3 - Staff is coordinating with Transit Services Director on locations.

Parking Garages: 2 - Staff is coordinating with Parking Services on locations.

Asheville High School: 2

Other Areas: 34 - These will be determined as the project unfolds, and/or stockpiled for future installation. Staff has a list of interested parties that want to be considered for placement (Buncombe County locations, etc.)

The NC DOT has left a lot of flexibility in where the bicycle racks will be ultimately installed. Their main criteria is that they must be on public property or right-of-way. We have to go through formal bid procedures for the racks. Once the Municipal Agreement is signed, we have to get approval from the NC DOT to bid. The racks will probably not be in until the Winter of 1999 and hopefully the installation will be contracted out under the grant. If not, it will be a rainy day winter project and we will be reimbursed for labor and equipment costs. This will depend on the bid results.

The Public Works Department (Bike/Pedestrian Coordinator) will oversee administering the agreement which includes rack installation and distribution to Parks and Recreation, Transit Services, Parking Services, and City Schools. As limited bicycle parking facilities exist, the City of Asheville will greatly benefit from this project.

A budget amendment, in the amount of \$60,000, is necessary for the project. Upon completion of the project, the NC DOT will reimburse 100% of all costs for equipment and rack installation for an amount not to exceed \$60,000.

The Public Works Department staff recommends adoption of (1) a resolution authorizing the Mayor to enter into an agreement with the N. C. Dept. of Transportation (TIP Project C-3415) to provide for the installation of bicycle parking racks in various locations in the City of Asheville; and (2) a budget amendment, in the amount of \$60,000, for said project.

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B. ORDINANCE NO. 2595 - BUDGET AMENDMENT FOR THE INSTALLATION OF BICYCLE RACKS IN VARIOUS LOCATIONS IN THE CITY OF ASHEVILLE

Summary: See Item "A" above.

At the request of Ms. June Lamb, City Manager Westbrook explained how the budget amendment affects the adopted budget.

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C. RESOLUTION NO. 99-114 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON AUGUST 24, 1999, TO ANNEX PROPERTY LOCATED ON SWEETEN CREEK ROAD AND PEACH TREE STREET KNOWN AS ROYAL PINES POOL AND PARK PROPERTIES

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D. RESOLUTION NO. 99-115 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON AUGUST 24, 1999, TO ANNEX PROPERTY LOCATED OFF OF HENDERSONVILLE ROAD AND KNOWN AS DEERFIELD EPISCOPAL RETIREMENT COMMUNITY INC.

RESOLUTION BOOK NO. 25 - PAGE 266

E. RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE REGIONAL WATER AUTHORITY TO AWARD A CONTRACT TO MCGILL ASSOCIATES TO IMPLEMENT ENGINEERING SERVICES FOR A RECENTLY AWARDED \$3 MILLION STATE GRANT FOR WATER DISTRIBUTION IMPROVEMENTS

This item was removed from the Consent Agenda due to a conflict of interest from Councilman Cloninger.

F. ORDINANCE NO. 2596 - BUDGET AMENDMENT TO FUND THE CRITICAL NEEDS GRANT PROJECT

Summary: The consideration of a budget amendment, in the amount of \$3,000,000, amending Capital Project Ordinance 82-25 (35 Fund - Water Major Capital Improvements Fund) to fund the \$3 million State Grant Projects.

By Resolution 82-25 dated October 5, 1982, the Regional Water Authority authorized and budgeted for various capital projects to be funded by Investment Earnings, Contributions From Other Funds, and Appropriated Fund Balance.

Capital Project Ordinance 82-25 needs to be amended to include appropriations for the following projects which will be funded with a \$3,000,000 Grant and a local match of \$289,960:

- \$646,820 for Critical Needs Contract #1 - North Asheville to include Madison Avenue, Country Club Road/Grovenmont Road/Lynnwood, Woodward Avenue, Richie Street, Orchard Street, Robindale Road, Lee Street/Prospect Street
- \$897,700 for Critical Needs Contract #2 - Town Mountain/Beaverdam Areas to include Lynn Cove Road, Lawterdale Road, Cogswood Road, Cherokee Road, Sunset Drive
- \$684,760 for Critical Needs Contract #3 - East and South Buncombe to include Chunns Cove Road, Buckeye Cove Road, Beacon Village, Wilson Avenue/Grovenmont, Upper Moffit Branch, Deaver Street, Crescent Hill Road
- \$1,060,680 for Critical Needs Contract #4 - Northwest Buncombe to include Smith Graveyard Road/Eliada Home, Adams Hill Road/Wolf Park Circle

Staff recommends approval of a budget ordinance amending Capital Project Ordinance 82-25 (35 Fund) to provide funding in the amount of \$3,289,960 for Critical Needs Contracts 1, 2, 3, and 4 to be funded with a \$3,000,000 Grant and matching funds of \$289,960.

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At the request of Ms. June Lamb, City Manager Westbrook explained how the budget amendment affects the adopted budget.

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G. RESOLUTION NO. 99-116 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE N.C. DEPT. OF TRANSPORTATION FOR A TRANSPORTATION ENHANCEMENT PROGRAM GRANT FOR (1) SIDEWALK IMPROVEMENTS SURROUNDING THE GROVE ARCADE, (2) PRITCHARD PARK,

AND (3) THE URBAN TRAIL

Summary: The consideration of a resolution authorizing the City Manager to apply to the N. C. Dept. of Transportation (NC DOT), through the Transportation Enhancement Program, for a grant for (1) sidewalk improvements surrounding the Grove Arcade, (2) Pritchard Park, and (3) the Urban Trail.

Funds are available through the NC DOT in the Transportation Enhancement Program for the Transportation Equity Act for the 21st Century (TEA21). The Transportation Enhancement Program is designed to provide links to traditional and alternative transportation by improving safety, protecting the environment and public health, and creating the opportunity for communities to improve their quality of life.

The Transportation Enhancement Program is a cost reimbursement grant requiring at least a 20% cash match from the local sponsor. Projects must fit within one or more of the eleven enhancement categories, provide a transportation link, all right-of-way must be in public ownership, demonstrate high visibility, and be ready to implement and complete within one year after the award date.

The NC DOT has approximately \$12 million to distribute statewide each year for the next three years. The NC DOT is currently in the first call for proposals, and plans to call for proposals in March 2000 and March 2001. The City of Asheville will have the opportunity to apply each year.

A team of staff from the Engineering, Parks and Recreation, and the Public Works Departments met to review the proposed projects using the criteria directed by the NC DOT. One of the primary criteria, as previously outlined, was the requirement to have allocated matching funds budgeted for each project. As a result, the City of Asheville wishes to apply for funds during the first call of proposals for (1) sidewalk improvements surrounding the Grove Arcade, (2) construction of Pritchard Park, and (3) pedestrian streetscape improvements to complete the Urban Trail.

Grove Arcade Pedestrian/Sidewalk Improvements - The project will enhance and facilitate pedestrian and vehicular traffic to and from the Grove Arcade with wider and improved pedestrian access, landscaping, and resurface streets due to sidewalk improvements.

Total project cost: \$310,000

Grant request: \$175,000

Local match: \$135,000 (43%);

Pritchard Park - The project will construct Pritchard Park including pedestrian facilities and access, streetscape improvements, bicycle route connections, and safety features for pedestrians and bicyclists. Traffic analysis is currently in progress and will be available prior to grant award date.

Total project cost: \$1,275,000

Grant request: \$800,000

Local match: \$475,000 (37%);

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Urban Trail - The project consists of pedestrian streetscape improvements along the 1.7 mile trail, including decorative pedestrian crossing, installation of ADA ramps, removal of ADA obstacles, installation of the transportation station and a trail information station, installation of tree grates, improved pedestrian lighting, landscaping, and necessary sidewalk improvements.

Total project cost: \$584,834

Grant request: \$429,134

Local match: \$155,700 (26.6%).

The City has several other projects that are potentially eligible for the Transportation Enhancement Program, such as pedestrian improvements in Biltmore Village, College Street Corridor, and construction of the Broadway Greenway. Due to the current position of the projects, staff recommends they not be considered at this time. Necessary details are being pursued on these projects for the next application cycle.

The Engineering, Parks and Recreation, and the Public Works Departments request the City Council review and concur with the recommendation for projects to be included in City of Asheville proposal for the TEA21 Transportation Enhancement Program. The Departments also recommend the City Manager be authorized to apply for and enter into an agreement in the event the City of Asheville receives the grant award.

RESOLUTION BOOK NO. 25 - PAGE 268

H. MOTION SCHEDULING THE PUBLIC HEARING SET FOR AUGUST 24, 1999, TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE STANDARDS OF WIRELESS TELECOMMUNICATION FACILITIES TO SEPTEMBER 14, 1999

I. RESOLUTION NO. 99-117 - RESOLUTION SETTING A LIMITED EVENT FEE FOR THE HONDA HOOT 2000 PARKING

Summary: The consideration of a proposal by Honda Rider's Club of America regarding parking fees for Honda Hoot 2000 and adoption of an enabling resolution.

The Honda Rider's Club of America has sponsored the Honda Hoot Rally in Asheville, North Carolina, for the past six years, and desires to bring the rally to Asheville again in 2000.

For parking arrangements, Honda Rider's Club has proposed a permit system like that used during this year's Rally. Subsequent dialog between Honda Rider's Club and City staff has resulted in the following verbal proposal from Honda:

- Honda will produce and provide a sticker, suitable for affixing to each motorcycle's headlamp, to indicate payment of the parking fee.
- Motorcycles bearing headlamp stickers will be allowed to park in a designated area of the Civic Center parking garage, in designated areas of closed streets and at metered spaces throughout the downtown area for the duration of the rally.
- Honda would remit to the City \$3.00 for each pre-registered motorcycle and would provide additional stickers for sale by Parking Services staff on-site at \$5.00 each.
- The City will grant "festival status" for Honda Hoot 2000.
- The City will provide overflow motorcycle parking from the Civic Center parking garage along one lane of Rankin Ave. from Walnut to Hiwassee and provide the same street

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closures as for this year. Honda is aware that Page Ave. closure may not be feasible

due to Grove Arcade activity or street/sidewalk construction.

Assuming the same number of pre-registrations and on-site sales as this year, the proposal for 2000 would generate approximately \$11,455 from sticker sales. This year's revenue from sticker sales was \$4,194.

In order to proceed with planning for the 2000 Rally, Honda had requested a response to their proposal by August 1. Prior to receipt of their proposal, Honda had been informed that formulation of a plan to accommodate their parking needs would probably extend beyond August 1. On July 20, following confirmation that the Grove Arcade did not anticipate opening prior to July 1, 2000, they were informed that their proposal would be scheduled to be presented to Council at the August 3 worksession.

Honda Rider's Club of America has indicated that Mr. Walt Miller will attend the August 3, 1999, worksession to discuss and answer any questions Council may have regarding their proposal.

If City Council finds the Honda proposal acceptable, staff requests the adoption of the enabling resolution which sets the limited event fee for Honda Hoot 2000.

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J. RESOLUTION NO. 99-118 - RESOLUTION RELATIVE TO ASSIGNMENT OF CABLE TELEVISION FRANCHISE FROM BRENMOR CABLE PARTNERS, L.P. TO ROBIN MEDIA GROUP INC. (d/b/a CHARTER)

Summary: Brenmor Cable Partners, L.P. (d/b/a InterMedia) and Robin Media Group Inc. (d/b/a Charter) are seeking approval of the assignment and transfer of the cable system from InterMedia to Charter.

InterMedia owns, operates, and maintains a cable television system ("System") in the City of Asheville (the "City"), pursuant to City of Asheville Ordinance No. 2496 and Ordinance No. 2500, dated June 23, 1998 and July 28, 1998, respectively (the "Franchise") and is the current authorized holder of the Franchise.

InterMedia is proposing to assign and transfer the assets, including the Franchise, of the System to Robin Media Group, Inc. ("RMG"), which will then be owned and controlled by Charter Communications, LLC, ("Charter"), subject to, among other conditions, any required approval of the City with respect thereto.

InterMedia and Charter have requested consent from the City to assign and transfer the System, including the Franchise, to RMG in accordance with the requirements of the Franchise by filing FCC Form 394, and accompanying documents, (the "Application") with the City. The terms of the Franchise require that prior to an assignment or transfer of the Franchise, the City must grant its prior written consent thereto. Federal law and the Franchise require a determination by the City that RMG has the requisite legal, technical and financial capability as described in the Application before the transfer is approved.

Based upon a review of the Application and Franchise, City staff is recommending approval of the assignment and transfer of the System, including the Franchise, from Brenmor Cable Partners, L.P. to Robin Media Group Inc., subject to compliance with certain conditions. Those conditions are set forth in the resolution approving the assignment and transfer. -7-

City staff recommends approval of the assignment and transfer of the cable system, subject to the conditions set out in the resolution.

Mr. Joe Haight, General Manager of InterMedia, thanked City Council for working with him over the past years. He said that he will be leaving his position with InterMedia, however, he would not be leaving the Asheville community and hoped that he can contribute to the community in constructive ways. He said that

prior to his leaving, he will make every effort to get the PEG channels up and running.

RESOLUTION BOOK NO. 25 - PAGE 270

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolutions and ordinances and 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 Sellers and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA

RESOLUTION NO. 99-119 - RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE REGIONAL WATER AUTHORITY TO AWARD A CONTRACT TO MCGILL ASSOCIATES TO IMPLEMENT ENGINEERING SERVICES FOR A RECENTLY AWARDED \$3 MILLION STATE GRANT FOR WATER DISTRIBUTION IMPROVEMENTS

Vice-Mayor Hay moved to excuse Councilman Cloninger from participating in this matter due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

Summary: The consideration of (1) approving a contract with McGill Associates to implement engineering services for a recently awarded \$3 million State Grant for water distribution improvements and (2) authorizing the Director of Water Resources to establish a Memorandum of Understanding with the City of Asheville Engineering Director for engineering services.

On Thursday, July 15, 1999, five proposals were received from consulting engineering firms for engineering services for Contracts 1-3 of 4 contracts defined under the \$3 million State grant. On Monday, July 19, 1999, a selection committee approved by the Water Authority's Policies & Priorities Committee and consisting of Mr. Gary Semlak, Mr. Mike Brookshire, and Mr. Tom Frederick met after reviewing the proposals. The selection committee ranked the proposals based on the following criteria set out in the RFP: firm's demonstrated qualifications, ability to meet the design schedule, project approach, financial standing of firm, and the firm's minority business plan. Based on these criteria, the committee selected McGill Associates as the most qualified for this work and determined that McGill Associates satisfactorily demonstrated the ability to perform all three projects.

Following the evaluation based on RFP criteria, the committee also reviewed McGill Associates' separately submitted fee schedule and determined the proposed fee to be within the project budget for these services. Through further negotiations with McGill, the final recommended contract amount was reduced to \$204,600.

Other firms submitting proposals include W. K. Dickson, William G. Lapsley & Associates, Mattern & Craig, and Vaughn & Melton. -8-

The Director of Water Resources has also received and recommends a written proposal from the City of Asheville Engineering Department to provide engineering services for Contract 4 of this grant not to exceed \$76,560, which is also well within the project budget.

On July 20, 1999, the Regional Water Authority unanimously approved both staff recommendations. The grant requires engineering design and permitting to be completed by November 1, 1999; therefore, City Council's earliest consideration of this recommendation would be appreciated.

Staff recommends the City Council approve the execution of an engineering contract to McGill Associates for \$204,600 and authorize the Director of Water Resources to establish a Memorandum of Understanding with the City of Asheville Engineering Director for engineering services not to exceed \$76,560.

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

Councilman Sellers moved for the adoption of Resolution No. 99-119. This motion was seconded by Vice-Mayor Hay and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 274

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE A PORTION OF A SPLIT-ZONED LOT ON VIRGINIA AVENUE AND HAYWOOD ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT

ORDINANCE NO. 2597 - ORDINANCE TO REZONE A PORTION OF A SPLIT-ZONED LOT ON VIRGINIA AVENUE AND HAYWOOD ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO COMMUNITY BUSINESS II DISTRICT

Mayor Sitnick opened the public hearing at 5:20 p.m.

Mr. Carl Ownbey, Urban Planner, said that this is the consideration of an ordinance to rezone the remainder of a lot located on Haywood Road from RM-8 Residential Multi-Family Medium Density District to Community Business II District. This public hearing was legally advertised on July 30, 1999, and August 6, 1999.

The petitioner, West Asheville Presbyterian Church, has requested to rezone the rear portion of the church lot (PIN No. 9638.13-24-3282) on Haywood Road from RM-8 to Community Business II so the entire Church property will be zoned the same. The Church wishes to revise its parking area to comply with the new handicapped accessibility code. The Church has also submitted a site plan to increase their parking facility on property they own across Virginia Avenue. The 2010 Plan indicates the area along the frontage of Haywood Road to be institutional and/or commercial. Past expansions of the church have carried over into the residentially zoned area.

The Planning staff reviewed the request and recommended approval. At their July 7, 1999, Planning & Zoning Commission meeting, the Commission voted unanimously to -9-

recommend the rezoning of the remainder of one lot located on Haywood Road from RM-8 to Community Business II District.

Ms. Norma Price, resident of 26 Zephyr Drive, urged City Council to rezone the property to Commercial Business II District.

Mayor Sitnick closed the public hearing at 5:26 p.m.

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

Councilman Sellers moved for the adoption of Ordinance No. 2597. This motion was seconded by Councilman Cobb and carried unanimously.

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B. PUBLIC HEARING TO REZONE SEVEN LOTS ON SAND HILL SCHOOL ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY

HIGH DENSITY DISTRICT

ORDINANCE NO. 2598 - ORDINANCE TO REZONE SEVEN LOTS ON SAND HILL SCHOOL ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

Mayor Sitnick opened the public hearing at 5:27 p.m.

Mr. Carl Ownbey, Urban Planner, said that this is the consideration of an ordinance to rezone seven lots on Sand Hill School Road from RM-6 Residential Multi-Family Low Density District to RM-16 Residential Multi-Family High Density District. This public hearing was legally advertised on July 30, 1999, and August 6, 1999.

The initial request from the petitioners (Grace and Douglas Beale) was to rezone the seven lots (PIN Nos. 9617.12-86-2597, 4361, 4434, 5361, 5451, 6217, and 6563) on Sand Hill School Road from RM-6 to Institutional to allow for the construction of an assisted living facility. Staff reviewed the request and concurred that the permitted uses in the Institutional Zoning District would be too intense for this neighborhood. After further review, staff recommended to the petitioners that RM-16 would meet their needs and still maintain the residential character of the immediate area. The 2010 Plan indicates this area to be low density residential and institutional. The neighborhood to the south and west contains two schools and a church. The property also borders an industrial park to the north. The RM-16 Zoning District would be compatible with the surrounding residential neighborhood to the east. At the Planning & Zoning Commission public hearing, one couple spoke in opposition and presented a petition with 37 signatures opposing the rezoning. After the meeting, the couple was informed of the protest petition procedure.

The Planning staff reviewed the request and recommended approval of the RM-16 zoning. At their July 7, 1999, meeting the Planning & Zoning Commission voted 5 to 2 to recommend approval of the RM-16 zoning for the seven lots on Sand Hill School Road.

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Upon inquiry of Councilwoman Field about what the concerns were from the couple who opposed the rezoning, Mr. Ownbey said that they felt the facility would cause an additional traffic problems along Sand Hill School Road, in addition to the ballfield and recreational facilities on the other side of the school.

Upon inquiry of Councilman Cobb, Mr. Ownbey said that Sand Hill School Road is a state road.

City Attorney Oast reminded City Council that if the property is rezoned, it can developed into any use allowed in the RM-16 zoning district.

Ms. Grace Beale, petitioner, spoke in support of rezoning the property in order to build an assisted living facility.

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 Tomes moved for the adoption of Ordinance No. 2598. This motion was seconded by Councilwoman Field and carried unanimously.

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C. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH THE DEFINITIONS OF COMMUNITY FACILITIES AND COMMUNITY IDENTIFICATION SIGNS, TO DETERMINE THE LOCATIONS OF COMMUNITY IDENTIFICATION SIGNS, TO AMEND THE REGULATIONS REGARDING SIGNS IN THE RIGHT-OF-WAY, AND TO AMEND REGULATIONS REGARDING THE ENFORCEMENT REMEDIES

Mayor Sitnick opened the public hearing at 5:47 p.m.

Mr. Carl Ownbey, Urban Planner, said that this is the consideration of amending the Unified Development Ordinance ("UDO") regarding: (1) Enforcement Remedies and Procedures, (2) Signs Located in the Rights-of-Way, (3) On-Premise Signs / Single Tenant Development - Community Identification Signs, and (4) Definition of Community Facilities and Community Identification Signs. This public hearing was legally advertised on July 30, 1999, and August 6, 1999.

During June and July of 1999, the Planning and Zoning Commission held various worksessions and regular meetings at which they discussed and recommended several wording amendments concerning enforcement of zoning violations of the Unified Development Ordinance, providing enforcement and regulation of signs in the rights-of-way, and definition and location of community identification signs.

The Commissioners approved the recommendations of the Planning staff and the Legal staff on regulations regarding enforcement remedies and procedures concerning zoning violations, the placement of signs in the City and State rights-of-way, and the definition of Community Facilities and Community Identification Signs.

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The Commissioners held two hearings concerning the location and size of Community Identification Signs (the Haw Creek community requested additional square footage for identification of community facilities) and approved the maximum square footage of the Community Identification Sign to be equal to that of a subdivision or multi-family sign at 16 square feet based on initial community input. After the Commission's decision, it was determined that this recommendation does not meet the needs of the community in adequately identifying community facilities because the sign size is too small.

Should City Council wish to address this issue, staff suggests that ordinance be referred back to the Planning & Zoning Commission to consider additional sign size for the identification of community facilities.

The Planning and Development staff presented these proposed wording amendments to the Planning and Zoning Commission at various meeting at which they voted unanimously to recommend to City Council the adoption of all these wording amendments. Staff recommends referring the ordinance concerning location and size of community identification signs back to the Planning & Zoning Commission to reconsider their recommendation.

Mr. Ownbey and Ms. Sharon Allen, Development Code Administrator, answered several questions from City Council relative to the ordinance revision regarding enforcement remedies and procedures, some being, but are not limited to, why was this provision not included in the UDO since it was included in the old Zoning Ordinance, what is a remove order, how is the provision being enforced now, and is the City enforcing any penalties.

Because City Council would like the opportunity to study each of the four ordinance revisions thoroughly, Councilwoman Field moved to discuss these amendments at a worksession, to be determined by City staff, at which time City Council will schedule the public hearing again. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Sellers moved to postpone this public hearing indefinitely. This motion was seconded by

Councilwoman Field and carried unanimously.

D. PUBLIC HEARING RELATIVE ANNEXING PROPERTY LOCATED OFF OF LONG SHOALS ROAD AND KNOWN AS BILTMORE PARK COMMON AREAS (BILTMORE PARK ANNEXATION SECTION 14), SCHENCK PARKWAY, 100 TECHNOLOGY DRIVE AND THE VOLVO BUILDING PROPERTY

ORDINANCE NO. 2599 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE BY ANNEXING A CONTIGUOUS AREA LOCATED OFF OF LONG SHOALS ROAD AND KNOWN AS BILTMORE PARK COMMON AREAS (BILTMORE PARK ANNEXATION SECTION 14), SCHENCK PARKWAY, 100 TECHNOLOGY DRIVE AND THE VOLVO BUILDING PROPERTY

Mayor Sitnick opened the public hearing at 5:56 p.m.

Mr. Paul Benson, Urban Planner, said that this is the consideration of an ordinance to annex property located off of Long Shoals Road and known as Biltmore Park Common Areas (Biltmore Park Annexation Section 14), Schenck Parkway, 100 Technology Drive and the Volvo Building property. This public hearing was legally advertised on July 30, 1999.

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Biltmore Farms, Inc. has submitted an annexation petition for Biltmore Park, Sections 14 (Biltmore Park Common Areas) and 15, (Schenck Parkway/100 Technology Drive) to expand its office/technology park. They have also submitted an annexation petition for Section 16 (Volvo Building property) which is a portion of the Broadlands Technology Park. Section 14 is approximately 20 acres of undeveloped land, Section 15 (Schenck Parkway) is approximately 8 acres of basically a 100-foot right-of-way that extends about 3,500 feet from Long Shoals Road up to the Technology Park, Section 15 (100 Technology Drive) is approximately 5 acres which is scheduled for construction of a 50,000 square foot high-tech flex building for economic development, and Section 16 is the Volvo Building property (approximately 5 acres). He said the total area is 37.3 acres and it is contiguous to the City limits. The effective date of this annexation is February 8, 2000.

The Volvo Building area, along with Sections 14 and 15, is located adjacent to the other sections of Biltmore Park previously annexed by the city, and is located west of Overlook Road and north of Long Shoals Road. This annexation is pursuant to an agreement between Biltmore Farms, Inc. and the City of Asheville.

Petitions requesting annexation of property located off of Long Shoals Road and known as Biltmore Park Common Areas (Biltmore Park Annexation Section 14), Schenck Parkway and 100 Technology Drive were received on May 20, 1999.

On July 16, 1999, the City received a petition dated July 14, 1999, for property known as the Volvo Building Property, which is located on Schenck Parkway adjacent to 100 Technology Drive. It is advisable to consider the annexation of all of these properties at the same time.

Planning staff recommends City Council adopt the ordinance extending the corporate limits of the City of Asheville by annexing a contiguous area located off of Long Shoals Road and known as Biltmore Park Common Areas (Biltmore Park Annexation Section 14), Schenck Parkway, 100 Technology Drive, and the Volvo Building property.

Mayor Sitnick closed the public hearing at 5:57.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. 419. This motion was seconded by

Councilman Sellers and carried unanimously.

ORDINANCE BOOK NO. 17 - PAGE 419

IV. UNFINISHED BUSINESS:

IV. UNFINISHED BUSINESS:

A. DISCUSSION REGARDING BRACKETTOWN ROAD AS IT RELATES TO THE ASHEVILLE MALL EXPANSION

City Attorney Oast said that on July 27, 1999, City Council voted to issue a conditional use permit for the Asheville Mall expansion, subject to staff preparing and coming back to City Council with some recommendations as to conditions. There was a shortage of some information for City Council to give staff appropriate direction regarding Brackettown Road. The purpose of this discussion is for staff to have that exchange of information with City Council about the information they have learned and to receive direction from City Council how they wish -13-

to proceed. This is not a final vote on the Brackettown Road matter because the final vote on the Brackettown Road condition, as well as all of the other conditions of the conditional use permit, will be made on August 24, 1999.

City Traffic Engineer Michael Moule said that at the conclusion of the public hearing on July 27, 1999, for the Asheville Mall Expansion, the City Council requested an evaluation of the impact of modifying the Mall's access to White Pine Drive.

The developer's traffic consultant submitted a Technical Memorandum that analyzed the following four possible scenarios: Scenario I, Full movement as it exists; Scenario II, Brackettown Road closed entirely; Scenario III, Brackettown Road inbound only; and Scenario IV, Brackettown Road outbound only. The estimation of the number and distribution of trips diverted to the remaining Mall accesses and the distribution of these trips among these accesses are reasonable based upon the available data. The number of trips diverted to other Mall accesses was overestimated slightly because no data was available for how much traffic from the adjacent restaurant and service station uses White Pine Drive. This means that the actual resulting levels of congestion from reconfiguring Brackettown Road will probably be a little bit less severe than the predictions from the Technical Memorandum.

Closing or altering the travel patterns on Brackettown Road forces vehicles to other accesses thereby putting increased traffic burden on these intersections. The Technical Memorandum includes diagrams that indicate significant increases due to these redistributed trips at the remaining three driveways and at the intersection of Tunnel Road and South Tunnel Road. The increases due to the closing of White Pine Drive are 3 to 5 times larger than the increases associated with the Mall Expansion. In addition, for the two Scenarios that include closing Brackettown Road to outbound traffic (Scenarios II and III), the redistributed exiting traffic includes high volumes of left turns, which are generally difficult to accommodate. The consultant used the traffic volumes shown on the diagrams then optimized the signal timing for the entire corridor for each Scenario.

The report concludes that the intersections within the corridor will operate at acceptable levels of service during the weekday afternoon peak hour for Scenarios II, III, and IV. This means that each intersection will have an overall level of service of A, B, C, or D; equivalent to an average delay per vehicle of less than 40 seconds. Under all three scenarios, several of the intersections will operate at level of service D, which is generally considered acceptable, but indicates higher delays than would occur if Brackettown Road remains unrestricted. During the Saturday peak hour, all three scenarios have at least one intersection that will

operate at a level of service of E or F; levels which are generally considered unacceptable. This translates to an average delay per vehicle at these intersections of 40 seconds or more.

The following attempts to explain the problems that occur during the Saturday peak hour. The original proposal optimized the signals in the corridor by reducing the cycle length. He suggested that reduced cycle lengths are better at serving side streets and driveways, but may reduce the overall capacity of the road. The original traffic study predicted that during the Saturday peak, the intersection of Tunnel Road and South Tunnel Road would operate very near capacity, but with acceptable delay. When the large volumes of traffic diverted from Brackettown Road are added to this intersection, the volume of traffic exceeds its theoretical capacity. In order for this intersection to operate within its capacity, the consultant needed to increase the cycle lengths. This in turn means that the other Mall driveways are not served as often, thus reducing the level of service at these intersections. This problem is more severe under Scenarios II and III than Scenario IV. This is due to the major increase in left turn volumes at various locations created by the redistributed exiting traffic.

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Other Factors: Closing or restricting Brackettown Road will allow residents of Kenilworth Forest to access their homes more conveniently, especially during the peak hour. However, this change will require that many other motorists, particularly those accessing the Mall from the Tunnel, will need to travel farther and experience increased delay at several intersections. In general, maintaining multiple connections eases traffic congestion in the long term, whether these connections are to a mall, to a neighborhood, or to a city's downtown.

After reviewing the report and the indicated levels of congestion throughout this corridor, staff recommends that full access (both ingress and egress) be maintained. All three options for restricting Mall access to White Pine Drive would increase congestion throughout the entire corridor. Of the alternatives for restricting Brackettown Road, the "outbound only" option causes the lowest level of congestion, but is still worse than maintaining full access. The original analysis showed that if a shorter cycle length is implemented in the corridor, the delays experienced while entering and exiting White Pine Drive will be shorter than the existing delays, even if the Mall expansion takes place.

Councilman Cloninger asked if it would help to change the design to be more perpendicular where the right hand island of Brackettown Road connects to White Pine Drive in order to discourage people from blocking the right turn lane when coming out of Brackettown Road trying to make a left onto Tunnel Road. Mr. Moule said that Brackettown Road was modified to have a 90-degree angle but there is a radius which creates the effect of not having a real sharp corner. He felt that reducing that radius might create a problem for trucks to make that turn. He personally felt that even with that change and the already existing sign that says "do not block intersection" on the stop sign, will not change the drivers' behavior.

Upon inquiry of Mayor Sitnick, Mr. Moule said that they can look into restricting trucks from coming out of Brackettown Road onto White Pine Drive.

Councilman Cloninger also asked if re-routing Brackettown Road where it enters White Pine Drive further away from the stop light on Tunnel Road would help. Mr. Moule recommended against moving Brackettown Road further away from the traffic light on Tunnel Road in that there is already an existing site distance problem coming over the crest of the hill on White Pine Drive.

Councilwoman Field suggested putting up a traffic light with a blinking yellow light on White Pine Road side and a blinking red light on the Brackettown Road side. Mr. Moule said that his observations are that drivers coming out of Brackettown Road are not coming to a complete stop, however, they do look up to the left and yield to traffic coming down White Pine Drive. He felt that, again, is a behavioral problem and putting up

flashing beacons wouldn't help that situation because most people are aware they should stop there. He did say that a full analysis could be done to find out the appropriate speed to come over the crest of the hill on White Pine Drive since there is a perceived non-yielding from Brackettown Road.

Mayor Sitnick wondered if technology was available, similar to that on Merrimon Avenue, where red lights flash when the traffic signal ahead, over a hill, is red. Mr. Moule said that the technology is available and some sort of detection system could be put on Brackettown Road and then have some sort of warning beacons on White Pine Drive. He felt they would want to look into the site distance issue before something like that was installed. He said there are other ways to address the site distance issue, one of which is to put a stop sign on White Pine Drive.

Mayor Sitnick felt that the issues on Brackettown Road existed before the expansion was proposed and she really didn't think that addressing Brackettown Road, as it pertains to the expansion, is an accurate or an appropriate way to do it. She didn't think the expansion is going to have that much more of an impact on Brackettown Road. It may have more of an impact on -15-

Tunnel Road, and because of that, she asked that, however Council votes on this in two weeks, perhaps we can find some reasonable time after the expansion is completed that we reassess whatever impact there is on Brackettown Road and White Pine Drive to be able to institute whatever technology we can so that there is convenience and safety for the neighborhood and for the Mall traffic.

Councilwoman Field asked if Council were to vote to have no traffic entering White Pine Drive from Brackettown Road, would the traffic light on Tunnel Road be removed because there were not be enough cars to warrant the light. Mr. Moule said the area would probably not meet the warrants after that, but there still would be traffic coming off the Exxon Station and the International House of Pancakes. He said it is difficult to predict what the N.C. Dept. of Transportation would do.

Councilman Cobb felt that the City needed to leave Brackettown Road as it currently exists, at this point. He is also convinced that the expansion will increase traffic at the intersection of Brackettown Road and White Pine Drive. He suggested moving the intersection back 50 feet, designing the intersection for a perfect "T", and adding a red light. The light could stay green for the Mall traffic until someone from the neighborhood of White Pine Drive triggers it.

Vice-Mayor Hay wondered if we will be making the storage problem worse on White Pine Drive if the new timing sequences along Tunnel Road are activated. Mr. Moule felt the new timing sequences should make the problems better and that the storage problems would be slightly less.

Upon inquiry of Councilman Cobb, Mr. Moule did not think that the N.C. Dept. of Transportation ("NC DOT") has any plans for a red light at the new Sears entrance. He said that already the spacing between the White Pine Drive signal and the South Tunnel Road signal is shorter than traffic engineers often like for these types of large roads. He felt the more appropriate treatment would be to not allow left turns out of that drive.

Mr. Phil Noblitt, 297 White Pine Drive, said that there is an access at the Sears Auto store and nothing in the study indicated any analysis of that entrance. He said that entrance is probably not more than 200 feet from White Pine Drive and he wished that would have been looked at as well. He would like to know how the traffic signals will be looped. He understands they will reallocate the signalization so that South Tunnel Road and Tunnel Road going toward Wal-Mart are separate. He hasn't gotten any clear indicated from either NC DOT or City staff as to whether White Pine Drive will be with the South Tunnel Road loop or whether it will be with the Wal-Mart loop. The only less than tolerable thresholds that he saw when he looked at the report was on Saturday peak hours. He said that convenience is an issue, but there is also very much a safety issue. He said he would be very disinclined to move Brackettown Road up the hill or to cut off White Pine Drive to lower it because that hillside serves as an effective buffer for noise. He noted that there is a 20% projected

increase in turning movements coming off of Brackettown Road onto White Pine Drive. He also mentioned there is the social dimension of traffic that has not been addressed. He understands that traffic engineers want to inconvenience the least number of people, but at the same time, is it better to inconvenience some people occasionally or to inconvenience and put at risk the people from the neighborhood on a daily basis. He said that even though the Highway Capacity Manual suggests that Level D service is deemed acceptable, they do not consider it an acceptable level of service. The neighborhood is concerned about the cumulative impacts of the Lowe's superstore, etc. opening on Tunnel Road. He is very appreciative of City Council looking at Brackettown Road as it enters White Pine Drive and suggested the intersection (not only the centerline) be made a perfect "T". He reiterated that the Kenilworth Forest Community Club's motion passed unanimously to close Brackettown Road or making it one-way. He hoped City Council would try to do what they can to -16-

ameliorate the traffic into Brackettown Road and put some measure in that would let you analyze, after the fact, what the total impact has been. He hoped that this issue can resurface when it reaches an unacceptable condition.

Mayor Sitnick said that City Council would revisit any road where they saw safety was an issue.

Mr. Mike Lebovitz, Senior Vice President of CBL & Associates Properties, said that his company feels it is very important and critical for this project moving forward to understand the Council's feelings on the Brackettown Road issue, although he realizes that none of the conditions placed upon the Mall are final until the final vote on August 24. He stressed that the Brackettown Road entrance is of critical importance, not to the expansion of this project, but to the day-to-day viability of the Mall and the success of the Mall. The tax revenues that are generated from this Mall and the overall positive impact it has on the Asheville community is in a great way attributable to the ingress and egress of which Brackettown Road is important, irrespective of the expansion of the Mall. They, too, are concerned about the safety of the residents of the Kenilworth subdivision and they are also concerned about the safety of the patrons of the Mall.

Ms. Margaret Kubilins, the developer's traffic consultant, emphasized two issues - mobility and the efficiency of Tunnel Road. She felt the entire length of Tunnel Road will reap benefits from the shorter cycle lengths, as well as the community and the Kenilworth neighborhood. Regarding the issue of closing Brackettown Road, she participated in various community meetings and one issue that keeps being brought up is mobility and the ease of access to get around. She said that closing one more connection will not be going in the proper direction. She recommended that Council keep the connection as it is. They will work with the NC DOT to improving the access on White Pine Drive by modifying the signal timing.

City Manager Westbrook said that the kind of guidance that staff is looking for in this issue is whether or not whether Brackettown Road be closed, one-way, or left as is. The City's traffic engineer has recommended that it have full movement as it currently exists. The second issue is that Council and the community has concerns about traffic not coming to a full stop as they exit Brackettown Road. Perhaps the guidance to staff could be to work with the developer and the neighbors to come up with a solution on the exiting of the Mall problem, either through design, signal timing, visual indications, etc. that would work in that particular intersection. There may be even some combination of the suggestions made that may work very well, be cost effective and work great for the developer as well as for the neighborhood.

Mayor Sitnick wanted to make it clear to everyone involved that this Council is very concerned not only about the convenience and safety of Mall visitors, but of the convenience and safety of the neighborhood. It was her personal hope that this will not be a stagnant situation that Council makes a decision on in two weeks and leaves alone. She would like to see a review, at a reasonable time after the expansion occurs. Direction to staff will be to make this the very safest area as possible using whatever technology we can. She would also like staff to consider the possibility of limiting truck traffic on Brackettown Road. The points Councilman Cloninger mentioned about the way the right hand curve is configured on Brackettown Road going onto

White Pine Drive needs to be reviewed. Council's direction is going to be for staff to work with the developers and the NC DOT to do whatever it takes to make that area safe - not only the intersection of Brackettown Road and White Pine Drive, but the whole road from the crest of the hill on White Pine Drive to the traffic light on Tunnel Road.

Upon inquiry of Councilwoman Field, Mr. Moule said that he did not have the information on the accident rate at the intersection of Brackettown Road and White Pine Drive.

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City Attorney Oast said that it was his understanding the recommendation of the City's traffic engineer is that the two-way access on Brackettown Road be maintained and that measures be looked at to ensure that intersection remains as safe as possible or improvements be made to it to make it as safe as possible.

Mayor Sitnick added that any dialog that takes place amongst staff and the developers also include the neighborhood representatives so that they can be at the front-end of whatever is worked out and have the opportunity for input before decisions are made.

V. NEW BUSINESS:

A. MOTION GIVING STAFF DIRECTION REGARDING THE POTENTIAL EXTENSION OF THE CITY'S EXTRATERRITORIAL JURISDICTION INTO THE REYNOLDS MOUNTAIN AREA

Due to a conflict of interest, Vice-Mayor Hay moved to excuse Councilman Cloninger from participating in this issue. This motion was seconded by Councilwoman Field and carried unanimously.

Mr. Mike Matteson, Urban Planner, said that the Planning and Development Department staff is seeking direction from the City Council regarding the potential extension of the City's Extraterritorial Jurisdiction (ETJ) in the Reynolds Mountain area.

The Planning and Zoning Commission has directed the Planning and Development Department staff to pursue the extension of the City's ETJ in the Reynolds Mountain area - north of the City's corporate limits.

This request by the Commission resulted from the Commission's review of the proposed Reynolds Mountain Subdivision, a 174 lot single family subdivision to be located on Reynolds Mountain. Although the proposed subdivision is to be located almost entirely outside of the City's zoning jurisdiction, it is anticipated to have a significant impact on the City's infrastructure and the Lakeview Park neighborhood, through which one of the two access points to the subdivision is proposed.

The proposed ETJ extension would include a portion of the Reynolds Mountain Subdivision as well as additional properties to the north and east which are similar to Reynolds Mountain Subdivision in their potential for development and in the potential impact which future development may have on the City.

The Town of Woodfin is also exploring ETJ extension to include a portion of the subdivision. The Planning and Development Department staff has met with staff from the Town of Woodfin to develop a line of demarcation separating the proposed Town of Woodfin's ETJ from the potential City of Asheville's ETJ. This line of demarcation has been viewed favorably by the Town of Woodfin's Board of Aldermen. The proposed Subdivision will be developed in two phases. Phase I of the Subdivision would fall within the City and Phase II would fall within the Town of Woodfin.

By extending ETJ in this area, the City would gain the ability to anticipate, plan and manage future growth in this area.

Councilman Tomes moved to authorize City staff to investigate the extension of the City's ETJ into the Reynolds Mountain area with the general boundaries outlined by City staff. This motion was seconded by Councilwoman and carried unanimously. -18-

VI. OTHER BUSINESS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 27, 1999, AND THE WORKSESSION HELD ON AUGUST 3, 1999

Vice-Mayor Hay moved for the adoption of the minutes of the regular meeting held on July 27, 1999, and the worksession held on August 3, 1999. This motion was seconded by Councilman Cobb and carried unanimously.

B. CLAIMS

The following claims were received by the City of Asheville during the period of July 9-29, 1999: Marie Brackett (Sanitation), Thomas Jackson (Streets), Louise McAdams (Sanitation), Garland Brothers (Fire), BellSouth (Water), Mary Chambers (Police), Lloyd E. Cutshall (Water), Christine Craig (Parks & Recreation), American Home Patient (Water), Jamie L. Bolick (Water), Debra McDonald (Parks & Recreation), JoAnn Burdette (Water), Andrew Gayle (Parks & Recreation), Penny Beaird (Water) and Whatever Rents (Parks & Recreation).

The following claims were received by the City during the period of July 30-August 5, 1999: Eric Niwinski (Streets), Tammy Bradley (Streets), Rosemary Heffron (Sanitation), Carolyn Radford (Water) and Steve Banner (Streets).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Comments by Mr. Harold Payne regarding the Asheville Mall expansion and the Time Limit Policy for Speakers

Mr. Harold Payne, 299 White Pine Drive, commented on the traffic issues on White Pine Drive and Brackett Road. He also felt that the time limit for speakers should be increased to five minutes.

Comments by Ms. June Lamb regarding the Time Limit Policy for Speakers

Ms. June Lamb recommended City staff speak distinctly so that the public can understand what is being said. She also felt the time limit for speakers should be increased to five minutes.

Comments by Mr. Phil Noblitt relative to the Asheville Mall Expansion

Mr. Phil Noblett said that City Council has gone a long way to accommodate the developer's interest, however, he urged City Council to keep in mind there are other issues on the table from the neighborhood.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 7:25 p.m.

CITY CLERK MAYOR
