

Tuesday - January 11, 2000 - 5:00 p.m.

## Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry M. Whitmire; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

### **INVOCATION**

Councilman Peterson gave the invocation.

### **ADDITIONS TO THE AGENDA**

At the request of City Manager Westbrook, City Council added two items (1) report on I-26 Design Forum; and (2) Civic Center appropriation.

At the request of Mayor Sitnick, City Council added and item called "Ukiah Morrison".

### **I. PROCLAMATIONS:**

#### **A. UNITED WAY CAMPAIGN**

Mayor Sitnick recognized Mr. David Bailey, Chief Executive Officer of United Way of Asheville and Buncombe County, who outlined the support given to the United Way by employees of the City of Asheville. He said that it appears to have resulted in the largest City employee campaign in our history.

The City of Asheville made significant contributions to United Way's 1999 campaign. City employees were the largest employee group to volunteer for Day of Caring (in fact, nearly half of the firefighters of the Asheville Fire Department volunteered to participate on their own time).

On behalf of City Council, Mayor Sitnick thanked City Campaign Co-Chairs Ms. Corinne Meade, Ms. Dee Black and Fire Department Captain Nancy Tabel who coordinated the Day of Caring) for their hard work on the United Campaign.

#### **B RECOGNITION OF WILLOW KOERBER - WINNER OF THE NATIONAL MOUNTAIN BIKE AWARD**

Mayor Sitnick recognized Willow Koerber, student at UNC-Asheville, and her accomplishment of winning the National Mountain Bike Award.

### **II. CONSENT:**

At the request of Councilman Peterson, Item E. was briefly discussed.

#### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 21, 1999**

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#### **B. RESOLUTION NO. 00-1 - RESOLUTION APPOINTING A MEMBER TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE**

Summary: On December 16, 1997, City Council appointed H. Earl Cobb as the elected representative on the Americans with Disabilities Act Compliance Committee. Due to Councilman Cobb's term ending on City Council, there is a need to appoint a replacement.

On December 14, 1999, City Council instructed the City Clerk to prepare the proper paperwork to appoint Councilman Brian Peterson as the elected representative to the Americans with Disabilities Act Compliance Committee to serve a term according to the length of his Council term of office.

**RESOLUTION BOOK NO. 25 - PAGE 388**

**C. RESOLUTION NO. 00-2 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS COMMITTEE**

Summary: On June 22, 1999, Councilman Tommy Sellers was reappointed as the elected representative on the Asheville-Buncombe Crime Stoppers Board of Directors. Due to Councilman Sellers' term ending on City Council, there is a need to appoint a replacement.

On December 14, 1999, City Council instructed the City Clerk to prepare the proper paperwork to appoint Councilwoman Terry Whitmire to serve the unexpired term of Mr. Sellers, term to expire June 30, 2002, or until her successor has been appointed.

**RESOLUTION BOOK NO. 25 - PAGE 389**

**D. RESOLUTION NO. 00-3 - RESOLUTION APPOINTING A MEMBER TO THE CITIZENS/POLICE ADVISORY COMMITTEE**

Summary: On January 23, 1996, City Council appointed Councilman Tommy Sellers as the non-voting City Council member on the Citizens/Police Advisory Committee. Due to Councilman Sellers' term ending on City Council, there is a need to appoint a replacement.

On December 14, 1999, City Council instructed the City Clerk to prepare the proper paperwork to appoint Councilman Brian Peterson as the non-voting City Council member on the Citizens/Police Advisory Committee to serve a term according to the length of his Council term of office.

**RESOLUTION BOOK NO. 25 - PAGE 390**

**E. MOTION SETTING A PUBLIC HEARING ON JANUARY 25, 2000, TO CONSIDER A CONDITIONAL USE PERMIT FOR NETTLEWOOD PROFESSIONAL PARK LOCATED ON HENDERSONVILLE ROAD IN THE VICINITY OF WAL-MART**

Councilman Peterson said that after meeting with the developer and reviewing his plans, and after talking with some of the residents, it has come to his attention that the issue of access to the property has not been settled. Since one of the Council's criteria in evaluation a conditional use permit is the impact on traffic, he felt it would be inappropriate to hold the public hearing when that key component has not been worked out.

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City Attorney Oast said that it was his understanding that City staff is prepared to go forward with the public hearing. There are questions about access, however, Planning staff feels that the project is ready for Council's consideration.

City Manager Westbrook said that the Traffic Engineer was not in his office today and was unable to review

the information, however, a revised staff report will be sent to Council tomorrow with his evaluation of the traffic impact analysis.

Upon inquiry of Mayor Sitnick, City Attorney Oast said that even if the public hearing is set for January 25, City Council can continue the public hearing if City staff has not had adequate time to review the information.

Mr. Scott Shuford, Planning & Development Director, said that there are still some issues that need to be resolved. He has talked with the developer who has indicated a willingness to work towards resolution. If they are unable to get that resolved in time for the Planning staff to have adequate time to analyze it, they would then send a recommendation to continue the public hearing to allow further time for review.

Upon inquiry of Councilman Peterson, Mr. Shuford stated that the developer will have had to pretty well have the issue of his major access settled prior to the public hearing.

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 Worley and carried unanimously.

### **III. PUBLIC HEARINGS:**

#### **A. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR A TELECOMMUNICATIONS TOWER AT 200 TUNNEL ROAD**

Mayor Sitnick said that a letter has been received from the petitioner American Tower Corporation requesting a continuance of this public hearing until February 8, 2000. This continuance would allow them time to receive final written approval from US Cellular which would allow them to stack their equipment on top of theirs, thus allowing American Tower to withdraw their application for a conditional use permit.

Vice-Mayor Cloninger moved to continue the public hearing until February 8, 2000. This motion was seconded by Councilman Worley and carried unanimously.

#### **B. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING DETACHED GARAGES AS ACCESSORY USES**

##### **ORDINANCE NO. 2650 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING DETACHED GARAGES AS ACCESSORY USES**

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

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Urban Planner Carl Ownbey said that this is the consideration of an ordinance amending the Unified Development Ordinance regarding detached garages as accessory uses. This public hearing was advertised on December 31, 1999, and January 7, 2000.

The Planning and Development staff has received several requests over the past several months proposing the placement of detached garages in front of the principal structure. Since this placement is not permitted under section 7-16-1.c.2.d of the Unified Development Ordinance, these requests have been taken to the Board of Adjustment for a variance.

This wording amendment will permit the location of a detached garage in front

of the principal structure if:

- 1) the garage is not located in the front setback, and
- 2) the garage is located and/or designed so that it is clearly subordinate

to the principal structure in terms of scale.

Given the topography of the Asheville area and the unusual shapes of some lots in the City, City Council, at their worksession on December 14, 1999, asked that the ordinance be amended to provide reasonable options and flexibility in the location of detached garages. The proposed ordinance before City Council addressed those concerns.

The Planning and Development staff presented the original proposed wording amendment to the Planning and Zoning Commission at their December 1, 1999, regular meeting. After presentation by staff, the Planning and Zoning Commissioners voted 6-1 to recommend to City Council the adoption of the original wording amendment.

When Councilwoman Field asked about the definition of "clearly subordinate" vs. "architectural compatibility", City Attorney Oast said that "architectural compatibility" is a judgment term and "clearly subordinate" can be defined.

Mayor Sitnick closed the public hearing at 5:30 p.m.

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

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2650. This motion was seconded by Councilman Hay and carried unanimously.

## **ORDINANCE BOOK NO. 18 - PAGE**

### **C. PUBLIC HEARING RELATIVE TO AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING BANKS AS RESIDENTIAL RELATED COMMERCIAL SERVICES**

#### **ORDINANCE NO. 2651 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO ALLOW BANKS TO BE INCLUDED AS RESIDENTIAL RELATED COMMERCIAL SERVICES IN RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICTS**

Mayor Sitnick opened the public hearing at 5:31 p.m.

Urban Planner Stacy Merten said that this is the consideration of an ordinance amending the Unified Development Ordinance to allow banks to be included as residential related -5-

commercial services in RM-16 Residential Multi-Family High Density districts. This public hearing was advertised on December 31, 1999, and January 7, 2000.

Currently the Unified Development Ordinance (UDO) limits residential related commercial services to dining halls, beauty shops, barber shops, laundry facilities, food stores, newsstands, drug stores, and flower and gift shops as uses by rights subject to special requirements in the RM-16 zoning district. This amendment will expand the limits to allow banking facilities. This amendment was precipitated by a specific request from the Deerfield Community to locate a small, 423 square foot, banking center in one of their buildings for use only by residents of the community. The amendment also prohibits drive-through facilities for all residential related

commercial services and specifies that all of the services shall occupy no more than 25 square feet per dwelling within the residential development. There was no comment at the public hearing

Planning & Development staff presented this wording amendment to the Planning & Zoning Commission at their December 1, 1999, meeting. The Commission voted unanimously to recommend to City Council the adoption of this wording amendment.

Mayor Sitnick closed the public hearing at 5:33 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 2651. This motion was seconded by Councilwoman Field and carried unanimously.

#### **ORDINANCE BOOK NO. 18 - PAGE**

#### **D. PUBLIC HEARING RELATIVE TO ZONING HEATHBROOK AT BILTMORE PARK, PHASE II**

#### **ORDINANCE NO. 2652 - ORDINANCE ZONING PROPERTY KNOWN AS HEATHBROOK AT BILTMORE PARK, PHASE II**

Mayor Sitnick opened the public hearing at 5:34 p.m.

Urban Planner Stacy Merten said that this is the consideration of an ordinance to zone Heathbrook at Biltmore Park, Phase II (Biltmore Park, Annexation Section 13) as RS-8, Residential Single-Family High Density. This public hearing was legally advertised on December 31, 1999, and January 7, 2000.

The Planning and Zoning Commission, at their December 1, 1999, meeting, reviewed and recommended approval to zone the recently annexed property known as Heathbrook at Biltmore Park, Phase II, as RS-8, Residential Single-Family High Density. This is a 4.82 acre tract, consisting of 22 individual parcels, adjacent to Phase I of Heathbrook which is also zoned RS-8. The newly annexed property is currently under development with single family residential housing. The proposed zoning will allow the development to go forward as planned with all of the lots conforming to the proposed zoning. There was no comment at the public hearing.

The Planning and Zoning Commission voted unanimously to recommend approval of the initial zoning as RS-8, Residential Single-Family High Density. The Planning and Development staff recommends approval of the new zoning.

Mayor Sitnick closed the public hearing at 5:35 p.m. -6-

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

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2652. This motion was seconded by Councilwoman Field and carried unanimously.

#### **ORDINANCE BOOK NO. 18 - PAGE**

#### **E. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF CONTIGUOUS PROPERTY LOCATED WEST OF OVERLOOK ROAD AND IDENTIFIED AS BRAESIDE SECTION 5 AT BILTMORE PARK**

**ORDINANCE NO. 2653 - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY LOCATED WEST OF OVERLOOK ROAD AND IDENTIFIED AS BRAESIDE SECTION 5 AT BILTMORE PARK**

Mayor Sitnick opened the public hearing at 5:36 p.m.

Urban Planner Paul Benson said that this is the consideration of an ordinance to annex property located west of Overlook Road and identified as Braeside Section 5 at Biltmore Park. The public hearing was legally advertised on December 31, 1999.

Biltmore Farms, Inc., has submitted an annexation petition for Braeside Section 5 at Biltmore Park. This area is north of and adjacent to Braeside Section 2 has been previously annexed and is within the corporate limits. Biltmore Park is generally 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.

The area proposed for annexation consists of 10.5 acres and is platted for 4 single-family residential lots and a small reserve area. The area will be accessed by Braeside Circle.

Utilities and streets are being developed by Biltmore Farms, Inc. City services will begin on the effective date of annexation. Biltmore Farms, Inc. has requested that the effective date of annexation be six months from the adoption of the ordinance.

City staff recommends City Council annex property located west of Overlook Road and identified as Braeside Section 5 at Biltmore Park.

Upon inquiry of Mr. Don Yelton, City Attorney Oast said that City taxes begin on the effective date, which is in six months on this annexation.

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 Worley moved for the adoption of Ordinance No. 2653. This motion was seconded by Councilman Hay and carried unanimously.

**ORDINANCE BOOK NO. 18 - PAGE**

**IV. UNFINISHED BUSINESS: -7-**

**A. REQUEST BY PAUL AND JAMES YOUNG REGARDING PROPERTY NEAR THE AIRPORT FOR A MOTOR SPEEDWAY**

Due to a conflict of interest, Councilman Hay excused Vice-Mayor Cloninger from participating in this matter. This motion was seconded by Councilman Worley and carried unanimously. Vice-Mayor Cloninger then left the room.

Mayor Sitnick said that City Council had invited representatives of the Airport Authority, the Youngs, the High Vista Homeowners' Association, the River Port Homeowners' Association, Residents Opposition to the Airport Racetrack and Wildwood Homeowners' Association to answer questions raised by City Council at the December 21, 1999, meeting. She stated that she has received a letter from the Town of Fletcher as well as a letter from the Henderson County Board of Commissioners. In addition, Planning & Development Director Scott Shuford has provided City Council with their requested additional information from the December 21,

1999, meeting regarding the site near the Asheville Regional Airport proposed for a speedway.

Mr. Robert Turner, Chairman of the Asheville Regional Airport Authority, said that a special meeting was held by the Airport Authority and one of the questions surrounding the property which has been proposed for the racetrack was that of funding for its purchase by the City of Asheville and how that might affect its use. In summary of a letter received from the Federal Aviation Administration (FAA) on January 10, 2000, the property was purchased with Federal Aid for Development of Public Airports. The property is obligated under the grant agreement and may not be disposed of or used for purposes other than shown on the approved airport layout plan without the consent of the FAA. At the special meeting, as a result of the FAA letter, the Chair of the Airport's Buildings and Grounds Committee did not support making soil borings. There was a subsequent motion to allow the borings, however, the motion died for lack of a second. The inaction of the Authority is a reaffirmation of its December 20, 1999, resolution wherein the Authority requests the City to not permit any non-aviation related facilities on such real property and that such property be reserved and preserved solely for the use of the Airport.

Mr. Armour, Airport Director, reviewed with Council the Airport Master Plan process and explained the Airport Improvement Program. Using specific pages out of the Airport Master Plan, Mr. Armour pointed out that in the Airport Development Plan it states "A west side development area is recommended to provide the Airport with long-range expansion potential for a variety of future aviation-related uses. This will maximize the Airport's continued economic and development potential for the Asheville region." He then reviewed the economic impact of the Airport, the Air Space Plan, the Airport Layout Plan and the On-Airport Land Use Plan. He also quoted out of the Technical Report information on the floodplain issue.

Mr. Armour then read the following letter dated January 10, 2000, he received from the FAA from Scott L. Seritt, Manager of the Airports District Office in College Park, Georgia:

"As a follow-up to our meeting on January 6, I want to re-emphasize the Federal Aviation Administration's (FAA) position concerning the use of airport property acquired with federal assistance. The specific issue we discussed concerns the proposed construction of a racetrack at the Asheville Regional Airport.

"1. The property for the Asheville Regional Airport including the land proposed for the racetrack was purchased under Federal Aid for Development of Public Airports (FAAP) Project 9-31-024-5801. This property is obligated under the grant agreements and may not be disposed of or used for purposes other than shown on the approved airport layout plan (ALP) without the consent of the FAA.

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"2. The 1993 Airport Master Plan (AMP) Update indicates an aeronautical need for the property proposed for the racetrack and it would not be in the best interest of the airport or the FAA to release the property. Note that a land release would require the airport sponsor to make a determination that the grant acquired land was no longer needed for airport purposes and establish its fair market value (FMV). The portion of the sale proceeds proportionate to the United States share of the acquisition costs would be paid to the Secretary for deposit in the Aviation Trust Fund.

"3. Any lease of grant acquired land must be at the current FMV and any funds generated must remain on the airport.

"4. The FAA may approve an interim use of aeronautical property for non-aviation purposes until such time as it is needed for its primary purpose. This requires a determination that such property will not be needed for any aviation use during the short-term contemplated. Investment by the interim user is at their risk and will not be a factor in considering any renewal of a lease or use agreement. FAA consent would be conditioned on the airport owners' agreement to apply the income from such use to the development, operation and

maintenance of airport facilities.

"5. The conversion of any area of airport land to a substantially different use than that shown on the approved ALP could adversely affect the safety, utility or efficiency of the airport and constitute a violation of the grant obligations."

When Councilwoman Field asked how it is decided when it's time to build a new runway, Mr. Armour said that it is only a long-range project at this time. Presently there is approximately 90,000 operations on an annual basis. Even though the need for a new runway is based on a lot of things, one of those is the Airport serving between 150-200,000 operations on an annual basis.

Mr. Armour agreed with Councilwoman Field in that the Airport also wants the land reserved for safety reasons.

In responding to questions from Councilwoman Whitmire, Mr. Armour said that commercial air service only accounts for about 20% of their traffic. About 80% is general aviation and most of that is business and corporate related.

Councilman Peterson asked about the procedure that the City went through with the FAA to release the property which is currently leased to the Agricultural Center. Mr. Armour said that City petitioned the FAA and the FAA said that based on the development and layout of the airfield, the FAA determined that that property was in excess to the aviation needs. Mr. Armour did not know how long the process took in order to get the property released. City Attorney Oast also responded in that the lease with the Agricultural Center property was entered into in 1986 for an initial term of 20 years, renewable for four additional terms of 20 years each. He said the rental was \$500,000 one-time one-sum payment that appears to have gone to the City of Asheville.

Mr. Armour noted that because the subject property was purchased by the City with federal funds, the property would have to be sold at fair market value. He said the City would be responsible for paying the United States proportionate share which is normally 90%.

When Councilman Peterson asked about what restrictions do the private property owners have that live on the west side of the Airport, Mr. Armour said that the only restrictions that would affect the Airport would be the height of objects that might affect the navigable air space. -9-

Councilman Peterson said that since the Airport Authority and the FAA are concerned with protecting the property surrounding the Airport for compatible uses, he asked what was being done to further protect that property. Mr. Armour said that the only way the property can be protected is through local zoning and comprehensive land use plans.

Mr. Samuel Tucker, retired air controller, said that Asheville does not have the capacity in the immediate future to promote dual or parallel runways.

Mr. Lou Bissette, attorney for the Youngs, said that he was Mayor of the City of Asheville in 1986 when the property was leased to the Agricultural Center. If he recalled correctly, none of that money was required to go to the FAA - it went to the City of Asheville. He felt that the Airport is one of the most important things to our community from an economic development standpoint. On January 5, 2000, when the Airport Authority met, he said there was a lot of discussion about letting the testing go forward and also some discussion of a short term lease (10-15 year range) that would allow the Youngs to build the racetrack, if they wanted to risk that, and still give the Airport the opportunity to get the property back if indeed they needed a new runway. On January 6, Mr. Armour talked to the FAA, then at the January 10 meeting, the FAA letter was received. He said from all news accounts, you would think the FAA letter is something unique that was written that



absolutely precludes the use of that property for a racetrack. That is not the case.

Mr. Bisette then responded separately to each paragraph in the letter: Paragraph One: Everyone knew the subject property was acquired with FAA funds and that was no big surprise. The Holiday Inn property, the White Westinghouse property, the WNC Agricultural Center, and the Exxon Station property were all acquired with FAA funds. Paragraph Two: The letter states that the use of the racetrack would have to be approved by the FAA. They've known that from the beginning and that is no surprise either. Paragraph Three: He was not sure where the Holiday Inn lease payments are going and the City just received a report from the City Attorney about the Ag Center lease payment. The information in paragraph three is nothing new. Paragraph Four: Mr. Armour just reported that the Master Plan calls for the runway to be built in the long-term or sometime in the 15-20 year range. This goes right along with the Airport Authority's discussions last week about a lease to the Youngs in the 10-15 year range, so that if in fact a runway is needed, then there would be a way to get it back and build it. In looking at the plans, with regard to safety, the White Westinghouse property and the Ag Center property appear to be as close to the runway as this property is. Information from the Airport Authority dated December 22, 1999, states that aircraft operations average 208 per day, and annually that would be approximately 76,000 per year - noting that Mr. Armour said that to build another runway would require approximately 150-200,000 operations per year. Because of those figures, a short-term lease is something that the Youngs could very well be able to consider. Paragraph Five: No one would say that anything be built on that property without getting FAA approval.

Mr. Bisette felt that the FAA has sent a similar letter every time to the City when they have explored using some of that property for other purposes. The letter is only a start and just spells out a procedure that has been used time and time again for property owned by the City around the Airport. The Youngs are asking for an orderly process for determining whether or not this new Asheville speedway should be allowed on this property. The process consists of four parts: (1) begins with allowing the Youngs to go onto the property for testing; (2) if the tests prove to be okay, then the Youngs would hire a designer who would design the facility and present to City Council, the Airport Authority and the FAA exactly what the facility would look like; (3) then Airport Authority and FAA approvals would be sought; and (4) then it would come back to the City Council for public input and Council could make the final decision on the transaction. He said that based on facts, no one is getting ready to begin work on a new runway. He urged City Council to allow the Youngs to test the soil.

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Councilman Peterson said that the City has a great many needs, particularly recreational programs, parks, sidewalks, etc., and the Youngs have talked about their concern about the greater community. He wondered, if the City did lease the property if they find that some of that property is unsuitable for other uses, if they would consider working with the City to meet some of its other needs. Mr. Bisette said that knowing the Youngs and their interest in youth, he was certain they would be very amenable to working with the City on recreational facilities in that project.

Mayor Sitnick said that the safety feature to her is primary and she knows the Youngs would not want to do anything to create an unsafe situation, nor would the FAA allow that to happen.

When Mayor Sitnick said about how long it would take to build a speedway - beginning with the soil testing to the actual opening of the speedway, Mr. Bisette felt it would possibly take 1-1/2 to 2 years.

Mayor Sitnick asked who would make the determination of a lease termination. Mr. Bisette responded that that matter would be negotiated between the City, the Airport Authority and the Youngs.

Mayor Sitnick asked if a speedway could be enclosed to eliminate the noise concerns. Mr. Young responded that it could not be enclosed because of the fumes and enormous expense. Mr. Bisette also responded that

the Youngs have had a noise consultant look at the project and will have a report if testing of the property is approved.

Councilwoman Field asked Mr. Young if he would continue to look for other suitable property if City Council did not approve access to this property. Mr. Young responded that at this point he was unsure if he would pursue other land options or not.

Upon inquiry of Councilman Peterson, Mr. Young said that the lease payment to the City for operation of the Asheville Speedway in 1999 was \$75,000.

Mr. Dick Lantrip, speaking on behalf of High Vista Homeowners Association and the Regional Organization Against the Airport Racetrack and resident of Henderson County, clarified that even though land is partially in a floodplain, it can be used for development of other commercial, industrial and residential properties in addition to airport runway expansion, if the ground is properly prepared. He pointed out that in the 1993 the Airport Master Plan it is projected that property will be needed in the 11-20 year timeframe. If you take the 11-20 year projection and bring it to the current date of 2000, you could assume that the planned use of the property is in the 4-13 year range. He explained that there could be no guaranteed lease period for the Youngs because if the FAA or Airport Authority recognized the need for the property, the racetrack would have to give it up. He felt that the focus of the racetrack issue is moving away from the overall impact on the area and more toward the technical aspects of property control. He felt Council was focusing too much on whether the property can be authorized for racetrack use, who has control over that authorization, and under what terms and conditions could it be authorized for racetrack use - completely ignoring the detrimental impact the racetrack would have on that piece of property over the broad area of Buncombe County and Henderson County. He urged Council to refocus on the human elements that would be impacted by a racetrack on that property. He stressed that the racetrack will have a devastating impact on residents in the area. He explained some of the impacts being to the quality of life; decreasing property values; significant noise pollution; high traffic impact; adverse impact on the French Broad River basin; activities and influence that might surround a racetrack; and adverse impact on local churches and schools. He felt the property is prime for economic development in the area which would bring in more traffic to the Airport. However, he felt that to build a racetrack on that property -11-

would decrease the growth rate of the Airport. He said they have a letter of opposition signed by representatives of subdivisions, pastors of local churches, and homeowners that live outside subdivisions. He said the boundaries between Buncombe and Henderson Counties were adjusted in 1959 for the express purpose of building an airport. He questioned if there would be a violation of the intent of the land agreements if the City were to sell or lease it to the private industry for personal or financial gain.

When Mr. Lantrip mentioned that there might be other motivations driving the focus of the issue of the racetrack, Mayor Sitnick stressed that even though Mr. Bissette is a former Mayor of Asheville and Representative Martin Nesbitt is on our legal delegation, at no time has there been any conflict of interest or crossing the line of any person in this matter. Both attorneys have handled this matter in the most professional way, never using their positions to influence City Council in any way.

Ms. Hilda Hamilton, representative of the River Port Homeowners Association, spoke in opposition of the racetrack on the property at the Airport due to noise pollution and the significant decrease of property values if the racetrack is built.

Representative Martin Nesbitt, speaking on behalf of the racing community, reiterated what Mr. Bissette said in that there was nothing in the letter from the FAA that they did not know about, and discussed in great detail, before the Airport Authority meeting. They asked the Airport Authority how long they felt it might be before another runway would be built and the Authority anticipated that it would be at least 10 years. Amongst other things discussed at the Authority meeting was the possibility of Winston Cup and Bush teams

using our Airport facility and using this racetrack as a test facility. He was of the opinion that if the racetrack was allowed to be built at that site, Winston Cup would fly their drivers in, test their cars and then fly them back out for appearances. They have talked about building buildings on the grounds so they would have a facility there where their crews could get the cars ready. That is economic development for the Airport and industry in that area. He made it clear that in these discussions no one has ever indicated that anything should be permitted on that property that would be adverse to the interests of the Airport. He urged City Council to support the racing community and allow the Youngs to test the soil on the subject property.

Mr. Norman Medford, resident of Haywood County and representative of Citizens for Improving Mountain Living, talked about the major obstacles regarding the proposed racetrack in Canton, citing no comprehensive water or sewer. He said that there is a strong consensus now that it may never be built in a timely manner that everyone is believing. Over 88% of the Canton community has not endorsed it.

Upon inquiry of Councilwoman Field, Ms. Cindy Michael, representing Canton Motor Sports Park, said that they are in the process of getting their permits ready to be applied for. Water and sewer issues have been addressed and they are looking into grants. They have their preliminary artist conceptual drawings and their plans. This will not be just a racetrack, but a family place - campgrounds and a lodge. Regarding the viability of this track, there has been 30 acres cleared. They are working with Canton Alderman Charlie Crawford who have been very helpful and is helping them get things through the political process. There are not as many restrictions in Haywood County as in Buncombe County, but it is private property and that allows them to do some things that you don't on a commercial or public piece of property. She said the access to the racetrack would be from Highway 19-23, which the State already has plans for widening that road.

Councilwoman Field stated that the Airport Master Plan shows that when the parallel runway is built that Fanning Bridge Road will be closed. She questioned what impact would be -12-

with the closing of that road. Mr. Armour said that they would have to provide private property owners with another access. But, because this is in the long-range plans, they have not gone into any details.

Upon Mayor Sitnick about the proposed new noise ordinance, City Attorney Oast said that the proposed ordinance does not contain decibel limitations of any kind and there are arguments for and against that. He will ask City Council to consider those arguments at the time he presents the Council with the proposed ordinance. What is generally acceptable in a residential area is ambient noises to the level of 65 decibels in the daytime. To the extent that our noise ordinance addresses decibels at all, that would be the line for a problem in a residential area. If it is a commercial area, the acceptable decibel limits are somewhat higher. He thought that noise levels in and around interstates are about 85-90 decibels.

Upon inquiry of Councilman Worley, Mr. Drew Weeks tried to explain what the decibel levels are at an airport with a jet taking off and what the decibel level of a racetrack would be, noting that they did have hire a noise consultant.

Mr. Stan Moser, resident of Henderson County, pointed out that the noise from loud speakers are intermittent and very irritating.

Upon inquiry of Councilman Peterson, City Attorney Oast said that the Holiday Inn has a lease with the City of Asheville and the City does receive that revenue, which is a percentage of their income.

Councilman Worley also noted that with regard to the Holiday Inn lease, it expires in 2040 and the City refunded the FAA \$388,900 to release the property in August of 1989.

Upon inquiry of Councilwoman Field, Planning & Development Director Scott Shuford said that the property is zoned industrial which does not allow speedways. As with all rezonings, at least two public hearings would

be held (one with the Planning & Zoning Commission and one with the City Council) and the land could possibly be rezoned to a more regional or highway business district. This would also constitute a Level III site plan consideration as well.

Councilman Hay said that for him personally, this is Airport property and it was acquired by the City for over 40 years for purposes of running the Airport. It is in the Airport Master Plan and it is part of the Airport, as far as he is concerned. The decision about how this should be handled is most properly, in his mind, in the hands of the Airport Authority. They have sent City Council a very clear message in December that they did not want the soil testing to go forward because they didn't see it was leading to anything. He stated in December that if the Airport changed it's position then that would make a big difference to him. They reconsidered their position and once again advised City Council that they don't see any future in this proposal and that they want to reserve the property for Airport uses.

Councilman Worley stated that he is generally supportive of motor sports and impressed with the orderly process the Youngs have outlined. However, he agreed with Councilman Hay that the property was clearly purchased for Airport use. He strongly believes in the long term and doesn't want to see the City or any governmental entity give up property that might be needed down the road because the cost for getting it back is always extraordinarily high. He also felt that the Airport Authority should make the decision on the use of that property because they are the ones charged with the stewardship of the Airport property and the ultimate decision about the long-term of our Airport. The Authority has requested that the City not allow soil testing. If City Council allowed soil testing and it still has to go to the Airport Authority for approval, perhaps that part of the orderly process is reversed. He felt he would have to respect the Airport -13-

Authority's position because they are the ones who are entrusted with the Airport property. Even though he will vote against allowing soil testing at this time, he would reconsider that vote if the Airport Authority comes back at some later time and agrees to allow the testing.

Councilman Peterson stated that he was thinking of potential revenue to the City because there is a lot of demand for additional City services. He was very interested in the possibilities of additional City revenues through either a lease and the possible increases in sales tax. The needs of the Airport Authority is the highest and most important focus, but he was a little skeptical of the immediate need of an additional runway. With our current Airport and it's projected growth, he felt that need is pretty far down the road. He imagined that when those other properties that the City obtained FAA approval to release were first proposed for other uses, the Airport Authority was probably was not interested. However, those seem to have worked out fine. He felt that we should consider the impact on the residents and the economic impact of the area and the desire to be a good regional neighbor. But, also want to take into account the economic impact that racing might have to the benefit of Asheville and Buncombe County, for example some additional recreational facilities. He also agreed with Representative Nesbitt's comments that Buncombe County and Asheville should be a big enough place to have room for a racing community and he would like to support that community.

Upon inquiry of Councilwoman Field, Mr. Turner said there was never a proposal made to them to lease the property.

Mayor Sitnick said there no doubt there will be an impact for the community, but what level that impact will be has not been determined. Industrial or commercial growth in that area will also have an impact for the community. She felt the natives, new-comers, racers, retirees are all important to our community and this community depends on all of them. The Airport is crucial to our future in that it has been a deciding factor on whether corporate CEO's and smaller business owners located here. It was important to her, when she read the comments in the FAA letter, that this potential use may not be in the best interest of the Airport, that it could create a violation of grant obligations, that it could threaten future grant monies to the Airport and that there might be a possible adverse effect of the safety factor. However, there is a great economic impact on

the community, on the City of Asheville, and on local business people without a speedway. While it is important for City Council to consider what might or might not be going on in Haywood County, that is not necessarily part of what she is thinking about in making this decision. It was her hope that this is not the only property the Youngs are considering because if the City and the Airport Authority allowed the soil testing, this property might not qualify. If it didn't, it would be her hope that the Youngs would continue in their search. With great conflict, with great compassion for the racing community, with great understanding of the human factor, and with the consideration of the Airport Authority, on two different occasions with the same result, she will abide by the Airport Authority's decision to now allow soil testing, knowing that the decision is theirs - it's their land and it's their need.

Councilman Peterson moved that the City grant permission for the Youngs to conduct soil testing on the City property adjacent to the Asheville Airport. This motion was seconded by Councilwoman Whitmire.

Councilwoman Field also felt this was a decision for the Airport Authority. If City Council approves the soil testing and the Airport denies the soil testing, then the Airport Authority has made the ultimate decision. She felt this issue was inappropriately placed with City Council. She also noted that the Airport Authority never considered the lease of the property, in that their decisions were made based on the City selling the property. Again, she felt the Airport Authority should make the decision.

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Mayor Sitnick said that she would be happy at this point to allow soil testing, but the Airport has decided against it twice and she feels that it is the Airport's decision. She felt the City was really being asked to confirm the Airport's existing decision.

The motion made by Councilman Peterson and seconded by Councilwoman Whitmire died on a 3-3 vote with Councilwoman Field, Councilman Peterson and Councilwoman Whitmire voting "yea" and Mayor Sitnick, Councilman Hay and Councilman Worley voting "no".

At 8:40 p.m., Mayor Sitnick announced a short break.

## **V. NEW BUSINESS:**

### **A. PACK SQUARE PROPOSAL BY THE DOWNTOWN COMMISSION**

Ms. Carol King, Chair of the Asheville Downtown Commission, said that the City Public Works Department will shortly begin the repair project for the Pack Square fountain and surrounding area. This event has sparked considerable interest in future improvements to the park, both over the short and longer terms. Short term improvements proposed by the Public Works and Parks and Recreation Departments will result in better operational circumstances for Pack Square, making events there much simpler to conduct.

However, this maintenance work provides the City with an opportunity to examine longer term improvements to the most important public park area in Asheville - the construction activity and barricades will draw considerable public attention to Pack Square and this chance to formulate creative ideas should not be missed. While it is recognized that public funding for such a project is limited and currently not allocated, we are extremely hopeful that private sector support will enable any improvements to be implemented over a short period of time.

In order to attract private donations, a clear idea of the type and extent of the improvements is needed. This can only be determined through a public process involving all interested parties. The Square is a critical public area and the public must determine how it is to be designed and used. In addition to the Square itself, we anticipate the project involving City-County Plaza.

Their proposal is that they would like to initiate a public-private effort to attract a world-class park planning consultant to Asheville to facilitate public discussion of the desired park design and to prepare a concept plan or plans and cost estimates for its future implementation. This effort involves designation of \$7,500.00 of funds from both the City of Asheville and Buncombe County, with a minimum match of \$15,000.00 raised from the private sector. With these monies, they will hire a consultant and adhere to an ambitious schedule of public involvement with an anticipated May 2000 final conceptual design presented to the Asheville City Council and Buncombe County Board of Commissioners.

With the concept plan in hand, we will initiate a private sector fund-raising effort to procure the money needed for implementation.

She reviewed the following proposal:

**Council Involvement** - We recognize that City Council involvement is critical to the success of this proposal. We anticipate that each phase of the project will require Council approval. Council involvement will include:

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- Selection of the Design Consultant;
- Final Approval of the Design Consultant Contract;
- Consultation Regarding the Public Input Process;
- Regular Reporting of Project Progress at Council Meetings and Worksessions; and
- Final Approval of Project Design.

**Project Objectives** - Our intention is to develop a community-based design concept in order to generate enthusiasm for the Pack Square/City-County Plaza project, including substantial private donations for its implementation. We recognize that this is an ambitious undertaking, involving funding sources that are far from certain. Consequently, the design concept will be configured as one or more design alternative proposals with individual components that allow phasing of construction as funding becomes available. Our program calls for the retention of a nationally-recognized park design consultant to facilitate and refine public discussion concerning this critical public space. This consultant will develop a design concept based upon this facilitated discussion. Clear direction (as part of the consultant contract) will be given to the consultant regarding project scale and scope, the current unavailability of public sector funding for design implementation, and the consequent need to divide the project into implementable phases. Monitoring arrangements regarding these matters will be worked out with City staff prior to the consultant beginning work. The consultant will not prepare construction drawings and documents. However, the consultant will be responsible for preparing detailed cost estimates for each alternative design and associated phases.

**Funding Sources** - It is clear that the City of Asheville and Buncombe County cannot make the budgetary commitments necessary to accomplish such an ambitious project over the short term. There are simply too many priorities facing our local governments. As a result, this project anticipates a major private fundraising effort, spearheaded by the City of Asheville Downtown Commission, to raise the monies needed to implement this project in a short period of time. Our City and County have a tradition of achieving great public works through private philanthropy; we fully expect to be able to raise the great majority of funds from the private sector. We will also actively seek grant funding from a variety of sources. If outside funding alternatives do not materialize, we recognize that the project implementation will be delayed or deferred indefinitely.

In summary, we are asking your approval to move forward with this project with the understanding that City Council members will be fully involved in this project and that it will be a fully public process. They asked for a City commitment of funding in the amount of \$7,500 for this project, as well as a recognition that some staff time will be needed to accomplish our objectives over the time frame we propose.

Vice-Mayor Cloninger said that this proposal addresses a need that we do re-design that area of the City and it also contains a very reasonable request as to the amount sought by the City to contribute to the project. It also has a major element of public participation in it which could development enthusiasm for the project that could lead to raising private money for it.

Councilwoman Field also spoke in support of this very exciting project. She noted that there is grant money available for urban spaces and for public-private processes.

Upon inquiry of Councilman Hay, Ms. King said that the Commission has used the information accumulated over 15 years ago from the Discovery process to leverage this process. She said they have a lot of information they are building on.

When Councilman Hay asked about how the construction work fits into this, City Manager Westbrook said that this will not impede the repair work in the areas around the foundation. -16-

Councilwoman Field said that she would like to see us at least make that connection to Pritchard Park as well because that is really the corridor when you come off the interstate.

Mayor Sitnick loved the idea but the City has limited funds for everything we would love to do City-wide. She wanted to point out that whatever is planned and designed for this end of downtown takes into account the enormous amount of money that it will require and the time that it will require so that the greater community understands that it's not going to happen next year and that the project is good for the entire City, not just for the downtown area. For instance, with regard to Pritchard Park, it has been talked about for years and nothing has been done. She wanted to make sure that as optimistic as these plans are, that they be put into some kind of practical form so that the greater community understands that it might be done in phases, that money might have to be raised from time to time, and that it was not all coming out of the public funds. In addition, she also wants to make sure that the City had great latitude in the design, the implementation of the design, etc., to make sure that the design concept worked well with the City needs, e.g. traffic. She said that her personal preference on the design should be someone local.

Ms. King said that it was very apparent to them from the off-set that this is a project which will be far more expensive than either municipality can afford. A message will be sent to everyone that the funding will be largely from the private sector, with a 60/40 split (60% from the private sector). A marketing committee has been created so the public can be kept informed every step of the way. All decisions regarding Pack Square rests in the City Council's hands. Regarding the designer, there are approximately 4-5 designers in the country who have the ability to design a project like this. We will intend to offer all of them the opportunity, but will probably require that they partner with a local firm, so we are sure to use local skill as much as possible. The project itself could run from \$500,000 to \$2.5 million and there will be a lot of people with economic benefit from this project.

Councilman Hay wanted to make sure that people who make private contributions to a City planning process are not doing it with the certain expectation that the City will then immediately implement the plan. We will have to prioritize in terms of money, etc. He wanted to make sure that once the plan is in place, then the City will have to figure out how to pay for it and it may take a while to do that.

Upon inquiry of Mayor Sitnick, Ms. King said that the County Commissioners will consider the allocation of \$7,500 at their meeting next week and they have responded as favorably as the City Council has at this point.

Councilwoman Field moved to approve the report which is committing the City to the \$7,500, contingent upon the Downtown Commission's securing the rest of the funding. This motion was seconded by Councilman Worley and carried unanimously.

City Manager Westbrook said that the primary contact on this City process will be the Planning and Development Director Scott Shuford.

**B. RESOLUTION NO. 00-4 - RESOLUTION FORMULATING A CENSUS COMPLETE COUNT COMMITTEE TO DIRECT THE AWARENESS CAMPAIGN FOR THE CENSUS 2000 UPDATE**

Urban Planner Carl Ownbey said that this is the consideration of resolution formulating a Census Complete Count Committee to direct the awareness campaign for the Census 2000 Update.

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The Census Complete Count Committee will be responsible for the awareness campaign in "getting the word out" to the citizens of the community about the upcoming census count on April 1, 2000. The United States Bureau of the Census has prepared an operations guide to assist the community in the campaign. The Mayor is required to appoint a chairman for the committee and together they must appoint chairmen for the eight subcommittees. These subcommittees, as outlined in the operations guide are:

Government Education

Religion Media

Business Recruiting

Community-Based Special Housing

A press conference is required announcing the formulating of this committee and the committee must begin work in January of 2000.

The Planning and Development staff recommends the formulating of the Census Complete Count Committee and will provide the committee with staff support during the campaign process.

Ms. Edna Campos, Partnership Specialist, and Mr. Robert Haskins, Manager of the Local Census Office spoke about the importance of data received from the census count.

Councilwoman Field said that it was incredibly important that there be an accurate count because that's how we get our block grant money, how we get certain portions of sales tax, etc.

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

Councilwoman Field moved for the adoption of Resolution No. 00-4. This motion was seconded by Councilman Worley and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 391**

**VI. OTHER BUSINESS:**

**A. PUBLIC ACCESS CHANNEL COMMISSION**

Vice-Mayor Cloninger moved to continue this matter to the January 18, 2000, worksession. This motion was seconded by Councilwoman Field and carried unanimously.

**B. I-26 CONNECTOR DESIGN FORUM**



Planning & Development Director Scott Shuford, said that he has received a letter from the N.C. Dept. of Transportation and they agree that the design forum for the I-26 Connector Project may be appropriate for this project at this time. They would like to partner with the City in the preparation of this event and to meet with City staff to jointly plan the public meeting. They feel that a meeting such as this will take considerable preparation and probably could not be held until sometime in March, 2000. While this will delay completion of the environmental document and initiation of the preparation of final design drawings, they hope to be able to compress the construction schedule so completion of the project is not affected. Additionally, they feel the benefits of involving the public in this manner are significant.

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**C. RESOLUTION NO. 00-5 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT OR CONTRACTS TO MEET THE ELECTRICAL POWER NEEDS FOR VARIOUS EVENTS AT THE CIVIC CENTER**

**ORDINANCE NO. 2654 - BUDGET AMENDMENT TO MEET THE ELECTRICAL POWER NEEDS FOR VARIOUS EVENTS AT THE CIVIC CENTER**

Due to a conflict of interest regarding Emory Electric, Councilman Worley excused Vice-Mayor Cloninger for participating in this matter. This motion was seconded by Councilwoman Field and carried unanimously.

Mr. David Pisha, Civic Center Director, said that this is the consideration of a resolution authorizing the City Manager to execute an agreement to meet the electrical power needs for various events at the Asheville Civic Center, and an associated budget amendment, in the amount of \$95,000.

Due to the increasing electrical demands of the trade shows that utilize the Civic Center arena, Emory Electrical was engaged to undertake a survey of this matter on behalf of the City. Having completed their report, they have since advised the Center's staff that certain renovations should be undertaken to improve the level of this service and its reliability. In the past, electrical power has been brought up through the arena floor from the Exhibit Hall. With the addition of the ice rink, this procedure has proven much more difficult and time consuming. Coupled with the total amount of electricity being used by events, it has become increasingly problematical for the Center to meet their power needs.

The Civic Center is therefore requesting funding to install a 150 KVA transformer and 400 amp disconnect system in the ceiling of the arena. In addition, electric supply lines will also be needed to distribute the power. In order to expedite the project and take advantage of what is currently available, the staff have proposed using existing structural steel and conduits to the fullest extent possible.

Emory Electrical has stated that by following these recommendations, it will now be possible for the Civic Center to be able to efficiently supply adequate power to trade shows using the arena in the future.

Staff has also discussed the plans with the City's electrical inspector and have received his preliminary approval to proceed to the next step. Furthermore, he agrees with the findings and recommendations of Emory Electrical regarding the need for the overall project.

City staff recommends City Council adopt the resolution and appropriate \$95,000 in order to meet the Civic Center's electrical power needs.

Upon inquiry of Councilman Hay, City Manager Westbrook said that Emory Electrical is one out of three or four possible bidders on this project.

Upon inquiry of Councilwoman Whitmire, Mr. Pisha said that this has been a renovation that has been long discussed and it would absolutely work into any future renovations that City Council might consider.

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

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Councilman Worley moved for the adoption of Resolution No. 00-5. This motion was seconded by Councilwoman Field and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 392**

Councilman Worley moved for the adoption of Ordinance No. 2654 This motion was seconded by Councilwoman Field and carried unanimously.

**ORDINANCE BOOK NO. 18 - PAGE**

**D. CLAIMS**

The following claims were received by the City of Asheville during the period of December 17, 1999 - January 6, 2000: Thomas Joyce (Police), Eugene D. Jones (Police), Charles McGhee (Inspections), Vera Siminow (Streets), Jerry Birdwell (Water), BellSouth (Water), Wallace C. Pegg (Streets), Bobbie Warren (Streets), Asheville Smoke (Civic Center), David Weeks (Water), Robert Hileman (Water), Catherine Hitesman (Water), Michael Peck (Sanitation) and Sandra Clory (Civic Center).

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

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

**VIII. ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 9:47 p.m.

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CITY CLERK MAYOR

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