

Tuesday - January 25, 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 Burlison

Absent: None

INVOCATION

Councilwoman Whitmire gave the invocation.

ADDITIONS TO THE AGENDA

City Attorney Oast asked that consideration of a subordination agreement regarding Disposal Parcel 6B be added to the Council's agenda.

At the request of Mayor Sitnick, Vice-Mayor Cloninger moved to appropriate up to \$2,000 out of General Fund Contingency into City Council's training and travel line item. This will allow a member of the Film Board to attend a conference in Los Angeles, California, in order to promote to the City of Asheville. This motion was seconded by Councilman Hay and carried unanimously.

I. PROCLAMATIONS:

A. RECOGNITION OF JASON SUMMEY

Mayor Sitnick recognized Jason Summey for his development of the "Be Cool ... Stay in School" Program and praised his work in the community.

B. GIRL SCOUT TROOP 736

Councilwoman Whitmire recognized Ms. Sharon Farmer and representatives of Girl Scout Troop 736 out of Lee Walker Heights.

C. POLICE OFFICER MIKE GODWIN

Mayor Sitnick recognized Police Officer Mike Godwin who was awarded the metal of honor at the Asheville Police Department's Award Banquet.

II. CONSENT:

Councilman Peterson asked that Consent Agenda Items F, I and J be removed from the Consent Agenda for further discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 11, 2000, AND THE WORKSESSION HELD ON JANUARY 18, 2000

B. MOTION SETTING A PUBLIC HEARING ON FEBRUARY 8, 2000, TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE REQUIREMENTS FOR CONSTRUCTION OF -2-

SIDEWALKS, TO ESTABLISH REQUIREMENTS FOR REHABILITATION OF SIDEWALKS, AND TO PROVIDE A PROCESS FOR THE PAYMENT OF A FEE IN LIEU OF CONSTRUCTION OR REHABILITATION OF SIDEWALKS

C. MOTION SETTING A PUBLIC HEARING ON FEBRUARY 8, 2000, TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE WHICH WOULD DELETE THE DEFINITION OF CHURCH, ADD THE DEFINITIONS FOR A PLACE OF WORSHIP AND SANCTUARY, AND CREATE STANDARDS FOR PLACES OF WORSHIP

D. MOTION SETTING A PUBLIC HEARING ON FEBRUARY 8, 2000, TO CONSIDER A CONDITIONAL USE PERMIT FOR HOME DEPOT LOCATED AT THE INTERSECTION OF ACTON CIRCLE AND MONTE VISTA ROAD

E. RESOLUTION NO. 00-6 - RESOLUTION AUTHORIZING A GRANT APPLICATION TO THE N.C. DEPT. OF HEALTH AND HUMAN SERVICES TO ASSIST WITH FACILITY IMPROVEMENTS AND EQUIPMENT AT HARVEST HOUSE AND SENIOR OPPORTUNITY CENTER

Summary: The consideration of a resolution to apply for grants through the North Carolina Department of Health and Human Services to assist with facility improvements and equipment at Harvest House and Senior Opportunity Center.

Funds are available through the North Carolina Department of Health and Human Services, Division on Aging, in the 1999 Senior Center Appropriation to assist with programming and general operation of senior centers. The Harvest House and the Senior Opportunity Center are eligible to receive \$6,329 each, and will use the funds to refinish wood floors, purchase tables and chairs, and purchase miscellaneous equipment and improvements.

The Parks and Recreation Department is requesting \$12,658 in grant funds from the 1999 Senior Center Appropriation which requires a 10% cash/in-kind match. The in-kind match is available in the Recreation Division and the Public Facilities Division operating budgets.

The Parks and Recreation Department recommends the City of Asheville apply for and enter into an agreement for grant funds through the 1999 Senior Center Appropriation for improvements and equipment at Harvest House and Senior Opportunity Center.

RESOLUTION BOOK NO. 25 - PAGE 393

F. RESOLUTION AUTHORIZING GRANT APPLICATIONS TO THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES TO ASSIST WITH THE DEVELOPMENT OF THE FRENCH BROAD RIVER PARK PHASE IV

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

G. RESOLUTION NO. 00-7 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RIGHT-OF-WAY AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR ROADWAY IMPROVEMENTS TO SPIVEY MOUNTAIN ROAD

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Summary: The consideration of a resolution authorizing the Mayor to execute a right-of-way agreement with the N. C. Department of Transportation (NC DOT) for roadway improvements to Spivey Mountain Road.

The City of Asheville purchased a 3-acre site in 1998 for the Regional Water Authority to construct a new water reservoir as part of the 1994 Master Plan improvements for the water system. The property has approximately 400 feet of frontage on the south end of the property along a gravel road (Spivey Mountain Road) maintained by the NC DOT. This road serves as access to the site and the new water main providing water to and from the reservoir from the valley below is in the shoulder of the road.

The NC DOT is proposing, at its expense, to improve Spivey Mountain Road by widening the road to 18 feet and paving the road. Widening will include minor grading along the shoulder, but there are no improvements to alignment or centerline grade proposed. The NC DOT has been maintaining this road in the past without recorded right-of-way on some properties and is now asking those property owners to formally dedicate right-of-way in advance of the improvements.

The proposed roadway improvements are not in conflict with the water reservoir or the use of the property. Staff has discussed the proposed improvements with the NC DOT and have been assured by NC DOT that the road improvements will not create a conflict which would require relocation of the existing water line anywhere in Spivey Mountain Road. With this understanding, the resolution has been prepared authorizing the Mayor to execute a Right-of-Way Agreement dedicating 22.5 feet of right-of-way from the existing centerline to the NC DOT for roadway improvements.

Staff recommends the City Council adopt the resolution.

RESOLUTION BOOK NO. 25 - PAGE 394

H. RESOLUTION NO. 00-8 - RESOLUTION ADOPTING CHANGES REGARDING THE ELIGIBILITY OF CITY EMPLOYEES TO PARTICIPATE IN THE CITY'S SELF-FUNDED EMPLOYEE WELFARE BENEFIT PLAN UPON RETIREMENT

Summary: The consideration of a resolution adopting changes regarding the eligibility of City employees to participate in the City's Self-Funded Employee Welfare Benefit Plan upon retirement.

In June 1993 Council adopted a resolution setting the terms & conditions for retirees to continue health benefits through the City. Two of the provisions of that resolution (Resolution No 93-74) are considered impediments to employees seeking to retire.

The Human Resources Director believes the recommended changes will encourage employees wanting to retire to do so without the financial consequences of not having affordable health care, and further that employees with spouses working for the City can retire with the same benefits that other retirees enjoy whose spouses do not work for the City. The Risk Management Division concurs with this recommendation.

It is also noted that the recommendation will not require any funding from the City beyond the current budget for fringe benefits, and that the impact on the health plan will be negligible.

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Staff from the Risk Management Division and the Human Resources Department jointly recommend the adoption of this resolution.

RESOLUTION BOOK NO. 25 - PAGE 395

I. RESOLUTION AUTHORIZING A CONTRACT WITH CARL WALKER INC. TO DESIGN AND PROVIDE CONTRACT ADMINISTRATION FOR A PARKING DECK IN THE BATTERY PARK AREA

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

J. BUDGET AMENDMENT FOR THE DESIGN AND PROJECT ADMINISTRATION FOR A PARKING DECK IN THE BATTERY PARK AREA

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

K. RESOLUTION NO. 00-9 - RESOLUTION SETTING A PUBLIC HEARING FOR FEBRUARY 22, 2000, TO CLOSE A PORTION OF HERMAN AVENUE EXTENSION

RESOLUTION BOOK NO. 25 - PAGE 397

L. RESOLUTION NO. 00-10 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT TO QUITCLAIM AN EASEMENT OVER AN ABANDONED WATER TRANSMISSION LINE AT THE SITE OF THE NEW LOWE'S SUPERSTORE AT SOUTH TUNNEL ROAD AND SWANNANOA RIVER ROAD

Summary: The consideration of a resolution authorizing the Mayor to execute a quitclaim for an existing water line easement over an abandoned water main on the property which is currently the site of the Lowe's superstore at the intersection of South Tunnel Road and Swannanoa River Road.

As part of the construction of a new Lowe's superstore at South Tunnel Road and Swannanoa River Road, the site developer relocated a 24" water transmission main which was part of the Asheville water system in order to use the site for the superstore. The new transmission line has been completed, tested, and accepted in accordance with the policies of the Regional Water Authority and the standards of the City of Asheville, and an appropriate easement has been dedicated to the City of Asheville and recorded at the Buncombe County Registry over the new 24" water transmission line. This new line runs under the parking lot for the new store.

Upon acceptance of the new water line a few months ago, the old water transmission line was disconnected from service and abandoned, and a part of the new Lowe's store is now on top of the abandoned line. The new owners of the property, Dreamland Partners, LP, have requested the City of Asheville quitclaim the easement over the now abandoned line.

Staff recommends the City Council adopt the resolution to quitclaim the easement over the abandoned water line.

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M. RESOLUTION NO. 00-11 - RESOLUTION AUTHORIZING STAFF TO PROCEED WITH PHASE ONE OF THE PRITCHARD PARK MASTER PLAN

The Parks and Recreation Department, at the request of City Council, began a public process to determine the future design for Pritchard Park. A task force was developed which represented broad community interests. In the fall of 1998, the City hired the services of Genesis Group to develop a Master Plan for the project. An initial Master Plan was presented in January 1999 and has received broad community support and Council interest. Since then minor changes have been made to the Plan within the framework of the overall proposal.

In conjunction with the Pritchard Park proposal a Downtown Traffic Evaluation was undertaken to determine the feasibility of returning downtown traffic along College Street and Patton Avenue to two-way operation. While the study states that it is feasible to return two way traffic to downtown, financial and other major

considerations will preclude any renovation of the traffic network at this time. The Traffic Evaluation Report is currently being studied by the City Engineering Department. There has been on-going interest from the City Council liaison group assisting with the direction of the project, to phase the construction of the park Master Plan. Staff has recommended a phased construction scope for Pritchard Park.

Phase One of the park design and construction will enlarge the park area. The central area of the park will feature a terraced public gathering space, enhanced crosswalks to connect to the surrounding sidewalk areas, planted areas with native trees and shrubs, ornamental lighting, rock work that will display a small water feature, an area for food vendors and opportunities for public art.

In addition to the park expansion, the Phase One construction will include the renovation of the College Street sidewalk area across from the park in an effort to support economic growth and downtown vitality. The sidewalk space will be increased from the current 9 foot width to 18

feet. Other amenities will include trees and tree grates, building access to comply with the American with Disabilities Act, and ornamental street lights. Parallel parking will continue along the sidewalk in front of the buildings on College Street.

The next step for the project will be to complete construction drawings and specifications by the Genesis Group team. Construction is expected to commence in May and be completed by early fall. It is expected that there will be sufficient funds to complete Phase One.

City staff recommends City Council authorize the Parks and Recreation Department to proceed with construction documents and implement Phase One for Pritchard Park.

RESOLUTION BOOK NO. 25 - PAGE 399

N. RESOLUTION NO. 00-12 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT AMENDMENT WITH CRISP HUGHES EVANS LLP TO EXTEND THE COMPLETION DATE FOR AUDITING SERVICES FOR FISCAL YEAR 1998-99

Summary: The consideration of a resolution authorizing the Mayor to execute a contract change with Crisp Hughes Evans LLP, Certified Public Accountants, extending the completion date for auditing services for Fiscal Year 1998-99.

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N.C. General Statutes sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

During May 1999, the City entered into a contract with Crisp Hughes Evans LLP to conduct the City's annual audit for Fiscal Year 1998-99. The contract called for the audit to be performed and the report of audit submitted by October 31, 1999. Due to delays encountered by City staff in preparing financial statements for the first time using the City's new accounting software and the more extensive audit procedures employed to verify the accuracy of the software's accounting and reporting operations, the report of audit was completed on December 29, 1999. The Local Government Commission requires that any extension of the completion date beyond October 31 must be approved by the City Council. The resolution authorizes the Mayor to execute an amendment to the audit contract to extend the completion date.

City staff recommends Council adopt the resolution.

RESOLUTION BOOK NO. 25 - PAGE 400

O. MOTION APPROVING \$35,000, ALREADY BUDGETED IN THE PLANNING & DEVELOPMENT DEPARTMENT BUDGET, TO BE REALLOCATED TO THE CENTER CITY PLAN

Summary: The consideration of a motion approving \$35,000, already allocated in the Planning and Development Department budget, to be reallocated to the Center City Plan.

In adopting this fiscal year's budget, the City Council postponed a staffing decision regarding the City Development Office for six months to allow the new Planning and Development Director to prepare a recommendation for staffing this key City Division. Working with the Downtown Commission, a list of expected duties for the City Development Division was prepared and is provided below. In analyzing the list of duties, I am recommending the following staffing arrangement: this organizational structure transfers an added staff member to the City Development Office while keeping the overall staffing level for the City Planning and Development Department (of which City Development is a part) at its current level. If the Center City Plan that is under development proposes significant changes to the functions of the City Development Division, this organizational structure will need to be reconsidered.

- Division Head - this Senior Planner position is to be transferred from the Planning Services Division
- Urban Development Specialist - this existing position is currently filled
- Coordinator/Urban Planner I - this existing position is currently vacant and represents a revised position description from Terry Clevenger's Marketing Coordinator position
- Administrative Assistant - this existing position is currently filled
- Senior Secretary - this existing position is currently filled

City Development Division Functions

FUNCTION
Downtown Commission Liaison
Development Advice; Design Standards; Contractor Ombudsman

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Infrastructure Support Coordination - Serve as a central conduit for complaints or concerns about parking, cleanliness, utilities, streetscape
Grant Writing/Fundraising - Facilitate efforts by the City's new grant writer position and by the Downtown Commission or other groups in project-based fundraising and grant applications
General Promotion - coordination of efforts in promoting Downtown
Available Space Inventory
Center City Plan Coordination
Festival Coordination - Serve as a conduit for questions or issues about festivals
Project Coordination - Communicate and relay questions and concerns about Downtown projects; participate in project planning and design
Communication (e.g., newsletter, interactive webpage as part of COA webpage, etc.)
Administrative Duties (supervisory and administrative functions)

In addition to postponing the City Development Division staffing decision, City Council decided to wait for a recommendation from the Planning and Development Director regarding what type of plan was needed for downtown Asheville (this plan is referred to as the Center City Plan). Since the adoption of this fiscal year's budget, the Mayor and the Downtown Commission have held numerous public input sessions soliciting concerns and ideas about downtown. These sessions have resulted in considerable agreement about the

direction desired for the future of downtown Asheville. Additional planning work has occurred as part of the Pritchard Park and Downtown Parking Study projects, as well as the Main Street Study and Recommendations, and more is anticipated from the Pack Square Project and the Sustainable Economic Development Task Force report.

Given the extent of the planning that has already occurred and is occurring, it appears that all that is lacking is a way to tie this input together in a priority-based plan that would be prepared by City staff with limited technical assistance and with a continued high level of community involvement. There is \$35,000 in this year's Planning and Development Department budget that, with City Council approval, can be reallocated to the Center City Plan. This money will allow City staff to obtain the technical assistance needed to complete the plan in-house under the guidance of the Center City Plan Steering Committee that was formed to provide continuing public involvement in Downtown planning efforts. Technical assistance may be needed in the areas of retail analysis, transportation planning, streetscape design, or other areas that may be dictated by the planning process. Use of these current fiscal year monies will enable staff to fully initiate and possibly complete the Center City Plan this budget year.

The consideration of a motion approving \$35,000, already allocated in the Planning and Development Department budget, to be reallocated to the Center City Plan.

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.

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION

RESOLUTION NO. 00-13 - RESOLUTION AUTHORIZING GRANT APPLICATIONS TO THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES TO ASSIST WITH THE DEVELOPMENT OF THE FRENCH BROAD RIVER PARK PHASE IV

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Summary: The consideration of a resolution to apply for grant funds through the North Carolina Department of Environment and Natural Resources to assist with the construction of the next phase of the French Broad River Park.

Funds are available through the N.C. Department of Environment and Natural Resources, Division of Parks and Recreation in the North Carolina Parks and Recreation Trust Fund, and in the National Recreational Trails Fund to assist with the development of parks and greenways.

The French Broad River Park, Phase IV, represents the City of Asheville's next phase of a major greenway and park system being developed along the French Broad River on Amboy Road. Although the final master plan will not be complete until February, public input requested the park include greenways, bicycle facilities, lawn bowling, soccer and softball fields, restrooms, skateboarding and rollerblading facilities, open space, picnic shelter, parking, and perhaps a welcome center. Phase IV will also connect to a planned N.C. Department of Transportation funded greenway from Hominy Creek on the west, and eventually to the Amboy Road greenway to the east.

The Parks and Recreation Department and RiverLink are in partnership to implement an ambitious fundraising plan to raise approximately \$2 million to build the park. RiverLink recently

presented a proposal to the Janirve Foundation for \$250,000, and has identified an additional \$500,000 in

funding resources.

The Parks and Recreation Department is requesting \$250,000 in grant funds from the North Carolina Parks and Recreation Trust Fund which requires a 50% cash match. The cash match is available through a combination of funds with the Parks and Recreation Department budget, RiverLink, and other sources. In addition, the Parks and Recreation Department is requesting \$50,000 from the National Recreational Trails Fund, which requires a 20% cash/in-kind match. The in-kind match is available in the Parks Division budget.

The Parks and Recreation Department recommends the City of Asheville apply for and enter into an agreement for the grant funds through the North Carolina Parks and Recreation Trust Fund and the National Recreational Trails Fund to assist with the construction of the French Broad River Park Phase IV.

Upon inquiry of Councilman Peterson, Parks and Recreation Director Irby Brinson explained the other prior three phases of the project. He explained that the City does have a conceptual master plan that has been developed from community input. He said that they will be meeting with the community again to finalize the plan. He said that the grant application deadline is February 1 and that the grant application does not require exact details in order for the grant to be applied for. The City will not know until May whether or not they have actually received the grant. Mr. Brinson said that at this particular time we are looking to match that money with non-City money from the RiverLink proposal.

Mayor Sitnick was pleased that the City has an opportunity to hire a grants officer who will spend a significant amount of time looking for grants for this kind of a program and other programs.

Mayor Sitnick also noted that the City Council and City staff are doing everything they can recognizing the important history of the Asheville Motor Speedway in our community and to sensitive to that history as we move along in this process.

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Councilwoman Field suggested that after the RiverLink Master Plan is finalized, that they be invited to attend a City Council worksession in order to see how their Plan meshes with the City's Parks and Recreation Master Plan.

Mr. Don Yelton pointed out that this property no longer pays property taxes as it did before when it was used for the speedway. He wanted to know the cost for maintaining a 31 acre park in the City. He also asked City staff to check the flood records to see what the cost will be over the next 10-15 years for repairing damage from floods. He felt these additional expenses need to be considered.

Mr. Mike Morgan said that with a city and county that boasts itself on diversity, he was appalled that they didn't take into account the racing fans that are part of the culture in our area.

Mr. Eddie Harwood said that there is not much for families to do in Asheville. He pointed out that the proposed park on the racetrack property is the perfect spot for drug deals to take place. Before long, the City will need full-time law enforcement for the park, resulting in more tax dollars spent.

Mayor Sitnick said that the racetrack was for sale for four years by a private property and it was advertised for sale. No one purchased it. She could not understand why the City, that received the land as a gift, has become bad government. She also wondered what the community would have thought about City Council had they turned down a million dollar gift on behalf of the taxpayers of this community.

Councilman Peterson asked if the City could sell the racetrack property. City Attorney Oast said that the property is subject to some restrictions as to its use and disposition. There are not only deed restrictions, but a conservation easement that covers part of the property as well.

Mr. Eric Gaddy, racing fan, wondered if City Council will be raising taxes to recoup the money lost since the racetrack property will not be paying taxes.

Upon inquiry of Mr. Gaddy about how the City will attract industry since the racetrack is gone, Mayor Sitnick explained that the City has a comprehensive strategic economic development plan for the City of Asheville.

Mr. Gaddy questioned if RiverLink is an entity of the City of Asheville. Mayor Sitnick responded that RiverLink is a private non-profit organization and the only funds they received from the City of Asheville is \$18,000 as part of the outside agency request process. Mr. Yelton noted, however, that RiverLink's articles of incorporation spells out that they are an agent of the City and the County.

Councilman Peterson said that even though we will be losing some taxes, we also need to keep in mind that the City needs the ballfields, soccer fields, softball fields, etc. and if we received that property as a donation, that saved the City possibly \$1 million that they would have had to spend to buy some property.

Mr. Chad Nesbitt urged City Council to look at the police reports for the French Broad River Park to see how much drug dealing and prostitution goes on in that area. Mr. Brinson said that the City does have a full-time park attendant, as well as a park warden that patrols that area often.

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

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Vice-Mayor Cloninger moved to approve Resolution No. 99-13. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 401

RESOLUTION NO. 00-14 - RESOLUTION AUTHORIZING A CONTRACT WITH CARL WALKER INC. TO DESIGN AND PROVIDE CONTRACT ADMINISTRATION FOR A PARKING DECK IN THE BATTERY PARK AREA

ORDINANCE NO. 2655 - BUDGET AMENDMENT FOR THE DESIGN AND PROJECT ADMINISTRATION FOR A PARKING DECK IN THE BATTERY PARK AREA

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Carl Walker, Inc., to design and provide project administration for the Parking Deck in the Battery Park area and an associated budget amendment, in the amount of \$570,000, for said project.

In October 1999, City Council directed staff to develop a Request For Proposals (RFP) to select a consultant to design a parking deck in the Battery Park area. The RFP was completed in October 1999. Proposals were received on November 19, 1999. Seven firms submitted proposals. The selection team reviewed the proposals and short-listed two firms: Carl Walker, Inc., and Hayes, Seay, Mattern and Mattern, Inc. (HSMM). The interviews were held on December 20, 1999. The selection team recommended Carl Walker, Inc., based upon qualifications.

Phase I of the contract consists of conceptual and preliminary design plans. Phase II of the contract consists of final construction specifications and design. Phase III consist of project administration during the construction phase of the project. The contractor will be allowed 150 calendar days for the completion of Phase I and II.

The estimated cost of Phase I is \$153,000, Phase II is \$242,000, and Phase III is \$115,000 for a total cost not to exceed \$510,000. This amount is approximately 6% of the estimated construction costs of the deck (\$8.8 Million). The fee for the project is based on an hourly rate plus allowable expenses, not to exceed \$510,000. Staff also requests that City Council approve a budget amendment, in the amount of \$570,000, for the cost of the above services, surveying and geotechnical testing, in addition to a 10% contingency to be paid from the issuance of Certificates of Participation.

Carl Walker, Inc., proposes to use five sub-consultants in the project. Three of the five are minority or women owned businesses.

Staff recommends that City Council (1) authorize the City Manager to execute a contract with Carl Walker, Inc., to design and provide project administration for the Parking Deck in the Battery Park area; and (2) adopt a budget amendment, in the amount of \$570,000, for said project.

Upon inquiry of Councilman Peterson, Finance Director Bill Schaefer said that the \$570,000 will be coming from the proceeds of the financing from the Certificates of Participation that the City will be issuing in connection with this project.

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

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Councilman Peterson moved for the adoption of Resolution No. 00-14. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 402

Councilman Peterson moved for the adoption of Ordinance No. 2655. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

ORDINANCE BOOK NO. 18 - PAGE

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE CONDITIONAL USE PERMIT FOR NETTLEWOOD PROFESSIONAL PARK LOCATED OFF OF HENDERSONVILLE ROAD IN THE VICINITY OF WAL-MART

Ms. Stacy Merten, Urban Planner, said that this project was reviewed by the Technical Review Committee (TRC) on December 20, 1999. The TRC voted to approved the project with conditions which are outlined in a revised staff report dated January 13, 2000. These conditions included a resolution of an access issue through the Deerwood development and approval of a Traffic Impact Analysis prior to Council consideration. As of January 21, 2000, the applicant has been unable to resolve these critical issues which may affect the technical viability of the project. Consequently staff is recommending that the public hearing for this project be continued. Staff plans to meet with the developer and the Deerwood representatives and will have a better understanding of the time frame involved for resolution at the time of the City Council meeting.

City staff recommends that the public hearing for the conditional use permit for the Nettlewood Professional Park located off of Hendersonville Road in the vicinity of Wal-Mart be continued until February 8, 2000.

Vice-Mayor Cloninger moved to continue the public hearing for the conditional use permit for the Nettlewood Professional Park located off of Hendersonville Road in the vicinity of Wal-Mart to February 8, 2000. This

motion was seconded by Councilman Hay and carried unanimously.

Councilman Peterson asked if the City has a policy on how many times a matter can be continued. City Attorney Oast responded that there is not really a policy and that each continuance depends on facts and circumstances surrounding the continuance request.

B. PUBLIC HEARING RELATIVE TO EXTENDING THE CITY'S EXTRATERRITORIAL JURISDICTION OF AN AREA NORTH OF THE CITY'S CORPORATE LIMITS AND THE ZONING OF PROPERTIES WITHIN THE AREA

ORDINANCE NO. 2656 - ORDINANCE TO EXTEND THE CITY'S EXTRATERRITORIAL JURISDICTION OF AN AREA NORTH OF THE CITY'S CORPORATE LIMITS AND THE ZONING OF PROPERTIES WITHIN THE AREA

Vice-Mayor Cloninger asked that he be excused from participating in this matter since the firm, of which he is a partner in, represents the owner of the property on an on-going basis. Therefore, Councilwoman Whitmire moved to excuse Vice-Mayor Cloninger due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously. -12-

Mayor Sitnick opened the public hearing at 6:03 p.m.

Urban Planner Mike Matteson said that this is the consideration of an ordinance extending the City's Extraterritorial Jurisdiction (ETJ) in an area north of the City's corporate limits and the zoning of properties within the area. This public hearing was legally advertised on January 14 and 21, 2000.

In response to direction from both the Planning and Zoning Commission and City Council, the Planning and Development Department staff is proposing the extension of the City's ETJ in an area north of the City's corporate limits.

The provisions for exercising powers in an area of ETJ are governed by N. C. Gen. Stat. sec. 160A-360. These provisions grant a city the authority to extend ETJ "within a defined area extending not more than one mile beyond its limits". With the approval of the Board of County Commissioners, a city of more than 25,000 population can extend its ETJ up to three miles beyond its corporate limits. Upon the establishment of extraterritorial jurisdiction, property within the ETJ area becomes subject to the City's zoning, subdivision and other land development ordinances.

The area proposed for ETJ extension totals approximately 616 acres and is primarily either undeveloped or developed at a low residential density. The topography of the area is generally steeply sloping and mountainous. The proposed Reynolds Mountain Subdivision, which received preliminary plat approval from the Planning and Zoning Commission in December of 1998, is partially within the area proposed for ETJ extension. Although most all of the property was outside of the City's zoning jurisdiction, it is expected to have an impact on the City, particularly the street system through the Lakeview Park neighborhood. It was felt that by establishing ETJ the City would have a greater ability to plan for and manage future growth in the area.

The proposed boundaries for the ETJ area follow the phase line within the Reynolds Mountain Subdivision (as illustrated on the approved preliminary plat) and otherwise generally follow property lines or streets. At one point, at the northern end of the area, the boundary coincides with the one-mile distance from the City's corporate limits.

The Town of Woodfin is also pursuing the extension of ETJ in the area. Staff from the Planning and Development Department worked with Town of Woodfin officials to determine a line of demarcation separating potential City of Asheville ETJ with potential Town of Woodfin ETJ. This general line of

demarcation has been endorsed by the Asheville City Council on August 10, 1999, and the Town of Woodfin Board of Aldermen.

Another issue associated with the ETJ extension is the zoning of the properties within the area. Staff has studied the area and is recommending a combination of RS-2 (residential single-family low density) and RS-4 (residential single family medium density) zoning. RS-2 zoning is recommended for the majority of the area, where current lot sizes are generally large and where steep slopes suggest low densities. RS-4 zoning is recommended in an area which is generally developed with a number of properties which, due to their size (under ½ acre), would be non-conforming within the RS-2 zoning district.

He reviewed a map which shows the area proposed for ETJ extension and another showing the proposed zoning within the area.

Council is asked to take two separate actions regarding this issue. The first action will be to determine whether to extend the City's ETJ in this area. If the determination is to extend the ETJ, the second action will be to zone the properties within the area. -13-

Mr. Michael Goforth, representing Tom Coleman who is one of the owners of Sherwood Heights Inc., R.L. Coleman & Company, said that their property is approximately 160 acres. They object to the City zoning this land residential and forcing them to come before the Planning & Zoning Commission if they want to develop their property. They request their 160 acres not be considered in this action.

Upon inquiry of Mr. Goforth about ETJ representation on the Board of Adjustment or the Planning & Zoning Commission, City Attorney Oast said that the law requires property owners be notified of their opportunity to be appointed on the Planning & Zoning Commission and/or the Board of Adjustment at such time as their property comes within the ETJ, but not before that happens. He explained that if their property is within the ETJ then they are eligible to be appointed by the County Commissioners.

Mr. Clarence Biggs, representing his father an neighbor, stated that their property is located to the north of Beards Cove and if any zoning is designated, the Town of Weaverville should do it, because they receive all their emergency services from the Town of Weaverville.

In response to concerns of Mr. John Cort, area property owner, Mr. Matteson said that one of the issues Mr. Cort raised is the issue of the City's street standards in our subdivision regulations and whether or not properties could be accessed from a common drive. They can under our current ordinance. All lots that are created would have to abut a public street, but a single drive could serve to provide access to a number of those lots. In terms of just the development potential of this area, with a planned unit development, that gives a little more flexibility and allows a little more creativity in the design of new developments. He felt that is particularly true in areas with steep slopes.

Upon inquiry of Councilwoman Whitmire, Mr. Matteson said that this ETJ is not an annexation issue and doesn't affect property taxes at all.

In response to Councilman Peterson, Mr. Matteson said that the property owners in the area are aware of the zoning proposal.

Councilman Worley wondered if it would be difficult to get streets in that area and still comply with our restrictions on maximum street grade. He felt that if it is developable land, it is certainly to our advantage to include it in the ETJ, but not if it creates an inability to develop it. Mr. Matteson didn't think that was the case with this property. He also said that the Engineering Department is currently looking at all of those standards and there may be an opportunity to look at those standards in particular as they relate to steeply sloping areas.

Planning & Development Director Scott Shuford pointed out that we do have a planned unit development provision that would allow some clustering of units on land that was flat over the entire area. Also, one of the difficulties we find ourselves in when we ultimately end up annexing developed property around the City that has been built to either some lesser standard or no standard at all, is how do you overcome the costs associated with bringing those properties up to what the City would consider to be appropriate standard and the legal obligation that we have to do that as part of our annexation efforts. Again, the UDO does have some provisions right now would allow some creativity in lot design that is ideally suited for situations like these steep slopes. He also pointed out that Planning staff will be bringing to City in the near future a conditional use zoning approach that would allow Council to change the zoning of this property and have it developed in accordance with a site plan that would make sense for all parties.

An area property owner questioned why his area is not annexed since it is a fairly self-contained community and fully developed. Mr. Shuford said that in our latest annex study, this -14-

property was not considered. However, we have not received anything from our consultant about future phrases and that be an area to be included.

Mayor Sitnick closed the public hearing at 6:33 p.m.

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

Councilman Peterson moved for the adoption of Ordinance No. 2656. This motion was seconded by Councilwoman Field and on a 5-1 vote with Councilwoman Whitmire voting "no".

ORDINANCE BOOK NO. 18 - PAGE

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 00-15 - RESOLUTION DECLARING THE INTENT OF THE CITY OF ASHEVILLE, NORTH CAROLINA, TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION AND CONSTRUCTION OF A PARKING FACILITY FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED IN THE YEAR 2000

Finance Director Bill Schaefer said that this is the consideration of a resolution declaring the intent of the City to reimburse itself for capital expenditures incurred in connection with the acquisition and construction of a parking facility in the vicinity of Battery Park from the proceeds of financing.

City Council has previously directed staff to initiate action to obtain options to acquire land, retain real property and financial advisors, and contract for the design of a parking deck in the vicinity of Battery Park. City Council has also previously passed budget amendments authorizing expenditures for the project, with the supporting revenues to be provided from the proceeds of a Certificates of Participation (COPs) issue. The current project schedule calls for the COPs to be issued in the summer of 2000. However, project expenses are presently being incurred and the first payment of project expenses was made on January 5, 2000. U.S. Treasury regulations require that, if the City intends to reimburse itself from the proceeds of a tax exempt financing for certain project expenses, which were paid prior to the closing date of the financing, it must adopt a resolution evidencing that intent. The resolution of intent may cover expenses paid by the City during the period beginning sixty days prior to adoption of the resolution of intent and ending on the day of issue of the financing. The resolution indicates the City's intent to reimburse itself accordingly.

City staff recommends Council adopt the resolution.

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

Councilman Worley moved for the adoption of Resolution No. 00-15. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 403

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VI. OTHER BUSINESS:

A. RESOLUTION NO. 00-16 - RESOLUTION AUTHORIZING THE CITY STAFF TO EXECUTE DOCUMENTS RELATING TO THE REDEVELOPMENT OF DISPOSAL PARCEL 6B OF THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

City Attorney Oast said that this is the consideration of a resolution authorizing City staff to execute documents relating to the redevelopment of Disposal Parcel 6B of the Head of Montford Redevelopment Project.

Neighborhood Housing Services of Asheville, Inc.(NHS) has requested from the City a Consent to Transfer and a Loan Subordination Agreement in connection with the proposed redevelopment of Disposal Parcel 6B.

The City conveyed Disposal Parcel 6B to NHS for redevelopment and provided purchase money financing in the amount of \$85,000. NHS has secured a loan commitment from the Bank of America to finance the construction of the planned improvements on the property. Part of the project financing will be from the sale of Low-Income Housing tax credits. In order to facilitate the financing for the redevelopment NHS has requested the City to consent to the transfer of title to the property to Montford Gateway, LLC, a wholly owned subsidiary of NHS and to subordinate the purchase money loan to the loan from Bank of America.

Approval of the resolution will authorize the Planning & Development Director or the Community Development Director to execute the necessary documents to consent to the transfer and loan subordination.

Community Development staff recommends adoption of the resolution.

Upon inquiry of Councilman Worley, Mr. Vess said that he had no problem with putting a limit on what we would subordinate to the construction loan, however, he requested that Council give staff the opportunity to discuss the amount with the Bank of American and NHS to see what they think their total need is going to be. Again, he didn't see a problem with putting a limit on what we would subordinate. He asked Council to trust his judgment in that the amount will be somewhere in the range of \$400-450,000, noting that they will be looking at the total project to make sure that it is reasonable.

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

Councilman Hay moved for the adoption of Resolution No. 00-16. This motion was seconded by Councilwoman Whitmire and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 405

B. CLAIMS

The following claims were received by the City of Asheville during the period of January 7-13, 2000: Ed Yockey (Civic Center), Daphine Jones (Streets), Mark Parlier (Water), Michael Margolin (Water), Karen Taylor (Parks and Recreation) and Melvin Lilly (Water). -16-

The following claims were received during the period of January 14-20, 2000: Jack Hyder (water), Dale Williams (Civic Center), Gene Marshbanks (Water) and Lauren Rose (Finance).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A. COMMENTS BY MS. SHIRLEY DOZIER

Ms. Shirley Dozier passed out to City Council a letter dated January 25, 2000, and asked that the continuing harassment of the Dozier family by the City of Asheville be stopped.

B. COMMENTS BY MR. DON YELTON

Mr. Don Yelton said that the history of car racing has more roots in Western North Carolina than most people know. Even though car racing does not have glamour, he asked Council to consider (a) putting deed restrictions on a piece of property that will never let racing occur on that piece of property even if a local businessman is willing to buy that piece of property at a substantial profit from the City; (b) letting a businessman spend his time and his money finding a piece of property that the City Council did not know that they owned and refusing to let that businessman do soil borings that would provide valuable information to the City and to the Airport if they ever develop that property; and (c) not having any racing next year. That will definitely hurt the local economy. He pledged his efforts to keep the native culture of car racing alive.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 6:49 p.m.

CITY CLERK MAYOR
