

Tuesday - February 22, 2000 - 5:00 p.m.

Regular Meeting

Present: Vice-Mayor M. Charles Cloninger, Presiding; 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: Mayor Leni Sitnick

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF FEBRUARY 20-26, 2000, AS "NATIONAL SURVEYOR'S WEEK"

Vice-Mayor Cloninger proclaimed February 20-26, 2000, as "National Surveyor's Week" in the City of Asheville. He presented the proclamation to Mr. Jeff Powell.

II. CONSENT:

It was the consensus of City Council to remove Consent Item G. from the Consent Agenda. The vacancy on the Tree Commission will be pooled in the next quarterly appointment process.

A. APPROVAL OF THE MINUTES OF THE CITY COUNCIL RETREAT HELD ON JANUARY 28, 2000, THE FORMAL MEETING HELD ON FEBRUARY 8, 2000, AND THE WORKSESSION HELD ON FEBRUARY 15, 2000

B. ORDINANCE NO. 2665 - BUDGET AMENDMENT FOR FACILITY MAINTENANCE

Summary: The consideration of a budget amendment, in the amount of \$250,000, to appropriate additional funds for necessary repairs to various City facilities.

The Parks and Recreation Department has been working for several months on identifying urgent needs to existing City-owned facilities. In the current budget, \$250,000 was appropriated for maintenance repair to over 100 facilities currently under City ownership. Due to a number of emergency situations which included preparation for Y2K emergency shelter service, new HVAC system for Senior Opportunity Center, renovations to the Murphy-Oakley Resource Center, and replacement of the sewer line in City Hall, the current budget has been depleted. The costs associated with those emergency situations total approximately \$160,000.

In addition, staff has identified that Fire Stations #2 and #5 are in desperate need of roof replacement. Both facilities cannot continue to be patched and a complete roof replacement is necessary in order to continue occupancy of these facilities. In addition, the boiler at Murphy-Oakley Resource Center needs to be replaced. The estimated costs for the above work represents approximately \$106,200. Staff is requesting a budget amendment of \$250,000 in order to implement and supplement the above mentioned improvements.

The Parks and Recreation Department is requesting City Council approval of the budget amendment in the amount of \$250,000.

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C. RESOLUTION NO. 00-28 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL FOR BI-WEEKLY MIXED RECYCLING PICK-UP

Summary: The consideration of a resolution amending the Fees & Charges Manual and a resolution amending the recycling contract with Curbside Management in order to expand the curbside recycling program to include mixed paper.

At the City Council work session on February 1, 2000, staff was instructed to further investigate the option to add mixed paper to the curbside recycling program. Mixed paper includes items such as magazines, paperboard, catalogs, and junk mail. The benefits of this expansion include a significant increase in the overall amount of recyclables collected and an associated reduction in the amount of trash landfilled by the City. The inclusion of mixed paper is also the most frequently requested program change and will bring the City of Asheville's recycling program up to par with other large cities in North Carolina.

After negotiations with Curbside Management, the proposed per household monthly recycling fee charged to residents via their water bill would increase from \$1.54 to \$2.00. As part of the negotiated contract price (\$2.00 per customer), staff has agreed to adjust the trash and recycling day of approximately 300 customers in order to equalize route size and maximize current and new equipment necessary for the implementation of this new service. In addition, the City would extend the contract with Curbside Management to July, 2005. The current contract is set to expire in January, 2002. Consistent with the initial delivery of bins to the residents, the City will pay the delivery costs of an additional bin to hold mixed paper. This cost is estimated to be approximately \$10,000.

Staff recommends approval of the resolution to amend the Fees and Charges Manual to reflect the cost increase for added recycling services beginning July, 2000, and the resolution authorizing amendments to the curbside recycling contract with Curbside Management, Inc.

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D. RESOLUTION NO. 00-29 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS TO IMPLEMENT THE BI-WEEKLY MIXED RECYCLING PICK-UP

Summary: See Consent Agenda Item "E" above.

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E. MOTION SETTING A PUBLIC HEARING ON WEDNESDAY, MARCH 15, 2000, TO CONSIDER A CONDITIONAL USE PERMIT FOR THE MEADOWS, PHASE III, LOCATED OFF OF ASCENSION DRIVE IN WEST ASHEVILLE

F. MOTION APPROVING THE FESTIVALS AND SPECIAL EVENTS FOR 2000

Summary: The consideration of a motion to approve the Parks and Recreation Department's 2000 festival and special events schedule. -3-

In March of 1995, the Asheville City Council adopted a "Festivals Policy." A segment of that policy requires that City Council approve the list of festivals on an annual basis. Therefore the Parks and Recreation Department is recommending the approval of the following festivals and special events (Please note 3 new

events applying for co-sponsorship this year include: Bike for the Bell, Come-Unity Asheville and Earth Day 2000 Festival); Special Olympics; Holiday Luncheon; Buncombe County Appreciation Day; Movies in the Park; Very Special Arts Festival; Youth 5K Run; Martin Luther King Peace Walk; Unity in Diversity; Earth Day 2000; Festival; Easter Eggstravaganza; Walk America; Come-Unity Asheville; Senior Games; Friends for Animals Anti-Cruelty Animal Walk; Bike for the Bell/Strive Not to Drive; Hershey's Track n' Field; Symphony on the Block; 3rd Annual "Biltmore Estate 15K Classic" Foot Race; Moonlight over Downtown; Sunday in the Park; RiverLink Triathlon; Honda Hoot Wall Street Policy; Honda Hoot Downtown After Five; Shindig on the Green; Downtown After Five; French Broad River Wildlife Art & Craft Show; Burton Street Gospel Jubilee; Goombay Festival; 4th Annual "Brew Grass Festival"; La Fiesta Latina; Asheville Greek Festival; Walk Into History (Urban Trail); Westfest; Asheville Merchants Corporation Christmas Parade; Light Up Your Holidays; and

2000 Arby's Reindeer Romp.

The Parks and Recreation Department recommends approval of the above festivals and special events for 2000.

G. RESOLUTION APPOINTING A MEMBER TO THE TREE COMMISSION

This item was removed from the consent agenda to be considered at a later date.

Vice-Mayor Cloninger 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 RELATIVE TO CLOSING AN UNOPENED PORTION OF HERMAN AVENUE EXTENSION

RESOLUTION NO. 00-30 - RESOLUTION CLOSING AN UNOPENED PORTION OF HERMAN AVENUE EXTENSION

Vice-Mayor Cloninger opened the public hearing at 5:06 p.m.

Public Works Director Mark Combs said that a petition has been received from Winston W. Pulliam and Kasey Properties, LLC, which includes an affidavit from Winston W. Pulliam, owner of parcel 9655.17-11-6883 and 9655.17-12-6013 and Gerald J. Kasey, Manager of Kasey Properties, LLC, owner of parcel 9655.17-11-4814. The above mentioned property owners are requesting the permanent closure of the northern portion of a 20 foot right-of-way which is the unfinished portion of Herman Avenue Extension.

The City has no plans to utilize this unopened right-of-way. All utility companies will be contacted, the resolution of intent to close the unopened portion of Herman Avenue Extension was advertised in a local paper, and the location was posted with the resolution of intent to close.

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Public Works Department staff recommends the resolution of intent to permanently close the unopened portion of Herman Avenue Extension adjacent to PIN No. 9655.17-11-6883, 9655.17-12-6013, and 9655.17-11-4814 be adopted.

Vice-Mayor Cloninger closed the public hearing at 5:08 p.m.

Vice-Mayor Cloninger said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 00-30. This motion was seconded by Councilwoman Field and carried unanimously.

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B. PUBLIC HEARING RELATIVE TO THE VOLUNTARY ANNEXATION OF 65 AND 67 LONG SHOALS ROAD

ORDINANCE NO. 2666 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO 65 AND 67 LONG SHOALS ROAD

Vice-Mayor Cloninger asked to be excused from voting because the firm in which he is a partner in represents the petitioners. Therefore, Councilman Worley moved to excuse Vice-Mayor Cloninger due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously. Vice-Mayor Cloninger then turned the meeting over to Councilman Hay to preside during this item.

Councilman Hay opened the public hearing at 5:09 p.m.

Mr. Paul Benson, Urban Planner, said that this is the consideration of an ordinance extending the corporate limits to include two lots located south of Long Shoals Road and identified as 65 & 67 Long Shoals Road. This public hearing was legally advertised on February 11, 2000.

Floy E. Mattos owner of property located at 65 Long Shoals Road, and Sara B. Austin, owner of property located at 67 Long Shoals Road have submitted an annexation petition for these properties which are adjacent to each other. These properties front on, and lie to the south of Long Shoals Road. They are adjacent to the existing city limits which follows the centerline of Long Shoals Road.

The area proposed for annexation consists of a total of 2.13 acres and currently developed with two single-family residences.

City staff recommends City Council annex property located south of Long Shoals Road and identified as 65 & 67 Long Shoals Road.

When Councilman Hay wondered why the applicants are petitioning for voluntary annexation, Mr. Benson said that it was his understanding that the applicant applied for commercial rezoning from the Limestone Township zoning ordinance and were denied. The applicants had an indication that perhaps they could get a commercial rezoning through the City of Asheville. Mr. Benson said that no one in the City has promised the applicants that the property would be zoned commercial. He said that if the property is annexed, the next step is that the recommended zoning will go through the Planning & Zoning Commission with a recommendation to City Council. -5-

Ms. Francis Briggs, member of the Limestone Community Council, said that they have not been petitioned for this property to be rezoned.

Mr. Doug Thigpen, attorney representing the petitioners, asked that City Council consider the voluntary annexation petition.

Councilman Hay closed the public hearing at 5:14 p.m.

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

Councilwoman Field moved for the adoption of Ordinance No. 2666. This motion was seconded by Councilwoman Whitmire and carried unanimously.

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C. PUBLIC HEARING RELATIVE TO THE VOLUNTARY ANNEXATION OF PROPERTY LOCATED NORTH OF LONG SHOALS ROAD AND IDENTIFIED AS OAKBROOK, PHASE 1 AT BILTMORE PARK

ORDINANCE NO. 2667 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY LOCATED NORTH OF LONG SHOALS ROAD AND IDENTIFIED AS OAKBROOK, PHASE 1 AT BILTMORE PARK

Vice-Mayor Cloninger opened the public hearing at 5:15 p.m.

Urban Planner Paul Benson said that this is consideration of an ordinance to extend the corporate limits of the City of Asheville to include property located north of Long Shoals Road and identified as Oakbrook, Phase 1 at Biltmore Park. This public hearing was legally advertised on February 11, 2000.

Biltmore Farms, Inc. has submitted an annexation petition for Oakbrook, Phase 1 at Biltmore Park. This area will be adjacent to the current city limits, being located east of and adjacent to Schenck Parkway which will be annexed effective 2/8/2000. Biltmore Park is generally located west of Overlook Road, east of Interstate 26 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 12.8 acres and is platted for 22 single-family residential lots along with rights-of-way for White Ash Drive and Rosebay Lane. The area will be accessed by Schenck Parkway from Long Shoals Road.

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, which would be August 22, 2000.

City staff recommends City Council adopt an ordinance extending the corporate limits to include the annexation of property located north of Long Shoals Road and identified as Oakbrook, Phase 1 at Biltmore Park.

Vice-Mayor Cloninger closed the public hearing at 5:17 p.m. -6-

Vice-Mayor Cloninger 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. 2667. This motion was seconded by Councilwoman Whitmire and carried unanimously.

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D. PUBLIC HEARING TO ZONE INITIALLY VOLUNTARY ANNEXATION AREAS IN BILTMORE PARK AS FOLLOWS: THE BILTMORE PARK COMMON AREA AS RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT AND SCHENCK PARKWAY, 100 TECHNOLOGY DRIVE AND THE VOLVO BUILDING PROPERTY AS CI COMMERCIAL INDUSTRIAL DISTRICT

ORDINANCE NO. 2668 - ORDINANCE TO ZONE INITIALLY VOLUNTARY ANNEXATION AREAS IN BILTMORE PARK AS FOLLOWS: THE BILTMORE PARK COMMON AREA AS RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT AND SCHENCK PARKWAY, 100 TECHNOLOGY DRIVE AND THE VOLVO BUILDING PROPERTY AS CI COMMERCIAL INDUSTRIAL DISTRICT

Vice-Mayor Cloninger opened the public hearing at 5:18 p.m.

Ms. Stacy Merten, Urban Planner, said that this is the consideration of an ordinance to initially zone the Biltmore Park Common Area as RS-8 Residential Single-Family High Density District and Schenck Parkway, 100 Technology Drive and the Volvo Building property as CI Commercial Industrial District. This public hearing was legally advertised on February 11 and February 18, 2000.

The Planning and Zoning Commission, at their February 2, 2000, meeting, reviewed and recommended approval to zone the recently voluntarily annexed 37.3 acre tract comprised of the Volvo Building property, 100 Technology Drive and Schenck Parkway as CI Commercial Industrial District and the Biltmore Park Common Area as RS-8 Residential Single-Family High Density District. The Volvo site and 100 Technology Drive are currently developed with flexible industrial/office type facilities. Schenck Parkway has been constructed and will be taken over by the City as a public street. The portion identified as Common Area is intended as open space for the Biltmore Park community. The development on the tract conforms to the recommended zoning. There was no public comment received at the public hearing.

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

Vice-Mayor Cloninger closed the public hearing at 5:20 p.m.

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

Councilwoman Field moved for the adoption of Ordinance No. 2668. This motion was seconded by Councilwoman Whitmire and carried unanimously.

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E. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO INCLUDE A PARKS AND OPEN SPACE DISTRICT

Vice-Mayor Cloninger opened the public hearing at 5:21 p.m.

Urban Planner Carl Ownbey said that this is the consideration of an ordinance amendment to the Unified Development Ordinance (UDO) to establish a new zoning district entitled "Parks and Open Space." This public hearing was legally advertised on February 11 and 18, 2000.

After direction from City Council to establish a new parks and open space zoning district, the Planning and Development staff met several times with staff from the Parks and Recreation Department and the Public Works Department to compile guidelines and development standards for the new zoning district. In addition to City staff review, the draft of the ordinance was given to the Greenway Commission and RiverLink for their input.

During the Planning & Zoning Commission's public hearing, the Commissioners discussed at great length the need to add to the Parks and Open Space District a provision that only the property owner or their

authorized agent be permitted to file a request to have their parcel of land rezoned.

The Commissioners raised issues concerning: the grandfathering of uses on the property, creating non-conforming uses, changing the economic benefit of the property, possible government "takings claim," and fairness to the property owner. The main concern seemed to be that any City Council could change the zoning on a parcel of land to this classification against the wishes of the property owner; thereby eliminating the economic benefit of the land to the landowner.

The Commissioners voted to recommend that this zoning district incorporate specific wording to permit only the property owner or their authorized agent to request the rezoning of a parcel of land to this particular zoning classification.

The Planning and Development staff presented this new zoning district to the Planning and Zoning Commission at their February 2, 2000, regular meeting. After presentation by staff and the lengthy discussion, the Commissioners voted 5 to 1 to recommend to City Council the adoption of this new zoning district with the additional wording regarding the initiation of an amendment.

However, the Planning staff feels strongly that the inclusion of this particular wording ("any proposed zoning map amendment must be initiated by the property owner or their authorized agent") to this one zoning district limits the ability of the City Council to apply the Parks and Open Space zoning classification at its discretion. Staff recommends the adoption of the ordinance without the additional wording.

Upon inquiry of Councilman Hay, Mr. Ownbey said that the minimum lot size standard for lots in this proposed district shall be 15 acres, however, City Council has the discretion to consider smaller lots.

Upon inquiry of Councilman Peterson, Mr. Ownbey said that accessory structures or accessory uses have to relate to the recreational activity that would be permitted in that zoning district.

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Entered into the record was a statement via phone call from Mayor Sitnick to City Manager Westbrook on February 22, 2000: "Having lobbied for this for a number of years, I am 100% supportive of a Parks and Open Space District inclusion in the Unified Development Ordinance and would like to thank staff for bringing it forward."

Mr. Karl Koon and Mr. Jan Davis, members of the Planning and Zoning Commission, explained the Commissioner's reasons for recommending that only the property owner or their authorized agent be permitted to request the rezoning of a parcel of land to this particular zoning classification.

Upon inquiry of Councilwoman Whitmire, City Attorney Oast said that parks are permitted uses in every zoning district in the UDO, except Industrial and Highway Business. In those two districts, they are permitted, however, they are limited to passive parks or arboretums.

Upon inquiry of Mr. Don Yelton, City Attorney Oast said that you cannot have an accessory structure that is not tied to a principle use.

Mr. Mel Thomason hoped that City Council would not consider changing the zoning on a parcel of land to this classification against the wishes of the property owner. He said that when park land is contiguous to residential land, there are certain conflicts. One form of conflict has to do with the lights. He understands that the lights in a parking area are required to be shielded, but there is not a similar requirement for lighting which illuminates the activity area of the park. He urged Council to consider some type of shielding of the lights on the playing field. He also requested that the outdoor loudspeaker system be turned off at 10:00 p.m. (instead of 11:00 p.m.)

Parks and Recreation Director Irby Brinson said that there may be an occasion where because of the topography the lights on the playing field may not be able to be shielded. He had no problem with the request that the outdoor loudspeaker system being turned off at 10:00 p.m.

Vice-Mayor Cloninger closed the public hearing at 5:38 p.m.

Councilman Peterson was concerned that the City might use a portion of park property (in particular the Azalea Road project) for something that is not compatible with the residential area. Mr. Brinson responded that if the City proceeded with the Azalea Road project, he would prefer that a storage building be built on the property for storage of equipment because of the cost of transferring it back and forth. He felt that a maintenance facility would be an accessory structure.

Councilman Peterson also questioned the maximum height of structures in the proposed district being 80 feet. Mr. Brinson said that if Council is looking at eventually building a new arena on park or public property, to reduce the height might be a restriction. City Attorney Oast also noted that since these concerns are being addressed about City-owned property, Council can control that with respect to each specific park.

Councilman Worley spoke in opposition to adoption of the ordinance. He felt nothing is gained by adding this district to the UDO. We currently permit parks and open space in every zoning district in the City, except two and in those two, only passive parks and arboretums are allowed. He felt it would be better to impose upon parks the same standards in the zoning districts that we locate them in. We do that by keeping what we have right now and not adding this new district. By creating this district, he felt we are actually taking a step backwards from mixed uses. By including the parks in the existing districts as we do now, that furthers the mixed use goal. He felt that the concept is a good idea, but it really only adds one more ordinance that we really don't need. He certain wants to preserve parks, open space and promote recreation, -9-

and certainly doesn't want to see our parks and greenway spaces developed or sold, but adoption of this ordinance does not make good commons sense.

Upon inquiry of Councilwoman Field, Senior Planner Gerald Green said that in all other zoning districts, the ability to initiate a rezoning is given to the property owners, the property owner's representative, the Planning & Zoning Commission or the City Council. This would be the only district in which the City Council would not have the authority to initiate the rezoning of a piece of property.

In response to Councilwoman Field, Mr. Green said that if City Council did want to initiate the rezoning of someone's property, he felt that the City Council would be very sensitive of the property owner's rights and that the property owner would have several avenues of opposing the rezoning of their property to Parks and Open Space.

Vice-Mayor Cloninger very much hoped that Council would adopt the proposed ordinance with the recommendation from the Planning & Zoning Commission and an amendment to the ordinance that the outdoor loud speakers be turned off at 10:00 p.m. He felt the Planning & Zoning Commission's recommendation more accurately reflects what Mayor Sitnick and he proposed to begin with. He doesn't think it would be fair to include in the ordinance a provision that private property could be involuntarily zoned as a park. He did think we should adopt the ordinance as to City-owned property and private property where the property owner voluntarily requests the rezoning. He felt it was very important that we send a message to the community that we have a deep commitment to preserve dwindling open spaces within our City limits. He also felt adoption of this ordinance will send a message to neighborhoods that we are serious about not using our City-owned property in a way that is inconsistent with the surrounding neighborhood. While designating City-owned property as park space will not preclude the City Councils in the future from changing the zoning designation and making some other uses of it, it might make it a lot harder for the City to

change that use. In addition to designating our City-owned public spaces as parks, he hoped City Council would take the next step and also grant conservation easements as to those properties so that it really will preclude the City from making any other use of the property.

Upon inquiry of Councilman Peterson, Mr. Ownbey said that if a piece of City-owned property was zoned Parks and Open Space, the standards with regard to a protest petition would still apply.

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

Councilman Peterson moved to amend the UDO to include a Parks and Open Space District as recommended by the Planning & Zoning Commission and with an amendment to the ordinance that the outdoor loud speakers be turned off at 10:00 p.m. This motion was seconded by Councilman Hay.

Councilwoman Field said that with the Planning & Zoning Commission recommendation she would have to vote against the ordinance because she believes that City staff is trying to get some consistency through all of their zoning classifications. During the entire UDO process, we were trying to have less, rather than more, zoning classifications and she felt we could fairly quickly do some conservation easements on the City's property that we wish to remain parks. She felt we should definitely move on the conservation easements, but she was not comfortable voting for the ordinance in its present form. -10-

Councilwoman Whitmire felt it is clear in our current process that if an owner wants to get their property rezoned they can petition the City to get that to happen. I think that if an owner wants to designate their property as Parks and Open Space, it would be a pleasurable thing for Council to do that. We've heard from staff in the past couple of months about decreasing the number of zoning districts and to add this new district is not consistent with that. We are looking at ways to streamline processes and make it easier for people to do business with the City and for Council to increase the number of districts, the perception might be that it will be harder to do business in the City. She did not think the district is necessary or essential. If this ordinance does not pass, she hoped that the outdoor loud speakers in parks will be turned off at 10:00 p.m.

The motion made by Councilman Peterson and seconded by Councilman Hay failed on a 3-3 vote, with Vice-Mayor Cloninger and Councilmen Hay and Peterson voting "yes" and Councilwomen Field and Whitmire and Councilman Worley voting "no".

F. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO INCLUDE CONDITIONAL USE ZONING

ORDINANCE NO. 2669 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO INCLUDE CONDITIONAL USE ZONING

Vice-Mayor Cloninger opened the public hearing at 6:04 p.m.

Senior Planner Gerald Green said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) which would establish a Conditional Use District. This public hearing was legally advertised on February 11 and 18, 2000.

The Planning and Zoning Commission, at their February 2, 2000, meeting, reviewed and recommended approval of an amendment to the UDO which would establish Section 7-9-9 to create a Conditional Use District. This district will provide a level of flexibility in the rezoning process which is not available with the existing zoning districts. The new district could be applied anywhere within the City and its jurisdiction. Unlike conventional rezoning, a rezoning to a Conditional Use District would permit review and approval of detailed site plans, building designs and elevations, and floor plans as well as identification of specific uses.

Conditions could be attached to the rezoning to further mitigate impacts on surrounding properties. Upon application by the property owner or authorized representative, the Conditional Use District zoning request would be subject to a review process involving the following steps:

- Review and recommendation by the Technical Review Committee (with public notification);
- Review and recommendation by the Planning and Zoning Commission (public hearing); and
- Review and action by City Council (public hearing).

In acting upon the Conditional Use District zoning request, the City Council would be charged with changing the zoning of the site to a conditional use zoning and issuing a Conditional Use Permit for the proposed development. The City Council may attach conditions to ensure that the proposed development does not adversely impact the surrounding properties. Any violation of the Conditional Use Permit or other failure to comply with the conditions imposed would be treated as a violation of the City's Zoning Ordinance.

The Planning and Zoning Commission voted 6 to 0 to recommend approval of the wording amendment. The Planning and Development staff recommends approval of the amendment. -11-

Mr. Green suggested two changes to the ordinance which Council has before them: (1) Amend Section 7-9-9 (b) 10 to read "If, subsequent to the development of the use for which the Conditional Use Permit was approved, the use is abandoned for more than one hundred eighty days (180) days, the provisions of Section 7-17 of this Chapter shall apply." and (2) Amend Section 7-9-9 (c) 4 to read "Upon receipt of the recommendations from the Planning and Zoning Commission, the City Council shall hold a public hearing on the requests for Conditional Use District zoning and a public hearing to consider the issuance of a Conditional Use Permit. The public hearing to consider the request for Conditional Use District zoning shall be held in accordance with the provisions set forth in Section 7-5-20 of this chapter. The public hearing to consider the issuance of the Conditional Use Permit for the Conditional Use District shall be held in accordance with the provisions set forth in Sections 7-5-5 (f) and 7-5-20 of this chapter. The City Council shall take separate actions on consideration of the zoning request and the Conditional use Permit request. Consideration of the Conditional use District zoning request shall be handled in accordance with procedures set forth in Section 7-7-5 of this chapter. The issuance of the Conditional Use Permit for the Conditional Use District shall be considered in accordance with the procedures set forth in this subsection."

Upon inquiry of Councilwoman Field, City Attorney Oast said that this is not a conditional use overlay because in the typical overlay scheme, you retain the underlying zoning classification - with the conditional use zoning, the zoning classification itself changes.

With regard to a question from Councilman Worley regarding spot zoning, City Attorney Oast said that the conditional use zoning concept has created some problems for the courts when it has been subjected to a spot zoning challenge. He thought the general rule is, yes, spot zoning prohibition does apply, but because of the nature of conditional use zoning, the standards are somewhat less stringent. In fact, some people have referred to conditional use zoning as legal spot zoning.

Vice-Mayor Cloninger hoped that Council would adopt this ordinance because it is a great tool what will allow us to encourage mixed use in a way that will be compatible with the surrounding area.

Vice-Mayor Cloninger closed the public hearing at 6:24 p.m.

Vice-Mayor Cloninger 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. 2669, with the two amendments outlined by Mr. Green above. This motion was seconded by Councilwoman Whitmire and carried on a 5-1 vote, with

Councilman Peterson voting "no".

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IV. UNFINISHED BUSINESS:

A. CONSIDERATION OF THE INITIAL ZONING OF THE ROYAL PINES POOL AND PARK PROPERTIES LOCATED ON SWEETEN CREEK ROAD AND PEACH TREE STREET

ORDINANCE NO. 2670 - ORDINANCE AMENDING ZONING FOR PROPERTY IDENTIFIED AS THE ROYAL PINES POOL AND PARK PROPERTIES LOCATED ON SWEETEN CREEK ROAD AND PEACH TREE STREET TO BE ZONED RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT -12-

The Asheville City Council, at their October 27, 1999, meeting, reviewed the initial zoning consideration for the Royal Pines Pool and Park Properties located on Sweeten Creek Road and Peach Tree Street to RS-4 Residential Single-Family Medium Density District. Four properties with a total area of 5.5 acres were included as part of the zoning proposal. This was a private pool and park serving the local community and will now be managed by the Parks and Recreation Department of the City of Asheville. There are currently no definitive plans for the property but it is anticipated that it will continue as a recreational use. The Planning & Zoning Commission voted unanimously and City staff recommended the property be zoned as RS-4, as there was no specific zoning district for Parks and Open Space.

Several community residents expressed their concern that the residential zoning meant that the parcel could become a housing development. Consequently, City Council instructed staff to establish an open space zoning classification to be included in the Unified Development Ordinance (UDO). Staff has completed the preparation of a wording amendment to the UDO that will add a Parks and Open Space classification. The new classification was considered by City Council on February 22, 2000, and the motion to include the new classification failed.

Vice-Mayor Cloninger said that this public hearing was opened and closed on October 27, 1999, and continued until this date to allow time for the open space zoning classification to be adopted into the Unified Development Ordinance (UDO). However, because the UDO was not amended to include a Parks and Open Space District, he suggested City Council zone the property RS-4 Residential Single-Family Medium Density District and direct staff to begin exploring the feasibility of granting conservation easements on our City-owned park property. He also suggested staff explore the possibility of whether it might be feasible for the City to sell those conservation easements to private parties for tax purposes. He explained the process the Grove Arcade used. If this is feasible, we can still protect our property forever by way of a conservation easement, and at the same time create some revenue by selling the deductions that the City would otherwise have to private parties.

City Attorney Oast said that City Council can rezone the property to RS-4. He said that he would be glad to initiate an investigation to see whether the City can sell the tax credits to private entities for revenue purposes.

Vice-Mayor Cloninger said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Cloninger moved (1) for the adoption of Ordinance No. 2670 to rezone the property to RS-4; (2) to direct staff to begin exploring the feasibility of granting conservation easements on all of our City-owned property; and (3) to direct staff to explore the possibility of selling any potential tax credits to private parties. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 18 - PAGE

B. ORDINANCE NO. 2671 - ORDINANCE TO APPROVE A CONDITIONAL USE PERMIT FOR HOME DEPOT LOCATED AT THE INTERSECTION OF ACTON CIRCLE AND MONTE VISTA ROAD

Vice-Mayor Cloninger asked to be excused from voting because the firm in which he is a partner in represents the petitioners. Therefore, Councilman Hay moved to excuse Vice-Mayor Cloninger due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously. Vice-Mayor Cloninger then turned the meeting over to Councilman Hay to preside during this item. -13-

Urban Planner Dan Baechtold said that the public hearing on this matter was held on February 8, 2000. He said this is the consideration of an ordinance adopting an order making findings and conclusions, and establishing conditions, for a Conditional Use Permit for The Home Depot.

On February 8, 2000, the City Council held a public hearing and voted 5 to 1 (Vice Mayor Cloninger having been excused from voting) to issue a Conditional Use Permit for the Level III project of The Home Depot. The City Attorney's Office was directed to prepare an order granting the Conditional Use Permit. He reviewed the draft ordinance and order containing the findings and conclusions and granting the issuance of the permit . The order is in draft form and may be modified by the City Council prior to voting on it.

Once the order issuing the Conditional Use Permit is in satisfactory form, the City Council should vote to adopt it.

Mr. Baechtold explained that staff is recommending one change to Condition No. 3. It currently reads that "In addition to the proposed sidewalk shown on the site plans, the applicant shall construct a sidewalk built to City standards along the widened portion of Acton Circle." He said that with the engineering that is being done out there and the amount of right-of-way that exists there, it may not be physically possible to get a sidewalk on both sides. That is still the City's preference to have a sidewalk on both sides, and there is an existing sidewalk on the McDonald's side that will remain. There are right-of-way constraints and also a creek which has some physical constraints and so staff would like to add the flexibility to have the City Engineer work with the developer's engineer to provide the best solution for pedestrian circulation there. He suggested the following amendment to Condition No. 3: "In addition to the proposed sidewalk shown on the site plans, the widened portion of Acton Circle shall provide facilities to accommodate pedestrian movements from US 19-23 to the proposed Home Depot. The design and location of these facilities shall be determined by the City Engineer."

Councilman Worley also suggested the following non-substantive wording change in Finding No. 14: "The applicant provided the sworn testimony of real estate agent, Chuck Tessier, of Tessier Associates, that property values of adjacent property would increase in value as commercial property and that with respect to residential areas located further away from the Project would have less impact on their property values."

Councilman Hay said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2671, with the two amendments outlined above by Mr. Baechtold and Councilman Worley. This motion was seconded by Councilwoman Field and carried on a 4-1 vote with Councilman Peterson voting "no".

ORDINANCE BOOK NO. 18 - PAGE

C. ORDINANCE NO. 2672 - ORDINANCE TO APPROVE A CONDITIONAL USE PERMIT FOR NETTLEWOOD PROFESSIONAL PARK LOCATED ON HENDERSONVILLE ROAD IN THE VICINITY OF WAL-MART

Urban Planner Stacy Merten said that the public hearing on this matter was held on February 8, 2000. He said this is the consideration of an ordinance adopting an order making findings and conclusions, and establishing conditions, for a Conditional Use Permit for Nettlewood Professional Park. -14-

On February 8, 2000, the City Council held a public hearing and voted 5 to 2 to issue a Conditional Use Permit for the Level III project of Nettlewood Professional Park. The City Attorney's Office was directed to prepare an order granting the Conditional Use Permit. He reviewed the draft ordinance and order containing the findings and conclusions and granting the issuance of the permit. The order is in draft form and may be modified by the City Council prior to voting on it.

Once the order issuing the Conditional Use Permit is in satisfactory form, the City Council should vote to adopt it.

Mr. Tom Pugh, representing Deerwood Homeowners Association, wanted to make sure that the Order reflects that there are four entrances available, even without the Deerwood entrance.

Planning & Development Director Scott Shuford said that the developer's site plan shows three accesses, other than the Deerwood access. This is what is in the draft Order. He does not show access off of Peach Tree and he believes Mr. Pugh's point is that that is a potential access.

Ms. Merten said that the developer at one time showed an access into one parking lot from Peach Tree, but on the revised plans that were reviewed at the public hearing, he did not have that access.

Vice-Mayor Cloninger said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2672. This motion was seconded by Councilman Worley.

Councilman Peterson confirmed that if the developer is unable to access at the Deerwood entrance he would not have to begin the process all over again. Ms. Merten said that the developer would have to go back before the Technical Review Committee, but it would not come back before City Council unless there were substantial changes.

The motion made by Councilwoman Field and seconded by Councilman Worley carried on a 5-1 vote, with Councilman Peterson voting "no".

ORDINANCE BOOK NO. 18 - PAGE

D. RESOLUTION NO. 00-31 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ACCESS CHANNEL COMMISSION

Vice-Mayor Hay said that this is the consideration of appointing a member to the Public Access Channel Commission.

On September 14, 1999, Ordinance No. 2612 established a Public Access Channel Commission to consist of five members appointed by City Council. On February 8, 2000, Ordinance No. 2661 expanded the membership of the Commission to nine members and amend the terms from four year staggered terms to three year staggered terms.

On January 25, 2000, City Council interviewed Raphael Peter, Jim Torpey, Wally Bowen, Andrew Reed, Lisa Michie, Orpheus Allison, Mark Rosenstein, John Hayes, Beth Lazer, Rebecca Em Campbell, Allan Goodstadt, Marianna Bailey, Clifford Davids, Mark Goldstein and Mary Ellen Brown. -15-

On February 15, 2000, City Council (1) appointed Jim Torpey, John Hayes, Mary Ellen Brown, Beth Lazer and Mark Goldstein to each serve a three year term respectively, terms beginning on March 1, 2000, and expiring on March 1, 2003, or until their successors have been appointed; and (2) appointed Mark Rosenstein, Raphael Peter and Andrew Reed to each serve a two year term respectively, terms beginning on March 1, 2000, and expiring on March 1, 2002, or until their successors have been appointed.

Because of a three way tie vote amongst Marianna Bailey, Orpheus Allison and Allan Goodstadt, City Council instructed the City Clerk to place the remaining vacant seat on the February 22, 2000, City Council agenda for consideration.

Marianna Bailey received 4 votes; Allen Goodstadt received 2 votes; and Orpheus Allison received 0 votes. Therefore, Marianna Bailey was appointed as a member of the Public Access Channel to serve a two year term, term to begin March 1, 2000, and expire on March 1, 2002, or until her successor has been appointed.

RESOLUTION BOOK NO. 25 - PAGE 424

V. NEW BUSINESS:

A. RESOLUTION NO. 00-32- RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA KNOWN AS CHUNNS COVE ROAD/PINEY MOUNTAIN ROAD AREA (ALSO KNOWN AS AREA 2001-A) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION

B. RESOLUTION NO. 00-33 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA LOCATED NORTH OF U.S. HIGHWAY 70 BETWEEN RICEVILLE ROAD AND LOWER GRASSY BRANCH ROAD (ALSO KNOWN AS AREA 2001-B) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION

C. RESOLUTION NO. 00-34 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA LOCATED NORTH AND SOUTH OF LONG SHOALS ROAD BETWEEN I-26 AND HENDERSONVILLE ROAD (ALSO KNOWN AS AREA 2001-C) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION

D. RESOLUTION NO. 00-35 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA KNOWN AS RIDGEFIELD BOULEVARD AND OAK TERRACE AREA (ALSO KNOWN AS AREA 2001-D) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION

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E. RESOLUTION NO. 00-36- RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA KNOWN AS NEW LEICESTER HIGHWAY AREA (ALSO KNOWN AS AREA 2001-E) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION

F. RESOLUTION NO. 00-37 - RESOLUTION STATING THE INTENT OF THE

CITY OF ASHEVILLE TO CONSIDER ANNEXATION OF THE AREA KNOWN AS THE ROCKY RIDGE ROAD/WEDGEFIELD DRIVE AREA (ALSO KNOWN AS AREA 2001-F) AND DESCRIBED HEREIN AND FIXING THE DATE OF THE PUBLIC INFORMATIONAL MEETING AND THE PUBLIC HEARING ON THE QUESTION OF ANNEXATION

Planning & Development Director Scott Shuford said that this is the consideration of adoption of resolutions of intent so as to begin the process to annex six areas which are first priority areas.

In 1998 the City entered into an agreement with Benchmark, Inc., to develop a Five Year Annexation Plan. The first phase of this project consisted of the consultant identifying first priority areas and Council authorized staff to proceed with formulating plans to annex those areas. Six areas have been identified as qualifying for annexation under Part 3, Article 4A, Chapter 160-A of the North Carolina General Statutes. Adoption of the resolutions of intent sets forth a process that will result in the annexation of the six areas effective June 30, 2001. Steps in the process are proposed according to the following schedule:

Adoption of the Resolutions of Intent February 22, 2000

Approval of Plans of Services March 15, 2000

Public Information Meeting May 2, 2000

Public Hearing(s) May 23, 2000

Adoption of Annexation Ordinances June 13, 2000

Effective date of Annexations June 30, 2001

Staff recommends that the resolutions of intent be adopted by City Council to set in motion the process of consideration of annexation of the six areas outlined on the maps.

City Attorney Oast suggested that the consultant give the presentation on the overall annexation process. He then suggested that City Council consider each resolution separately with the consultant describing the characteristics of the area, City Council taking public comment and then consider the resolution of intent.

Mr. Richard Flowe, President of Benchmark Inc., passed out a locator map of the City of Asheville and reviewed with Council the procedural and technical phases of the annexation process. He said that the resolutions of intent do three things (1) identify the area proposed to be annexed; (2) sets a public informational meeting on May 2, 2000, and City Council public hearing on May 23, 2000; and (3) starts the procedural clock ticking. He said the Plan for Services consideration on March 15, 2000, and the public information meeting on May 2, 2000, will be a combination of all six areas but reviewed separately in detail. The public hearing on May 23, 2000, and the adoption of the annexation ordinances on June 13, 2000, will be separate actions.

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City-wide data includes the following:

Current Land Area 39.41 square miles (primary) 1.73 square miles (satellite)

Proposed Annexation Area 3.08 square miles (primary)

Satellites Made Contiguous 1.21 square miles

Remaining Satellite Area 0.52 square miles (satellite)

Proposed Land Area 43.70 square miles (primary) 0.52 square miles (satellite)

Current Population 68,294 persons (31,115 dwellings)

Estimated Annexation

Population 1,950 (819 dwellings)

Proposed Estimated

Population 70,244 (31,934 dwellings)

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

Mr. Flowe then reviewed Area 2001-A (Chunns Cove Road/Piney Mountain Road area). Area A is just off I-240 at Chunns Cove Road. The area is 55.85 acres, 0.087 square miles, no population, no dwellings, 2 establishments, 0.10 in street mileage and the assessed value is \$1,467,900.

Councilman Worley moved to adopt Resolution No. 00-32, the resolution of intent to consider annexation of the area known as Chunns Cove Road/Piney Mountain Road area, also known as Area 2001-A, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 425

Mr. Flowe then reviewed Area 2001-B (Arnold Road/Ranger Drive area). Area B is located north of U.S. Highway 70 between Riceville Road and Lower Grassy Branch Road. It includes the VA Hospital and some other properties in that area. The area is 195.15 acres, 0.305 square miles, 689 population, 242 dwellings, 6 establishments, 1.60 in street mileage and assessed value is \$11,977,400.

Councilwoman Field moved to adopt Resolution No. 00-33, the resolution of intent to consider annexation of the area located north of U.S. Highway 70 between Riceville Road and Lower Grassy Branch Road, also known as Area 2001-B, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilman Hay and carried unanimously.

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Councilman Worley asked if he had a conflict of interest since he has ownership of property in this area. City Attorney Oast said that he did not see a conflict of interest for Councilman Worley.

Mr. Flowe then reviewed Area 2001-C (Lake Julian area). Area C is on the southernmost end of the City of Asheville. It is located north and south of Long Shoals Road between I-26 and Hendersonville Road. The area is 1,500.14 acres, 2.344 square miles, 1,245 population, 571 dwellings, 31 establishments, 4.61 in street mileage and assessed value is \$142,072,700. -18-

Councilman Hay moved to adopt Resolution No. 00-34, the resolution of intent to consider annexation of the

area located north and south of Long Shoals Road between I-26 and Hendersonville Road, also known as Area 2001-C, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 433

Mr. Flowe then reviewed Area 2001-D (Ridgefield Boulevard area). Area D is located off of Brevard Road west of I-26 near the intersection of Sardis Road. The area is 205.65 acres, 0.321 square miles, 13 population, 5 dwellings, 18 establishments, 1.87 in street mileage and assessed value is \$39,729,100.

Councilwoman Field moved to adopt Resolution No. 00-35, the resolution of intent to consider annexation of the area known as Ridgefield Boulevard and Oak Terrace area, also known as Area 2001-D, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilwoman Whitmire and carried unanimously.

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Mr. Flowe then reviewed Area 2001-E (New Leicester Highway area). Area E is located off of New Leicester Highway. The area is 9.03 acres, 0.014 square miles, 3 population, 1 dwellings, 3 establishments, no street mileage and assessed value is \$932,300.

Councilman Peterson moved to adopt Resolution No. 00-36, the resolution of intent to consider annexation of the area known as New Leicester Highway, also known as Area 2001-E, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilwoman Worley and carried unanimously.

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Mr. Flowe then reviewed Area 2001-F (Wedgefield Road area). Area F is located in the Brevard Road and I-26 area. The area is 7.08 acres, 0.011 square miles, no population, no dwellings, 3 establishments, 0.12 in street mileage and assessed value is \$6,846,900.

Councilman Worley moved to adopt Resolution No. 00-37, the resolution of intent to consider annexation of the area known as the Rocky Ridge Road/Wedgefield Drive area, also known as Area 2001-F, and fixing the date of the public information meeting for May 2, 2000, and the City Council public hearing on the question of annexation on May 23, 2000. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 449

B. RESOLUTION NO. 00-38 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH URBAN DESIGN ASSOCIATES FOR THE PACK SQUARE CONCEPTUAL PLAN

ORDINANCE NO. 2673 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE PACK SQUARE CONCEPTUAL PLAN

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Mr. Mike Matteson, Director of City Development, said that this is the consideration of a resolution to approve the execution of a contract with Urban Design Associates for the Pack Square conceptual design and associated budget amendment.

The Pack Square Task Force sent requests for qualifications (RFQs) to a number of design firms for the Pack Square Renaissance Project. The RFQ packets were sent to the following firms:

Urban Design Associates (Pittsburgh) Streetworks (Alexandria)

Olin Partnership (Philadelphia) Wallace, Roberts & Todd (Philadelphia)

Design Workshop, Inc. (Aspen) Duany, Plater-Zyberk & Co. (Charlotte)

Cooper, Robertson & Partner (New York)

The list of firms selected to receive the RFQ was established based upon recommendations from members of the Design Subcommittee of the Pack Square Task Force (which includes several architects). It was felt that there are a limited number of firms nationally with the ability to provide this type of design assistance.

Based upon their qualifications, past projects and other criteria, the Pack Square Task Force, as well as the Downtown Commission, have selected Urban Design Associates to work with the Task Force and community to develop this conceptual design for Pack Square/City-County Plaza.

The Task Force is in the process of raising \$40,000 for this design process, which will include significant public participation in the form of a public forum on the design of public spaces as well as two public design workshops. Fifteen thousand dollars has been provided from the public sector (\$7,500 from both the City and the County). The remaining \$25,000 will come from private sector fundraising. The following is a list of contributors as of February 18, 2000:

City of Asheville Mast General Store

Buncombe County Carol L. King & Associates

John Cram Market Connections

Julian Price Russ Martin

Jim Samsel Tower Associates

Asheville Downtown Association Coach USA

Biltmore Company Pat McGuire

PBL Investments, LLC Sluder Furniture Co.

A special account has been established within the Planning and Development Department budget for this project. In addition to approval of the contract execution, Council will be asked to approve a budget amendment which is necessary in order to receive and disperse funds through this account.

City staff recommends City Council adopt a resolution to approve the execution of a contract for the Pack Square conceptual design and associated budget amendment.

Upon inquiry of Councilman Hay, Mr. Matteson explained some past projects that Urban Design Associates have designed.

Vice-Mayor Cloninger 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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Councilwoman Field moved for the adoption of Resolution No. 00-38. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 453

Councilman Worley moved for the adoption of Ordinance No. 2673. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 18 - PAGE

C. RESOLUTION NO. 00-39 - RESOLUTION ADOPTING THE NEIGHBORHOOD TRAFFIC CALMING POLICY

Mr. Michael Moule, Traffic Engineer, said that this is the consideration of a resolution adopting the Traffic Calming Policy for the City of Asheville.

Citizens have previously expressed concerns about speeding traffic in Asheville neighborhoods. The City Council has shown their commitment to traffic calming by including a budget for traffic calming measures in the 1999-2000 budget. With input from other City departments and the general public, the Engineering Department has drafted a Neighborhood Traffic Calming Policy. This policy is intended to guide city staff and inform residents about the processes and procedures for implementing traffic calming on residential streets. Under the policy, the Traffic Engineering Division will work with residents to identify traffic problems in their neighborhoods and seek appropriate solutions.

Staff recommends that City Council adopt the Neighborhood Traffic Calming Policy in order to provide the methodology for implementing traffic calming on residential streets in the City.

Mr. Moule reviewed some minor changes to the policy since the worksession on February 1, 2000. With regard to thresholds, he did more research based on comments at the worksession and also from public comment. In the proposed plan, the current threshold to start the project development is 50% and the current threshold for the final approval of the plan is 70%. After research, he suggested lowering the threshold to start the project development to 40% and lowering the threshold for the final approval of the plan threshold to 60%.

Councilwoman Field suggested that we start with the thresholds that Mr. Moule suggests and see how it works. She felt that the community working within the community is a good idea.

Upon inquiry of Councilwoman Field, Mr. Moule said about 3-4 traffic calming projects can be completed in one year.

Councilman Peterson presented City Council with letters of support from the Kenilworth Residents Association, Mr. Terry Albrecht, Mr. Robert Maddix, Lottie and Luke Carpenter, and Ms. Betty Jean Martin. The Kenilworth Residents Association also requested City Council to increase the funding for the traffic calming projects in the amount of \$150,000 in the upcoming budget.

Councilman Peterson explained some suggested amendments to the policy. He suggested that in the project initiation section, the following additional sentence in the first paragraph be added: "If City staff determines that an area under consideration has a high proportion of residents who are either low-income, elderly, or non-English speaking, or if there is not an existing neighborhood association, City staff will provide additional assistance to distribute -21-

and gather the petitions." He suggested the second sentence in the second paragraph of the project initiation section be amended as follows: "In order to move on to the next phase of project development, signatures must be gathered from at least 30 percent of the households (owners and renters) within the petition area."

Councilman Peterson also suggested that in the final approval process section, the third sentence in the first paragraph be amended to read "Signatures are required that represent at least 51% of the households in the petition area. However, if 20% of the households in the petition area sign a petition opposed to the proposed traffic calming measures, that at least 70% of the households in the petition area must sign a petition in support of the proposed measures." In addition, he suggested adding the following sentence after the first paragraph: "If City staff determines that an area under consideration has a high proportion of residents who are either low-income, elderly, or non-English speaking, or if there is not an existing neighborhood association, City staff will provide additional assistance to distribute and gather the petitions."

Vice-Mayor Cloninger said that Councilman Peterson's suggestion regarding the "low-income, elderly, or non-English speaking" residents is well-intentioned, however, he was not sure how staff would make those determinations.

City Attorney Oast explained that nothing in this policy would preclude staff from installing traffic calming devices in situations where they thought they were warranted. Since there are neighborhoods that are not well-enough organized to get these kind of petition drives going, staff may identify areas that need some sort of traffic calming assistance and it certainly would not be out of line to allow for staff to make that determination on its own.

Mr. Moule said that the policy does contain language that a study can be initiated by either requests from citizens, the City Council, the Technical Review Committee, the Planning & Zoning Commission, or staff, if it feels necessary to study it. Staff's goal at that point would be to put it back into the process and try to get the neighborhood involved.

City Engineer Cathy Ball said that if there is a safety issue where speeding is such a problem that we think someone would be in danger, City staff is responsible for taking action on that, regardless of this policy. There is nothing in this policy that would prohibit that. Also, since this is just the beginning of the policy, staff understands what the intent of Council is and if they run some items that might need to be changed, they will bring those back to Council. They will plan to review the policy at least semi-annually to make sure that it is in line with what we are trying to do in the community.

Councilman Peterson said that he would be willing to compromise with the lowering of the thresholds.

Vice-Mayor Cloninger 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. 00-39, with the threshold . to start the project development be lowered from 50% to 40% and the threshold for the final approval of the plan be lowered from 70% to 60%. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 454

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D. ORDINANCE NO. 2674 - ORDINANCE EXPANDING THE MEMBERSHIP OF THE PUBLIC ACCESS CHANNEL COMMISSION TO INCLUDE A POSITION FOR A REPRESENTATIVE OF THE LEAGUE OF WOMEN VOTERS AS A NON-VOTING, EX-OFFICIO MEMBER

Vice-Mayor Cloninger said that this is the consideration of an ordinance expanding the membership of the

Public Access Channel Commission to include a position for a representative of the Asheville-Buncombe League of Women Voters as a non-voting, ex-officio member.

The City Council has established a Public Access Channel Commission to facilitate the establishment and management of the public access channel authorized pursuant to the City's renegotiated cable television franchise agreement. It was the consensus of City Council to add a non-voting, ex-officio member to the Commission which shall be a representative of the Asheville-Buncombe County League of Women Voters. Their term will commence upon appointment and shall terminate three months after the City Council has entered into a contract with a third party to operate the public access channel.

Mr. Talmadge Neece, representing the Asheville-Buncombe County League of Women Voters, thanked City Council for this challenge.

Vice-Mayor Cloninger said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2674. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

ORDINANCE BOOK NO. 18 - PAGE

E. RESOLUTION NO. 00-40 - RESOLUTION APPOINTING THE ASHEVILLE-BUNCOMBE LEAGUE OF WOMEN VOTERS TO ACT AS AN ADVISORY GROUP TO THE PUBLIC ACCESS CHANNEL COMMISSION

Vice-Mayor Cloninger said that this is the consideration of a resolution appointing the Asheville-Buncombe League of Women Voters to act as an advisory group to the Public Access Channel Commission

The City of Asheville has established a Public Access Channel Commission as set forth in Division 12 of Article III of Chapter 2 of the Code of Ordinances of the City of Asheville to facilitate the establishment and management of a public access channel on the cablevision system. The City requested proposals from third parties to operate, program and manage the public access channel. No complete responses for proposals were received, but the Asheville-Buncombe League of Women Voters responded by expressing an interest in assisting the City of Asheville with developing a method for establishing the public access channel. The City Council has determined that the Asheville-Buncombe League of Women Voters could provide advice and assistance to the Public Access Channel Commission in order to facilitate the establishment and management of a public access channel on the cablevision system.

Councilwoman Whitmire said that she did talk with some other organizations who stated that they would attend the Commission meetings. They said that if they have any concerns they would voice them at that meeting, instead of asking for an ex-officio, non-voting seat on the Commission.

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Councilman Peterson encouraged other organizations to take an active role in this process and felt that if an organization would commit the time and energy, then perhaps City Council should consider appointing other ex-officio, non-voting members.

Vice-Mayor Cloninger 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. 00-40. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of February 4-10, 2000: Jesse Davis (Water), BellSouth (Water), Nancy Indriso (Fire), Shera Thurman (Police) and Lewis Haight (Water).

The following claims were received during the period of February 11-17, 2000: Theodore Smith (Fire), B. C. Banks (Sanitation), Bellsouth (Water) and Karen Youket (Streets).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Vice-Mayor Cloninger adjourned the meeting at 7:57 p.m.

CITY CLERK MAYOR
