

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

Regular Meeting

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

Absent: Vice-Mayor M. Charles Cloninger

INVOCATION

Councilwoman Bellamy gave the invocation.

ADDITIONS TO THE AGENDA

Mayor Sitnick said that she would like to introduce a resolution concerning the planning process for the I-26 Connector under "Other Business." In addition, she would like to announce the upcoming design forum format on July 20-22, 2000.

I. PROCLAMATIONS:

A. RECOGNITION OF THE CITY OF ASHEVILLE BEING DESIGNATED AS NO. 6 IN AMERICA'S TOP 25 ART DESTINATIONS AS POLLED BY *AMERICANSTYLE* MAGAZINE

Ms. Marilyn Patton from Grovewood Gallery presented the City of Asheville with a plaque in recognition of being designated as No. 6 in America's Top 25 Art Destinations as polled by *AmericanStyle* Magazine.

Mayor Sitnick recognized Mr. Tucker Cooke. Mr. Cooke is the Chair of the Asheville Public Art Board and active member of the Urban Trail Design Review Committee. He is responsible for the design of several of the stations on the Urban Trail. In addition Mr. Cooke is the Chair of the Art Department at UNCA and a local artist.

Mayor Sitnick also recognized Ms. Oralene Simmons. Ms. Simmons is the Cultural Arts Supervisor for the City and Director of the YMI Cultural Center. She is a member of the Urban Trail Committee and is responsible for the various YMI Galleries and exhibits.

B. PROCLAMATION PROCLAIMING JULY 26, 2000, AS THE "10TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT"

Mayor Sitnick read the proclamation proclaiming July 26, 2000, as the "10th Anniversary of the Americans with Disabilities Act" in the City of Asheville. She presented the proclamation to Mr. Bart Floyd and Mr. James Stirewalt, representatives from the Western Alliance Center for Independent Living, who thanked Council for their support.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 20, 2000, AND THE WORKSESSION HELD ON JUNE 27, 2000

B. RESOLUTION NO. 00-110 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE HERITAGE PRESERVATION AND THE SMITHSONIAN MUSEUM OF ART TO ASSESS THE CONDITION OF THE "ENERGY LOOP" LOCATED IN THE CITY-COUNTY PLAZA

Summary: The consideration of a resolution to apply for and enter into an agreement with the Heritage Preservation and the Smithsonian Museum of American Art to assess the condition of the "Energy Loop" located in the City-County Plaza.

The Parks and Recreation Department is responsible for managing public art through the newly developed Public Art Program with assistance from the Public Art Board. The "Energy Loop", located in City-County Plaza, was installed in the early 1980s and has experienced substantial damage that threatens its long-term survival. It is suffering from severe corrosion, especially at its base where the sculpture comes in direct contact with the ground, and consequently with moisture. Because of the damage, and because this sculpture was the first public art officially acquired by the City of Asheville, the Public Art Board has identified its conservation as a top priority.

The Parks and Recreation Department is requesting \$850 in non-matching grant funds to hire a conservator to assess the sculpture, prepare a detailed condition report, and a proposal for treatment. If successful, the City of Asheville will then consider applying for a Save Our Sculpture! conservation grant to implement the treatment.

The Parks and Recreation Department recommends the City of Asheville apply for and enter into an agreement for grant funds through the Heritage Preservation and the Smithsonian Museum of American Art in Save Our Sculpture! to assess the condition of the "Energy Loop" located in City-County Plaza.

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C. RESOLUTION NO. 00-111 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE CONTRACT WITH DAP SECURITY INC. FOR SCHOOL CROSSING GUARDS FOR SCHOOL YEARS 2000-01 AND 2001-02

Summary: The consideration of a resolution authorizing the City Manager to contract with DAP Security, Inc. for the provision of school crossing guards for the school years 2000/2001 and 2001/2002.

The Asheville Police Department, through the use of a private contractor, provides school crossing guards for 12 schools located in the City of Asheville. The contracted cost is \$80,233.20 annually. The prior years' contract covering the 1998/99 and 1999/00 school years was \$74,527.20 for each year. The reason for the increase from the prior year's contract is the three additional school crossing guards, in addition to incremental cost increases.

Funds are allocated in the Police Department budget in the Professional Services line item.

City staff recommends adoption of the resolution authorizing the City Manager to enter into an agreement with DAP Security, Inc. to provide the services of school crossing guards for the school years 2000/2001 and 2001/2002.

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D. RESOLUTION NO. 00-112 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER FOR UPSET BIDS REGARDING DISPOSAL PARCEL 104 IN THE EAST END COMMUNITY

IMPROVEMENT AREA

Summary: The consideration of a resolution establishing a minimum price of \$5,900 for Disposal Parcel 104 in the East End/Valley Street Community Improvement Program and authorizing the City Clerk to advertise for upset bids.

Disposal Parcel 104 is a residential lot near the corner of Ridge Street and Hazzard Street comprising 5,227 square feet. The assessed tax value on the lot is \$5,900.00. The bid from Queen E. Young for Disposal Parcel 104 includes the proposal to construct a single-family home on the property at an estimated cost of \$57,475.00. The home proposed will contain 3 bedrooms and 2 baths. She estimates that construction will be completed within six to eight weeks after conveyance of the property. Ms. Young, if she is the successful bidder, will be eligible for the Incentive Housing Program Lot Purchase Subsidy.

The advertisement for upset bids, if approved by Council, will require that upset bids include the proposal to begin construction of an affordable single family home on the lot within three months and complete construction within six months.

Approval of the resolution will establish the minimum price for Disposal Parcel 104 at \$5,900.00 and initiate the sale of the property through the upset bid process as provided in N. C. G. S. 160A-269.

Community Development staff recommends adoption of the resolution.

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E. ORDINANCE NO. 2727 - ORDINANCE AMENDING SECTION 6-2 (FIRE PREVENTION CODE) TO ELIMINATE FIRE DISTRICT NO. 3

Summary: The consideration of an ordinance eliminating the remaining area of Fire District No. 3.

The North Carolina Building Code, Appendix F, Fire District outlines the requirements for a fire district. A fire district is established in areas meeting certain requirements for occupancy, construction type, building height, and building density to prevent the spread of a major fire.

Asheville has three fire districts. Major renovation and rehabilitation of buildings in Fire District No. 3 have been undertaken to a point where no significant fire protection purpose is served by leaving those structures in a fire district. The attached ordinance eliminates all of Fire District No. 3.

The Interim Fire Chief recommends adoption of an ordinance that would eliminate Fire District No. 3 in the Asheville Fire Prevention Code.

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F. MOTION SETTING A PUBLIC HEARING ON JULY 25, 2000, TO CONSIDER THE REZONING OF PROPERTY ON ROBERTS STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO CB-1 COMMUNITY BUSINESS I DISTRICT, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)

G. MOTION SETTING A PUBLIC HEARING ON JULY 25, 2000, TO CONSIDER THE REZONING OF PROPERTY ON CARSON CREEK DRIVE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)

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 Councilwoman Field and carried unanimously.

III. PUBLIC HEARINGS:

IV. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2724 – SECOND READING OF AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE IN ORDER TO REVISE THE APPROVAL PROCESS FOR PRELIMINARY PLATS FOR MAJOR SUBDIVISIONS

Mayor Sitnick said that on June 27, 2000, Ordinance No. 2724 was adopted on its first reading and because it did not pass by a 2/3 vote of City Council, it is required to come back to City Council for a second reading.

Senior Planner Gerald Green briefly reviewed the amended ordinance stating that the proposed preliminary plat review process change was identified as a way to improve the development review processes of the City. Under the current preliminary plat review process, the preliminary plat is reviewed and approved by the Planning and Zoning Commission following review and recommendation by the Technical Review Committee (TRC). The approval process currently requires approximately 4 weeks. The TRC would be authorized to review and approve preliminary plats for major subdivisions by the proposed amendment. Time required for review and approval of preliminary plats would be reduced to two weeks. Public notification of proposed subdivisions would be provided prior to the TRC meetings and the meetings are open to the public. The proposed ordinance amendment would streamline and improve the preliminary plat review process with no reduction in the quality of the review process.

Councilman Peterson felt that the gap between 8 and 49 units is too much and there should be Planning & Zoning Commission approval necessary.

Councilwoman Field and Councilmen Hay and Worley all felt since that this approval is not a judgment or policy decision in that the requirements that need to be met are technical in nature.

Mayor Sitnick was concerned about public notification and understood that Planning staff will look at the notification procedures and report back to Council at a later date. In addition, she asked the City Manager to develop some information to educate the public on the development

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process, e.g., when a protest petition is appropriate, what has time deadlines and what are they, what is the next step if a development is approved or denied, how to items get submitted into the record, etc.

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

Councilman Worley moved for the adoption of Ordinance No. 2724 on it's second and final reading. This motion was seconded by Councilwoman Field and carried on a 5-1 vote, with Councilman Peterson voting "no".

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V. NEW BUSINESS:

A. ORDINANCE NO. 2728 - ORDINANCE AUTHORIZING CRIMINAL HISTORY CHECKS ON ALL FINAL APPLICANTS FOR POSITIONS WITH THE CITY OF ASHEVILLE DEFINED AS FULL AND PART TIME REGULAR EMPLOYMENT

Mr. Kevin Wilson, Assistant Director of Human Resources, said that this is the consideration of an ordinance that would provide all City departments the ability to conduct pre-employment criminal history checks in all 100 North Carolina counties.

In North Carolina, local governments only have the authority to conduct pre-employment criminal history checks through local law enforcement agencies when there is North Carolina General Statute requiring such a check. Certain job classes, such as police officers and daycare providers, are examples of positions where the North Carolina General Assembly has approved statewide criminal history checks. Absent of such General Statute, local governments must adopt a local ordinance that will provide the entity legal access to the North Carolina State Bureau of Investigation's Division of Criminal Investigation (DCI) terminal.

Adoption of this ordinance will enable the City of Asheville to conduct statewide criminal history checks through the City/County Identification Bureau at no cost to the City of Asheville. In addition, the turnaround time for this type of check can be completed in less than 24 hours. The City of Asheville is currently conducting criminal history checks in some of the City departments through the Buncombe County Clerk of Court. However, this type of check only checks criminal history for Buncombe County.

Most local governments across North Carolina are taking steps to provide a more comprehensive pre-employment criminal history screening process in order to help prevent employer liability. By conducting statewide checks, it will help insure that the top candidates hired for positions with the City of Asheville do not pose any direct threat to the safety of the employees and citizens of the City of Asheville.

The State of North Carolina Attorney General's Office, along with the State Bureau of Investigation, have reviewed and given initial approval of the draft ordinance as is required by law.

City staff recommends adoption of this ordinance.

When Councilwoman Bellamy asked what happens with the information received if the applicant is not hired, Mr. Wilson said the information is treated like any other employment record in that it cannot be released.

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Councilwoman Field wanted to make sure that we do not use this criminal check as a way to discriminate against someone who, if they did commit a crime, went through the rehabilitation process. Mr. Wilson responded that the City will not be involved in anything that would preclude someone from being hired on a biased or prejudiced basis.

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

Councilman Hay moved for the adoption of Ordinance No. 2728. This motion was seconded by Councilman Worley and carried unanimously.

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VI. OTHER BUSINESS:

A. RESOLUTION NO. 00-113 – RESOLUTION CONCERNING THE PLANNING PROCESS FOR THE I-26

CONNECTOR

Mayor Sitnick announced the design forum format for the I-26 Connector Project, which forum begins on July 20-July 22, 2000. She then asked City Council to consider the following resolution concerning the planning process for the I-26 Connector: "The Federal Highway Administration and the North Carolina Department of Transportation currently plan to connect the new and existing portions of Interstate 26 through the City of Asheville in Project I-2513. The design of this road project is of critical importance to the City of Asheville, in terms of traffic safety, traffic management, air quality, affordable housing economic consequences, and other areas. The Asheville City Council, based on concerns expressed by citizens of the City of Asheville concerning the design of said project, resolved in December of 1999 to hold a community design forum for the purpose of obtaining further public input on the design of said project and developing alternative design(s) which can then be further evaluated during environmental studies for the project. The Community Design Forum has been planned by City Planning staff, the N.C. Dept. of Transportation, and a Community Coordinating Committee, and has been preceded in June of 1999 by an educational meeting attended by several hundred citizens. The Community Design Forum is currently scheduled for July 21st and July 22nd, 2000. The Asheville City Council requests that the N. C. Dept. of Transportation and the Federal Highway Administration give thorough, consideration and evaluation to all feasible possibilities resulting from the Community Design Forum."

Councilman Hay moved to adopt the proposed resolution as read by Mayor Sitnick. This motion was seconded by Councilman Peterson.

Councilman Worley suggested some wording amendments to the proposed resolution. Discussion then surrounded the amendments and it was agreed upon by Council to amend the resolution (underlining denotes changes) as follows: "The Federal Highway Administration and the North Carolina Department of Transportation currently plan to connect the new and existing portions of Interstate 26 through the City of Asheville in Project I-2513. The design of this road project is of critical importance to the City of Asheville and Western North Carolina, in terms of traffic safety, traffic management, air quality, affordable housing economic consequences, and other areas. The Asheville City Council (~~deleted language~~) resolved in December of 1999 to hold a community design forum for the purpose of obtaining further public input on the design of said project and developing alternative design(s) which can then be further evaluated during environmental studies for the project. The Community Design Forum has been planned by City Planning staff, the N.C. Dept. of Transportation, and a Community Coordinating Committee, and has been preceded in June of 1999 by an educational meeting attended by several hundred

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citizens. The Community Design Forum is currently scheduled for July 21st and July 22nd, 2000. The Asheville City Council commends the N. C. Dept. of Transportation and the Federal Highway Administration for participating in the Community Design Forum and supports and requests the consideration and evaluation of all feasible possibilities resulting from the Community Design Forum."

Ms. Betty Lawrence, representative of the I-26 Connector Awareness Group, stated that they are excited about the possibilities of the design forum. She appreciated and supported the resolution proposed by Council. She said this kind of public participation for the N.C. Dept. of Transportation and the City of Asheville is new and crucial.

Councilman Hay and Councilman Peterson accepted the proposed amendments. The motion to adopt the amended resolution carried unanimously.

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B. CONDITIONAL USE PERMITS – SAYLES BLEACHERIES SITE

Upon inquiry of several Council members, City Attorney Oast said that if Council wishes to acknowledge letters, e-mails and phone calls relative to the conditional use permit coming before Council soon on the Sayles Bleacheries site, he advised them to thank the citizen for expressing their concerns and state that Council's decision will be based on information submitted at the public hearing.

It was the consensus of City Council to tour the site with Planning Department staff.

C. WNC REGIONAL AIR QUALITY AGENCY

City Attorney Oast said that he received a letter today from Mr. Jim Siemens requesting City Council consider their appointments to the WNC Regional Air Quality Agency in advance of the certification that is being sought. City Attorney Oast reminded Council that the Interlocal Agreement previously considered by Council provided for the current board members, Nelda Holder and Arlis Queen, to continue serving on the new board, but that since the agreement had been amended, Council could confirm its intention regarding those appointments, anticipating the approval and re-certification of the amended agreement, which is pending before the EMC, and that any further action, if necessary, would be after the certification had been received. Councilman Hay felt that the appointments should be included in the next quarterly appointment process. In the interim, however, Councilman Hay moved to appoint Nelda Holder and Arlis Queen as the City representatives on the WNC Regional Air Quality Agency. This motion was seconded by Councilman Peterson and carried unanimously.

D. CLAIMS

The following claims were received by the City of Asheville during the period of June 23-29, 2000: Dale Heizer (Sanitation), City Development (City Development), Ken Timmerman (Water), Donald Trask (Sanitation) and Virginia Baird (Water).

The following claims were received by the City during the period of June 30-July 6, 2000: Lee Ewart (Streets), Jeremy French (Streets) and Laura Webb (Water).

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

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Closed Session

At 6:20 p.m., Councilman Hay moved to go into closed session for the following reasons: (1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations - G.S. 143-318.11(a)(4); (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease - G.S. 143-318.11(a)(5); and (3) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including lawsuits involving the following parties: Betty Donoho, County of Buncombe, Western North Carolina Air Pollution Control Agency, and City of Asheville - G.S. 143-318.11(a)(3). This motion was seconded by Councilman Peterson and carried unanimously.

At 8:10 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by

Mayor Sitnick and carried unanimously.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 8:10 p.m.

CITY CLERK MAYOR
