

Tuesday - September 26, 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 Bellamy; 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.

RECOGNITION

Vice-Mayor Cloninger recognized Ms. Janet Sword and the 6th grade class from Carolina Day School.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 25-29, 2000, AS "KIDS VOTING USA WEEK" IN THE CITY OF ASHEVILLE

Vice-Mayor Cloninger read the proclamation proclaiming September 25-29, 2000, as "Kids Voting USA Week" in the City of Asheville. He presented the proclamation to Ms. Maria Pilos-Narron, Executive Director of Kids Voting USA, who briefed City Council on some activities taking place during the week.

B. PROCLAMATION PROCLAIMING OCTOBER 3, 2000, AS "THOMAS WOLFE DAY" IN THE CITY OF ASHEVILLE

Councilman Worley read the proclamation proclaiming October 3, 2000, as "Thomas Wolfe Day" in the City of Asheville. He presented the proclamation to Mr. Steve Hill, who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING OCTOBER 4, 2000, AS "WALK OUR CHILDREN TO SCHOOL DAY" IN THE CITY OF ASHEVILLE

Councilwoman Bellamy read the proclamation proclaiming October 4, 2000, as "Walk Our Children to School Day" in the City of Asheville. She presented the proclamation to Mr. Oliver Gajda, the City's Pedestrian and Bicycle Coordinator, who briefed City Council on some activities taking place during the day.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 12, 2000, AND THE WORKSESSION HELD ON SEPTEMBER 19, 2000

B. RESOLUTION NO. 00-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CAROLINA

CORNERSTONE CONSTRUCTION TO DESIGN AND IMPLEMENT A RESTROOM/PICNIC FACILITY AND GAZEBO FOR HAW CREEK PARK

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Carolina Cornerstone Construction to design and implement a restroom/picnic facility and gazebo for Haw Creek Park and a budget amendment to appropriate an additional \$15,000 to this project from the Haw Creek Neighborhood Association.

The City of Asheville is continuing its development of a passive park in the Haw Creek community. Initially the parking lot and paved trails were constructed within this 6-acre park. Funds were then secured from the City of Asheville Capital Improvement Budget, the Parks and Recreation Trust Fund Grant, and the Haw Creek Neighborhood Association to implement the last phase of the project which will include a restroom/picnic shelter, gazebo, playground area, woodland trail, landscaping and interpretative signage. The restroom/picnic shelter and gazebo were designed by Mathews and Associates who also developed the construction documents. These documents were bid out and five general contractors submitted bids. The lowest responsible bidder was Carolina Cornerstone Construction, which is a minority-owned company, in the amount of \$116,750. The entire budget for this park construction was originally \$244,000. Currently, a balance remains in the budget of \$158,474.89.

In addition to the above request, a budget amendment needs to be approved to appropriate an additional \$15,000 to this project from the Haw Creek Neighborhood Association. Originally, the Haw Creek Neighborhood Association agreed to secure \$40,000 in funds towards this project. An appropriation of \$25,000 for this commitment was allocated earlier. An additional \$15,000 allocation will fulfill this Association's total commitment.

The Parks and Recreation Department recommends that the City Manager be authorized to enter into a contract with Carolina Cornerstone Construction for the construction of the Haw Creek Park restroom/picnic facility and gazebo. City Council approval is also recommended for the approval of the budget amendment in the amount of \$15,000 for this project.

RESOLUTION BOOK NO. 26 – PAGE 176

C. ORDINANCE NO. 2743 - BUDGET AMENDMENT FOR THE HAW CREEK PARK PROJECT FROM THE HAW CREEK NEIGHBORHOOD ASSOCIATION

Summary: See Consent Agenda item "B" above.

ORDINANCE BOOK NO. 18 – PAGE 459

D. RESOLUTION NO. 00-173 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY DISPOSAL PARCEL 76 LOCATED ON THE EAST SIDE OF MARTIN LUTHER KING JR. DRIVE IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA TO DOROTHY DEAN IN THE AMOUNT OF \$300

Summary: The consideration of a resolution to convey Disposal Parcel 76 in the East End/Valley Street Community Improvement Area to Dorothy Dean in the amount of \$300.00.

On September 12, 2000, the City Council directed the City Clerk to advertise for upset bids on Disposal Parcel 76. The advertisement ran in the Asheville Citizen-Times on September 15, 2000, as provided in N. C. Gen. Stat. sec. 160A-

269. No response was received. Therefore, the offer to purchase from Dorothy Dean in the amount of \$300.00 was not upset and the sale to Dorothy Dean should be approved.

Approval of the resolution will authorize the sale of the property to Dorothy Dean for the amount of \$300.00.

Community Development staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 177

E. ORDINANCE NO. 2744 - BUDGET AMENDMENT TO AMEND THE WATER 35 FUND TO PROVIDE FUNDING FOR BURNETTE TUNNEL GROUTING AND PISGAH HIGHWAY PHASE II

Summary: The consideration of a budget amendment to amend Capital Project Ordinance 82-25 (35 Fund - Water Major Capital Improvements Fund) to provide future funding for the NC 151 (Pisgah Highway) Phase II NCDOT Project and to provide funding for grouting of the Burnette Dam Intake Tunnel.

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

The NC 151 Phase II NCDOT Non-Betterment Relocation Project in the amount of \$633,600 is expected to be complete in Fiscal Year 2002/2003 and will be funded with future funds from a Fiscal Year 2002/2003 Revenue Bond Issue. This project will consist of relocating water lines in the right of way along NC 151 from SR 1110 (Warren Creek Road) at South Hominy to SR 1117 (Fowler Mountain Road). In addition to this NCDOT project, the Fiscal Year 2002 /2003 Revenue Bond Issue will fund several other NCDOT projects, Water Treatment Plant Improvements, Master Plan Improvements, and Annexation Projects.

At this time, it is necessary for the Authority to approve future funding for the NC 151 Phase II NCDOT Project so that a Utility Agreement between the City of Asheville and NCDOT can be signed. This agreement ensures that the utility work to be performed by NCDOT's contractor is fully reimbursed by the Authority.

Funding of \$60,500 is also needed for grouting of the Burnette Dam Intake Tunnel. This work was scheduled for Fiscal Year 2001/2002 as part of the Dam Safety Improvements Projects and was to be funded with a Fiscal Year 2001//2002 Revenue Bond Issue. As a result of a recent annual dam safety inspection, this project has been changed to a more urgent status. A sample of the water in the intake tunnel showed that sediment was just beginning to seep through the cracks in the tunnel walls. Although there is no current danger, the structural engineer has recommended that the grouting of the tunnel be done this fall as an extra precaution. Funding is available from the Dam Renovations Project and from remaining balances in the North Conference Room Project and the Fiscal Year 1998/1999 Distribution System Improvements.

The following changes are recommended in the 35 Fund:

Revenues

Contributions From Other Funds - Future	<u>Current</u>	<u>Recommended</u>
	\$2,805,298	\$3,438,898

Appropriations

	<u>Current</u>	<u>Recommended</u>
North Conference Room	\$22,106	\$3,000
FY 98/99 Distribution System Impr.	\$85,000	\$83,863
Dam Renovations (Dam Safety)	\$440,413	\$460,656
Future NCDOT Water Projects	\$2,805,298	\$3,438,898

The Regional Water Authority will consider the approval of an amendment to Capital Project Ordinance 82-25 at the September 19, 2000, meeting. The Director of Water Resources Tom Frederick will give an update from the Water Authority Meeting.

The Regional Water Authority recommends approval of a budget amendment for Capital Project Ordinance 82-25 (35 Fund) to reflect an increase in the Future NCDOT Water Projects with the Department of Transportation to include the NC 151 Phase II Water Line Relocation Project and to provide funding for emergency grouting to the Burnette Dam Intake Tunnel by reprogramming funds from the North Conference Room and 1998/99 Distribution System Improvements.

ORDINANCE BOOK NO. 18 – PAGE 461

F. ORDINANCE NO. 2745 - BUDGET AMENDMENT TO AMEND THE WATER 29 FUND TO ESTABLISH FUNDING FOR THE \$12 MILLION REVENUE BOND ISSUE SCHEDULED FOR FEBRUARY 2001

Summary: The consideration of a budget amendment to amend Capital Project Ordinance 92-17 (29 Fund - Water Bond Capital Improvements Fund) to reflect the sale of revenue bonds in the amount of \$12 million in approximately February 2001.

By Resolution 92-17 dated May 19, 1992, the Regional Water Authority authorized and budgeted for various capital projects to be funded by City Water Bond proceeds. Staff recommends the following changes to the capital project ordinance:

Revenues:	
Sale of 2001 Revenue Bonds	<u>\$12,000,000</u>
	\$12,000,000
Appropriations:	
Bee Tree Spillway	\$5,500,000
NCDOT Non-Betterment	2,874,000
NCDOT Betterment	291,000
Building Safety Improvements	1,000,000
Critical Needs Improvements	1,755,000
Master Plan Improvements	275,000
Bond Administration	200,000
Annexation	<u>105,000</u>
	\$12,000,000

Another revenue bond issue totaling approximately \$10,000,000 is scheduled in our five-year plan for the Fall of 2002 but does not need to be appropriated now.

The Regional Water Authority will consider the approval of an amendment to Capital Project Ordinance 92-17 at the September 19, 2000, meeting. The Director of Water Resources Tom Frederick will give an update from the Water Authority meeting.

The Regional Water Authority recommends approval of a budget amendment for Capital Project Ordinance 92-17 to establish funding for the \$12 million revenue bond issue scheduled for February 2001.

ORDINANCE BOOK NO. 18 – PAGE 463

G. ORDINANCE NO. 2746 - ORDINANCE REDUCING SPEED LIMITS ON VARIOUS CITY STREETS

Summary: The consideration of an ordinance to reduce speed limits on several city streets.

The streets listed below have been identified for speed concerns by residents, City boards and commissions, City Council, the Asheville Police Department, Traffic Engineering staff, or other City staff. The Traffic Engineering staff has conducted field reviews of street geometry and conditions and/or speed studies. Many of these streets which exhibit the worst speeding problems are also being evaluated and prioritized for the installation of traffic calming measures per the Neighborhood Traffic Calming Policy. Determination of the appropriate speed limits for streets is one of the steps outlined in the Policy. The Police Department concurs with these recommendations.

15 Miles Per Hour

The following street is a local residential street which has a combination of street geometry features which warrants speed limits significantly slower than the typical speed limit for local residential streets of 25 mph. These features may include narrow widths, frequent on-street parking, poor sight distance, lack of sidewalks, steep grades, or horizontal or vertical curves. The recommended safe operating speed on this street is 15 mph:

Orchard Road

20 Miles Per Hour

The following streets are local residential streets which have a combination of street geometry features which warrants speed limits slower than the typical speed limit for local residential streets of 25 mph. These features may include narrow widths, frequent on-street parking, poor sight distance, lack of sidewalks, steep grades, or horizontal or vertical curves. The recommended safe operating speed on these streets is 20 mph. These streets include streets in two subdivisions in which the City recently took over maintenance of streets; Hills of Beaverdam and Hawthorne Village:

Clairmont Avenue
Colonial Place
Crescent Lane
Dallas Street
Deaver Street
Dellwood Street

Dorchester Avenue, between Florida Avenue and Burton Street
Elderberry Lane
Foxglove Court
George Washington Carver Street
Hedgerose Court
Houston Street
Larkspur Court
Marne Road
Morning Glory Drive
Nebraska Avenue
Nevada Avenue
Skyview Circle
Skyview Drive
St Dunstons Circle
Sunset Walk
Tacoma Circle
Trillium Court
Vandalia Avenue
Wayside Drive
Windflower Court
Windflower Way

25 Miles Per Hour

Most of the following streets are typical local residential streets without street geometry problems. The appropriate speed limit for typical local residential speeds is 25 mph. A few of these streets are residential collector streets which have a combination of street geometry features which warrants speed limits slower than the typical speed limit for residential collector streets of 30 mph. The recommended safe operating speed on these streets is 25 mph:

Albemarle Road
Arlington Street
Baird Street
Bear Creek Road, between Patton Avenue and Sand Hill Road
Beechwood Road
Birchwood Place
Blake Drive
Blanton Street
Brooklyn Road, between Taft Avenue and Wyatt Street
Burnside Drive
Caribou Road, between Hendersonville Road and West Chapel Road
Charlotte Street, between Evelyn Place and Woodlink Road
Chicory Lane
Clayton Avenue
Clement Drive
Coleman Avenue
Columbine Road
Courtland Avenue, between Montford Avenue and Courtland Place
Culvern Street
Dailey Drive
Dorchester Avenue, between Haywood Road and Florida Avenue
Edgewood Road (East)
Fairfax Avenue
Fairview Avenue

Fairview Road, between US 74 and Broadview Drive
Florida Avenue, between Burton Street and Dorchester Avenue
Forest Hill Drive
Furman Avenue
Glenclyff Road
Gracelyn Road
Grandview Road
Grove Street
Hansel Avenue
Heathbrook Circle
Hibernia Street
Hillside Street
Hudson Street
Jeffress Avenue
Lanvale Avenue
Linden Avenue
Looking Glass Lane, between Wagon Road and Pleasant Ridge Drive
Looking Glass Lane, between Browndale Road and Wagon Road
Marlborough Drive
Mayfair Drive
Merchant Street
Morgan Avenue
Mount Clare Avenue
North Street
Oakland Road
Olney Street
Overbrook Road
Pearson Drive
Pleasant Ridge Drive
Prichard Road
Raleigh Road
Riverview Drive
Robindale Avenue
School Road (Malvern Hills)
Selwyn Road
Shannon Drive
Shiloh Road
Skyview Terrace
Starnes Avenue
Stockwood Road
Stockwood Road Extension
Tacoma Street
Taft Avenue
Virginia Avenue
Wagon Road
Warwick Road
Wellington Street
Wendover Road
Westwood Place, between Millbrook Road and Hazel Mill Road
Woodvine Road

30 Miles Per Hour

The following streets are typical residential collector streets without significant street geometry problems. The recommended safe operating speed on typical residential collector streets is 30 mph:

- Beverly Road (West)
- Caribou Road, between West Chapel Road and I-40
- Kenilworth Road
- Pinchot Drive
- Racquet Club Road

The Engineering Department requests that City Council approve the ordinance amending these speed limit changes.

ORDINANCE BOOK NO. 18 – PAGE 465

H. ORDINANCE NO. 2747 - ORDINANCE TO PROHIBIT THROUGH TRUCK TRAFFIC ON AVON ROAD, BALM GROVE AVENUE, BARNARD AVENUE, COLUMBINE ROAD, DAILEY DRIVE, DORCHESTER AVENUE, EDGEWOOD ROAD (NORTH), FLORIDA AVENUE, MORGAN AVENUE, PINCHOIT DRIVE AND WOODVINE ROAD

Summary: The consideration of an ordinance to prohibit through truck traffic on additional residential streets.

The Traffic Engineering staff has conducted field reviews and collected data on the streets listed below. These streets are residential streets that are not appropriate for truck traffic. Alternative roadways exist that are more appropriate for truck traffic.

- Avon Road
- Balm Grove Avenue
- Barnard Avenue
- Columbine Road
- Dailey Drive
- Dorchester Avenue
- Edgewood Road (North)
- Florida Avenue
- Morgan Avenue
- Pinchoit Drive
- Woodvine Road

The Engineering Department requests that City Council approve the ordinance prohibiting trucks on various residential streets.

ORDINANCE BOOK NO. 18 – PAGE 469

I. ORDINANCE NO. 2748 - ORDINANCE CREATING AN ADDITIONAL SCHOOL ZONE ON CLINTON AVENUE BETWEEN SULPHUR SPRINGS ROAD AND DUNN STREET

Summary: The consideration of an ordinance to create an additional school zone on Clinton Avenue.

The Traffic Engineering staff has performed the necessary traffic analysis and field review to determine locations for this school zone. The following street has been identified as needing a school zone during the times when students typically go to and leave school:

Clinton Avenue – 20 mph between 7:00 a.m. and 9:00 a.m. and between 2:00 p.m. and 4:00 p.m. on school days, between Sulphur Springs Road and Dunn Street.

The Engineering Department requests that City Council approve the ordinance including Clinton Avenue as a school zone addition.

ORDINANCE BOOK NO. 18 – PAGE 470

J. RESOLUTION NO. 00-174 - RESOLUTION ACCEPTING THE NEW STREET NAME OF “FACULTY DRIVE” LOCATED OFF OF ASHEVILLE SCHOOL ROAD

Summary: The consideration of a resolution accepting the new proposed street name “Faculty Drive.”

Asheville School, Inc., owners of lots off of Asheville School Road, has petitioned the City of Asheville to accept the street name “Faculty Drive.” The new street will begin at Asheville School Road and end at the dead end.

City staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 178

K. RESOLUTION NO. 00-175 - RESOLUTION ACCEPTING THE NEW STREET NAME OF “SCIENCE OF MIND WAY” LOCATED OFF OF SAND HILL ROAD

Summary: The consideration of a resolution accepting the new proposed street name “Science of Mind Way.”

Center for Creative Living, owners of lots off of Sandhill Road, has petitioned the City of Asheville to accept the street name “Science of Mind Way.” The new street will begin at Sand Hill Road and end at the dead end.

City staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 179

L. RESOLUTION NO. 00-176 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH R.C.I. PAINTING CONTRACTORS FOR MAINTENANCE ON THE WALL STREET PARKING GARAGE

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with R.C.I. Painting Contractors for maintenance of the Wall Street Parking Garage.

The Wall Street Parking Garage is seriously in need of periodic cleaning and repainting of the exterior and interior walls and removal of rust and repainting of all metal surfaces. During Fiscal Year 1999-2000, City staff sought estimates from contractors to perform the needed maintenance; however, the estimated cost was well beyond the funding available for the project.

As a result, initiation of the project was delayed until the current Fiscal Year when additional funds were made available.

Bids for the project were sought and three responses were received (two bids and one "no bid"). The low bid of \$35,500 was submitted by R.C.I. Painting Contractors. Their bid includes: pressure washing all exterior and interior walls; hand scraping to remove flaking paint; application of primer and two coats of paint to all walls; sanding, priming and painting all metal rails, window guards and doors. The work is warranted for twelve years. With contract award at this time, we anticipate that the painting work will be completed prior to onset of cold weather which would require postponement until next spring.

In addition to this painting project, as a separate but related initiative, staff has received proposals and will be awarding a contract for new awnings and any necessary repair of the awning supports at the Wall Street Parking Garage. This contract award will be made by the City Manager.

Council adopt the resolution which authorizes the City Manager to execute a contract with R.C.I. Painting Contractors.

RESOLUTION BOOK NO. 26 – PAGE 180

M. ORDINANCE NO. 2749 - BUDGET AMENDMENT FOR THE FAIR HOUSING ASSISTANCE PROGRAM

Summary: The consideration of a budget amendment to create a budget of \$45,400 for the Fair Housing Assistance Program (FHAP) for Fiscal Year 1999/2000.

The City has been carrying out its fair housing program under contract with the Asheville-Buncombe Community Relations Council and Fair Housing Commission since January 1988, using HUD FHAP funds. The City's Community Development Division serves as Lead Entity and monitors the program.

On August 29, 2000, the City received notification of the grant awarded to the City for the current federal Fiscal Year 10/1/99-9/30/00. This notification required the City to draw down the funds no later than September 15, 2000. City staff has submitted the necessary paperwork to HUD to avoid losing these funds.

Community Development staff recommends adoption of the budget amendment to create a budget for the Fair Housing Assistance Program (FHAP) for Fiscal Year 1999/2000.

ORDINANCE BOOK NO. 18 – PAGE 471

N. INTRODUCTION OF BOND ORDER AUTHORIZING ISSUANCE OF \$1,300,000 SANITARY SEWER BONDS

INTRODUCTION OF BOND ORDER AUTHORIZING ISSUANCE OF \$670,000 EQUIPMENT BONDS

RESOLUTION NO. 00-177 - RESOLUTION CALLING FOR A PUBLIC HEARING ON BOND ORDERS ON OCTOBER 10, 2000, DIRECTING PUBLICATION OF NOTICE OF SAID PUBLIC HEARING AND FILING A DEBT STATEMENT

Summary: This is the introduction of Bond Orders Authorizing the Issuance of \$1,300,000 Sanitary Sewer Bonds and \$670,000 Equipment Bonds and the consideration of a resolution setting a public hearing upon said bond orders.

Bond Orders for both the \$1,300,000 Sanitary Sewer Bonds and the \$670,000 Equipment Bonds are being introduced to City Council at this time in order for text of the Bond Orders to be included in the associated Notices of Public Hearing. Below are the two bond orders being introduced, copies of which have been made available to the City Council:

BOND ORDER AUTHORIZING THE ISSUANCE OF \$1,300,000 SANITARY SEWER BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Asheville, North Carolina deems it advisable to make the improvements hereinafter described; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the bonds hereinafter described as required by the Local Government Bond Act, and the Secretary of the Local Government Commission has notified the City Council that the application has been accepted for submission to the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Asheville, North Carolina, as follows:

Section 1. The City Council of the City of Asheville, North Carolina has ascertained and hereby determines that it is necessary to extend sanitary sewer lines and acquire land and rights-of-way in land required therefor.

Section 2. In order to raise the money required to pay the costs of making the improvements described above, in addition to funds which may be available for such purpose from any other source, bonds of the City of Asheville, North Carolina are hereby authorized and shall be issued pursuant to the Local Government Bond Act of North Carolina. The maximum aggregate principal amount of such Sanitary Sewer Bonds authorized by this bond order shall be \$1,300,000.

Section 3. A tax sufficient to pay the principal of and interest on said Sanitary Sewer Bonds when due shall be annually levied and collected.

Section 4. A sworn statement of the City's debt has been filed with the City Clerk and is open to public inspection.

Section 5. No debt shall be contracted during any fiscal year by the issuance of bonds pursuant to this bond order if the amount of such debt and if all other debt contracted during such fiscal year shall exceed two-thirds (2/3rds) of the amount by which the outstanding indebtedness of the City shall have been reduced during the next preceding fiscal year, unless the incurring of such debt shall be submitted to a vote of the people of the City and shall be approved by a majority of those who vote thereon.

Section 6. This bond order shall take effect thirty (30) days after its publication following its adoption, unless it is petitioned to a vote of the people within thirty (30) days after its publication as introduced, as provided in N. C. G. S. Section 159-60, and in that event, the bond order will take effect when approved by the voters of the City.

BOND ORDER AUTHORIZING THE ISSUANCE OF \$670,000 EQUIPMENT BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Asheville, North Carolina deems it advisable to make the improvements hereinafter described; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the bonds hereinafter described as required by the Local Government Bond Act, and the Secretary of the Local Government Commission has notified the City Council that the application has been accepted for submission to the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Asheville, North Carolina, as follows:

Section 1. The City Council of the City of Asheville, North Carolina has ascertained and hereby determines that it is necessary to purchase firefighting equipment.

Section 2. In order to raise the money required to pay the costs of purchasing certain firefighting equipment, in addition to funds which may be available for such purpose from any other source, bonds of the City of Asheville, North Carolina are hereby authorized and shall be issued pursuant to the Local Government Bond Act of North Carolina. The maximum aggregate principal amount of such Equipment Bonds authorized by this bond order shall be \$670,000.

Section 3. A tax sufficient to pay the principal of and interest on said Equipment Bonds when due shall be annually levied and collected.

Section 4. A sworn statement of the City's debt has been filed with the City Clerk and is open to public inspection.

Section 5. No debt shall be contracted during any fiscal year by the issuance of bonds pursuant to this bond order if the amount of such debt and if all other debt contracted during such fiscal year shall exceed two-thirds (2/3rds) of the amount by which the outstanding indebtedness of the City shall have been reduced during the next preceding fiscal year, unless the incurring of such debt shall be submitted to a vote of the people of the City and shall be approved by a majority of those who vote thereon.

Section 6. This bond order shall take effect thirty (30) days after its publication following its adoption, unless it is petitioned to a vote of the people within thirty (30) days after its publication as introduced, as provided in N. C. G. S. Section 159-60, and in that event, the bond order will take effect when approved by the voters of the City.

Mr. Schaefer summarized that the Bond Orders state: (1) The projects being financed are necessary; (2) The purpose of the projects; (3) The maximum amount of the bonds; (4) Sufficient taxes will be levied to pay principal and interest when due; (5) A sworn statement of the City's debt has been filed and available to the public (the statement will be sworn and available on September 27, 2000); (6) No bonded debt in excess of the Two-Thirds Bonds limitations for the current fiscal year has been incurred; and (7) The Bond Orders will take effect thirty days after adoption and subsequent publication unless petitioned to a vote of the people as provided in N.C.G.S. 159-60.

The proposed resolution sets the public hearing on the Bond Orders for October 10, 2000, at 5:00 p.m.; directs the City Clerk to publish notice of the public hearings; and directs the Finance Director to file the statement of debt and other financial information.

The Bond Orders will be considered for adoption by City Council following the completion of the public hearings on October 10, 2000.

RESOLUTION BOOK NO. 26 – PAGE 181

O. RESOLUTION NO. 00-178 - RESOLUTION SETTING A PUBLIC HEARING FOR OCTOBER 10, 2000, TO VOLUNTARILY ANNEX BURNSIDE, PHASE 4 OF BILTMORE PARK

Summary: The consideration of a resolution fixing the date of a public hearing on October 10, 2000, on the question of annexation of property located west of Overlook Road and identified as Burnside, Phase 4, Biltmore Park.

Biltmore Farms, Inc. has submitted an annexation petition for Burnside, Phase 4, Biltmore Park. This area is adjacent to the existing City limits being immediately west of Burnside, Phase 3 which was annexed on 6/7/2000. Biltmore Park is generally located west of Overlook Road and north of Long Shoals Road. This annexation is pursuant to an agreement between Biltmore Farms, Inc. and the City of Asheville.

The area proposed for annexation consists of 11.4 acres and is platted for 12 single-family residential lots. Street access to this area is provided by White Ash Drive.

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

City staff recommends City Council adopt a resolution fixing the date of a public hearing on October 10, 2000, on the question of annexation of property located west of Overlook Road and identified as Burnside, Phase 4, Biltmore Park.

RESOLUTION BOOK NO. 26 – PAGE 182

P. RESOLUTION NO. 00-179 - RESOLUTION SETTING A PUBLIC HEARING FOR OCTOBER 10, 2000, TO VOLUNTARILY ANNEX OAKBROOK, SECTION 2 OF BILTMORE PARK

Summary: The consideration of a resolution fixing the date of a public hearing on October 10, 2000, on the question of annexation of property located west of Overlook Road and identified as Oakbrook, Section 2, Biltmore Park.

Biltmore Farms, Inc. has submitted an annexation petition for Oakbrook, Section 2, Biltmore Park. This area is adjacent to the existing City limits being immediately east of Oakbrook, Section 1 which was annexed on 8/22/2000. Biltmore Park is generally located west of Overlook Road and north of Long Shoals Road. This annexation is pursuant to an agreement between Biltmore Farms, Inc. and the City of Asheville.

The area proposed for annexation consists of 24 acres and is platted for 40 single-family residential lots and a common area. The annexation also contains a small cemetery. Street access to this area is provided by White Ash Drive and Dianthus Drive.

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

City staff recommends City Council adopt a resolution fixing the date of a public hearing on October 10, 2000, on the question of annexation of property located west of Overlook Road and identified as Oakbrook, Section 2, Biltmore Park.

RESOLUTION BOOK NO. 26 – PAGE 184

- Q. MOTION SETTING A PUBLIC HEARING ON OCTOBER 10, 2000, TO CONSIDER REZONING PROPERTY LOCATED AT 38 SYCAMORE ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)**
- R. MOTION SETTING A PUBLIC HEARING ON OCTOBER 10, 2000, TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO CHANGE THE METHOD OF CALCULATING THE FRONT SETBACK LINE**
- S. RESOLUTION NO. 00-180 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A LEASE AGREEMENT WITH THE UNITED STATES OF AMERICA FOR THE ARMY RESERVE CENTER AT 224 LOUISIANA AVENUE**

Summary: The consideration of a resolution authorizing the City Manager to execute a lease with the United States of America for the Army Reserve Center at 224 Louisiana Avenue, Asheville, N.C.

In June, 1950, the City leased a tract of land at 224 Louisiana Avenue to the United States of America (Government) for construction and operation of an Army Reserve Center. The lease had a 50 year term and a one time payment of \$1.00 rent for the entire term. A new lease has been negotiated subject to City Council approval.

The proposed lease to the Government has a term of 6 years at an annual rent of \$60,000. The Government will also pay the cost of a completed land survey in the amount of \$1,750.

According to the land survey by J. Glenn Haynes, the property comprises 8.857 acres of land. The Government retained ownership of the improvements under the previous lease so the rent is for land only. Richard Jacobs, MAI, was the source of the comparable information and advice to determine the market rent for the property.

Approval of the resolution will authorize the City Manager to execute the proposed lease with the Government for the property at 224 Louisiana Avenue.

City staff recommends City Council adopt the resolution authorizing the City Manager to execute a lease with the United States of America for the Army Reserve Center at 224 Louisiana Avenue, Asheville, N.C.

RESOLUTION BOOK NO. 26 – PAGE 186

T. RESOLUTION NO. 00-181 - RESOLUTION IN SUPPORT OF INCREASED COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME FUNDING

Summary: The consideration of a resolution urging our Congressional delegates to support an increase in the funds appropriated by Congress to HUD for the Community Development Block Grant (CDBG) and HOME Programs.

CDBG and HOME federal funds enable entitlement cities such as Asheville to provide local assistance for housing, urban revitalization, and economic development, benefiting low and moderate income people. Asheville's entitlement grants for FY 2000 are \$1,565,000 in CDBG and \$1,142,000 in HOME. The total of these grants is 5% less than we received in 1995. Adding the effects of inflation at 2% a year makes the effective amount 16% less than in 1995.

In essence, Congress has maintained roughly level funding for these programs over this period, but the number of entitlement communities and set-aside programs has increased, reducing the amount available to each entitlement community.

Within the next few weeks, Congress will complete its appropriations for Fiscal Year 2001. Current recommendations from the House and Senate Appropriations Committees would fund the CDBG and HOME programs at essentially the same levels as Fiscal Year 2000.

The U.S. Conference of Mayors, the national Community Development Association, and many other national organizations are pressing for "5 and 2": \$5 billion for CDBG (a 1% increase over FY 2000) and \$2 billion for HOME (a 25% increase). The combined increase would be 11%. Asheville would receive increases of approximately \$72,000 in CDBG and \$285,000 in HOME.

City staff recommends City Council approve the resolution.

RESOLUTION BOOK NO. 26 – PAGE 187

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.

Councilman Worley moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO A CONDITIONAL USE PERMIT FOR A PARKING LOT ASSOCIATED WITH MILKO INC. TO BE LOCATED ON PROPERTY ZONED RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AT THE INTERSECTION OF DEAVERVIEW ROAD AND BEAR CREEK ROAD

City Clerk Burlison administered the oath to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

After hearing no questions about the procedure, Vice-Mayor Cloninger opened the public hearing at 5:17 p.m.

Mr. Dan Baechtold, Urban Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners), and City Exhibit 3 (Staff Report). This public hearing was advertised on September 15 and 22, 2000.

Mr. Baechtold said that this is the consideration of issuing a conditional use permit for a parking lot associated with Milko, Inc. to be located on property zoned RM-8 Residential Multi-Family Medium Density District at the intersection of Deaverview Road and Bear Creek Road.

The Technical Review Committee reviewed this project and took action to approve with conditions. This project is the first application for a conditional use permit under the new ordinance for ancillary non-residential uses in residential districts. Although this parcel of land (0.97 acres) is not located behind a "strip" commercial use, it does meet the location requirements set forth in the ordinance (Location Map attached to City Exhibit 3). This project involves the demolition of the existing residential structure, and use of the property as a parking area for employees of the Milko facility. The proposed site plan indicates that all of the mature trees on the property will be saved (Proposed Site Plan attached to City Exhibit 3). There will not be significant grading of the site.

The intersection of Deaverview Road and Bear Creek Road is a location that poses some challenges for determining the best land use. Although there are single-family uses present there, this corner lot is subject to a lot of traffic and is directly adjacent to the Milko industrial facility. Although a parking lot is not the ideal use for this corner, it is also difficult to expect this piece of property to continue as a single-family residential use. The current zoning of the property is Residential Multi-Family Medium Density. Under this proposal, the zoning would not change. Perhaps the ideal use for the property is some type of small-scale multi-family use. Until that time, staff felt it would be appropriate to allow this parking area as long as the existing trees are preserved, and the impacts on surrounding property owners are mitigated.

The approval of this ancillary use in this residential district holds the line on commercial intrusion into the residential zone. Under the ancillary uses ordinance, no further expansion is possible. The zoning of this parcel still reserves the parcel for multi-family use at some point in the future. Although surface parking is not the ultimate highest and best use of the property, allowing it in the interim is probably an appropriate use to provide transition between an intense industrial use and adjacent single-family uses. Planning staff is recommending conditions for the approval to ensure that the project mitigates impacts on surrounding property owners.

Planning and Development staff recommends approval of a conditional use permit for this location with the following conditions: (1) Protect the existing trees by expanding the planting islands, eliminating parking spaces as necessary to protect root zones, and using appropriate tree protection measures during construction; (2) Use pervious paving materials to allow stormwater to filtrate through to the ground; (3) Supplement the existing buffer of white pines by providing additional understory plantings and move the proposed buffer fence closer to the parking lot to provide additional room for plant growth; (4) Present a lighting plan for review and approval that provides the minimum light necessary to provide security and demonstrates that light will not spillover to adjacent properties; and (5) Sidewalks are required along Deaverview Road and Bear Creek Road and the design must be approved by the City Engineer.

Mr. Charles Gaither, President of Milko Inc., briefed City Council on what Milko Inc. is and their economic impact on our region. He explained that they are a good corporate neighbor and that they take their community responsibilities seriously. He said that this property is one of the few parcels that can help relieve their crowded condition. By properly landscaping, lighting,

and fencing it, they can move their private vehicle parking. He noted that this will be for personal vehicle parking only. This would allow space for building expansion into what is now their parking area. He felt that by proper screening with trees and shrubs, their plan would cause no disruption to the neighborhood. He felt it may also be preferable to the present situation of having an often uninhabited house that might be used for illicit purposes (Applicant Exhibit 1).

Ms. Connie Chase, adjoining neighbor to the property, passed out pictures and a petition from local residents (Neighborhood Exhibits 1 and 2) supporting their opposition of the parking lot. She explained that the use for the property is residential and the applicant has found a way to get around the system, without having to even go through the Planning & Zoning Commission, to have a parking lot build on the property. She said that this lot has over 80 spaces and since they are open 24 hours a day, there will be people driving in and out of the lot all day and night long. She said that she talked with Mr. Gaither who explained to her that they needed more dry storage space on their property. She suggested since they currently have a parking lot in place, they should keep the existing lot and look for a dry storage area somewhere else. She said they spent ten years remodeling their home and they counted on the house next to their property as a buffer for the Milko factory. She urged City Council not to allow this conditional use zoning.

Upon inquiry of Vice-Mayor Cloninger, Mr. Gaither acknowledged that they do run three shifts five days a week and two shifts on Saturday. He said that there is approximately 45-50 people on third shift.

After a question was raised by Councilman Peterson about the safety of pedestrians crossing Bear Creek Road, City Traffic Engineer Michael Moule agreed that City Council might want to impose a condition that staff look at further pedestrian issues and crossing improvements across Bear Creek Road and that any improvements made be at the expense of Milko.

Councilwoman Bellamy suggested the possible placement of a pedestrian crossing sign on Bear Creek Road, and after further discussion, that City Council impose an additional condition that Milko create another entrance on their existing property.

Councilman Hay suggested that a condition be worded that pedestrian amenities be included as recommended by the City's Traffic Engineer, which could include all the issues raised by Councilman Peterson and Councilwoman Bellamy. Mr. Moule agreed and noted that the condition could include adjustments to the entrance to the Milko site so that people who walk across Bear Creek Road would be encouraged to use the safer pedestrian crossing area.

Mr. Gaither said that he was open to suggestions on the positioning of a crosswalk across Bear Creek Road and that they do intend to have another entrance through their existing chain-link fence directly across the road from wherever that crosswalk is located.

City Attorney Oast said that a condition can be worded in such a way that any improvements that are required as a result of the City's Traffic Engineer's recommendation would have to be done at the expense of Milko and unless that condition is complied with, then the conditional use permit would have to be revoked.

Councilman Worley requested a condition be added that only parking of personal vehicles be allowed on this lot and no parking of commercial vehicles on this lot be allowed.

Mr. Baechtold noted that since the ordinance states that for uses like this that all activities shall be conducted between the hours of 7:00 a.m. – 9:00 p.m. unless City Council determines other operating hours are appropriate. If City Council intends to allow a third shift to park on that lot, that would need to be specified.

Upon inquiry of Vice-Mayor Cloninger, Mr. Baechtold briefly explained the steps that City staff will take to ensure the parking lot will at least have the minimum light necessary to provide security and that light will not spillover to adjacent properties.

There being no request from the applicant for rebuttal, Vice-Mayor Cloninger closed the public hearing at 5:53 p.m.

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

City Attorney Oast said that the Technical Review Committee (TRC) has approved some information but City Council is not bound that that decision. The TRC review indicates that if the project is built, it can satisfy our technical requirements. In addition, he offered to review the conditions for conditional use permits.

Councilwoman Field moved to approve the conditional use permit for a parking lot associated with Milko Inc. at the intersection of Deaverview Road and Bear Creek Road, with the following conditions: (1) Protect the existing trees by expanding the planting islands, eliminating parking spaces as necessary to protect root zones, and using appropriate tree protection measures during construction; (2) Use pervious paving materials to allow stormwater to filtrate through to the ground; (3) Supplement the existing buffer of white pines by providing additional understory plantings and move the proposed buffer fence closer to the parking lot to provide additional room for plant growth; (4) Present a lighting plan for review and approval that provides the minimum light necessary to provide security and demonstrates that light will not spillover to adjacent properties; (5) Sidewalks are required along Deaverview Road and Bear Creek Road and the design must be approved by the City Engineer; (6) The City's Traffic Engineer look at further pedestrian issues and crossing improvements across Bear Creek Road., which issues could include adjustments to the entrance to the Milko site so that people who walk across Bear Creek Road would be encouraged to use the safer pedestrian crossing area and that any improvements that are required as a result of the City's Traffic Engineer's recommendation would have to be done at the expense of Milko; (7) That the parking lot be restricted to personal vehicles only and no commercial vehicles; and (8) With regard to operating hours on the lot, a third shift is allowed to park on the lot. This motion was seconded by Councilwoman Bellamy and carried unanimously.

City Attorney Oast noted that he will bring back an ordinance granting the conditional use permit with the conditions outlined above for City Council consideration at their next formal meeting on October 10, 2000.

B. PUBLIC HEARING RELATIVE REZONING SEVEN LOTS LOCATED ON ACTON CIRCLE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT, HIGHWAY BUSINESS DISTRICT AND NEIGHBORHOOD BUSINESS TO HIGHWAY BUSINESS AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)

ORDINANCE NO. 2750 - ORDINANCE TO REZONE SEVEN LOTS LOCATED ON ACTON CIRCLE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT, HIGHWAY BUSINESS DISTRICT AND NEIGHBORHOOD BUSINESS TO HIGHWAY BUSINESS

ORDINANCE NO. 2751 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED ON ACTON CIRCLE

City Clerk Bureson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process by stating that this is a two part process. It requires rezoning, which is a legislative act, and the issuance of a conditional use permit, which is a quasi-judicial site specific act. Even though the public hearing on those two items will be combined, all the testimony needs to be sworn and two votes will need to be taken. The first vote will be to grant the rezoning to the conditional use district category and the second vote will be to issue the conditional use permit. If Council runs into a situation that it votes to rezone, Council doesn't have to vote to issue the conditional use permit on the same night.

After hearing no questions about the procedure, Vice-Mayor Cloninger opened the public hearing at 6:00 p.m.

Mr. Dan Baechtold , Urban Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners), and City Exhibit 3 (Staff Report). This public hearing was advertised on September 15 and 22, 2000.

Mr. Baechtold said that this is the consideration of an ordinance to rezone seven lots located on Acton Circle from RM-6 Residential Multi-Family Low Density District, Highway Business and Neighborhood Business to Highway Business, and issuance of a conditional use permit (conditional use zoning) for a grocery store and associated retail uses.

The Planning and Zoning Commission reviewed this project on September 6, 2000, and took action to recommend approval of the rezoning and conditional use permit with conditions. The majority of this property (3.66 acres) is already zoned Highway Business, and the proposed use is a permitted use in the Highway Business District. About 2.25 acres are zoned Neighborhood Business, and the remaining 1.06 acres are zoned RM-6. This rezoning would change the designation for the entire property to Highway Business – Conditional Use. The property is adjacent to Highway Business zoning on two sides. The applicant proposes to construct a Bi-Lo grocery store of approximately 42,000 square feet on the site, and construct an additional 12,000 square feet of supporting retail use. The conditional use zoning tool offers an opportunity for the City of Asheville to regulate the appearance, function, and impacts of development on this corner. Further, regulation of building placement and design can ensure that this development contributes to the character of this commercial corridor rather than detracts from it.

The primary impact of this development is traffic. Smoky Park Highway is a five-lane facility capable of handling a large volume of traffic (Location Map attached to City Exhibit 3). Acton Circle is a two-lane road that currently carries significant traffic during peak travel times. The developer submitted a Traffic Impact Analysis (TIA) for this development that considers the traffic generated by this site, existing background traffic, and proposed future traffic increases, including traffic generated by the new Home Depot. The City Traffic Engineer and the N. C. Department of Transportation (NCDOT) have reviewed the TIA and concur with the findings. Based on the review, the City Traffic Engineer is recommending conditions for the approval of this project to mitigate the traffic impacts. Those conditions are reflected in the recommendation of the Planning and Zoning Commission and the staff recommendation below.

The Highway Business District is appropriate for this property based on the zoning pattern in the area. Intense commercial uses would be allowed under the existing zoning on the portion that is already zoned Highway Business. Applying the conditional use zoning tool in this case benefits the City of Asheville because it provides the opportunity to regulate the intensity of use on the site, the design and function of the site, and the opportunity to mitigate traffic impacts.

The site plan and building elevation drawings include measures to define and enhance this commercial corner. (Site Plan attached to City Exhibit 3) Two retail buildings will be placed near the street to screen the parking from the street, so that visually, the site will be defined by architecturally pleasing buildings rather than a sea of asphalt. The site plan shows an internal walkway in the parking lot and sidewalks along both public streets. The Planning and Zoning Commission voted unanimously to recommend approval of this request. No one from the public spoke in opposition.

Planning and Development staff recommends approval of a motion to rezone property located at Acton Circle to Highway Business-CU and approval of a conditional use permit with the following conditions: (1) Eliminate left turn movements from the primary driveway on Smoky Park Highway; (2) Construct an additional approach lane from Acton Circle onto Smoky Park Highway (pending NCDOT approval); and (3) At the signalized intersection, add a protected left turn phase from Smoky Park Highway onto Acton Circle in cooperation with NCDOT.

Mr. Baechtold said that based on discussions with the NC DOT, the third condition is not necessary at this time.

Upon inquiry of Councilman Peterson, City Traffic Engineer Michael Moule explained why he didn't feel that there needed to be any additional improvements to the intersection of Acton Circle from Monte Vista.

There being no request from the applicant for rebuttal, Vice-Mayor Cloninger closed the public hearing at 6:18 p.m.

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 to adopt Ordinance No. 2750 to rezone seven lots on Acton Circle from RM-6 Residential Multi-Family Low Density District, Highway Business and Neighborhood Business to Highway Business (conditional use zoning). This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 18 – PAGE 473

Councilman Worley moved to adopt Ordinance No. 2751 granting the conditional use permit for seven lots on Acton Circle with the following conditions: (1) Eliminate left turn movements from the primary driveway on Smoky Park Highway; and (2) Construct an additional approach lane from Acton Circle onto Smoky Park Highway (pending NCDOT approval). Said motion also instructs the City Attorney to prepare the Order for the Mayor's signature reflecting information presented by staff and subject to the conditions outlined by staff. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 18 – PAGE 475

- C. PUBLIC HEARING RELATIVE REZONING PROPERTY LOCATED AT CLINGMAN AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)**

ORDINANCE NO. 2752 - ORDINANCE TO REZONE PROPERTY LOCATED AT CLINGMAN AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 2753 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT CLINGMAN AVENUE

Councilman Worley moved to excuse Councilwoman Bellamy from participating in this issue due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

City Clerk Bureson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Oast reviewed with Council the conditional use district zoning process by stating that this is a two part process. It requires rezoning, which is a legislative act, and the issuance of a conditional use permit, which is a quasi-judicial site specific act. Even though the public hearing on those two items will be combined, all the testimony needs to be sworn and two votes will need to be taken. The first vote will be to grant the rezoning to the conditional use district category and the second vote will be to issue the conditional use permit. If Council runs into a situation that it votes to rezone, Council doesn't have to vote to issue the conditional use permit on the same night.

After hearing no questions about the procedure, Vice-Mayor Cloninger opened the public hearing at 6:24 p.m.

Ms. Stacy Merten, Urban Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners), and City Exhibit 3 (Staff Report). This public hearing was advertised on September 15 and 22, 2000.

Ms. Merten said that this is the consideration of an ordinance to rezone property located at Clingman Avenue from RM-8 Residential Multi-Family Medium Density District to Central Business District, and issuance of a conditional use permit (conditional use zoning).

The Planning and Zoning Commission, at their September 6, 2000, meeting, reviewed and recommended approval to conditionally rezone a 0.59 acre parcel, consisting of three tracts (PIN Nos. 9648.05-18-1834, 1800, and 0765) located on Clingman Avenue just south of the City Maintenance Facility (Location Map attached to City Exhibit 3). The subject property is located in a RM-8 zoning district that is adjacent to a Community Business I District and in close proximity to the Central Business District. The site is currently vacant. The proposal is to construct a three story condominium complex with 16 units and a community room (Site Plan and Building Drawing attached to City Exhibit 3).

The proposed development is congruous with the City of Asheville's Smart Growth policies in that it is providing for higher density infill development in the downtown area. The proposed development is next to an existing bus stop and within walking distance of Aston Park. In the absence of any other high density zoning district, the Central Business District – CU zoning will permit the project to be developed at a density that will economically allow the construction of a more attractive and appropriate building for this visible urban site. The conditional use permit will ensure that the use and design of the project will be compatible with the existing neighborhood. It is the intent of Mountain Housing to create an appropriate transition from the commercial, urban streets and corners above to the historic, mostly single-family scale development. The project will provide a mix of affordable and market-rate housing.

The Planning and Zoning Commission voted unanimously to recommend approval of the conditional use rezoning with the following conditions: (1) Tree protection device details must be provided; (2) Sidewalk construction details must be provided; and (3) That the project be regulated by the site plans and the building plans as submitted primarily with regard to massing and fenestration and that any minor changes to the building materials be reviewed by the Planning & Development Director.

The Planning & Zoning Commission also highly recommended that a covered transit stop be provided.

The Planning and Development staff recommends approval of the Conditional Use Rezoning, with conditions as outlined above.

Mr. Chris Eller, project engineer with Land Design, noted that their goal is to serve as an anchor to the revitalization of the West End/Clingman Avenue Neighborhood (WECAN), they have maintained the fabric of the existing neighborhood, and after meeting with the neighborhood community, they have given the applicant its unanimous support for this proposed development.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities Inc., passed out to City Council a letter dated August 21, 2000, (Applicant Exhibit 1) and explained the concept of their development of condominiums at the corner of Clingman Avenue and Merritt Street, including the need for the conditional use zoning of Central Business District.

Mr. Robert S. Griffin, Architect, reviewed with Council the main floor plans (Applicant Exhibit 2). He responded to various questions from Council with regard to the project.

Upon inquiry of Councilwoman Field about who will maintain the courtyard area, Mr. Dedman responded that Mountain Housing Opportunities will be involved in the long-term maintenance but that the condominium association will be primarily responsible for the maintenance.

When Councilwoman Field asked why the Central Business District is the requested rezoning, Planning & Development Director Scott Shuford said that it was for the density.

Councilwoman Field felt that the project was great, however, questioned zoning that piece of property Central Business District with no actual connection to the already existing Central Business District zoning.

After a brief discussion about possibly rezoning the City's Parks and Recreation Maintenance Facility (across the street from the subject property) to Central Business District, Mr. Dedman said that he would personally support that, however, he would want to discuss any proposed changes with the WECAN neighborhood association. In addition, Mr. Shuford said that Planning staff is now in the process of working with a Mountain Housing Opportunities project involving the WECAN neighborhood. Once that plan is in place and we see what the designers come up with, City staff can then be in a better position to advise City Council on the ultimate zoning of this general area. He felt it would ultimately be some form of commercial and Central Business District would not be out of place at that location.

Ms. Gloria Howard-Free was concerned about traffic as it now exists on Clingman Avenue, what are the results from the traffic studies that have been performed in order to determine how traffic will flow with the increased density from this project, if the increased traffic will be a safety hazard for people who chose to walk, and also if there has been any environmental impact statement made on this project.

Ms. Merten stated that a traffic impact analysis was not required for this project nor was an environmental impact statement. However, she did note that there were several other design standards reviewed and approved.

With regard to traffic issues raised by Ms. Howard-Free, Traffic Engineer Michael Moule stated that the only unusual traffic situation at this location is that Merritt Street comes into Clingman Avenue at an almost signalized intersection. City staff is looking at doing some marking and signing changes to help facilitate that street to operate. He felt that 16 units in the development will generate approximately 96 trips per day which isn't that many trips compared to what is already on Clingman Avenue.

There being no request from the applicant for rebuttal, Vice-Mayor Cloninger closed the public hearing at 6:48 p.m.

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 Hay moved to adopt Ordinance No. 2752 to rezone property on Clingman Avenue from RM-8 Residential Multi-Family Medium Density District to Central Business District (conditional use zoning). This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE BOOK NO. 18 – PAGE

Councilman Hay moved to adopt Ordinance No. 2753 granting the conditional use permit for property located at Clingman Avenue with the following conditions: (1) Tree protection device details must be provided; (2) Sidewalk construction details must be provided; (3) That the project be regulated by the site plans and the building plans as submitted primarily with regard to massing and fenestration and that any minor changes to the building materials be reviewed by the Planning & Development Director; and (4) That a covered transit stop be provided. Said motion also instructs the City Attorney to prepare the Order for the Mayor's signature reflecting information presented by staff and subject to the conditions outlined by staff. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE BOOK NO. 18 – PAGE

It was the consensus of City Council to have City staff review the zoning of the entire area.

At 6:50 p.m., Vice-Mayor Cloninger announced a short break.

IV. UNFINISHED BUSINESS:

A. RESOLUTION NO. 00-182 - RESOLUTION ESTABLISHING THE MINIMUM PRICE AND DIRECTING THE CITY CLERK TO ADVERTISE A REQUEST FOR PROPOSALS REGARDING THE DEVELOPMENT OF EAST END PLACE SUBDIVISION

Mr. Randall Barnett, Rehab Loan Specialist, reviewed with City Council the following information presented to City Council at their worksession on September 5, 2000.

The Community Development Division has prepared a plan for the sale and redevelopment of land located in the East End/Valley Street Community Improvement Area known as East End Place and seeks authorization to advertise a Request for Proposals for sealed bids.

East End Place is a proposed subdivision located on a two acre tract on Martin Luther King Jr. Drive. The subdivision plan comprises seven (7) lots and a short cul-de-sac. The plan has been approved by the Technical Review Committee.

The proposed lots have been appraised as indicated and the sum of the values, \$77,000, is the amount proposed as the minimum price for the land.

The successful redeveloper will be required to pay not less than the minimum price established for the lots; to construct the infrastructure, i.e. street, sidewalk, water lines, sewer and storm drainage; and to build an affordable home on each lot with a projected sale price not to exceed \$90,000. The homes proposed must contain at a minimum 960 square feet, 3 bedrooms and 1 1/2 baths. The project must be started within three (3) months and completed within twenty-four (24) months after conveyance of the property. The City through allocated Community Development Block Grant (CDBG) funds will provide \$78,000 toward the cost of the infrastructure.

The homes must be sold to households with incomes not exceeding 80% of the area median income. The City through allocated Community Development Program Income will provide secondary financing to the buyers in an amount not to exceed \$11,000 per lot.

The advertisement for sealed bids, if approved by Council, will include the provision that proposals will be evaluated on the Redeveloper's qualifications and the quality of the proposed homes as well as the amount bid.

Approval of the resolution will establish the minimum price for East End Place at \$77,000.00 and initiate the sale of the property through the sealed bid process as provided in N. C. Gen. Stat. sec. 160A-268.

Community Development staff recommends adoption of the resolution.

At the worksession on September 5, 2000, City staff was instructed to meet with the area residents again to discuss the proposed subdivision plan, address any concerns they may have especially with regard to building on the embankment and the proximity of the proposed subdivision with their homes.

As a result of said meeting, which occurred on September 19, 2000, Mr. Barnett reviewed with City Council the following chronology and efforts taken in developing the two acres of land on Martin Luther King Jr. into the East End Place Subdivision. In the early 1980's, when the Redevelopment Commission cleared the neighborhood of its slums and blight, it took out several small grocery stores. The neighborhood residents wanted some land to be set aside for a new store. This two acres was zoned neighborhood commercial. The lot sat vacant for over a decade with no interest from developers. In the mid 1990's, some physicians pursued the idea of locating their office on the commercially zoned property. By then, new residents opposed the original plan for a commercial area in their neighborhood. They convinced the City to rezone the property to residential, however, there was still no development interest from the private sector.

In 1997, Community Development staff proposed developing the lot as a City project using CDBG funds. Meetings were held with the neighborhood association to establish a design for affordable housing. A total of 29 people took part in two meetings in May of 1997. Many possible site designs were discussed, and eventually a layout of seven single family homes around a cul-de-sac was adopted, with resident support. By October 1998, the design had been completed by the City's Engineering Department, costed, and approved. Additional CDBG funds were allocated in May 1999. In July 1999, the infrastructure work was bid, but the lowest bid was disappointingly high, at \$116,000. This exceeded the funds available. City staff looked into alternative ways to develop the site and decided to try again to attract a private developer to develop the site, using the CDBG funds as a subsidy. This was the proposal submitted to City Council at their September 5 worksession. A further neighborhood meeting was held on September 19, 2000, at the request of City Council. At this meeting, residents' concerns about undermining the slope above the site were satisfied, but new concerns about density were raised. Several residents called for a new design with no more than six units.

Mr. Barnett reviewed with Council the costs to date for this project: Survey, appraisal, application fees -\$1,665; Engineering in-house survey and design (250 hours)- \$15,000; and Community Development staff time has not been estimated but probably 60-100 hours to date.

Mr. Barnett said that it is staff's proposal to put out an RFP to the community of developers, both profit and non-profit, to take on this project using our CDBG funds to do the infrastructure and have a seven lot affordable housing project on this site.

When Councilwoman Bellamy asked if any of the comments from the neighborhood meeting on September 19, 2000, were incorporated into the plan, Mr. Barnett explained that staff did answer all their concerns, however, they wanted a new design with no more than six units and that was not incorporated into the plan. Other issues raised at the meeting by residents were things like dust from the project, and inconvenience of the neighbors as pavement and sidewalks are being poured. He said that those issues will be worked out with the contractor.

Councilwoman Bellamy explained the residents' concern about having six units instead of seven. She said these homes are not starter homes and most African Americans usually don't move. As a result, they were concerned about the size of the homes with no opportunity to build on.

Mr. Barnett said that that particular concern was addressed in that while the house is being built, the family could work with the builder for future design of what could be added on.

Vice-Mayor Cloninger said that their concern may have been that with seven lots, that the lots wouldn't be large enough to allow for expansion and meet various setback requirements.

Community Development Director Charlotte Caplan said that under this design you can see the culvert that runs at the foot of the slope and very clearly no part of any house can cross that culvert, thereby there is no possibility of the slope being undermined. And although the location of the houses on each lot is only schematic, they will look for the developer to come with a proposal for actually designing the homes. As to the expandability of housing, that is not something they have tried to build in. That was not an issue that was brought up at all in the development of the Consolidated Strategic Plan. They looked at issues like handicapped accessibility; location of housing in relation to transportation, employment and jobs; and the efficient use of land. Having housing units that are capable of being expanded is not a design feature that was considered as something that needed to be built into the plan. She felt that some of the lots would be appropriate for design that had the possibility of building on later, and some of them wouldn't.

Upon inquiry of Vice-Mayor Cloninger, Ms. Caplan said that the exact design of the house and the square footage will be up to the developer. However, staff is proposing to require in the RFP that the homes be not less than 960 square feet and that each of them should have three bedrooms and at least 1-1/2 bathrooms. Obviously in considering the proposals that are received, there is a balancing between the size of the house, the affordability of the house, and also the quality of design and construction. City staff will be reviewing the proposals and evaluating the proposals to maximize both the size and quality and affordability of the homes. She added that if we take out one unit and therefore all of the development costs, not to mention the re-design costs, have to be shared between six houses, rather than seven houses. She would expect the costs of each house to raise by approximately \$3-4,000, simply because a smaller number of houses have to share the fixed costs of development.

Councilwoman Bellamy noted that the residents do want this subdivision, however, the site is deceiving and on the ground you can see how seven houses are ineffective. She said the best example of this is the units on George Washington Carver, in that the houses are in close proximity in a small space. She noted several good examples of successful projects in Rankin Heights, in Oakley and in Shiloh.

Councilman Worley said that perhaps the social patterns in this neighborhood in terms of home ownership may not have been taken into account. He said there may not be enough room in the design to allow expansion to reasonably happen. He wanted to be comfortable in striking the right balance realizing that the bigger the house, the less affordable it will be.

Ms. Dorothy McDay, resident on Martin Luther King Drive, was concerned about the increased traffic and where the two cars per each house would park. As close and tight as the seven houses will be will only cause a lot of problems because there is one driveway going in. She was totally against seven houses being built, and even felt that six houses were too many.

Ms. D. Hines voiced concerns about where the vehicles will park that belong to the residents in the new subdivision. She explained that when the houses are so close, that there will be a lot of tension. She was in favor of building housing in the subdivision, but urged Council to reduce the units to six.

Upon inquiry of Vice-Mayor Cloninger, Planning & Development Director Scott Shuford said that the RFPs will not come back to City Council unless Council wants to see the final plan. He explained that subdivisions are approved by the Technical Review Committee and they can be appealed to the Planning & Zoning Commission. Again, this is a concept that shows a couple of shared driveways. The ultimate design may not match this concept. He said that they have had some adjustments in how they would approach a cul-de-sac and they may be able to have a few dollars saved with a smaller cul-de-sac on East End Place.

When Councilwoman Field asked if this site would be better served as multi-family, Mr. Shuford said that the community desires single-family homes.

Mr. Eric Goslin, area resident and real estate agent, said that in the subdivision's current design, he doesn't see how it is marketable. He felt that low income people are not willing to spend nor are they willing to buy into this subdivision because of the shared drive issue and also the fact that there is no availability of land to further add onto the house. Also, access onto Martin Luther King Jr. Drive from two of the houses will be hard due to a blind spot. He suggested having six units built and have one drive going out on East End Place.

Ms. Glenda McDowell, President of the East End/Valley Street Association, urged City Council to do this project. She said that as the years go by, neighborhoods change and so do their opinions. They have been waiting since 1969 for single family homes in this community. In

defense of the City, she explained that five homes were originally proposed for this site and it was the residents at the meeting in May of 1997 that wanted seven homes built.

Upon inquiry of Vice-Mayor Cloninger, Ms. Caplan said that if a developer felt he could not market seven units on that property, in all likelihood they would not respond to the RFP.

As an architect, Councilwoman Field said that she sees many ways to expand on the lots. Staff has worked long and hard on this project and she felt it was time to move forward.

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

Councilwoman Bellamy moved the East End Place Subdivision plan be comprised of six lots. This motion was seconded by Councilman Peterson.

Councilwoman Field made a substitute motion that the East End Place subdivision be comprised of seven lots. This motion was seconded by Councilman Hay. Said motion was defeated on a 3-3 vote, with Vice-Mayor Cloninger, Councilwoman Field and Councilman Hay voting "yes" and Councilwoman Bellamy, Councilman Peterson and Councilman Worley voting "no".

Therefore, a vote was taken on the original motion made by Councilwoman Bellamy and seconded by Councilman Peterson that the East End Place Subdivision plan be comprised of six lots. Said motion carried unanimously.

RESOLUTION BOOK NO. 25 – PAGE 188

V. NEW BUSINESS:

A. RESOLUTION NO. 00-183 - RESOLUTION APPOINTING MEMBERS TO THE ADA COMPLIANCE COMMITTEE

Vice-Mayor Cloninger said that this is the consideration of a resolution appointing members to the Americans with Disabilities Act Compliance Committee.

The terms of Carole Williams and Glenda McDowell, as members on the ADA Compliance Committee, expired on August 22, 2000.

At City Council's worksession on September 5, 2000, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Ms. Williams (representing the business or non-profit sector) and Ms. McDowell (representing the education and health/medical profession) to each serve an additional three year term, terms to expire August 22, 2003, or until their successors have been appointed.

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. 00-183. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 189

B. RESOLUTION NO. 00-184 - RESOLUTION ENDORSING AN APPOINTMENT TO THE OPPORTUNITY CORPORATION OF MADISON AND BUNCOMBE COUNTIES

Vice-Mayor Cloninger said that this is the consideration of a resolution endorsing the reappointment of Ms. Cathy Pollock as one of the City's representatives to the Opportunity Corporation of Madison-Buncombe Counties.

The term of Ms. Cathy Pollock, as a City representative to the Opportunity Corporation of Madison-Buncombe Counties, expired April 22, 2000.

The Opportunity Corporation has asked that the Mayor reappoint Ms. Pollock to serve on their Board for an additional three year term, term to expire in April of 2003.

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

Councilwoman Bellamy moved for the adoption of Resolution No. 00-184. This motion was seconded by Councilman Hay and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 190

C. RESOLUTION NO. 00-185 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING AND ZONING COMMISSION

Vice-Mayor Cloninger said that this is the consideration of a resolution appointing members to the Planning & Zoning Commission.

The terms of Jan Davis and Billie Buie, as members on the Planning & Zoning Commission, expired on August 14, 2000.

At City Council's worksession on September 5, 2000, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Mr. Davis and Ms. Buie to each serve an additional three year term, terms to expire August 14, 2003, or until their successors have been appointed.

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. 00-185. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 191

D. RESOLUTION NO. 00-186 - RESOLUTION APPOINTING MEMBERS TO THE RIVER DISTRICT DESIGN REVIEW COMMITTEE

Vice-Mayor Cloninger said that this is the consideration of a resolution appointing a member to the River District Design Review Committee.

Kimberly Hodges has resigned as a member of the River District Design Review Committee leaving an unexpired term until September 1, 2001.

At City Council's worksession on September 5, 2000, City Council instructed the City Clerk to prepare the proper paperwork to appoint Mr. Ken Fulford (design professional) to serve the unexpired term of Ms. Hodges, term to expire September 1, 2001, or until his successor has been appointed.

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. 00-186. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 192

E. RESOLUTION NO. 00-187 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Cloninger said that this is the consideration of a resolution appointing a member to the Asheville-Buncombe County Tourism Development Authority to serve a three year term.

The term of Don Tomlinson (representing an owner or operator of a hotel with over 100 rooms) expired on August 30, 2000.

At City Council's worksession on September 5, 2000, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Mr. Tomlinson to serve an additional three year term, term to expire August 30, 2003, or until his successor has been appointed.

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. 00-187. This motion was seconded by Councilwoman Bellamy and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 193

F. RESOLUTION NO. 00-188 - RESOLUTION APPOINTING MEMBERS TO THE VICTORIA OF ASHEVILLE BOARD OF DIRECTORS

Vice-Mayor Cloninger said that this is the consideration of appointing members to the Board of Directors of Victoria of Asheville Inc.

The terms of Doug Spell, Bill Schaefer and Ben Durant, as members of the Board of Directors of Victoria of Asheville Inc., expire on November 29, 2000.

At City Council's worksession on September 5, 2000, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Mr. Spell, Mr. Schaefer and Mr. Durant to each serve an additional three year term, terms to expire November 29, 2003, or until their successors have been appointed.

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. 00-188. This motion was seconded by Councilwoman Bellamy and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 194

G. RESOLUTION NO. 00-189 - RESOLUTION APPOINTING A MEMBER TO THE REGIONAL WATER AUTHORITY OF ASHEVILLE, BUNCOMBE AND HENDERSON COUNTY

Vice-Mayor Cloninger said that this is the consideration of a resolution appointing a member to the Regional Water Authority of Asheville, Buncombe and Henderson County to serve a three year term.

The term of J. Lewis Daniels expires on September 30, 2000.

At City Council's worksession on September 5, 2000, City Council instructed the City Clerk to prepare the proper paperwork to reappoint Mr. Daniels to serve an additional three year term, term to expire September 30, 2003, or until his successor has been appointed.

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. 00-189. This motion was seconded by Councilwoman Bellamy and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 195

VI. OTHER BUSINESS:

A. RESOLUTION NO. 00-190 – RESOLUTION CONFERRING MAYOR'S POWERS AND DUTIES UPON VICE-MAYOR

City Attorney Oast read the following resolution: G.S. 160A-70 provides for the election of a Mayor pro tempore, and further provides for the powers and duties of the Mayor to be conferred by Council upon the Mayor pro tempore, in the absence of the Mayor, and Sec. 10 of the Asheville City Code, and Rule 10 of City Council's Rules of Procedure provide to similar effect with respect to the office of Vice-Mayor; and, Mayor Sitnick is absent from the City and is not anticipated to return until October 1, 2000. Now, therefore, be it resolved by the City Council of the City of Asheville that the powers and duties of Mayor are hereby conferred upon the Vice-Mayor, effective immediately and continuing until 8:00 a.m. on October 1, 2000, or until such sooner time as the City Manager is advised that the Mayor is no longer absent.

Councilman Hay moved for the adoption of Resolution No. 00-196. This motion was seconded by Councilwoman Bellamy and carried unanimously.

RESOLUTION BOOK NO. 25 – PAGE 196

B. LAWSUIT

The City was served with a Petition for Review of Annexation Ordinance on August 11, 2000, which is generally described as follows: Ridgefield Properties, et al. v. City of Asheville. The nature of proceeding is to declare the annexation ordinance for Annexation Area 2001-D to

be null and void and to declare Annexation Area 2001-D not eligible for annexation by the City of Asheville. This matter will be handled by William F. Slawter.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Vice-Mayor Cloninger adjourned the meeting at 7:48 p.m.

CITY CLERK

MAYOR