

Tuesday – May 8, 2001 - 5:00 p.m.

Regular Meeting

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

Absent: None

### **INVOCATION**

Councilman Peterson gave the invocation.

On behalf of City Council, Mayor Sitnick and Councilman Peterson expressed their sympathy on the recent death of Mr. E. Benson Slosman.

### **I. PROCLAMATIONS:**

#### **A. PROCLAMATION PROCLAIMING MAY 10, 2001, AS "PARKS AND RECREATION VOLUNTEER RECOGNITION DAY"**

Mayor Sitnick read the proclamation proclaiming May 10, 2001, as "Parks and Recreation Volunteer Recognition Day " in the City of Asheville. She presented the proclamation to Mr. Buster Brown, Bill Fulp Community Service Award Recipient; Mr. Irby Brinson, Mr. Jeff Joyce, Ms. Laura Loftis and Mr. Bill Fulp.

#### **B. PROCLAMATION PROCLAIMING MAY 19-25, 2001, AS "NATIONAL SAFE BOATING WEEK"**

Mayor Sitnick read the proclamation proclaiming May 19-25, 2001, as "National Safe Boating Week" in the City of Asheville. She presented the proclamation to Mr. Bill Swan, who thanked City Council for taking time to recognize the week.

### **II. CONSENT:**

#### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 24, 2001**

#### **B. RESOLUTION NO. 01-57 - RESOLUTION SETTING A PUBLIC HEARING FOR MAY 22, 2001, TO CONSIDER THE DEMOLITION OF A DWELLING LOCATED ON WYATT STREET**

**RESOLUTION BOOK NO. 19 – PAGE 339**

#### **C. RESOLUTION NO. 01-58 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH LUMINA BUILDERS INC. TO FURNISH AND INSTALL THE FINISHED SURFACE TREATMENT AND DASHERBOARDS FOR THE OUTDOOR ROLLER HOCKEY RINK AT THE FRENCH BROAD RIVER PARK**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Lumina Builders Inc. to furnish and install the finished surface treatment and dasherboards for the outdoor roller hockey rink at the French Broad River Park.

The City of Asheville is continuing its development of the French Broad River Park which entails numerous recreational activities within the westernmost tract of land along Amboy Road. Among these activities is an outdoor roller hockey rink that will be a unique asset to the community. The project is funded through City of Asheville funds which are supplemented by the Parks and Recreation Trust Fund Grant. City staff is preparing the site to be paved via a private contractor. In order to complete the construction of this rink, staff has put out to bid the materials and installation of the finished skating surface treatment (a plexifor system) and dashboards (fiberglass). Lumina Builders, Inc., was the lowest responsible bidder to furnish and install these elements at a cost of \$74,780.

The Parks and Recreation Department recommends that City Council authorize a contract for the outdoor roller hockey rink at the French Broad River Park.

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#### **D. RESOLUTION NO. 01-59 – RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED AGREEMENT WITH CAROLINA POWER & LIGHT COMPANY TO INSTALL ATHLETIC FIELD LIGHTING AT THE FRENCH BROAD RIVER PARK – PHASE IV**

Summary: The consideration of a resolution authorizing the City Manager to amend the agreement with Carolina Power & Light (CP&L) to install athletic field lighting at the French Broad River Park – Phase IV.

Several years ago, the City entered into an agreement with CP&L to install ballfield lights at Murphy-Oakley and Weaver Parks. This agreement allowed for the City to pay a monthly fee for the installation of the lights; therefore, reducing capital expenditures. After review by the City Attorney's Office, it has been determined that an amendment can be made to the existing contract which will allow us to enter into an agreement with CP&L to provide athletic lighting at French Broad River Park – Phase IV. This lighting will include lights for the volleyball area, roller hockey/basketball arena, and soccer/baseball field. These features will be included in the first phase of development and will be ready for use as early as July of this year. The cost associated for lighting the area will include the following breakdown:

Volleyball \$ 58,000

Roller hockey/basketball \$ 50,000

Soccer/baseball \$115,800

The Department is currently negotiating a fee structure which will include an up front base payment. With future monthly installment payments, this will allow for the City to receive the best possible price for the installation of the lights and will allow for the lights to be paid for over a period of years.

The Parks and Recreation Department staff requests City Council authorize an amendment to the existing CP&L contract.

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Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolutions and ordinances and the Consent Agenda and they would not be read.

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

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

#### **A. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR ANCILLARY USE (PARKING LOT) IN A RESIDENTIAL DISTRICT AT 56 SHILOH ROAD**

Mayor Sitnick announced that a letter dated May 2, 2001, has been received by Mr. George W. Morosani requesting "a two week's continuance of this matter until May 22."

When Mr. Jim Brooks, owner of 56 Shiloh Road, advised Council that his house address is 56 Shiloh Road and he is not asking for any type of conditional use permit, Planning & Development Director Scott Shuford advised City Council that they will ascertain if there is a problem with the street address and if necessary, will re-advertise.

Vice-Mayor Cloninger moved to continue this public hearing until May 22, 2001. This motion was seconded by Councilwoman Field and carried unanimously.

#### **CLOSED SESSION**

City Attorney Oast said that in light of the action that Buncombe County took last week with respect to zoning parts of the County, he felt like City Council needs to hear from him about some of the legal aspects of that and he requested Council move to go into a brief closed session for that purpose.

At 5:26 p.m., Councilman Hay moved to go into closed session 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 consultation regarding the legal effect of Buncombe County's action of May 1, 2001, to establish zoning for parts of the County. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Worley.

Councilwoman Bellamy said this was abnormal to go into closed session in the middle of a regular Council meeting. She suggested City Council hear the closed session issue after the meeting and then consider the issue in two weeks.

Vice-Mayor Cloninger said that he didn't think he would be in a position to vote on the issue of the extraterritorial jurisdiction tonight, so he would favor a two week postponement of the hearing as well.

Councilman Worley said Council may not want to consider making any decision today but Council could go forward with the public hearing and then continue remainder of public hearing for two weeks. This would give Council the opportunity to digest the information received by the City Attorney and take into account the comments from the public hearing.

Councilman Hay said he was not sure, until he hears the City Attorney's report, what the legal issues are about whether there is a consequence in postponing the hearing. He was not in any hurry to hold the public hearing, but he did want to know if there any legal consequences of not making any decisions tonight.

Mayor Sitnick said that since this is such an unusual request by the City Attorney, that there must be a good reason for it. She preferred going into closed session for a brief period of time and then come back out and make a decision on whether to hold the public hearing. Her general thought is that if people come for the advertised public hearing, then Council should afford them the opportunity to speak and not inconvenience them and make them come back.

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Councilwoman Bellamy again expressed her concern of going into closed session in the middle of a formal

meeting, especially when prior closed session matters have traditionally been longer than 10-15 minutes.

Councilwoman Field felt that if the closed session would be limited to 10 minutes, she would have no problem in voting to go into closed session at this time.

At 5:37 p.m., Councilman Hay moved to amend his motion to go into closed session for no longer than 10 minutes. This amendment was accepted by Councilman Worley. Said amended motion carried on a 6-1 vote, with Councilwoman Bellamy voting "no".

At 5:45 p.m., Councilman Hay moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

Councilwoman Bellamy pointed out for the record that her objection for voting against the closed session was not for the consideration of the extraterritorial jurisdiction, but for the procedure.

## **B. PUBLIC HEARING TO EXTEND THE CITY'S EXTRATERRITORIAL JURISDICTION IN THE FAIRWAY ROAD/US 74 AREA, THE LONG SHOALS ROAD AREA, AND THE US 19-23/SARDIS ROAD/SAND HILL ROAD/BREVARD ROAD AREA**

Urban Planner Paul Benson opened the general public hearing at 5:47 p.m. He said the public hearing was advertised on April 27 and May 4, 2001.

Using a map, Mr. Benson said Planning staff has prepared three ordinances that would extend the City of Asheville's extraterritorial planning jurisdiction (ETJ) in three separate areas: Fairview Road/US 74; Long Shoals Road; and US 19-23/Sarids Road/Sand Hill Road/Brevard Road.

State law permits cities to extend extraterritorial jurisdiction at least one mile beyond their corporate limits in areas of critical concern to the City based upon existing or projected urban development. There are three reasons for extending ETJ into these areas: (1) protection of land suitable for industrial development; (2) management of growth in rapidly developing areas; and (3) control of growth along key city gateways. Each of these areas meet some of this criteria. These extensions are supported by officially adopted plans and policies as evidenced in the 1989 Addendum to the 2010 Plan and by the Sustainable Economic Development Task Force Report.

Totals for all three areas are: 5,869 acres and 1,612 properties. By way of comparison, the City's existing ETJ is about 7,300 acres, and the entire existing planning jurisdiction of the City, including the corporate limits and the existing ETJ, is about 33,700 acres.

Zoning will be assigned to these areas based on an evaluation of existing land uses, relationship to development in the City, existing and planned infrastructure, and any other relevant factors.

## **ORDINANCE NO. 2807 - ORDINANCE EXTENDING THE CITY'S EXTRATERRITORIAL JURISDICTION TO INCLUDE AN AREA KNOWN AS THE FAIRWAY ROAD/US 74 AREA**

Mayor Sitnick opened the public hearing at 5:55 p.m.

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Mr. Benson said this area, to the east of the City, includes a large stretch of the Blue Ridge Parkway right-of-way, and land extending southeast on both the north and south sides of US Highway 74 (Charlotte Highway), as shown of the Highway 74 Area ETJ Extension map. The area includes residential areas off Avondale Road and areas to the north off Hemphill Drive. This area includes 832 acres and 273 properties. Generally the boundaries are described by property lines and the center of the Blue Ridge Parkway

extending to the south. This is a gateway area to the City and an area that is also experiencing rapid urban development.

Councilman Peterson asked if there was any consideration given to extending the ETJ on the east side of the Blue Ridge Parkway. Mr. Benson responded that state law stipulates that they follow features that are readily identifiable on the ground to the maximum extent possible. He said they could have followed the eastern right-of-way for the Blue Ridge Parkway, but they wanted to use a feature that was very clear on the ground. He said a property line can be identified, but not as readily identifiable. So, to make the boundary as strong as possible, they tried to follow road centerlines wherever possible.

Mayor Sitnick said that there are some small farms in this area. She was concerned they will be out of compliance if the ETJ is extended into their area and if at some point in the future it becomes more urbanized. She wants to make sure that the small privately owned family farms are preserved, allowed to expand, and allowed to continue their operations. She wondered if a special zoning designation of "agri-land" or "small farms" could be created in order to preserve those family farms that have been in existence for a long time. The thought driving them out is not acceptable to her.

Mr. Benson said that there is an interpretation issued by former Planning & Development Director Julia Cogburn that bona fide farms are exempt from our zoning regulations and the Planning Department has been operating under that interpretation. In addition, as we get into the zoning of the area, there are a number of options that can be looked at and certainly drafting a new rural residential zoning district would be a possibility. During the Unified Development Ordinance discussions, that issue was looked at and decided that, at that time, that they were not including enough agricultural land to justify the district.

Planning & Development Director Scott Shuford said that City Council is only voting on zoning the areas at this time, only on whether to extend the ETJ into the areas. He said they are operating under an interpretation with farms inside the City in that they are not regulating their use for these small-type farms. That would be an interpretation they will continue, unless they find that they need to create a separate zoning district as Mr. Benson indicated to accommodate those uses. One of the purposes behind extending the ETJ is to go after land uses which are facing development pressure and changes in their pattern. If there are small farms in somewhat isolated circumstances that need protection, they are not likely to be faced with the same level of development pressure anyway and so accommodating them would make sense. One qualification, however, is one of the purposes of this is to establish, in effect, an industrial-only zoning designation for land that would be considered prime industrial and there may be farms in those areas, but they could continue as non-conforming uses.

City Attorney Oast said that any existing farm, as any other kind of existing use, would be allowed to continue under the non-conforming use provisions of our Code. As Mr. Shuford pointed out, the City is currently operating under an interpretation with respect to small farms that would extend into this area.

Councilman Worley said that he felt the concern is not so much as grandfathering, but in the case of a small farm, if the owner of the small farm wants to expand. If that interpretation permits that, then that is fine.

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Mr. Shuford said that is a valid concern and one shared by City staff. There is a farm in this particular area and the owner has talked with the Planning staff about her plans to expand her operation. Mr. Shuford said that he feels she is covered by that interpretation and will be happy to put that in writing for her protection.

Councilwoman Field said that the area along the Blue Ridge Parkway looks very undeveloped and wondered what the zoning designation would be. Mr. Benson responded that is a very steep hillside and that the area is all within the right-of-way of the Blue Ridge Parkway. Without having done a lot of study, he said it would

probably be RS-2

Councilwoman Field said that maybe at the same time staff is looking at the possibility of some type of farm designation, that they look into the possibility of a zoning designation for publicly-owned parks, as previously been raised by Mayor Sitnick and discussed by City Council.

Mr. Walter Plaue was concerned about implementing some type of zoning that, at some future date, may preclude the owner of that property from either selling it or subdividing it.

City Attorney Oast said that nothing City Council is doing tonight would limit the ability of anyone in these areas to subdivide their property.

Upon inquiry of Councilman Worley, Mr. Shuford said that these small farms would be zoned whatever is appropriate for the surrounding area, but under the interpretation would be exempt from complying with those zoning regulations as long as they continue to operate as a farm.

Upon inquiry of Councilwoman Field, City Attorney Oast said that working farms do enjoy special tax recognition.

In response to Councilman Peterson, Mr. Shuford said that currently within our existing ETJ, not just the three areas under consideration tonight, the City enforces only its zoning and its subdivision regulations. The City does not enforce stormwater management regulations, erosion control regulations, junked vehicle ordinances or building permit and inspection requirements. Those are ones that we are eligible to pursue. We considered suggesting to Council that we move in that direction and assume those in our existing ETJ, and of course we would suggest it here in the proposed three areas, but as a result of the State budget crunch and our need to respect our neighbors, Buncombe County, with regard to the potential funding implications that might pertain to them if we took away their building permit revenue. We felt it better to not recommend to Council that we take that action this year.

When Mr. Peter Dawes asked why include the Blue Ridge Parkway right-of-way into the ETJ area, Mr. Benson said it is a movement into the urbanized area on US 74.

Mr. John Herron said that residents are afraid to come to the meeting and speak out. He felt that government is taxing people to death. In addition, he felt the City already can't handle what they already have. He strongly opposed the City taking away the property owner's right to do what they want with their land.

Mayor Sitnick said the City doesn't consider ETJ or annexation in a vacuum. The state law that allows cities to consider an ETJ and to consider an annexation is a state law for a reason. The reason why cities, not just Asheville, are allowed to consider ETJ extensions is as those areas around the city become more urbanized with more streets and more homeowners, most of those people either work in the city or come into the city for their retail, social needs, social service needs, entertainment, and their medical needs. They come into the city and they use the city's infrastructure - streets and sidewalks, etc. The people who pay for that

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infrastructure are the Asheville City taxpayers alone. They also pay for the use of infrastructure used by tourists and other regional residents who come into the City for those same reasons. The reason the state has this law that allows cities to extend their ETJ and annex, which are two different things, is to make sure that some of the burden is taken off the city taxpayer who pays City taxes and County taxes. The City doesn't have any desire to put an undue burden on County neighbors, but they also need to make sure that there is not an undue burden on the Asheville taxpayer as these urban areas and subdivisions grow around the City.

Mr. Shuford read from the Municipal Government in North Carolina by the Institute of Government as follows

"It is in the city's interest to ensure that areas will ultimately be brought into the city are developed in a manner consistent with the city's development standards and land use planning objectives and served by appropriate public facilities. Otherwise, unplanned growth and substandard development may thwart municipal annexation. In addition, even when the city has no annexation ambitions, unplanned growth and substandard development may have detrimental effects on nearby city areas."

Mayor Sitnick closed the public hearing at 6:20 p.m.

City Attorney Oast passed out a slightly revised ordinance which reference is made to the area being one of critical concern to the City as evidenced by the 1989 addendum to the City's comprehensive plan.

Vice-Mayor Cloninger moved to adopt Ordinance No. 2807. This motion was seconded by Councilwoman Field and carried unanimously.

## **ORDINANCE BOOK NO. 19 – PAGE**

### **ORDINANCE NO. 2808 - ORDINANCE EXTENDING THE CITY'S EXTRATERRITORIAL JURISDICTION TO INCLUDE THE AREA KNOWN AS THE LONG SHOALS ROAD AREA**

Mayor Sitnick opened the public hearing at 6:22 p.m.

Mr. Benson said that this area includes a substantial amount of land owned by Biltmore Farms Inc., as well as property west of the French Broad River on both the north and south sides of Long Shoals Road, as shown on the Long Shoals Road Area ETJ Extension map. This area includes 1,831 acres and 176 properties.

Mr. John Herron again said the City should not be able to tell people what to do with their property.

Mr. Walter Plaue felt that one reason people get emotion about being taken into an ETJ area is that it's the first step to annexation. Even though there is no taxation under the ETJ, it's just a matter of time. He felt that even though County residents use the City's infrastructure, they spent their money in the City. The City's existing infrastructure is not maintained currently and if the City doesn't have the money to fix it now, how can they expect to fix it when more area is annexed. He said that agencies are doing their best to provide low income housing in the area, but raising taxes makes it more difficult for low income people to afford housing.

Mayor Sitnick stressed that the City does not tax in the ETJ areas and it does not mean that the City is going to annex them. She said there are many ETJ areas around the City that have never been annexed.

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Mr. Shuford said that the City is unable to annex until the area reaches an urban level of density and there are very specific and tight state statutes that deal with what those provisions are. Large areas of undeveloped land are not subject to annexation regardless of whether they are in the ETJ or not. The ETJ does not create a taxing authority for the City nor does it automatically presume that the area will be annexed.

Mr. Peter Dawes said that state law says the no municipality can extend their ETJ in a zoned area and Buncombe County zoned this property last week. City Attorney Oast responded that Mr. Dawes is correct – that a city cannot expand an ETJ area into an area that has been zoned. To the extent that questions exist regarding the validity of Buncombe County's zoning, his recommendation is that City Council proceed.

Mayor Sitnick closed the public hearing at 6:38 p.m.

City Attorney Oast passed out a slightly revised ordinance which reference is made to the area being one of critical concern to the City as evidenced by the 1989 addendum to the City's comprehensive plan.

Vice-Mayor Cloninger moved to adopt Ordinance No. 2808. This motion was seconded by Councilman Worley and carried unanimously.

#### **ORDINANCE BOOK NO. 19 – PAGE**

#### **ORDINANCE NO. 2809 - ORDINANCE EXTENDING THE CITY'S EXTRATERRITORIAL JURISDICTION TO INCLUDE THE AREA KNOWN AS THE US 19-23/SARDIS ROAD/SAND HILL ROAD/BREVARD ROAD AREA**

Mayor Sitnick opened the public hearing at 6:39 p.m.

Mr. Benson said that this area includes a large area south of I-40 to the west of the city, sweeping southeastward along US 19-23, Sand Hill Road, Sardis Road and Brevard Road to the west of I-26, as shown on the West Area ETJ Extension map. This area includes 3,206 acres and 1,163 properties. He said the area on Sardis Road is a prime area for industrial development. He said this extension would fulfill Council's policy of protecting potential industrial development. In addition, it also includes some large tracts around the Enka and BASF property that are suitable for industrial development.

Mr. James Wright spoke against extending the City's ETJ into this area. He felt this was taxation with representation. He was opposed to the City telling the residents what they can do with their own property. He said that if he wanted to be in the City, he would have moved into the City. He felt the public hearing was not at a time when most people could attend it since most people work until 5:00 p.m. or 6:00 p.m. He felt the City can't take of what they already have.

Upon inquiry by Mr. Peter Dawes again about Buncombe County's recent zoning, City Attorney Oast said that in his opinion, if City Council proceed with the extension of the ETJ, then it will be a valid ordinance.

Upon inquiry of Mr. Jim Herron, Mr. Benson said that basically what the City is doing now in the existing ETJ is regulating land subdivision so that when a property owner subdivides land, the City makes sure that the streets are adequate that go into each lot and if utilities are available to the property that they are extended by the developer. So that in the future, property owners don't have problems with failing septic tanks and roads that are falling apart. As far as zoning is concerned, Planning staff looks at existing patterns.

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Mayor Sitnick closed the individual and general public hearing at 6:51 p.m.

City Attorney Oast passed out a slightly revised ordinance which reference is made to the area being one of critical concern to the City as evidenced by the 1989 addendum to the City's comprehensive plan.

Councilman Worley moved to adopt Ordinance No. 2809. This motion was seconded by Councilwoman Field and carried unanimously.

#### **ORDINANCE BOOK NO. 19 – PAGE**

#### **IV. UNFINISHED BUSINESS:**

#### **A. CONSIDERATION OF CITY COUNCIL APPOINTMENT TO REGIONAL WATER AUTHORITY OF ASHEVILLE, BUNCOMBE AND HENDERSON**



Mayor Sitnick said that since she requested this matter be placed on the agenda, she wanted to address it. It has been brought to her attention that, at this time because of the complexity of our appointment process and policies that she would be willing to leave the membership of the Regional Water Authority as it is at the present time. She said that she will be attending the Regional Water Authority meeting on Tuesday, May 15, 2001, at 8:45 a.m. in the First Floor North Conference Room in the City Hall Building. She said that she will be making some general comments about non-betterment costs and other things. She encouraged other members of Council to attend the meeting as well. She said that City staff will be reporting on the Regional Water Authority to City Council at their May 15, 2001, worksession.

She said that if, after attending the May 15 Regional Water Authority meeting, she feels there is a need for further explanation and dialogue, she will consider calling together a meeting of participants who are concerned about this issue and who are participating in this issue. Some may include Buncombe County, Henderson County, City Council and members of the Regional Water Authority.

## **V. NEW BUSINESS:**

### **A. RESOLUTION NO. 01-60 - RESOLUTION AUTHORIZING SUBMISSION TO THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT OF THE CONSOLIDATED ANNUAL ACTION PLAN 2001-02**

Due to a conflict of interest, Councilman Hay moved to excuse Councilwoman Bellamy from participating in this matter. This motion was seconded by Councilman Peterson and carried unanimously.

Community Development Director Charlotte Caplan said that the public hearing on this matter was held on April 24, 2001.

Ms. Caplan said that the City expects to have available \$1,839,656 in CDBG funds and \$1,422,966 in HOME funds to spend on housing and community development activities in the fiscal year beginning July 1, 2001. The City's Housing and Community Development Committee (HCD) and the Asheville Regional Housing Consortium have made recommendations for allocating these funds to 22 CDBG-assisted and 14-HOME assisted projects.

In addition, the HCD Committee recommends that the City apply for a CDBG Section 108 Guaranteed Loan in the amount of \$850,000 to assist Eagle/Market Streets Development

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Corporation in a major redevelopment effort in South Pack Square. A draft loan application will be submitted separately.

If approved, the funding will assist in adding or preserving 188 affordable housing units in the City and 162 units in the rest of the Consortium area (Buncombe, Henderson, Madison, and

Transylvania Counties), will provide 3,300 Asheville residents with other needed services, and will assist in a major revitalization of the South Pack Square neighborhood.

Notice of the public hearing and a summary of the draft plan was published on April 6. A 30-day public comment period is required by federal regulations. The final plan must be submitted to HUD on or before May 15, 2001.

Pursuant to a request by Mountain Housing Opportunities, and supported by City staff and the HCD Committee), a Plan amendment has been requested (and incorporated into the resolution) to reduce the funding for the Mountain Housing Opportunities' Northpoint Commons by \$188,000 and increase the HOME funding for Mountain Housing Opportunities' Compton Place by \$188,000.

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

Councilwoman Field moved for the adoption of Resolution No. 01-60, as amended above. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

### **RESOLUTION BOOK NO. 26 – PAGE 343**

#### **B. RESOLUTION NO. 01-61 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE GRANT AND LICENSE AGREEMENT WITH FOOD LION LLC FOR SPONSORSHIP OF THE SKATEPARK LOCATED AT FLINT AND CHERRY STREETS**

Parks and Recreation Director Irby Brinson said that this is the consideration of a resolution authorizing an agreement with Food Lion for partial funding of the SkatePark located at Flint and Cherry Streets.

The Parks and Recreation Department, for the past several months, has been working with Food Lion to enter into an agreement for funding of the SkatePark located at Flint and Cherry Streets. This agreement represents a 10-year commitment by Food Lion to make the SkatePark a reality. The negotiations for this contract include naming rights, Food Lion sponsorship, and the ability for Food Lion to solicit other sponsors to assist with the funding. The agreement would commence on May 1, 2001, with final payment being made on May 1, 2007.

The Parks and Recreation Department requests City Council approval for the Mayor to execute the grant and license agreement with Food Lion, LLC, for sponsorship of the SkatePark.

On behalf of City Council, Mayor Sitnick praised the work of Mr. Brinson in making this SkatePark a reality. She thanked Doritos and Mountain Dew for their sponsorship as well.

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

Vice-Mayor Cloninger moved for the adoption of Resolution No. 01-61. This motion was seconded by Councilman Worley and carried unanimously.

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### **RESOLUTION BOOK NO. 26 – PAGE 344**

#### **VI. OTHER BUSINESS:**

##### **A. CLAIMS**

The following claims were received by the City of Asheville during the period of April 20-26, 2001: Marie Sheldon (Water), Darrel Hankins (Water), Harry Griffin Jr. (Police), Pat King (Water) and David Curry (Water).

The following claims were received during the period of April 27 – May 3, 2001: June Parler (Water) and Randy Lanford (Sanitation).

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

##### **B. LAWSUIT**

The City has received a complaint on April 30, 2001, from Buncombe County regarding tax foreclosure proceedings for unpaid real estate taxes. This matter will be handled in-house.

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

### **Comments by Sharon Martin**

Ms. Sharon Martin stressed to Council the need for the City and County to communicate. She felt that because of the lack of communication, it becomes a conflict issue instead of a cooperation consideration. She said taxpayers are the ones who lose out when the City and County don't communicate.

### **Comments by Mark Long**

Mr. Mark Long felt that 3-5 days to obtain a street entertainment permit is too long. His art of fire dancing gives the tourists who visit Asheville something to see and it adds to the vitality and positive vibe of Asheville. He encouraged the City to look into solutions for the problems it's Sister City San Cristobal, Mexico, is experiencing. In addition, he felt it was time for the City to look possibly at re-dedicating the City-owned monument downtown to Leonard Peltier.

### **Comments by Adam Baylus**

Upon inquiry of Mr. Adam Baylus, Mayor Sitnick said that she has not received a letter from the Mayor of Canton regarding an appeal to City Council to cooperate and discuss the building of their civic center and raceway. She said that City Council will discuss this request when it is received.

### **Comments by Mayor Sitnick regarding E. Benson Slosman**

Mayor Sitnick asked for City Council to consider honoring the memory and legacy of Mr. E. Benson Slosman with an appropriate commemoration. She said that he was a major contributor to the revitalization and restoration of Asheville.

Councilman Peterson suggested something with the Biltmore Train Station and Councilwoman Bellamy mentioned the greenway along the Swannanoa River Road.

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Councilman Hay said that the Community Foundation has established a fund in Mr. Slosman's name and it may be that they have some goals, projects or specific ideas connected with that Fund that the City can partner with. Mayor Sitnick asked City staff set up a meeting with a representative from the Community Foundation, appropriate City staff, and interested Council members to discuss this issue.

### **Comments by Councilwoman Bellamy**

Councilwoman Bellamy congratulated Principal Ray at Hall Fletcher for being the runner-up for the N. C. Principal of the Year. In addition, she congratulated Mr. Jackson who currently who works at Randolph Elementary as a 4<sup>th</sup> Grade teacher because he will take on the responsibility of operating the KIPP Academy.

### **Closed Session**

At 7:23 p.m., Vice-Mayor Cloninger moved to go into closed session (1) 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 (2) 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, provided that any action authorizing the payment of economic development incentives will occur in open session - G.S. 143-318.11(a)(4). This motion was seconded by Councilman Worley and carried unanimously.

At 8:57 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilwoman Bellamy and carried unanimously (Vice-Mayor Cloninger and Mayor Sitnick were both excused from the last closed session item regarding economic development).

## **MEETING RECONVENED**

The meeting was reconvened in the Council Chamber with Councilwoman Field presiding.

Councilman Worley moved to set a public hearing on May 22, 2001, to consider authorizing the City to enter into an agreement with Blue Ridge Motion Pictures LLC for economic development incentives pursuant to the City's Economic Development Policy, and as authorized pursuant to N. C. Gen. Stat. sec. 158-7.1. This motion was seconded by Councilman Hay and carried unanimously.

## **VIII. ADJOURNMENT:**

Councilwoman Field adjourned the meeting at 9:01 p.m.

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CITY CLERK MAYOR

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