
The purpose of the ancillary parking CUP process is to allow a limited amount of intrusion into residential areas under appropriate conditions. Although the landscaping and fencing will serve to mitigate the impacts of this proposed development, staff feels that the intrusion of development in the middle of the block will destroy the fabric of the neighborhood and because of the proximity to Hendersonville Road, possibly serve as a catalyst for additional commercial development into the neighborhood.

Based on information available to the Planning & Development Department in advance of the public hearing, staff recommends denial of the ancillary parking conditional use permit. If Council takes action to approve the CUP, staff would like to add the following conditions: (1) PIN numbers for both parcels must be shown on the site plan; (2) The surrounding zoning should be corrected on the landscape plan; (3) The parking calculations must be corrected on the site plans; (4) The unopened section of Cherry Street should be closed and additional landscaping installed in this area; and (5) The Final Plans, showing Phase II, should be reviewed by the Technical Review Committee.

Councilman Hay said it was his understanding that the primary goal of ancillary parking was to allow more of a smooth transition between commercial and residential when they were right next to each other. Ms. Merten responded that the UDO does state that it can be immediately adjacent to or across the street.

Vice-Mayor Cloninger wondered if there was any potential for shared parking between the two commercial businesses on the south side of Shiloh Road.

Councilman Peterson asked that with 32 additional parking spots, is it anticipated that there will be more traffic on Shiloh Road. Ms. Merten said that they intend to expand the business so there would be a little more traffic, but not enough to trigger a traffic impact analysis.

City Attorney Oast said that if any Council member has any special knowledge, other than having visited the site and being familiar with the site, that Council feels might affect their decision, it needs to be disclosed.

Councilman Peterson disclosed that he has spoken with a couple of the neighbors who are in the audience, in particular Norma Baynes, and everyone else he has spoken with at the community association is in the

audience as well.

Mr. George Morosani, applicant, passed out Applicant Exhibit 1 and briefed Council on his projects to date noting that he has invested in the City of Asheville for years. He said that he bought this subject property about 2 years ago. About one year ago he looked at the property across the street and asked the City if he could rezone the property to a commercial designation. At that time he had secured all the permission, except for one person's property, to convert it to commercial. That person said he would not grant permission, but he would not deny him. Former City Planner Carl Ownbey advised his attorney, Mr. David Matney, that he could not see

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City staff recommending rezoning the property, but to wait until the UDO was amended for ancillary uses. Mr. Ownbey said he thought that would work. Mr. Morosani waited until last October and started applying for this CUP. Phase I (17 spaces) is to serve the existing building. Phase II (15 spaces) is for Phase 2 of the building which a 17,000 square foot building across the street. He said that Phase II is included in this CUP because he has been advised by the Planning Department that you can only ask for this request once. Mr. Morosani said that everything has been approved except there is a subjective feeling by Planning staff that the intrusion of this development into the middle of the block would destroy the fabric of the neighborhood. He showed how this property is not in the middle of the block. Using Applicant Exhibit 1, he showed how much of the area is commercial and how close the property is to Hendersonville Road. He stressed that he wants to build this parking lot for public safety purposes and to keep trucks and vehicles off Shiloh Road. He urged City Council to approve his request.

Mr. David Matney, attorney for the applicant, said that Phase I was for the existing building to get around the problem of trucks blocking the street and turning around. Phase II is for the expansion, but needs to be considered at this same time because that's what the ordinance reads. He said that Mr. Morosani reconsidered his initial request to rezone, after having received signatures from people up and down the street, at the suggestion of Planning staff. He explained how the parking lot does match the scale of the neighborhood. He stressed the parking lot will benefit the neighbors by keeping the trucks off the road. He felt that the neighborhood will be improved and this is not an intrusion of more commercial development. He did not see how having a nice landscaped parking lot could injure the neighborhood. He said that this development meets all the standards and urged Council to approve the CUP.

Mr. Fred English felt that City Council should deny this request.

Ms. Norma Baynes, representing the Shiloh Community Association, presented Neighborhood Exhibit 1 which reads "The Shiloh Community Association and the residents of the Shiloh are requesting that the property at 56 Shiloh Road or the property that will be used as a parking lot be denied for these reasons. The property is located between two residences. The residents of Shiloh would not like for the property to be rezoned commercial, as stated in our letter written to you and the City Council on December 14, 2000. We would like for the lot to remain residential. A parking lot will increase traffic causing safety problems for people walking on the road and residents getting in and out of their driveways. With increased commercial property in the Shiloh community, residential property is being eliminated. We would not like for commercial business to interfere with our historical building on Shiloh Road, A.M.E. Zion Church. The Shiloh Community Association would like to thank you for your support."

Ms. Debra Rumpf, resident at 68 Shiloh Road, presented Neighborhood Exhibit 2, said there is already a lot of noise on Shiloh Road. She said any development on the property will cause her property to flood during heavy rain. She noted that Mr. Morosani has had this property for several years and it has not been maintained.

Ms. Joan Shade, resident at 80 Shiloh Road, presented Neighborhood Exhibit 3, spoke against the development of a parking lot in their residential neighborhood. The lot across the street which Mr. Morosani owns is not maintained at all. She said the reason it is cleared off now is because a new sewer line has been installed and they cleared out a lot of the rubbish.

Mr. Walter Plaue felt that if businessmen follow the standards and laws required by the City, then they should be allowed to proceed with their development.

Mr. Matney stated that Mr. Morosani is not seeking to rezone the property, but just trying to abide by the rules the City set. He noted it is business on one side of the road and having this

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parking lot will help the truck traffic. The truck traffic is there because of the commercial businesses and this lot will not affect the number of vehicles that go up and down the road. It will affect how long a truck stays in the road and that is why they feel it's important to develop a parking lot. If the lot is constructed, the trucks will be stopping off the road and if it's denied, the trucks will be stopping on the road and blocking traffic.

Ms. Baynes agreed that one side of Shiloh Road is commercial, however, Mr. Morosani wants to build the parking lot on the other side, which is residential.

Mayor Sitnick closed the public hearing at 7:50 p.m.

Councilman Peterson felt that testimony and evidence presented has not been sufficient for him to establish that each of the seven standards have been met. He felt the property value of adjacent owners would be injured with the parking lot located on the residential side of the street.

Upon inquiry of Councilwoman Field, Mr. Shuford said that a lot of information has been presented at this hearing, however, he did not see a reason to change their recommendation.

Councilman Hay said that Mr. Morosani is a responsible developer and has done some terrific projects in the City. Based upon his personal experience, Mr. Morosani does abide by the rules. So, if he thinks he's playing by the rules in this situation, the City may be mis-communicating the rules from time to time. It was his understanding when Council adopted the UDO with the ancillary uses provision, that it would be an opportunity for some flexibility in cases where no one would develop a lot for residential use because it was right next to commercial and it would be a good place for a transition that would allow some useful use, with contained rules. That is not what is going on here. There is commercial use across the street that would be enhanced by using this lot and he feels that is not why City Council developed the ancillary use provision. If that area is going to be used for parking, it should go through the rezoning process and looked at it from those points of view. He would have to vote against the CUP in that he did not feel that standard no. 2 was met.

Vice-Mayor Cloninger also respected Mr. Morosani and the great job that he has done with redevelopment throughout the City. He agreed with Councilman Hay in that this was not the type of project that Council had in mind when the ancillary use provisions were adopted by Council. He hoped City Council will go back and revisit the ordinance with regard to this.

Councilman Worley felt the problems is not with the ordinance, but a problem in communicating what the effect and possibilities are of attempting to use this ordinance. He felt it was clearly a discretionary ordinance on the part of City Council. He didn't find there was sufficient evidence presented to show that the development of this lot as a parking lot will not substantially injure the value of adjoining properties or that it really fits in with the harmony and scale of the neighborhood.

Councilman Peterson asked Mr. Shuford was aware of anything he knew of that could cause the two lots to be unsuitable for residential uses. Mr. Shuford said they are a little difficult to use for residential purposes because they are across the road from commercial, but certainly there are viable residents in the area that have been here and testified that they are okay with that situation. He did indicate that residential use is certainly a strong possibility for that property at some point, especially with the City's efforts to provide infill residential development where we can.

Mr. Shuford apologized to Mr. Morosani if he misunderstood anything that he or his staff said with regard to this process. The Planning Department's job is to assist the applicant to bring the best possible product before City Council, even if staff ultimately recommends denial. They

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are a customer of the City and we need to help them put their best foot forward as they go through the process. If that has been construed to be a directive in anyway of staff recommendation in favor of it, then he apologized. He felt this particular process was certainly less in either rezoning or conditional use rezoning in intensity. In recognizing the situation with regard to the location of the property, staff felt it was best to bring it forward with that type of development technique, opposed to the other two, in order to give the applicant the best possible chance of having something to meet the standards of approval.

Mayor Sitnick had a problem with the provision of ancillary uses because she did not like the intrusion of commercial use into neighborhoods. She said that she would vote against the CUP based on standards 2, 3, 4 and 5.

Councilwoman Bellamy moved to deny the conditional use permit for an ancillary use (parking lot) in a residential district on Shiloh Road, This motion was seconded by Councilman Peterson and carried unanimously.

Councilwoman Bellamy said it was clear to her, based on the evidence presented at the public hearing, that the requested CUP would not meet all the seven standards required. She did feel it was a commercial encroachment into the neighborhood, as it is clearly residential. Her biggest issue is that City Council does take each issue separately and base their decision on the information presented. Each ancillary CUP process is different. This Council is dedicated in being honest and fair to residents of all neighborhoods and communities. We do not look at race, social economics or area of the City.

City Attorney Oast said that he would bring back an ordinance denying the conditional use permit for City Council consideration at their next formal meeting on June 12, 2001.

At 8:05 p.m., Mayor Sitnick announced a short break.

IV. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2811 - BUDGET AMENDMENT APPROPRIATING \$75,000 TO THE PUBLIC WORKS DEPARTMENT FOR TIP FEES FROM FEBRUARY 2001 THROUGH JUNE 30, 2001

B. ORDINANCE NO. 2812 - BUDGET AMENDMENT TO APPROPRIATE \$39,500 FOR A CONTRACT AMENDMENT WITH WOOLPERT LLP TO DEVELOP A SITE OPERATION PLAN FOR BENEFICIAL FILL OPERATIONS ON AZALEA ROAD

Public Works Director Mark Combs said that the City's White Fawn Reservoir was closed to beneficial fill dumping on February 2, 2001. To facilitate Water Maintenance and Streets Division's needs regarding a close, accessible and long term beneficial fill site, staff has been gathering specific information for the further potential development of the property, as directed by Council.

On April 3, 2001, City Council approved resolutions to purchase 155 acres of property on Azalea Road for long term development as a park, sports fields and potential beneficial fill site.

Potential short term beneficial fill options such as materials recycling and small, isolated sites would certainly aid in primary site longevity; however such options do not mitigate the need for a central, city owned and operated site which will serve the city's beneficial fill needs for the next 15 or more years. Also, the siting and development of small satellite operations pose significant liability and operations challenges to the City.

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Concurrent with the recent purchase of the property, staff has initiated the following actions:

1. On January 31st Council directed staff to prepare a proposal regarding potential development of the property;
2. On February 2nd the White Fawn Reservoir was closed. Beneficial fill material is currently being placed in the Buncombe County Landfill in Alexander. In addition to tip fees, the 17 mile (one-way) trip has reduced operational efficiency by an estimated 30-50% due to travel time.
3. As of May 15, 2001, (12 weeks) the City has paid \$90,907.84 to Buncombe County, which is an average of \$7,576 per week, or \$30,304 per month. Annual cost projections remain tenuous due to seasonal construction variances and emergencies; however, based on past experience, Water staff estimates tip fees at \$500,000 per year and Dept. of Public Works staff estimates \$175,000.
4. Staff developed a scope of services for an operation plan contract with the engineering firm of Woolpert, LLP, who will work with their sub-consultant, Froehling and Robertson, Inc. to prepare a plan which will incorporate the following:
 - Contour map;
 - Soil and Erosion Control Plan;
 - Plan for stabilization of existing slopes;
 - Plan for protection of existing river banks if necessary;
 - Design of upgrade to existing road if necessary;
 - Identify soil borrow source;
 - Work procedures for operation of site coordinated with Park plan;
 - Site grading plan (for grading permit application);
 - Prepare documents necessary for all permits as required; and
 - Flexibility (for slope and grade design) consistent with the final Parks & Recreation Master Plan (1st public meeting May 24th).

Estimated Operation plan cost: \$39,500 (4 to 6 weeks to complete plan)

1. On April 10th staff met with Dan LaMontagne, NC DENR, at the Azalea site regarding an allegation from a citizen that 'toxic wastes' were polluting the Swannanoa River. Subsequently, Mr. LaMontagne's has gathered site samples and should receive test results in mid to late June. Based on the consultant's original site examination, staff is confident that the site is not toxic to the surrounding waters and property.
6. On April 23rd staff met with and provided specific site information to Patrick Lance and Alex Perry (WNC Nature Center) regarding their concern of potential impacts of

a beneficial fill site up stream from the Center.

Based on staff's further research and investigation as directed by Council, we recommend the following:

- a. Appropriate \$75,000 to the Public Works Department for tip fees from February through June 30th (Water Department staff estimates FY 00-01 tip fees of \$110,000);
- b. Appropriate \$39,500 for a contract amendment with Woolpert LLP to develop a site operation plan; and
- c. Direct staff to return to Council with a draft operation plan for Council review and approval with appropriate public input, as determined by City Council.

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Contingent on Council's approval to proceed with a site plan, staff will report back to Council regarding specific construction and operations dates as plans are completed, as directed.

Councilwoman Bellamy asked why the City doesn't wait until the results of the DENR study comes back in June before the site operation plan is started. Mr. Combs responded that there are no permitting requirements except by the City of Asheville (soil and erosion control plan), and the feasibility study has already been completed with the recommendation to proceed. If there are any results that are marginal or concerns by the DENR study, then there would be many things the City would consider in terms what would be done to make that site operational for a beneficial fill site. The results of the study would not have an impact on the operations plan whatsoever. Again, the City had a feasibility study performed and the firm said that based on their investigation that that site is a viable beneficial fill site. Any allegation that there is toxic waste or any kinds of those issues with that site, is just an allegation and we don't expect to find anything negative from the DENR study.

City Manager said this is a parallel process. We still need to have a use plan for the beneficial site.

Councilwoman Bellamy said if the report is positive, that's fine. But, if it's negative, we would be paying an additional \$39,500, plus staff time, before Council really decides if the site will be developed for a beneficial fill. She felt we should wait until the DENR study is received in June before spending any more money, because spending this money for a site plan looks like City Council has already made up their minds.

Mayor Sitnick said the operational site plan is just the first step. She stressed the City will have a lot of public input and opportunities for discussion.

Vice-Mayor Cloninger said it was his understanding it could be several months before City Council makes a final decision on the uses on the property.

City Attorney Oast also said that as part of our investigation of the site, Mr. Pat Price performed an environment assessment. Along those lines, Mr. Combs explained that Woolpert incorporated Mr. Price's environmental impact study into their findings and recommendations in their feasibility study.

Mr. Combs noted that the amount today that the City has paid to Buncombe County for tipping fees (both Water Resources Department and Public Works Department) is approximately \$106,000.

Councilman Peterson said that City Council received a letter from John Blaisdell from the NC Division of Pollution Prevention and Environmental Assistance which gives some details about alternatives regarding disposal of construction and demolition debris. Also he received a letter from Deborah McKenna where she had contacted APAC in Enka Candler and that they were willing to take asphalt for free, given the current price of oil. Ms. McKenna's letter also asks if the City has considered using a

separation machinery in order to reduce the amount that has to be taken to the landfill. He asked Mr. Combs if he has explored these options. Mr. Combs responded that he has been directed by City Council at their May 15, 2001, worksession to come back with more specific information in terms of time motion studies and different evaluations regarding the various options mentioned.

Councilman Hay expects the Mr. Combs will be giving City Council a report on options to the Azalea Road site as we move forward. Mr. Combs responded that Council asked him to report back historically the sites that they looked at in terms of what is a long-term home base. He said they will also provide information on what City staff would think is a viable site.

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Vice-Mayor Cloninger said that it seems to him that part of that review would also include looking at issues like this that might result in a reduction of what we would put in a landfill, wherever that landfill is located. Mr. Combs said that staff's original logic was to site a home base, a long-term area, that they could call a beneficial fill site home – that they could develop in terms of grinding their wood waste, managing their leaf compost and use it potentially to begin to separate and recycle our materials.

Councilman Peterson said that in some ways spending \$39,500 is potentially wasteful to pay for an operational site plan if the research is revealed that the asphalt can be recycled, material separated, etc. He felt Council should look at the alternatives before spending money to move ahead with the Azalea Road site.

Councilman Worley felt if we don't proceed along a parallel track and then find we really have no alternative but to develop our own home site, then we will have wasted that much more time. In addition, we are spending money every day hauling to the Buncombe County landfill.

Mayor Sitnick was real concerned with the cost of the tipping fees. No matter what the City does, they are going to have to find a solution to our demolition materials. She will not be comfortable in making any decision on what that site will be used for until after ample public comment.

A brief discussion was held about how much inert material there is and who could recycle the asphalt.

Mr. Combs said that staff's logic has been to site this area in order to establish a home base. Then staff will perform time motion studies, look at productivity, look at distances, and then be able to make the home base optimal for as many years as we can. The will also look at other compliments concurrent with this.

City Manager Westbrook said that staff is in the middle of doing studies now and they will bring those back to City Council at a later time. However, he feels that based on Mr. Combs' experience on being a landfill operator in the past that we are going to need a site in addition to any other things that we come up with as part of the study. He thinks it would be in the City's best interest to start the study also and run on a parallel track.

Mayor Sitnick responded to Mr. Fred English's question regarding why City staff didn't anticipate the filling up of White Fawn Reservoir earlier.

Mr. Adam Baylus suggested the City crown the landfill instead of taking the material to the Buncombe County landfill.

Mr. Walter Plaue questioned how the City has been paying the tipping fees if we are just now requesting a budget amendment and the fees started in February, 2001.

Ms. Denise Goodson suggested the City work with the County to recycle materials that go into the landfill.

Mr. Mike Moody, representing the Beverly Hills Homeowners Association, presented City Council with a prepared statement. He said the White Fawn Reservoir landfill has been closed since February 2001 and it must have been evident that all materials would then have to be sent elsewhere. This should have triggered an earlier request for funds along with an interim plan, which did not include the Azalea Road site. With the closure of the White Fawn landfill, it seems prudent to have considered recycling options with firms outside the City limits. When work areas are closer to these firms than the county landfill, recycling should be economically feasible. He

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quoted out of the Unified Development Ordinance sec. 15-50 (a) that "it shall be the policy of the City of Asheville to require recycling to the fullest extent possible of recyclable materials...." He said that with this unexpected request of funds it seems prudent to review the City's comprehensive plan in an "advertised public meeting."

Councilwoman Field said that the City of Asheville and Buncombe County have reduced their waste by 40% as directed by N. C. Gen. Stat. sec. 130A-309.09.

After 20 minutes of debate for a book-keeping entry, Councilwoman Field called the question. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

Mayor Sitnick 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. 2811. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman Peterson voting "no."

ORDINANCE BOOK NO. 19 - PAGE

Councilman Peterson asked various questions, some being, but are not limited to: are negotiations still occurring with the Blue Ridge Parkway regarding the bridge and if it is a public road or private property; if a new bridge needs to be built, is the site still financially a feasible project; what will happen if the Parkway closes the bridge; can the bridge be upgraded; is there a contingency plan if the bridge can't be re-opened; what is the cost and timeframe to stabilize the mound; and how much would it cost to move the power lines to fully utilize the power lines on top of the mound.

Councilman Peterson stated that it did not make financial sense to do a detailed plan if we're not going to use the Azalea Road site for a beneficial fill site. He felt the decision should be made to go to that site or not, before we spend \$39,500 for the operations site plan. Vice-Mayor Cloninger responded that City Council has not given their approval for this site, however, he felt the more information about the site, the better, in terms of trying to make an educated decision.

Mr. Combs stressed that this is an unregulated activity and City Council has chosen to make this process so open to the public that they are willing to do these kinds of studies for an unregulated activity.

Ms. Rebecca Campbell presented City Council with information regarding recycling opportunities that would minimize the need for new or existing dumps for construction debris within the City of Asheville or Buncombe County.

Mr. Ned Guttman, representing Redwood Forest, urged City Council to wait for the DENR study analysis which may say that the water is clean and the mound is stable. He felt this is a fact-gathering effort that needs to be done before any decision is made with regard to the site. He said that the perception by the neighborhood is that Mr. Combs is saying there has been a decision made by City staff but City Council has not decided what the use of that site would be, including the mound. Mr. Guttman said that including labor, etc., the \$30,000 for fixing the bridge will increase. He said that if the power lines are not moved, essentially half of the mound will not be usable and that would cut the life-time from 14 years to 7-9 years. He urged Council not to approve the \$39,500 for the operational site plan, but better spend that money on obtaining the facts of what is in the mound.

Mr. Combs explained that the study by DENR are water and soil samples, not a full assessment of the site as to it's viability for beneficial fill.

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When Mr. Peter Dawes said that he could use 500 tons of millings, Mr. Combs explained that there are plenty of places his staff can find to dump, but they don't do that for liability reasons.

Ms. Susan O'Neil felt that residents have been assured all along that nothing will happen on this site without ample time for public comment, but further studies are being made to consider this as a landfill site. Neighbors have done research that cost the City nothing and that research should be considered.

Ms. Karen Cragolin, Director of RiverLink, said that the State of N. C. has looked at the Swannanoa River and said this is an endangered river and has been put on a list of one of the most sediment impaired rivers in the state. As a result of that, they have appropriated money through the Environmental Protection Agency to begin a remediation program to begin to stop pollution at the source which is runoff from development. She felt City Council needed to think about the river and the impacts on the river when discussing this site. She said that RiverLink has been involved in the planning of this site from the beginning but she has a feeling that it seems that it's steam-rolling at this point. If the City had two or three sites that they were looking at proposing to do a \$39,500 study on, she would feel better. She said it appears that it's been narrowed down to one site at this point.

Mayor Sitnick said City Council is not making any hasty decisions on this issues. As anxious as we are to make a decision on this, she would like to wait until the DENR study has been received in mid to late June and if it comes back clean, she will feel more comfortable. Between now and then, Council can look into some of the comments and materials that were submitted.

Councilman Worley said that Council needs to get to the point where a decision can be made. There are still a lot of questions and Council needs to have all the facts in front of them, including the operational site plan. We are spending money every day to take our materials to the landfill. He would like to find a way to recycle the material and find a way to avoid the tipping fees at the landfill. Everyday we delay in moving forward on parallel tracks to get all the information we need, costs all taxpayers money.

Mayor Sitnick 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. 2812. This motion was seconded by Vice-Mayor Cloninger.

Councilman Peterson felt Council should wait for the DENR study. He reiterated again the issues on why City Council should wait to spend the \$39,500 for the study.

Councilwoman Bellamy asked that this issue be delayed until they receive the information staff will be bringing to Council regarding the other sites investigated.

The motion made by Councilman Worley and seconded by Vice-Mayor Cloninger carried on a 4-3 vote, with Vice-Mayor Cloninger, Councilwoman Field, Councilman Hay and Councilman Worley voting "yes" and Mayor Sitnick, Councilwoman Bellamy and Councilman Peterson voting "no".

It was the consensus of City Council that if the DENR study comes in with negative results, that we ask Woolpert to stop their study and not pay the full fee.

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V. NEW BUSINESS:

A. NATIONAL BASKETBALL DEVELOPMENTAL LEAGUE CONTRACT

Councilman Hay said that he, Councilman Worley and some City staff have been talking with people from the National Basketball Development League (NBDL) intensively over the last couple of weeks about the possibility of bringing a team to Asheville to play basketball, as opposed to the major project which they proposed earlier in the year. Over two closed sessions, they advised City Council what the key ingredients were and at the last closed session, they sketched out for Council what they thought was the direction that the negotiations were headed and asked that if City Council felt positive about that, to put it on the agenda for today. One thing City Council wanted done at that point was for staff to take the proposal and work on it at their level to see what they could do to work from the talking stage to a point of having a contract that they could present and recommend to City Council. In part of that review, Council was expecting from them that they would do a thorough thinking-through of the financial end as well as some of the other things. That has been on-going. Last night the City Manager advised him that they could not have a contract ready that he could recommend for consideration by City Council at today's meeting. The people at NBDL said they could wait. The decision was made last night that Council would not vote on that proposal today. The City Manager and staff will continue to work with the NBDL to see if a contract can be prepared that they can recommend to City Council, perhaps as early as next week. He would still like to give people a chance to comment tonight on the contract because the contract is still being negotiated and the more Council hears, the more they learn and the better able they are to negotiate a contract that reflects what Asheville wants that contract to be.

Mayor Sitnick stressed that City Council has not seen the contract and nor does Council know any of the details of the contract at this time.

Councilman Worley said that one of the things that has happened in the last week is the identification by staff of a number of issues that City Council didn't deal with in the preliminary discussions with the NBDL. One of the premises that we've gone into these negotiations with, and it's helped develop some of the issues, is the fact that we don't want to lose the Smoke and we do want to be fair to the Smoke. We've told NBDL this from the very beginning in our negotiations. We value the Smoke and we want to keep the Smoke at the Civic Center.

After Councilman Peterson said that he received a copy of a draft agreement dated 5/18/01, Councilman Worley advised him that the draft agreement has changed drastically and that draft agreement reflects nothing but to get the terms under discussion.

It was the consensus of City Council that once there is an agreement that the City Manager can recommend to City Council, a copy of that agreement will be available to the public so people can review it and comment on it.

The following people spoke in support of keeping Asheville Smoke at the Civic Center for several reasons, some being, but are not limited to: there are already some constraints and limitations for Smoke already; if the NBDL comes to Asheville, it will make it difficult financially and operationally for Asheville Smoke to exist next year with a tenant taking up 28 dates, prime weekend dates, practice time, limited ice availability, competing with the entertainment dollar within the general public and competing with the advertising dollars:

Mr. Dan Wilhelm, Manager of Asheville Smoke

Ms. Michelle Green, Angles on Ice

Mr. Michael Green

Mr. Beumer

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Ms. Lynn Leslie

Mr. Jonathan Allen, professional ice skating coach representing Angles on Ice

Ms. LaVerne Laney, member of the Asheville Civic Center

Mr. Wayne Hoglen

Mr. Marc Yops

Mr. Carl Mumpower, Chair of the Asheville Civic Center

Ms. Kate Leslie

Ms. Clare Beumer, Angles on Ice

Ms. Samatha Kertz, Angels on Ice

Ms. Margaret Beumer

Mr. Pat Bingham, Coach of Asheville Smoke

Mr. Bob Swan, member of the Civic Center Commission

Mr. Bob Bennett

President of the Smoke Booster Club

Ms. Donna Seymour

Mr. Andrew Beall

Ms. Cheryl Holder

Ms. Serenity Allen, Coach for Asheville Figure Skating Club

It was reported again that once there is an agreement that the City Manager can recommend to City Council, a copy of that agreement will be available to the public so people can review it and comment on it, prior to formal action by City Council.

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of May 4-17, 2001: Carmen Y. Cabrera (Fire), Glenn Nye (Streets), Ginger Holt (Water) and Sandra P. Robinson (Water).

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

B. LAWSUIT

The following Notice of Charge of Discrimination was received by the City on May 21, 2001: Doris Richardson filed charge. The nature of the proceeding is race discrimination charge against the City of Asheville. This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 12:04 a.m.

CITY CLERK MAYOR
