

Tuesday – July 10, 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 Hay gave the invocation.

ADDITIONS TO AGENDA.

Mayor Sitnick requested that the following two items be added under "Other Business": (1) air quality; and (2) I-26 widening project in Henderson County.

I. PROCLAMATIONS:

A. RECOGNITION OF COL. ROBERT MORGAN

Mayor Sitnick read a proclamation recognizing Col. Robert Morgan for his many years of fine service to our country and to our community.

B. PROCLAMATION PROCLAIMING JULY, 2001, AS "RECREATION AND PARKS MONTH"

Councilman Worley read the proclamation proclaiming July, 2001, as "Recreation and Parks Month" in the City of Asheville. He presented the proclamation to Mr. Tom House, member of the Recreation Board, who thanked City Council for their support.

C. PROCLAMATION PROCLAIMING JULY 9-15, 2001, AS "CHILDREN IN CAR SAFETY WEEK"

Mayor Sitnick read the proclamation proclaiming July 9-15, 2001, as "Children in Car Safety Week " in the City of Asheville. She presented the proclamation to Ms. Julie Kepple, who briefed City Council on some activities taking place during the week.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 26, 2001

B. ORDINANCE NO. 2826 - BUDGET AMENDMENT TO APPROPRIATE A GRANT FROM THE N.C. PARKS AND RECREATION TRUST FUND FOR THE BURTON STREET COMMUNITY CENTER PLAYGROUND

Summary: The consideration of a budget amendment, in the amount of \$50,000, for an appropriation from the North Carolina Parks and Recreation Trust Fund.

The City of Asheville applied for grant funds in January 2001 to the North Carolina Parks and Recreation Trust Fund. The grant was recently awarded in the amount of \$50,000 and

designated to pay for the cost associated with renovating the playground and general park improvements at the Burton Street Community Center.

The Parks and Recreation Department recommends City Council approve the budget amendment to increase the budget for the Burton Street Community Center playground.

ORDINANCE BOOK NO. 19 – PAGE 202

C. MOTION SETTING A PUBLIC HEARING ON JULY 24, 2001, TO CONSIDER CONDITIONAL USE ZONING FOR PROPERTIES ON OAK HILL DRIVE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL USE

D. MOTION SETTING A PUBLIC HEARING ON JULY 24, 2001, TO REZONE PROPERTY AT 35 AND 47 ACTON CIRCLE AND 7 ACTON WOODS ROAD FROM NEIGHBORHOOD BUSINESS DISTRICT TO COMMUNITY BUSINESS II DISTRICT

E. MOTION SETTING A PUBLIC HEARING ON JULY 24, 2001, TO CONSIDER A REQUEST TO APPROVE A MODIFICATION FROM THE SUBDIVISION STANDARDS REQUIRING THAT ALL RESIDENTIAL LOTS ABUT A PUBLICLY MAINTAINED STREET IN BINTER SUBDIVISION LOCATED AT 296 DEAVERTVIEW ROAD

F. RESOLUTION NO. 01-108 - RESOLUTION AUTHORIZING EXECUTION OF "LANDLORD'S CONSENT" IN CONNECTION WITH THE REFINANCING BY FRENCH BROAD GOLF CENTER OF CERTAIN PROPERTY LEASED FROM THE CITY

Summary: The consideration of a resolution authorizing City Manager to execute consent for refinancing by tenant in city-owned property.

The City owns the land on which the Asheville Regional Airport is located. The Airport Authority leases this land from the City. Some of the land subject to the lease is located south of N.C. Highway 280, but is a "clear zone," and is not actually improved with Airport facilities. Some of this property is also used by the French Broad Golf Center for its clubhouse access road.

The owners/operators of FBGC have pledged their lease from the City as security for a private loan that they are now seeking to re-finance. The lender bank is requiring the FBGC owners to obtain the City's consent as landlord to this refinancing, and to provide the bank with certain notices under the lease.

This is a standard practice in capital lease financing, which is becoming an increasingly prevalent way of doing business. There are some details to be negotiated in the language of the document, but executing this "Landlord's Consent" will not impair the City's ownership interest, and the resolution makes the City's execution subject to the City Attorney's approval.

If Council wishes to consent to the refinancing of FBGC's loan and the transfer of the lease to another lender as security, approval of the resolution is recommended.

RESOLUTION BOOK NO. 26 – PAGE 412

G. RESOLUTION NO. 01-109 - RESOLUTION AUTHORIZING THE CITY MANGER TO ENTER INTO A LICENSE AGREEMENT WITH TRITON PCS PROPERTY COMPANY LLC FOR A CONCEALED

WIRELESS COMMUNICATION FACILITY AT 300 MERRIMON AVENUE

Summary: The consideration of a resolution authorizing the City Manager to execute a License Agreement with Triton PCS Property Company, LLC (Triton) for a concealed wireless communication facility at 300 Merrimon Avenue.

The Notice of Intent to enter into a License Agreement with Triton PCS Property Company was published on Wednesday, June 27, 2001, in the Asheville Citizen-Times. Ten days have passed since the publication and authorization to execute the License Agreement is being requested,

The proposed License Agreement provides for Triton to rehabilitate the training tower in accordance with plans approved by City staff and the State Historic Preservation Office at an estimated cost of \$60,000. Triton will install a 15' flag pole on top of the training tower which will house their concealed wireless communication facility along with a 9' x 13' equipment shed on the ground at the rear of the building. The term of the License Agreement will be 5 years with one 4.5 year renewal period. Triton will pay a License Fee of \$14,400 the first year with a 4% annual increase each year thereafter.

Planning Department staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 413

H. RESOLUTION NO. 01-110 - RESOLUTION AUTHORIZING THE CITY CLERK TO PUBLISH A NOTICE OF INTENT TO ENTER INTO A RENEWAL OF A LEASE/LICENSE AGREEMENT WITH MOTIENT COMMUNICATIONS INC. FOR ITS ANTENNA AT 36 RESERVOIR ROAD

Summary: The consideration of a resolution directing the City Clerk to publish a Notice of Intent regarding renewal of a License Agreement with Motient Communications, Inc., for an antenna at 36 Reservoir Road.

The property at 36 Reservoir Road is the site of the former White Fawn Reservoir. In recent years the site was used as a beneficial fill site for the City of Asheville. Currently, three telecommunication towers are located on the property and the City of Asheville leases antenna space on two of the towers and ground space for related equipment to a total of eight tenants. One tower is not in use. The property is the proposed future site of the "Sister Cities Park."

Motient Communication, Inc. has operated an antenna and related equipment at the site since October, 1995. The antenna is located on the tower known as the "BellSouth Tower" which is immediately west of the proposed Sister Cities Park. The proposed License Agreement will enable Motient to continue operating an antenna at that site; however, there is a provision which allows either the Licensor or the Licensee to terminate the agreement upon 180 days notice. The term of the License Agreement will be 3 years with 2 renewal periods of 3 years. Motient will pay a License Fee of \$5,400 the first term with a 10.5% increase at each renewal thereafter. In addition to the License Fee Motient will pay a Utility Fee of \$150.00 per annum.

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Planning Department staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 414

I. RESOLUTION NO. 01-111 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE ADOPTED BY THE N.C. DEPARTMENT OF CULTURAL RESOURCES

Summary: The consideration of a resolution authorizing the Mayor to sign an amendment to the 1997

Municipal Records Retention & Disposition Schedule.

On September 23, 1997, by Resolution No. 97-158, the City approved the Municipal Records Retention and Disposition Schedule issued August 15, 1997, by the N. C. Department of Cultural Resources, Division of Archives and History.

The N. C. Department of Cultural Resources has now amended said Schedule. The first amendment to Standard 3 (Budget and Fiscal Records) covers the Escheat and Unclaimed Property File by amending the retention period for this file. The second amendment to Standard 15 (Police Department Records) clarifies the minimum retention period for items in the Communications Records File.

It is in the best interest of the City of Asheville to promote municipal records management as provided by the N. C. Department of Cultural Resources, Division of Archives and History by adopting these amendments.

Staff recommends City Council authorize the Mayor to execute an amendment dated June 15, 2001, to the Municipal Records Retention and Disposition Schedule.

RESOLUTION BOOK NO. 26 – PAGE 415

J. RESOLUTION NO. 01-112 - RESOLUTION AUTHORIZING THE CITY TO JOIN IN AN EASEMENT TO THE N.C. DEPT. OF TRANSPORTATION PERMITTING USE OF PROPERTY AT THE INTERSECTION OF BREVARD ROAD AND SHELBURNE ROAD FOR RIGHT-OF-WAY PURPOSES

Summary: The consideration of a resolution authorizing City Manager to execute an easement to NCDOT.

The City previously owned the property at the intersection of Brevard Road, Shelburne Road, and I-240, now occupied by the National Guard Armory. This property was deeded to the State of North Carolina in August of 1960. The deed contains restrictions that essentially require the property to be used in perpetuity "for military purposes."

In connection with the recent improvements to Brevard Road, the State DOT redesigned the Shelburne Road / Brevard Road intersection in the area of the National Guard Armory, essentially cutting away and stabilizing the dirt bank on the northern side of the road. In order to accommodate this, the State (for the National Guard) wishes to execute an easement to DOT.

The State has requested that the City acknowledge that the use of the National Guard property in connection with the intersection redesign does not violate the applicable restrictions in the deed, and to join in the easement.

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Because the subject property continues to be used for a National Guard Armory, and the use of a small portion of it for the intersection redesign neither interferes with nor is inconsistent with that use, it does not appear to violate the 1960 deed restriction to military uses.

If Council agrees that the use restrictions on the property are not violated by the encroachment, adoption of the resolution is recommended.

RESOLUTION BOOK NO. 26 – PAGE 416

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

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

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE DEMOLITION OF 191 SULPHUR SPRINGS ROAD

City Manager Westbrook said that within the last few days, 191 Sulphur Springs Road was demolished by the owner. Therefore, the public hearing will not be necessary.

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR AN ANCILLARY USE (PARKING LOT AND GRAVEL ACCESS DRIVE) IN AN RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT FOR THE HOT SPOT LOCATED AT 103 NEW LEICESTER HIGHWAY

ORDINANCE NO. 2827 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR AN ANCILLARY USE (PARKING LOT AND GRAVEL ACCESS DRIVE) IN AN RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT FOR THE HOT SPOT LOCATED AT 103 NEW LEICESTER HIGHWAY

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

City Attorney Oast reviewed with Council the conditional use permit process. This process is the consideration of granting 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, Mayor Sitnick opened the public hearing at 5:23 p.m.

All of City Council, except for Councilman Peterson, disclosed that they either drove by or visited the site in question.

Mr. Gerald Green, Chief 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 June 29 and July 6, 2001.

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Mr. Green said that this is the consideration of a motion to issue a Conditional Use Permit for an ancillary use (parking lot and gravel access drive) in an RM-16 Residential Multi-Family High Density District for property located at 103 New Leicester Highway (City Exhibit 3 – Location Map).

The applicant is requesting a Conditional Use Permit (CUP) to permit the planting of a landscape buffer and construction of a gravel access drive on residentially zoned property (City Exhibit 5 – Site Plan). The landscape buffer will screen the recently remodeled Hot Spot gas station/convenience store from the adjacent residential uses; the gravel access drive will provide access to mechanical equipment located at the rear of the store. The subject property contains 0.25 acres. The commercially zoned lot upon which the Hot Spot is located is not large enough to accommodate the remodeled gas station/convenience store, the required landscaping and buffering, and the gravel access drive. The residentially zoned lot behind the commercial use, which is owned by the applicant, offers a good location for the landscape buffer. The property is vacant with several existing trees located on it. The existing trees will be incorporated into the required buffer. A gravel access drive has been constructed to provide for access by service personnel to the mechanical equipment located behind the store. The gravel access drive extends approximately 15 feet into the residential zoning district. A landscape buffer ranging in width from 10 to 30 feet buffers the gravel drive from adjacent residential properties.

The Technical Review Committee (TRC) reviewed this project and took action to approve with conditions. All conditions identified by TRC have been met. This project meets all the technical standards for ancillary commercial uses in a residential district. Staff review of this application determined that all of the technical standards of the ordinance have been met. No Traffic Impact Analysis was required for this project. The site plan submitted and the conditions identified by City staff assure that the impacts of the proposed project on the surrounding uses are mitigated.

Conditional Use Findings: The findings that must be made by City Council in the issuance of a CUP for the project are listed below with staff analysis for each standard.

1. The proposed use or development of the land will not materially endanger the public health and safety. The planting of the landscape buffer will protect adjacent residential uses from the noise and light generated by the commercial use. The gravel access drive will enable service personnel to access the mechanical equipment for maintenance purposes.
2. The proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region. The landscape buffer will enhance the quality of life of those living in the adjacent residential properties by minimizing the impacts of noise and light.
3. The proposed use or development of the land will not substantially injure the value of adjoining or abutting property. The establishment of a landscape buffer on this property will not injure the value of adjoining properties. Many of the existing trees will be preserved and additional trees will be planted. The gravel access drive will be located adjacent to the commercial structure and will be screened from view.
4. The proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located. The development of the residentially zoned property will be minimal. The only development proposed for this property will be limited to a narrow gravel access drive approximately 15 ft in length.
5. The proposed use or development of the land will generally conform with the comprehensive plan and other official plans adopted by the City. The Asheville City plan 2010 appears to show this area as commercial.

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6. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities. All services are available at this location, as confirmed during the review of the proposed development by the TRC.
7. The proposed use will not cause undue traffic congestion or create a traffic hazard. The landscape buffer and gravel access drive will not create a traffic hazard. The commercial use on this property is a gas station /convenience store that has been extensively remodeled. Plans for the renovation were reviewed and approved by the City's Traffic Engineer. Due to the low volume of traffic that will be generated by the use, no Traffic Impact Analysis was required.

The proposed project is a landscape buffer that will buffer adjacent residential properties from the gas station/convenience store and a gravel drive

that will provide access to the mechanical equipment located at the rear of the store. The approval of this ancillary use in this residential district holds the line on commercial intrusion into the residential zone. Under the ancillary use standards, no further expansion is possible. The residential zoning of this parcel reserves the parcel for residential use at some point in the future.

Based on information available to the Planning and Development Department in advance of this public hearing, staff recommends that the City Council issue the Conditional Use Permit for an ancillary use (landscape buffer and gravel access drive) to be located at 103 New Leicester Highway with the condition that lights located at the rear of the store shall be located so as not to shine onto adjacent residential properties. These lights shall be full cut-off types and directed away from the residential properties.

Mr. Wilton Jordon, applicant, spoke in support of his request.

There being no request from the applicant for rebuttal, Mayor Sitnick closed the public hearing at 5:38 p.m.

Councilman Worley moved to adopt Ordinance No. 2827 to approve the conditional use permit with the condition that lights located at the rear of the store shall be located so as not to shine onto adjacent residential properties and that these lights shall be full cut-off types and directed away from the residential properties; and to instruct the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE 204

C. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR A DUPLEX ON PROPERTY ZONED RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT LOCATED AT 15 BROWDALE ROAD IN THE OTEEN AREA

ORDINANCE NO. 2828 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR A DUPLEX ON PROPERTY ZONED RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT LOCATED AT 15 BROWDALE ROAD IN THE OTEEN AREA

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

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City Attorney Oast reviewed with Council the conditional use permit process. This process is the

consideration of granting a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

Councilmen Peterson and Worley disclosed that they visited the site.

After hearing no questions about the procedure, Mayor Sitnick opened the public hearing at 5:40 p.m.

Mr. Gerald Green, Chief Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners), City Exhibit 3 (Staff Report dated 6/26/01) and City Exhibit 4 (Staff Report dated 7/10/01). This public hearing was advertised on June 29 and July 6, 2001.

Mr. Green said that this is the consideration of a motion to issue a conditional use permit

for a duplex on property zoned RS-8 located at 15 Browndale Road in the Oteen area (City Exhibit 5 – Location Map).

Pamela Cunningham has submitted an application to construct a 1660 sq. ft. duplex in a single-family residential zoning district on a .17 acre parcel.

The proposed site plan and building elevation drawings meet the requirements of the Unified Development Ordinance (UDO). The proposed duplex will be constructed with a single front entrance, with the parking located to the rear of the building (City Exhibit 6 – Building Elevation) (City Exhibit 7 – Site Plan).

The applicant submitted revised plans that address the conditions of the Technical Review Committee (TRC) approval. A Transportation Impact Analysis was not required for this project.

Findings:

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The City of Asheville TRC reviewed the proposed project and found no health or safety concerns. The Project is required to meet the technical standards set forth in the UDO, the Asheville Standards and Specifications Manual, the North Carolina Building Code, and other applicable laws and standards which protect the public health and safety.

2. That the Project is reasonably necessary for the health and general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region.

The proposed duplex will provide an opportunity infill housing in an established neighborhood.

3. That the Project will not substantially injure the value of the adjoining or abutting property.

The proposed duplex will be of a scale and design in keeping with the other homes in the neighborhood (see comment regarding Condition 4 below).

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density and character of the area or neighborhood in which it is located.

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The proposed use will be constructed so that there is only a single entrance visible from the street. The

size and orientation of the building is similar to other single family development in the area. The parking will be located to the rear and screened with appropriate landscaping.

5. That the proposed use or development of the land will generally conform with the Comprehensive Plan and other official plans adopted by the City.

The Asheville City Plan 2010 indicates residential uses for this area.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The project was reviewed for compliance with technical standards by the City of Asheville TRC, which includes representatives of the Water Resources Department, the Fire Department, MSD, the Engineering Department, and the Public Works Department.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The City's Traffic Engineer has determined that the adjacent roads have more than adequate capacity to carry the traffic expected to be generated from this site.

Based on information available to the Planning & Development Department in advance of the public hearing, staff recommends approval of the conditional use permit to allow construction of a duplex in an RS-8 zoning district.

Mr. Green said that one issue City staff would like to added to the conditional use permit, if granted by City Council, is that the driveway must meet the setback and width requirements as established in the City's Standard Specifications and Details Manual.

Upon inquiry of Councilman Peterson, Mr. Green said that a single family house would have to meet the same setback requirements. He said the only difference here with the conditional use is that the house does have to have a single front entrance and the lot has to be a bit larger than if it were to be a single family home.

Ms. Pamela Cunningham, applicant, said that the purpose of the duplex is for investment property. She said the property will be aesthetically pleasing and would enhance the surrounding properties.

Mr. Randy Pitts felt that the applicant knew the property was zoned for single-family residences and they should not be allowed to build a duplex on the property. He said that this is a community of elderly people and they would welcome a single family unit on that lot which will contribute to the character of the community.

Ms. Debra Pitts, resident at 16 Browndale Road, said that the area is zoned for single family units and there is only one duplex on their street which was built in the 1940's (and that lot is three times the size of this proposed lot). She said the proposed lot is very small and the community would welcome a single-family unit, however, a duplex is not in keeping with the character of the community. She said the street is on the water critical needs list and there are currently run-off problems in the area. She urged City Council not to grant the conditional use permit.

Mr. Linda Hawthorne, owner of 13 Browndale Road, spoke in opposition to the duplex stating that she did not want a duplex next to her property and that the lot was too small. She

passed out some pictures of neighborhood houses (Neighborhood Exhibit 1). She said that there are some large trees on this lot that will be cut down. She suggested a survey be performed to make sure the trees are actually on the applicant's property.

Mr. Green said that Council can place a condition on the conditional use permit that a survey with the trees located be provided to the Planning Department for review prior to the issuance of the conditional use permit for the project.

Ms. Cunningham said that there are some trees that seem to follow the property line and if they are close enough to be at all against or on the property line, then they will fall within the five foot buffer that will be landscaped.

Councilwoman Bellamy explained the difference between a modular home and a manufactured home, stressing modular homes must meet all N. C. building standards.

Upon inquiry of Councilwoman Field, Mr. Green explained how in-fill housing applies to the City's Smart Growth Policy.

There being no request from the applicant for rebuttal, Mayor Sitnick closed the public hearing at 6:12 p.m.

Mayor Sitnick expressed a little concern that Condition No. 4 may not have been met. However, if the permit is approved, she asked that a condition be attached to the permit that a survey be conducted to make sure that any trees that are on the property line can be saved.

Councilwoman Field moved to adopt Ordinance No. 2828 to approve the conditional use permit with the following conditions: (1) The driveway must meet the setback and width requirements as established in the City's Standard Specifications and Details Manual; and (2) a survey, with the location of the trees, be provided to the Planning Department for review prior to the issuance of the conditional use permit or before any tree is removed or before construction begins; and to instruct the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

IV. UNFINISHED BUSINESS:

A. REPORT FROM THE TASK FORCE ON THE FUTURE OF THE CIVIC

CENTER

Councilman Hay, Chair of the Future of the Civic Center Task Force, acknowledged the following Task Force members: Councilman Worley, Tommy Sellers, Mike Kryzaneck, Jan Davis, Laverne Laney, Mark Rosenstein, David Gantt and Tom Byers. He also acknowledged the advisory members who were as instrumental in this process as the Task Force members: Steve Steinert, Alfred White, Kelly Miller, Herb Smith, Alan Levy, Dan Wilhelm, Councilwoman Field and Steve Hagaman.

Councilman Hay then made the following report: Over the course of the past year the Task Force and its advisory members studied the three elements of the Civic Center: conventions, arena activities, and the performing arts. We considered a study commissioned by the TDA regarding the convention center, reports from visits to performing arts centers throughout the southeast, and made a thorough review of possible arena locations. In the late fall, consensus was reached that a first class performing arts center should be sited at the present location, and identified three arena locations (the existing site, UNC-Asheville, and City-County Plaza). It

became clear to the Task Force that no further progress could be made without expert advice on the suitability of the existing complex for renovation, and it sought City Council authorization to commission an architectural and engineering study. Heery International was selected to perform the work, and the study was ongoing throughout the Spring of 2001. The architects met with the Task Force on several occasions, commissioned engineering and acoustical studies of its own, and made reports throughout the process.

On June 26, 2001, Heery made it's final presentation, which was shared with City Council on the same day. In summary, the report was as follows:

- The study began with a thorough review of the existing Center, which revealed that the buildings are in sound condition and suitable for renovation, but badly in need of upgrading and improvement. In addition, the existing Center, though sound if improved, presents significant programming issues if we want to continue to offer a wide range of events. The cost of the minimum improvements necessary to simply keep the Center operational with no modernization was set a \$10 million.
- The existing arena is suitable for renovation, and a facility which meets the expectations of potential tenants as well as offering the amenities necessary for the maintenance of successful events can be constructed within the existing building at a cost (exclusive of site expenses) of \$25 million. A new, similar arena meeting the same specifications on a different location would cost \$40 million (also exclusive of site expenses). The study recommends renovation of the existing arena.
- The Thomas Wolfe Auditorium, although structurally sound, cannot be up-fitted to make it a first-class performing arts center, due to the limitations it presents in accommodating stage and acoustical improvements. The study recommends that the Auditorium not be renovated as a performing arts center, but that a new facility for that purpose be constructed on the east side of the Center.
- The study goes further to recommend that the Auditorium be renovated to create a 25,000 square foot hall (shown in the report as the "Great Hall") which would preserve its historical significance and also provide new opportunities for conventions, banquets, exhibits, and trade shows, as well as serving as a connection to events at the other venues. The cost of this portion was set at \$6 million.

The Task Force met on July 2, 2001, to review the report, and by unanimous vote of those present, resolved to recommend to City Council that the Heery study be adopted as the plan for the Civic Center. In their opinion, the Heery plan addresses Civic Center concerns in the following ways:

- Renovation, rather than relocation, of the arena is significantly less expensive while providing the opportunity for a fully-functional facility. The study is very careful to state that the costs presented do not include site preparation, but are meant to compare the actual expenses of constructing the buildings. The Task Force believes that the use of the existing Civic Center would cost less for site preparation than at a new location, and would permit construction without the addition of ancillary features, such as new parking. Renovation offers the opportunity for a fully functional facility with 8,000 seats for concerts and sports tournaments, 4,500 to 5,000 prime seats for hockey and basketball, and stage facilities for shows and concerts which we presently can't host. In addition, the plan anticipates the construction of modern amenities, such as restaurants, luxury suites, and merchandise displays, making the events more attractive and financially viable.

- The arena plan utilizes retractable seating to preserve the exhibit space on the arena floor, and provides a connection to the Thomas Wolfe Auditorium for an enhanced venue for trade shows and conventions.

- The anticipated eastern orientation will allow for redirection of traffic from the redesigned Merrimon Avenue interchange with I-240, and stimulate investment on Lexington Avenue.
- The new performing arts center will give the community an improved facility for existing performances, and attract new entertainment events. By providing excellent facilities, it can be the centerpiece for further development of downtown as an arts and entertainment district.
- The renovation of the Thomas Wolfe Auditorium will not only preserve the historic significance of the building but also give it new life as a community resource worthy of banquets, community events, graduations, and exhibits (as "new space," we expect that its uses cannot be fully foreseen, which is part of its appeal). In addition, it will complement the activities in the arena and the performing arts center, and provide enhanced space for events like the Southern Highlands Craft Show, which we believe are an essential part of the City's downtown vitality.
- The plan anticipates the creation of flexible space, with meeting rooms and other amenities which are necessary for attraction and retention of conventions and conferences. The Hunter Interest Report of several years ago identified the need for a new 25,000 square foot ballroom, which is accomplished by the renovation of the Thomas Wolfe Auditorium.

The Task Force has been mindful of several issues throughout the process which they feel must be emphasized as City Council considers adopting the plan:

- **Parking and Access.** The Task Force believes that the planned parking deck on Battery Hill and the N. C. Dept. of Transportation re-design of the Merrimon Avenue interchange, both of which are to be completed in the very near future, will address parking and access concerns. The plan anticipates these improvements in order to take full advantage of these opportunities. It is important, however, that the Civic Center plan is taken into account as designs are provided for these projects. City Council should affirmatively state its intentions so that all efforts will complement one another.
- **Funding:** A funding plan cannot be established until we have adopted a clear vision of what we seek to build. The funding sources should be a mix of local government, state authorized tax revenue, commercial investment, and private contributions. We cannot expect those who will be asked to make difficult funding decisions to act without being clear about where the money will go. It is our responsibility to develop a vision for what will best serve our community. Adoption by City Council will represent a significant step in securing the financial support necessary to make the plan a reality.

This report represents several years work by the Task Force and its advisory members, and has required a considerable investment of the City's time and resources. Although we have endured more than one period of frustration and disappointment, we have always known that the effort was important. Our Civic Center is a fundamental part of our community life, and expression of who we are. We believe that the Heery Report embodies that goal and it is with pride that we recommend its adoption.

Specifically, the Task Force recommends (1) that City Council adopt the Heery Report as the City's Conceptual Plan for the Asheville Civic Center; and (2) that the Task Force be directed to identify steps necessary to implement the Plan, and report to the City with its recommended next actions.

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Councilman Worley emphasized that \$25 Million for a renovated arena vs. \$40 Million for a new arena are exclusive of site costs. It is very reasonable to believe that the site costs at the existing site would be minimal because utilities are already there, the grading has already been done, etc. Those site costs would likely be very substantial at another site. In addition, parking for example, can actually by itself run into millions of

dollars.

Councilwoman Field asked that the report be revised to correct the mislabeling of "Broadway" instead of "Lexington".

Mr. Mickey Mahaffee felt that this is a wonderful plan if we had money from the private sector. He opposed any taxes being raised for this purpose. If the City puts a lot of money into this venture, there will be many other things important neglected.

Mr. Steve Steinert, President of the Asheville Area Arts Council, spoke about how enthusiastic the arts community is with this project. He said that discussions are underway for a public/private relationship to fund the facility.

Councilwoman Field pointed out that there are funding opportunities that we haven't even been considered. She said that the City needs to put together the right team to bring ideas to the forefront.

Ms. Sharon Martin was concerned about the funding for the project. She wondered how the Tourism Development Authority plans on supporting this so that the citizens of Asheville, who may or may not take part in this Civic Center directly, will avoid having to subsidize this through our tax dollars.

Mr. Dennis Justice, representing Save our Smoke, expressed concern over the seating capacity, the costs for renovation and the location.

Mr. Fred English, resident in Haw Creek, suggested the City build a new arena somewhere else, put a penny tax on everything and pay for it.

Mr. David Hantz spoke in support of the performing arts center.

Mr. Chad Nesbitt questioned how the City is going to raise money for this renovation.

Dr. Joe Dunn, representing Citizens for Change, expressed concern about the access to the Civic Center, the seating capacity, and security in the parking deck at night. He felt the Civic Center should not be located downtown and the entire issue should be put on the ballot in the fall and let the citizens decide. He also felt the City should give the Thomas Wolfe Auditorium to the arts community and let them renovate it themselves.

Councilwoman Field explained why the Civic Center should be renovated at its present location stressing that what matters is that we keep a strong central core for the growth of our community.

Dr. Carl Mumpower, Chairman of the Civic Center Commission, spoke in support of the conceptual plan noting that people may criticize the current Civic Center, but it has touch a lot of lives and has a rich history and this is a reasonable effort to set the stage for a rich future.

A brief discussion surrounded whether City Council should vote at this meeting to accept the Conceptual Plan or whether to postpone action in order to give the public time to review the report. As a result, Vice-Mayor Cloninger moved to consider adoption of the Heery International

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Report as the City's Conceptual Plan for the Asheville Civic Center at the July 17, 2001, worksession. This motion was seconded by Mayor Sitnick and carried unanimously.

V. NEW BUSINESS:

A. RESOLUTION NO 01-113 - RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION

Vice-Mayor Cloninger said that the terms of Carl Mumpower, Joyce Dorr, Paul Hornyak and Laverne Laney, as members on the Civic Center Commission, expire on June 30, 2001.

Dr. Mumpower, Mr. Hornyak and Ms. Laney are eligible for reappointment and all have expressed interest in reappointment.

On June 12, 2001, City Council interviewed Mr. James Grant and Mr. Dan Breneman.

Councilman Hay moved to reappoint Carl Mumpower, Paul Hornyak and Laverne Laney to each serve an additional 3 year term respectfully, terms to expire June 30, 2004, or until their successor have been appointed. This motion was seconded by Councilman Worley and carried unanimously.

James Grant received 2 votes and Dan Breneman received 5 votes. Therefore, Dan Breneman was appointed to the Civic Center Commission to serve a three year term, term to expire June 30, 2004, or until his successor has been appointed.

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VI. OTHER BUSINESS:

A. RESOLUTION NO. 01-114 – RESOLUTION SUPPORTING SENATE BILL 1078 AND HOUSE BILL 1015 ENTITLED AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY REQUIRING REDUCTIONS IN THE EMISSIONS OF CERTAIN POLLUTANTS FROM CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY

Mayor Sitnick explained the importance of air quality in Western North Carolina. She passed out to City Council Senate Bill 1078 entitled "An Act to Improve Air Quality in the State by Requiring Reductions in the Emissions of Certain Pollutants from Certain Facilities that Burn Coal to Generate Electricity." She asked City Council to consider adoption of a resolution supporting Senate Bill 1078 and House Bill 1015.

Mayor Sitnick read a resolution stating that legislation to reduce air pollution from North Carolina's 14 coal-fired power plants by 70% has been introduced by local legislators Senator Steve Metcalf (SB 1078) and Representative Martin Nesbitt (HB 1015). The Act introduced will reduce nitrogen oxide, sulfur dioxide and mercury pollution emissions from the coal-fired power plants during the next decade and will direct the state to take the necessary steps to address out-of-state sources of air pollution that are damaging North Carolina's public health and environment. The coal-fired plants built before 1975 were exempted from current air quality standards under the federal Clean Air Act and are the largest source of air pollution in North Carolina. The City Council is of the opinion that passage of the proposed legislation would be in the best interest of the citizens and residents of Buncombe County and would help protect public health, preserve our environment and improve our economy. The City Council does hereby support the passage of House Bill 1015 and Senate Bill 1078 and the immediate implementation of said legislation.

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Councilman Worley moved to adopt Resolution No. 01-114 as read by Mayor Sitnick and that said resolution be sent to the N. C. League of Municipalities for dissemination to North Carolina cities, the local legislative delegation, Governor Mike Easley, Speaker of the House James Black, President Pro Tempore of the Senate Marc Basnight, Chair of the House Public Utilities Committee Ronald Smith, and Chair of the House Committee on Environmental and Natural Resources Pryor Gibson.. This motion was seconded by Councilwoman Bellamy and carried unanimously.

B. RESOLUTION NO. 01-114 – RESOLUTION REQUESTING THE N. C. DEPT. OF TRANSPORTATION AND THE FEDERAL HIGHWAY COMMISSION HOLD A PUBLIC HEARING ON PROJECT I-4400 (I-26 WIDENING) IN THE CITY OF ASHEVILLE

Mayor Sitnick passed out to Council several pieces of information regarding the N. C. Dept. of Transportation's Project I-4400 which would widen I-26 from four to six lanes from Hendersonville in Henderson County to the Asheville Regional Airport in Buncombe County, and would be a pilot design/build project to begin in the autumn of 2001 and completed prior to 2004 at a cost of \$74,400,000. While only a half-mile section of this project is in Buncombe County, there are concerns and questions about the widening as it is presently designed and planned, and a public hearing is being requested in Buncombe County. The Metropolitan Planning Organization has requested a public hearing, however, there has been no response to this request. She asked City Council consider adopting a resolution requesting the N. C. Dept. of Transportation (NC DOT) and the Federal Highway Commission hold a public hearing on this project in the City of Asheville, which is the geographic and population center of Buncombe County.

Ms. Betty Lawrence explained how this project is on the fast track and the importance of public participation in transportation planning. Council asking for a public hearing in Asheville on this project could give more time for them to work collaboratively with the NC DOT.

Vice-Mayor Cloninger moved to request the NC DOT and Federal Highway Administration to hold a public hearing on Project I-4400 in the City of Asheville. Said resolution should (1) reference the vote taken by the City of Hendersonville in which they have expressed concerns, some of which relate to how the project will serve both of our cities; (2) ask that the public hearing not be held on a Tuesday and/or the hearing be held after 5:00 p.m.; and (3) note that City Council is opposed to NC DOT proceeding with the project before a public hearing is held in Buncombe County. This motion was seconded by Councilwoman Bellamy and carried unanimously.

C. CLAIMS

The following claims were received by the City of Asheville during the period of June 22-July 5, 2001: Larissa Clegg (Streets), Wayne Earley (Sanitation), Natasha Allen (Streets), Coquitta Fleming (Parks & Recreation), BellSouth (Water) and Ted Warner (Streets).

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

D. LAWSUIT

The City filed a Complaint on June 27, 2001, against Buncombe County. It was a complaint for a declaratory judgment invalidating Buncombe County Resolution No. 01-05-11;

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and for a preliminary and permanent injunction prohibiting the County from interfering with the City's exercise of its extraterritorial jurisdiction. This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Comments by Chad Nesbitt

Mr. Chad Nesbitt felt it was inappropriate for City Council to consider only building a civic center in the City

limits and not in Buncombe County.

Comments by Mickey Mahaffee

Mr. Mickey Mahaffee, representing Peacemakers, reported that the City is doing a good job in keeping litter up off the streets in downtown and suggested that businesses take more care with where they put their trash. He did note that there is a severe shortage of trash cans in the downtown area. With regard to the Civic Center conceptual plan, he didn't have a problem with it, however, because of the severity of other situations in our City, he didn't feel the Civic Center should take priority. He felt City Council should put as much effort and energy into our water system as they do to the Civic Center. He asked City Council to remove the payment in lieu of taxes from the water system.

Comments by Fred English

Mr. Fred English felt City Council should put the Civic Center renovation vs. rebuild on the ballot in November for the citizens to decide.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 8:40 p.m.

CITY CLERK MAYOR
