

Tuesday – August 28, 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

Mayor Sitnick gave the invocation.

I. PROCLAMATIONS:

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 14, 2001, AND THE WORKSESSION HELD ON AUGUST 21, 2001

B. RESOLUTION NO. 01-131 - RESOLUTION ACCEPTING THE STREET MAINTENANCE OF PINEY MOUNTAIN ROAD AND ARNOLD ROAD

Summary: The consideration of a resolution accepting Piney Mountain Road and Arnold Road for public maintenance.

As part of the annexation process, staff identifies streets in proposed annexation areas that should be maintained by the City after annexation. As part of the 2001 annexation process, two streets were identified to be maintained by the City following annexation.

The first street identified is Piney Mountain Road. Piney Mountain Road is currently a N. C. Dept. of Transportation (NC DOT) maintained roadway approximately 0.73 miles in length known as State Route 2243. It begins at Chunn's Cove Road and ends at the Piney Mountain Condominium Complex. Only a portion of this road was in the City prior to this annexation. Following annexation, all of the roadway will be in the City limits. Staff is requesting that the City maintain the entire length of Piney Mountain Road.

The second street identified is Arnold Road. Arnold Road is located near the Veterans Administration Hospital off Tunnel Road. The length of the road is approximately 0.37 miles and is currently maintained by the NC DOT as State Route 2000 and 2001. Arnold Road is a dead-end street that begins at Tunnel Road.

Staff recommends that City Council adopt a resolution accepting Piney Mountain Road and Arnold Road for public maintenance.

RESOLUTION BOOK NO. 26 – PAGE 441

C. RESOLUTION NO. 01-132 - RESOLUTION APPROVING A GRANT FROM THE FEDERAL AVIATION ADMINISTRATION

Summary: The consideration of a resolution approving a grant from the Federal Aviation Administration in an amount not to exceed \$5,381,370.

The Federal Aviation Administration (FAA) has offered a grant agreement to the Asheville Regional Airport. This grant, in an amount not to exceed \$5,381,370, consists of the following projects: rehabilitate airfield electrical vault; expand general aviation apron; construct by-pass taxiway, Runway 34; and expand terminal building, Phase I.

Staff recommends adoption of the resolution and authorize the Mayor to execute the grant agreement for Project No. 3-37-0005-25.

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D. RESOLUTION NO. 01-133 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT DONATION AND CONVEYANCE OF REAL PROPERTY ON THOMPSON STREET FROM TROY E. MUSE

Summary: The consideration of a resolution authorizing the Mayor to accept a donation of real property on Thompson Street from Troy E. Muse for the City of Asheville greenway system.

The City of Asheville is interested in establishing greenways or greenway systems throughout the corporate limits of the City of Asheville. Quality Forward has worked with the owners of real property along the Swannanoa River at Thompson Street to obtain easements for the proposed Swannanoa River Greenway. Troy E. Muse has offered to donate a portion of property he owns (approximately 0.35 acre) between Thompson Street and the Swannanoa River (a portion of PIN 9648.20-81-3179) for the greenway system.

A Phase I Environmental Site Assessment has been completed by T. & E. Technology. The property has been surveyed by W. K. Dickson. The Parks and Recreation staff have reviewed the proposed donation and found that the property is appropriate for the greenway system.

City staff recommends City Council adopt the resolution authorizing the Mayor to accept a donation of real property adjoining the Swannanoa River from Troy E. Muse.

RESOLUTION BOOK NO. 26 – PAGE 443

E. RESOLUTION NO. 01-134 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SENTRY ALERT SECURITY INC. FOR PARKING FACILITIES AFTER-HOURS AND WEEKEND SECURITY PATROL SERVICES

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Sentry Alert Security, Inc., for parking facilities after-hours and weekend security patrol services.

With the installation of automated parking deck gate equipment last fiscal year, Council authorized the implementation of a \$1.00 fee for parking in the City's decks after-hours and all day on weekends (whenever Parking Services Staff were not manning the decks). The revenues from the \$1.00 fee are to be used to provide security enhancements for the decks during those periods. (The after-hours revenues have averaged approximately \$10,000.00 per month since their initiation last March.) The first security enhancement implemented was a contracted roving security patrol of the decks, surface lots and surrounding on-street parking area. Sentry Alert Security, Inc., began providing the patrol service in the spring of this year. Their service has been highly satisfactory and a number of favorable comments have been received from the public. The patrols have not only increased the public's sense of security and safety; but, have also aided

customers who find themselves trapped in the deck by malfunctioning gate equipment or without funds to

pay the \$1.00 fee or who find their car has a dead battery or flat tire. If future revenues prove adequate, additional security enhancements, such as monitored security cameras, blue-light emergency phones, etc. will be considered for implementation.

The proposed contract with Sentry Alert Security, Inc., is effective for Fiscal Year 2002 and provides hourly rates for patrol services and a maximum compensation of \$60,000.00 for the year. Funding is included in the Parking Services Fund Fiscal Year 2002 Budget for contracted security patrol service.

City staff recommends City Council adopt the resolution which authorizes the City Manager to execute a contract with Sentry Alert Security, Inc.

RESOLUTION BOOK NO. 26 – PAGE 444

F. RESOLUTION NO. 01-135 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO RECEIVE A GRANT FROM THE U.S. DEPT. OF JUSTICE, LOCAL LAW ENFORCEMENT BLOCK GRANT PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to accept a federal grant from the U. S. Department of Justice, Local Law Enforcement Block Grant Program and the associated budget amendment.

The City of Asheville is eligible to receive a federal grant through the U. S. Department of Justice, Local Law Enforcement Block Grant Program. The grant is in the amount of \$141,904. A local match of \$15,767 is required. The source of the local match will be the City General Fund.

Under conditions of the grant, funds are being used to reduce crime and improve public safety.

Staff recommends Council adopt the resolution and budget amendment.

RESOLUTION BOOK NO. 26 – PAGE 445

G. ORDINANCE NO. 2837 - BUDGET AMENDMENT, IN THE AMOUNT OF \$157,671, FOR A GRANT FROM THE U.S. DEPT. OF JUSTICE, LOCAL LAW ENFORCEMENT BLOCK GRANT PROGRAM

Summary: See Consent Agenda Item "F" above.

ORDINANCE BOOK NO. 19 - PAGE

H. ORDINANCE NO. 2838 - BUDGET AMENDMENT TO CREATE THE BUDGET FOR THE FRENCH BROAD RIVER CORRIDOR CONNECTORS

Summary: The consideration of a budget amendment, in the amount of \$203,040, for an appropriation from the N. C. Department of Transportation in the Transportation Enhancement Program for the Transportation Equity Act for the 21st Century (TEA21).

The City of Asheville applied for grant funds in June 2000 to the N. C. Department of Transportation. The grant was recently awarded in the amount of \$203,040 and designated to pay for the cost associated with constructing walkways and sidewalks connecting the series of

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parks along the French Broad River on Amboy Road. A 20% match, or \$50,760, is required and already funded by the Public Works Department.

The Parks and Recreation Department recommends City Council approve the budget amendment in the amount of \$203,040 to create the budget for the French Broad River Corridor Connector.

ORDINANCE BOOK NO. 19 – PAGE

I. ORDINANCE NO. 2839 - BUDGET AMENDMENT FOR THE URBAN TRAIL STATION 10 GROVE'S VISION

Summary: The consideration of a budget amendment, in the amount of \$6,600, for the Urban Trail's Station 10 Grove's Vision.

The City of Asheville and the Urban Trail Committee develops funding through private donations to support the development of the Trail. Donations in the amount of \$6,600 were recently received to complete the construction of Station 10 Grove's Arcade.

The Parks and Recreation Department recommends City Council to approve the budget amendment to increase the budget for the Urban Trail's Station 10 Grove's Vision.

ORDINANCE BOOK NO. 19 – PAGE

J. ORDINANCE NO. 2840 - BUDGET AMENDMENT FOR THE URBAN TRAIL'S THEMATIC MARKERS

Summary: The consideration of a budget amendment, in the amount of \$7,251, for the Urban Trail's Thematic Markers.

The City of Asheville and the Urban Trail Committee develops funding through private donations to support the development of the Trail. Donations in the amount of \$7,251 are being received to complete the construction of the Urban Trail's Thematic Markers.

The Parks and Recreation Department recommends City Council to approve the budget amendment to increase the budget for the Urban Trail's Thematic Markers.

ORDINANCE BOOK NO. 19 - PAGE

K. RESOLUTION NO. 01-136 - RESOLUTION MODIFYING THE SCHEDULED CITY COUNCIL MEETINGS TO (1) CANCEL THE SEPTEMBER 11, 2001, FORMAL MEETING; (2) CANCEL THE OCTOBER 16, 2001, WORKSESSION; (3) RESCHEDULE THE OCTOBER 9, 2001, MEETING UNTIL OCTOBER 10, 2001; AND (4) RESCHEDULE THE NOVEMBER 6, 2001, MEETING UNTIL NOVEMBER 7, 2001

RESOLUTION BOOK NO. 26 – PAGE 446

L. RESOLUTION NO. 01-137 - RESOLUTION CONFIRMING THE APPOINTMENT OF CAROL GOINS TO THE HOUSING AUTHORITY BOARD OF DIRECTORS

Summary: The consideration of endorsing the Mayor's appointment to the Housing Authority of the City of Asheville.

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Marshall Logan has resigned as a member of the Housing Authority Board of Directors, thus leaving an unexpired term until June 11, 2003.

His action will endorse the appointment by Mayor Sitnick appointing Ms. Carol Goins to serve the unexpired term of Mr. Logan, term to expire on June 11, 2003, or until her successor has been appointed.

Staff recommends City Council endorse the Mayor's appointment to the Housing Authority Board of Directors.

RESOLUTION BOOK NO. 26 – PAGE 447

M. RESOLUTION NO. 01-138 - RESOLUTION REQUESTING THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES TO RECONSIDER FUNDING THE COMPRESSED NATURAL GAS FUELING GRANT

Summary: In December, 2000 the City of Asheville and its partners submitted a mobile source emissions grant application to the North Carolina Department of Environment and Natural Resources (NC DENR) to construct a compressed natural gas fuel station. Such a fuel station located in Asheville would complete the infrastructure to allow zero emissions vehicles to travel the length of this fair state. The City of Asheville and its partners desire to proactively promote vehicle pollution by installing the infrastructure to support zero emission vehicles. On April 10, 2001, the City of Asheville received a favorable response from NC DENR pending a state budgetary decision. WHEREAS, on July 27, 2001, the City of Asheville received a letter from NC DENR which stated that no funds were available to fund the grant. This resolution urges the General Legislature's honorable members to restore the awarded grant funds to the City of Asheville so that they may complete the western-most fuel station for alternatively fueled vehicles.

RESOLUTION BOOK NO. 26 – PAGE 448

M. RESOLUTION NO. 01-139 - RESOLUTION AUTHORIZING UTILITY ENCROACHMENT AGREEMENT FOR PROPERTY AT LEXINGTON AND PATTON AVENUES

Summary: The consideration of a resolution authorizing a utility encroachment agreement on City property at Lexington and Patton Avenues.

The developer of the old Kress building on the northwest corner of the intersection of Patton Avenue and Lexington Avenue has been advised by CP&L that a transformer in the immediate vicinity of the building is needed in order to supply it with adequate power meeting current standards.

The developer has explored on-site options for the transformer but these are undesirable from a practical standpoint and prohibitively expensive. CP&L and the developer have identified the property across College Street as a place where a transformer could be located. Such a location would not only serve the Kress Building, but would also serve other anticipated development in the area. The City owns the small lot on the east side of the lot next to Lexington Avenue, and the developer and CP&L are requesting an easement to allow the location of a transformer, as shown in the drawing attached as Exhibit A to the resolution.

The City acquired this property by gift in 1986 from Helen Zageir. Although it is currently used as a planting strip, there are no restrictions on its use, and

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information in the file suggests that it should be held for future development. City staff have reviewed the proposal and determined that a transformer can be located in the strip without impairing the function of the property or any City services. Moreover, due to its size, it is unlikely that the lot could be feasibly developed with a building. The City will work with CP&L and the developer to install and maintain some landscaping on the property.

The City Code, Sec. 16-75, provides that Council may approve or deny the project; a public hearing is permitted but no required. The encroachment agreement would be subject to the usual provisions for

encroachment agreements in the City Code, and appropriate legal documentation would be required. Council may also attach conditions to the encroachment agreement.

If Council wishes to allow the use of this property for the siting of a transformer and pad, adoption of the resolution is recommended.

RESOLUTION BOOK NO. 26 – PAGE 449

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.

Vice-Mayor Cloninger moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ANNOUNCEMENT

Transit Center Addition

Mayor Sitnick was pleased to announce that on August 21, 2001, City Council approved a resolution authorizing the construction of a new Transit Center passenger waiting room. The addition is 560 square feet, will seat 40 passengers, 2 wheelchairs and will have standing room for an additional ten people. The addition will be fully enclosed with heat. She said that the City will do its best to have this addition complete by cold weather.

Award Presented to City Manager

Mayor Sitnick recognized City Manager Jim Westbrook who received this year's ICMA's In-Service Training Award. This Award is presented to the administrator who has developed an implemented highly effective in-service training programs for local government employees. This Award was established in memory of Clarence E. Ridley, a pioneer in the field of local government management.

AGENDA CHANGE

At the suggestion of Vice-Mayor Cloninger, it was the consensus of City Council to move consideration of approving the Public Art Master Plan before the public hearings.

RESOLUTION NO. 01-140 - RESOLUTION ADOPTING THE PUBLIC ART BOARD MASTER PLAN

Parks & Recreation Director Irby Brinson said that this is the consideration of a resolution approving the Public Art Master Plan.

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Mr. Brinson said that in September, 1999, Asheville City Council established a Public Art Board for the City of Asheville. This seven-member board has been working over the past two years to develop a comprehensive planning tool to assist in the acquisition, retention and maintenance of a public art program in Asheville. A sub-committee was formed in 2000 to assist Board members in developing the overall outline for the plan. In addition, funds were secured through the N. C. Arts Council to match City funds to complete the final master plan that is being presented to City Council. This plan addresses a number of ways to implement the public art program, both for permanent and temporary art.

Mr. Kenn Kotara, Chair of the Public Art Board, explained briefly the plan which he presented in detail at City Council's August 21, 2001, worksession. He outlined the public process for solicitation of artists and artwork

for various projects, as well as allowing for methods of deaccessioning art that will be owned by the City of Asheville. The Public Art Master Plan will serve as the foundation for the City of Asheville in regard to a vibrant and exciting Public Art Program for years to come.

The Parks and Recreation Department and the Public Art Board recommend City Council's approval of the Public Art Master Plan.

Mayor Sitnick said that we need to recognize art as a major player in economic development.

Councilwoman Field noted that a few years ago an economic impact study was done of the impact of crafts in western North Carolina. It turned out that crafts had a larger economic impact than tobacco and all agriculture in all western North Carolina.

Upon inquiry of Councilwoman Bellamy, City Manager Westbrook said that the cultural arts superintendent vacancy is on hold until the State decides on the reimbursements. Mr. Brinson noted that this person will be the liaison directly to the Public Art Board, the Urban Trail Committee and Festivals.

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. 01-140. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 451

III. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARINGS TO INITIALLY ZONE (1) ONE LOT IN THE EXTRATERRITORIAL JURISDICTION AREA KNOWN AS US 19-23/SARDIS ROAD/SAND HILL ROAD/BREVARD ROAD AREA AND (2) TWO LOTS IN THE EXTRATERRITORIAL JURISDICTION AREA KNOWN AS FAIRVIEW ROAD/US 74

ORDINANCE NO. 2841 - ORDINANCE TO INITIALLY ZONE ONE LOT IN THE EXTRATERRITORIAL JURISDICTION AREA KNOWN AS US 19-23/SARDIS ROAD/SAND HILL ROAD/BREVARD ROAD AREA

ORDINANCE NO. 2842 - ORDINANCE TO INITIALLY ZONE TWO LOTS IN THE EXTRATERRITORIAL JURISDICTION AREA KNOWN AS FAIRVIEW ROAD/US 74

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Mayor Sitnick said that these lots were deferred from the August 14, 2001, City Council public hearings and only the three lots deferred will be considered at this meeting.

At 5:35 p.m., Mayor Sitnick said that this public hearing was opened on August 14, 2001, and continued until this date only to consider the one lot in the extraterritorial jurisdiction area (ETJ) known as US 19-23/Sardis Road/Sand Hill Road/Brevard Road area.

Urban Planner Paul Benson said that the single property in the US 19/23 area, owned by the BASF Corporation, PIN 9617-15-63-8026 (1,604.09 acres) contains Enka Lake and the now vacant Enka Lake Clubhouse and recreational facilities. The Planning and Zoning Commission has recommended Community Business II zoning along the frontage of the property on Sand Hill Road to a depth of 400' with the remainder of the property being zoned RM-16.

On August 14, 2001, City staff concurred with the recommendation of the Planning & Zoning Commission, with the exception of an approximately 5 acre area containing the clubhouse and recreational facilities for which the staff recommended Community Business I.

After the discussion on August 14, 2001, City staff has obtained information from the Daniel Boone Council of Boy Scouts of America regarding their proposed use. At this time, City staff is now recommending the majority of the property be zoned RM-16, with the approximately 5 acre tract containing the clubhouse and recreation facilities be zoned Community Business I, and Community Business II zoning along the frontage of the property on Sand Hill Road to a depth of 400'.

The Planning and Development staff recommends adoption of the ordinance establishing the initial zoning for PIN No. 9617-15-63-8026 to be RM-16, CB I and CB II.

Upon inquiry of Mayor Sitnick, City Attorney Oast said that this is not spot zoning.

Mayor Sitnick closed the public hearing at 5:38 p.m.

Mayor Sitnick said that members of Council have been previously furnished with copies of the ordinances and they would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2841. This motion was seconded by Councilwoman Bellamy and carried unanimously.

ORDINANCE BOOK NO. 19 - PAGE

At 5:39 p.m., Mayor Sitnick said that this public hearing was opened on August 14, 2001, and continued until this date only to consider two lots in the extraterritorial jurisdiction area (ETJ) known as Fairview Road/US 74 area.

Urban Planner Paul Benson said that the Fairview Road parcels consist of two properties owned by Kitzzi Bocoock. The first lot, PIN No. 9667-10-26-7774, (1.05 acres) has been recommended by the Planning and Zoning Commission and the City staff for RS-4 zoning. Using topography maps and pictures, Mr. Benson said that this property is currently vacant and wooded. He explained in detail how the lot has a very steep average slope of 43%, rising from Gashes Creek, which separates the entire property from Highway 74. The owner has requested commercial zoning.

Mr. Benson explained that generally this type of slope within the existing zoning jurisdiction of the City would be zoned RS-2, in order to protect steep slopes. That is the primary motivation for our recommendation. Even though there is water and sewer available and it is on

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a five-lane highway with adequate capacity, because of the extreme steep slope on this property and on the adjacent properties, and the gateway preservation aspect of the ETJ extension, the recommendation to RS-4 remains. He said that in order to get a commercial development on this property, you would basically have to fill the creek area and grade a notch into the hill and he felt that was something the ETJ extension was designed to prevent.

Upon inquiry of Councilman Peterson, Mr. Benson said that the only road to service this property is from Charlotte Highway.

Councilwoman Field said that as steep as the property is, could you get four units per acre on it based on our hillside ordinance. Mr. Benson responded that this lot is entirely below the 2220 feet hillside ordinance

criteria, but as to four units per acre, the developer would have to be creative because it would not be easy to do on this site.

With regard to the second lot, PIN No. 9667-10-46-2592 (15.02 acres) has been recommended for a split zoning with approximately 2.5 acres adjacent to Fairview Road being zoned Community Business 1, and the balance of the property (approximately 12-1/2 acres) being zoned RS-4. Additional research since the August 14, 2001, reveals that the property is vacant and wooded. Using topography maps, he explained in detail how the CB 1 portion has a moderate to steep slope of 14%, with the remainder being steeper, with an average slope of approximately 23%. The owner has requested that the RS-4 portion of the property be zoned for high-density multi-family development.

Mr. Benson said even though the site has water and sewer access along Fairview Road, slope is a concern. Because of the Blue Ridge Parkway viewshed issue, staff looked at parts of the site visible from the new visitor's center and identified the property that can be seen from those points. He noted that a substantial amount of the property, which is a ridge with a peak, is visible and in the winter a lot more of the ridge will be visible. For these reasons, staff is recommending zoning of PIN No. 9667-10-46-2592 to Community Business I for the portion adjacent to Fairview Road with RS-4 low density residential on the remaining portion of the property.

The Planning and Development staff recommends adoption of the ordinance establishing the initial to RS-4 and Community Business I District.

Mr. Benson said that Ms. Bocook has some plans for the property for development of her property and she has met with staff on several occasions. However, staff is not comfortable with the requested density of 17 units per acre that she is seeking for the upper portion of her property.

Planning & Development Director Scott Shuford said that the City is not necessarily opposed to some form of multi-family on this ridge, but as you can see, it is a sensitive site that demands a good site plan to make it work from the prospective of all parties involved. Unfortunately we've been unable to reach an agreement with Ms. Bocook because she feels a site specific type plan is not in her best interest in terms of marketing her property. So, we have not been able to come to any agreement, even though we have spent time with her over the past two weeks.

Mr. Benson then answered various questions/comments from Council, some being, but are not limited to: how does the hillside ordinance apply to this property; what is the elevation of the proposed visitor's center; what other mountain in that area is similar to the elevation of the Bocook's property; what is the density of the condominiums on Town Mountain Road; is the Bocook property visible only from the visitor's center or the actual parkway; and has the Blue Ridge Parkway been working with Buncombe County for viewshed protections.

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Ms. Sheila Gasperson, Land Resource Specialist representing the Blue Ridge Parkway, spoke about some of the viewshed analysis they have been doing. The Bocook's property is in full view of the Blue Ridge Parkway Headquarters and is a forested ridge, running parallel to the Parkway at eye level from the Visitor Center site and lower parking lot where visitors park and prepare for hikes on the Mountains-to-Sea Trail. The property is a dominant foreground ridge and less than 1/4 mile away from the proposed visitor center site. Landscape architects say that textures and individual plant species can be identified by the naked eye usually out to about 1/2 mile away. In October of 2000 an Asheville Scenic Quality Assessment Team drove the parkway and views were rated. The Bocook's view scored 11 of 18 points rating the scene high in vividness, intactness and duration. Ms. Bocook has plans that show for an intensely developed apartment complex on that site. If allowed to be constructed, the results will be a nearly completely denuded site. The

Blue Ridge Parkway understands Ms. Bocook's desire for a zoning classification that allows her to market her land for maximum profit, however, they disagree with this kind of use on a steep hillside. They believe the best use for this site is one that keeps the original forest cover intact in order to minimize slope destabilization and prevent landslides and erosion. A single family residence, carefully sited with gravel roads, is the best choice considering the environmental limits. Visitors come to western North Carolina to bask in nature's glory and to gaze upwards to the mountains that loom over the valley floor – not to see new construction. The Blue Ridge Parkway originally asked the Planning & Zoning Commission to zone the Bocook property RS-2. However, after several discussions with Planning staff, the Parkway now supports the Planning staff's recommendation to zone the 10.55 acres on the upper slope and ridgeline RS-4 and to zone the 3.33 acres on the lower slope along US 74 Community Business I. They asked City Council to direct the Planning staff to provide the Blue Ridge Parkway the opportunity to review and comment on all proposed development plans for the Bocook land.

Mr. Brett Bocook, son of Ms. Kitzi Bocook, developer working on this project, and real estate attorney, said that he has invested a substantial amount of money in soft costs into marketing this property and he felt it was unfair to pit a state funded agency against a small family and single mother. He said that while they have been dealing with an illness in his family, the Parkway has used their time to attempt to justify the inherent inverse condemnation that is occurring on their property. His grandfather purchased this property in the 1920s before the Parkway existed. They have been working for the past five years to market the property to either sell it and/or develop it to meet financial obligations. Because of a cloud on the title that occurred from the highway construction, they have been obstructed to market this land. He felt there is an unbalanced fight against their own property rights. He said the issue with the viewshed did not occur until approximately six months ago when his mother went to the Parkway, under good faith negotiations, and met with Parkway representatives to explain that there was a potential view issue with the Parkway and suggested to the Parkway that they might want to purchase the property in order to preserve the integrity of that view. That was not meant to be used against them. They were trying to give the Parkway the opportunity to purchase the property and now they are using that against them and are attempting to put political pressure on City Council to down-zone their property. After the Planning & Zoning Commission hearing was closed, he said a letter dated July 5, 2001, from the Parkway was taken into account in the Commission's decision-making process. He stressed that they did not have an opportunity to respond to that letter. That is cause for this complete turn around by the Planning staff to support the down-zoning of this property. They were originally recommended to have RM-16 on a large portion of their property and now being told it should only be used for RS-4. This is the only site in the area that is actually being developed for multi-family over the last three years. He asked City Council to take into account their desire to work with the Parkway and their attempt to sell the Parkway the property at market value. There is no reason why the Parkway should be able to essentially take the property without justifying the compensation to the landowner. He also asked Council to take into consideration that there is tremendous devaluation of property (70%) in proportion to the

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amount of units that are proposed on the property. He felt it was critical that they get multi-family zoning on this property. He said their initial plan was 18 units per acre but they would be willing to compromise on 12 units per acre.

Ms. Kitzi Bocook, property owner, said that she is requesting Highway Business District for PIN No. 9667.10-26-7774 (1-1/2 acres). She showed Council various renderings for possible use on that property. She said if this lot is zoned residential, it will effectively have no value whatsoever.

With regard to the larger lot (PIN No. 9667.10-46-2592), Ms. Bocook said they are willing to compromise from their original 18 units per acre to 12 units per acre on average. As a result of prior meetings with Mr. Shuford, she felt they agreed that this property meets a lot of the criteria for higher density - either housing or offices. The RM-16 designation was what was originally recommended as a viable use for that property. She

explained that there is sparse single family residences down the road because it's mainly multiple housing or mixed housing. She reiterated that she approached the Parkway about purchasing her land about a year ago. She explained about the costly illness in her family and that she needed to get full value out of her land. She said she was not in a position to donate the land, but she did indicate that she would consider reducing the price somewhat and making personally contribution (approximately \$50,000) to the cause. She even explained that she would divide her property and sell it for less if she had to. The Parkway was unable to purchase the land because it was not contiguous to the Parkway property. According to case law, she said that one person should not be required to bear the entire financial burden of the public interest. She feels that she will be losing \$200,000 in value with the current staff recommendation. She argued that the process used, from RM-16 to then RM-8 and then subsequent to the Parkway viewshed issue to RS-4, was not right.

Upon inquiry of Councilman Hay, Mr. Bocook said that in all fairness, they are not getting what they want and the Parkway should not get what they want. Again, he said they planned an 18-unit complex on the site, however, they would compromise to 12-units per acre. Councilman Hay explained that the City does not have that zoning designation – either RM-16 or RM-8.

City Attorney Oast cautioned City Council that they need to make a decision on what is the best land use designation and what zone is most appropriate for the property. There will be opportunities at a later time for approval of site specific development plans or a conditional use permit.

Councilwoman Bellamy suggested an RM-8 designation and still preserve some of the mountainside and viewshed.

Mr. Bocook said they would be willing to compromise with RM-8, which would preserve the value. There would still be a substantial cut, but they could at least market the property and/or develop it with a conditional use permit. However, as a real estate person, they will not be able to get the value out of the property if someone has to buy it contingent upon rezoning at a later time.

There was discussion about the hillside ordinance regulations and how they would be applied to this property.

Mr. Shuford said that one of the staff's proposals that the Planning & Zoning Commission didn't accept was to go up to the 2220 line with RM-16 and then an RS-4 above. Again, staff's position has been that they understand the Bocook's circumstances, but they feel this is one of those cases where a lower density zoning would be appropriate until they have a more fully articulated development plan that would address some of the issues raised at this meeting.

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Upon inquiry of Councilman Worley, Mr. Shuford said that staff's initial recommendation for the property was RS-4. After hearing comments at the first Planning & Zoning public hearing, staff re-examined several parcels, including this one, and then came back with a recommendation of RM-16 south of the 2220 line and an RS-4 above it – reflecting the fact that it's a fairly steep sight. At the next Planning & Zoning Commission hearing, the Commissioners heard that recommendation and heard from Ms. Bocook about the possibility of some commercial development near the road, and came up with the compromise of CBI and RS-4.

Councilman Worley asked if the property was zoned RS-4, does it still lend itself to a planned unit development (PUD) project that could increase that density. Mr. Shuford said that either a conditional use zoning or a PUD zoning would come closer to allowing a lot of these issues to be addressed. That has been discussed with the Bocooks but they feel that limits their ability to market the property. They want a straight zoning of the property. However, given the sensitivity of this particular site, both from the slope and view issues, it's difficult for staff to make that recommendation to City Council. That's not to say that an extremely

well designed high density multi-family project couldn't perhaps work, at least over a portion of the site. He explained how the PUD would allow the Bocook's to recoup the full RS-4 zoning, plus the opportunity with a quality design, to increase that. He said the PUD does supercede the hillside development regulations.

Mayor Sitnick closed the public hearing at 7:10 p.m.

After discussion, Vice-Mayor Cloninger moved to adopt Ordinance No. 2842 which is the recommendation of the Planning staff and rezone PIN No. 9667-10-26-7774 (1.05 acres) RS-4 and split zone PIN No. 9667-10-46-2592 (15.02 acres) with approximately 2.5 acres adjacent to Fairview Road being zoned Community Business 1 and the balance of the property (approximately 12-1/2 acres) being zoned RS-4. This motion was seconded by Councilman Peterson.

Councilman Worley moved to amend the motion (with regard to the 15.02 acre lot) to rezone approximately 2.5 acres adjacent to Fairview Road Community Business I, from the Community Business I zone up to the 2220 contour line RM-16, and above the 2220 contour line RS-4. This motion was seconded by Councilwoman Bellamy. Said amendment to the motion was defeated on a 3-4 vote, with Mayor Sitnick, Vice-Mayor Cloninger, Councilman Hay and Councilman Peterson voting "no".

Councilman Worley moved to amend the motion (with regard to the 15.02 acre lot) to rezone approximately 2.5 acres adjacent to Fairview Road Community Business I, from the Community Business I zone up to the 2220 contour line RM-8, and above the 2220 contour line RS-4. This motion was seconded by Councilwoman Bellamy. Said amendment to the motion passed on a 5-2 vote, with Vice-Mayor Cloninger and Councilman Peterson voting "no".

The main motion, as amended, carried on a 4-3 vote, with Vice-Mayor Cloninger, Councilwoman Field and Councilman Peterson voting "no".

ORDINANCE BOOK NO. 19 - PAGE

At 7:38 p.m., Mayor Sitnick announced a ten minute break.

B. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO DELETE THE REQUIREMENT FOR CITY COUNCIL TO SET PUBLIC HEARINGS

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ORDINANCE NO. 2843 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO DELETE THE REQUIREMENT FOR CITY COUNCIL TO SET PUBLIC HEARINGS

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

Chief Planner Gerald Green said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to delete the requirement for City Council to set date for public hearings. This public hearing was advertised on August 17 and 24, 2001.

The proposed ordinance amendment would delete the requirement for City Council to set the date for public hearings for review of development proposals, including Level 3 site plan projects, Planned Unit Developments, and conditional uses. Under the current ordinance, City Council must take action at a formal Council meeting to approve (set) the date for a public hearing after that date has been scheduled by the City Clerk. The requirement for Council to officially set the date for the public hearing prolongs the review process by at least two (2) weeks. A public hearing before City Council would still be required under the proposed wording amendment, but the Council would not have to take official action to approve the date scheduled for the public hearing. The change in procedure proposed by the ordinance amendment would result in a more

efficient process for all involved – the applicants, the City Council, the City staff, and the general public. The proposed ordinance amendment would help streamline the development review process by removing an unnecessary step. No individual or organization involved in the development review process will be adversely impacted by the simplification of the development review process proposed in the draft ordinance amendment. Staff will keep you informed of these projects and requests by providing you with a memorandum detailing the project or request and providing location and development intensity specifics at least two weeks prior to your consideration of the case.

At their July 11, 2001, meeting, the Asheville Planning and Zoning Commission voted 7-0 to recommend approval of the wording amendment eliminating the requirement that City Council formally set the public hearing date for review of certain development projects. The Planning and Development staff recommends approval of the wording amendment.

Upon inquiry of Councilwoman Bellamy, Mr. Green said that all advertising is the same – the only difference is the deletion from the Consent Agenda of the actual setting of the public hearing date.

Councilman Peterson could not support this amendment because announcing it on the Consent Agenda does help give the public notice about what is coming up in two weeks. He understands that the legal advertising process will not change, but not many people follow the legal ads. He doesn't think this slows things down so much that it would create a problem.

Councilman Worley suggested the public hearings be included in our CityWorks ad in order to get enough notice out.

Councilman Hay suggested including an informal note at the bottom of the agendas what public hearings will be taking place at the next formal meeting.

Mayor Sitnick wanted to make sure that the public is made aware of the public hearings far enough in advance of the actual date in order to arrange their schedules. She said that if this process does not work, that City Council should be willing to reconsider the amendment.

Mayor Sitnick closed the public hearing at 8:07 p.m.

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

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2843. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Peterson voting "no".

ORDINANCE BOOK NO. 19 - PAGE

C. PUBLIC HEARING RELATIVE TO REZONING 350 SHORT MICHIGAN AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT

ORDINANCE NO. 2844 - ORDINANCE REZONING 350 SHORT MICHIGAN AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO NEIGHBORHOOD BUSINESS DISTRICT

Mayor Sitnick opened the public hearing at 8:08 p.m.

Chief Planner Gerald Green said that this is the consideration of an ordinance to rezone property located at 350 Short Michigan Avenue from RM-16 Residential Multi-Family High Density District to Neighborhood

Business District. This public hearing was advertised on August 17 and 24, 2001.

The City has received a rezoning petition requesting the rezoning of property located at 350 Short Michigan Avenue (PIN 9638.19-60-0368) from RM-16 Residential Multi-Family High Density District to Neighborhood Business District. The 0.48 acre tract is located on Short Michigan Avenue approximately 100 feet from Amboy Road. It is bounded to the south by River District zoning and all other sides by RM-16 zoning. The location of the lot at the entrance to the residential neighborhood provides a good opportunity for the use(s) on the lot to serve as a transition from the high intensity uses permitted in the River District to the surrounding residential uses. The Neighborhood Business District, which reserves areas for low-intensity businesses accessible to pedestrians from the surrounding neighborhood, is designed to be located in or adjacent to residential neighborhoods. Structure size standards and limitations on permitted uses in the Neighborhood Business District are designed to minimize conflict with adjacent residential uses.

Staff has received no comments in opposition to the requested rezoning.

The Planning and Zoning Commission voted 7 to 0 to recommend approval of the rezoning of the property located at 350 Short Michigan Avenue from RM-16 to NB. The Planning and Development staff recommends approval of the requested rezoning.

When Councilwoman Field expressed concern that a multi-family zone is being rezoned, Mr. Green said that Neighborhood Business does have an incentive for providing residential development.

Mayor Sitnick closed the public hearing at 8:11 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 2844. This motion was seconded by Vice-Mayor Cloninger and carried unanimously.

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ORDINANCE BOOK NO. 19 – PAGE

D. PUBLIC HEARING RELATIVE TO REZONING 100-120 COXE AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 2845 - ORDINANCE REZONING 100-120 COXE AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

At the request of Vice-Mayor Cloninger, Councilman Hay moved to excuse Vice-Mayor Cloninger from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

Mayor Sitnick opened the public hearing at 8:12 p.m.

Chief Planner Gerald Green said that this is the consideration of an ordinance to rezone property located at 100 and 120 Coxe Avenue (plus a vacant lot to the south) from RB Regional Business District to Central Business District. This public hearing was advertised on August 17 and 24, 2001.

The City has received a rezoning petition requesting the rezoning of property located at 100 and 120 Coxe Avenue, and a vacant lot to the south (PIN Nos. 9648.06-3540, 3620, 3750 and 3851), from Regional Business District to Central Business District. The parcels, which have a total size of 1.18 acres, are located

on the east side of Coxe Avenue just south of Hilliard Avenue. The property at 100 Coxe Avenue is known as the Sawyer Motor Building. Central Business District zoning abuts the property to the north; it is bounded by Regional Business District zoning on all other sides. The requested CBD zoning would permit development of the area in a more intense manner, similar to the historic development pattern of the area. Although the rezoning will result in a finger of CBD zoning extending south of Hilliard Avenue, this unusual zoning pattern will be corrected by the proposed extension of the CBD to the southslope area. The proposed extension of the CBD is scheduled to be brought to Council by November after a public meeting and consideration by the Downtown Commission and Planning and Zoning Commission.

Staff has received no comments in opposition to the requested rezoning.

The Planning and Zoning Commission voted 7 to 0 to recommend approval of the rezoning of the property located at 100 and 120 Coxe Avenue, plus the vacant lot to the south be rezoned from RB to CBD. The Planning and Development staff recommends approval of the requested rezoning.

Mayor Sitnick closed the public hearing at 8:17 p.m.

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

Councilwoman Field moved for the adoption of Ordinance No. 2845. This motion was seconded by Councilman Hay and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

IV. UNFINISHED BUSINESS:

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V. NEW BUSINESS:

A. PARKING STUDY UPDATE

Traffic Engineer Michael Moule and Finance Bill Schaefer gave a detailed status report on the progress of the Parking Study implementation. They reviewed the implementation methodology; Finance Department issues; parking deck initiatives; Civic Center, Wall Street and Rankin Avenue garage uses; off-street initiatives; net income; new directional signs to parking; new color-coordinated banners; new parking opportunities and designs; pedestrian and bicycle issues; and transportation issues.

Council made suggestions to staff, some being, but are not limited to: adding instructions on how to use the new parking meters in the next printing of the Parking Guide; lighted sign outside of decks when they are full; request on Eagle Street for an additional loading zone; and need to contact the N. C. Dept. of Transportation to paint and clean up the McDowell Street Tunnel.

It was the consensus of City Council to instruct staff to continue implementing the Parking Study.

B. RESOLUTION NO. 01-141 - RESOLUTION AMENDING CITY COUNCIL RULES AND PROCEDURES TO ALLOW PUBLIC HEARINGS TO BE SET ADMINISTRATIVELY

City Attorney Oast said that this is the consideration of a resolution amending the rules of procedure for City Council.

The a proposed amendment to Rule 27 of Council's Rules of Procedure, to specify that the requirement that

public hearings be set by special order of Council does not apply to zoning items for which a public hearing is required by law. This amendment is necessary to conform Council's rules to the amendment to the UDO that Council will have considered previously. Reference to that Staff Report is hereby made for a more complete description of the action being proposed.

Assuming that the UDO amendment is adopted, adoption of the resolution is recommended.

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

Councilman Hay moved for the adoption of Resolution No. 01-141. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 452

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of August 10-16, 2001: Brunner & Lay (Water), Montgomery Ins. (Traffic Operations), Tim Welsh (Streets) and Josephine Holloway (Water).

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

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Comments by Margaret Shook

Ms. Margaret Shook, 709 Crowfields Lane, urged City Council to amend the stormwater ordinance for a 100-year storm in particular as it relates to flooding in the Hendersonville Road area. She also asked Council to contact the N. C. Dept. of Transportation and request them to provide its share of the responsibility for long-term storm-sewer management and planning with its contiguous road improvements.

Councilman Peterson said that it was his understanding that the City Engineer will be briefing City Council on stormwater issues at an upcoming worksession.

Banners

Mayor Sitnick said that she has received a letter from Kelly Martin from the Conventions and Visitors Bureau asking City Council to consider paying for a few banners that have the words "We're Glad You're Here." These banners can be used for not only the N. C. League of Municipalities Convention coming to Asheville in October, but for other events as well.

It was the consensus of City Council to instruct the City Manager to contact Mr. Kelly and find out how many banners and how much financial participation they are requesting from the City.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 9:10 p.m.
