

Wednesday – November 7, 2001 - 3:00 p.m.

Worksession

Present: Vice-Mayor M. Charles Cloninger, Presiding; 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: Mayor Leni Sitnick

**CONSENT:**

Vice-Mayor Cloninger noted that he had a conflict of interest on "Setting public hearing on December 18, 2001, to close portion of Porter Street from Pond Avenue to Rosscraggon Road and the 15-foot alleyway from Porter Street to Lee Street" and also the "Parking Easement on Grove Street".

**Setting Public Hearing on December 18, 2001, to Close Portion of Porter Street from Pond Avenue to Rosscraggon Road and the 15-foot alleyway from Porter Street to Lee Street**

**Amendment to Personnel Policy regarding Military Leave**

Summary: The consideration of a resolution amending Section 49, Military Leave, of the City of Asheville's Personnel Policy.

Section 49(2)(a), Military Leave, of the City's Personnel Policy currently provides that, in the event of national emergency or war, the health and dental insurance (including family coverage) of any City employee who is called-up for active military duty would continue until the employee's military insurance became effective.

The resolution amends this section of the City's Personnel Policy to continuously provide any benefit plan(s) in which the employee participates as if the employee were still working - regardless of any insurance that may be provided to these employees by the military.

Staff recommends the adoption of the resolution.

**New Street Name of Glesta Knoll Drive**

Summary: The consideration of a resolution accepting the new proposed street name "Glesta Knoll Drive."

Mr. Tommy Pressley, owner of lots in Glesta Knoll Subdivision, has petitioned the City of Asheville to accept the street name " Glesta Knoll Drive." The new street will begin at Eliada Home Road and end at cul-de-sac on Glesta Knoll Drive.

City staff recommends adoption of the resolution.

**Amendment to Water Bond Capital Improvements Fund**

Summary: The consideration of a budget amendment to the 29 Fund (Water Bond Capital Improvements Fund) to reflect an increase in the Pipeline Replacement Phase II (Bee Tree Crossing), an increase in the N. C. Dept. of Transportation (NCDOT) Betterment Projects, and a decrease in the Building Safety Improvements.

Funding for the Pipeline Phase II (Bee Tree Crossing Project) needs to be increased by \$20,000 to cover the multiple change orders that have been necessary since this project was first initiated in 1996. There are also additional engineering expenses that have accumulated due to the time extension and changes in the project.

Funding also needs to be increased for two NCDOT Betterment Projects totaling \$147,630. The Utility Agreements for Sweeten Creek Phase I and Pisgah Highway Phase I included construction estimates that were lower than actual costs. The invoice from NCDOT for Sweeten Creek Phase I is \$69,125 more than NCDOT's construction estimate and Pisgah Highway Phase I is \$78,505 more.

Funding is available in the Building Safety Project since it has been determined that this project needs to be deleted to provide additional funding for NCDOT Non-Betterment Projects in Fiscal year 2003-2005. There is currently \$1 million available and \$167,630 of it is being redistributed to the Bee Tree Crossing and the NCDOT Non-Betterment Projects described above. The remaining \$832,370 can be used to fund additional NCDOT projects that were initially planned to be funded with a second Revenue Bond Issue in Fiscal Year 2003. The City will not be issuing additional revenue bonds at this time. NCDOT Projects in Fiscal Year 2003 through 2005 total approximately \$4 million. If sufficient revenue is not generated to pay for these projects on a pay-as-you-go basis, it will be necessary to set up a payment plan with NCDOT.

Staff recommends approval of the budget amendment to the 29 Fund to reflect the changes identified above.

### **City Council Meetings to be Rescheduled**

Summary: Due to the upcoming holidays the City Council meeting schedule will need to be modified as follows: (1) December 4, 2001, should be the organizational meeting beginning at 4:00 p.m. in the Council Chamber followed by the formal meeting at 5:00 p.m. in the Council Chamber; (2) December 11, 2001, needs to be a worksession beginning at 3:00 p.m. in the First Floor North Conference Room; (3) December 18, 2001, needs to be a formal meeting beginning at 5:00 p.m. in the Council Chamber; (4) December 25, 2001, meeting needs to be cancelled; and (5) January 1, 2002, meeting needs to be cancelled.

### **Donation for Douglas Ellington Collection**

Summary: The Asheville Art Museum has requested the donation of several items from City Hall for the Douglas Ellington collection.

Over the past several years, the Asheville Art Museum has become a major repository for Douglas Ellington's architectural drawings, correspondence and other materials from the City Hall Building. The museum is trying to preserve and document his work in Asheville as a major figure in the art culture arena. They are working closely with his family to preserve his work and his legacy. The museum is requesting that the City donate a chair from the Council Chamber as well as two pieces of terra cotta from the roof of the City Hall Building. (We have several pieces of terra cotta that they could have.) The City would be placing these objects with the Asheville Art Museum in trust for their Douglas Ellington collection.

Staff recommends that Council approve the donation of a chair from the Council Chamber and two pieces of terra cotta from the City Hall roof to the Asheville Art Museum.

### **Semi-Annual Update of the Regional Water Authority's Activities**

Summary: Update on Regional Water Authority's past six month's activities.

## **Parking Easement on Grove Street**

Summary: The consideration of a resolution authorizing City to enter into an easement for parking at the Senior Opportunity Center on Grove Street.

Earlier this year, the City agreed to sell certain property located at 36 Grove Street. The property is situated between the building currently occupied by the Employment Security Commission at 48 Grove Street and the building used by the City for the Senior Opportunity Center (SOC). The property is used for parking for both buildings and has some metered spaces on it. The buyers also own the 48 Grove Street building and intend to expand and renovate it, and acquired the City property for parking and access in connection with this expansion. This conveyance was subject to the City retaining an easement to allow for continued parking at the SOC.

The City has now negotiated that easement, which allows for the City to use the lot for parking for the SOC during non-business hours and on weekends, when it will not interfere with the use by the 48 Grove Street building, but also when its need by the SOC is highest. The easement is personal in nature, and terminates when the City ceases its use of the SOC. The parking spaces right next to the SOC were not part of the property conveyed and will continue to be available for daytime use by staff and visitors.

Adoption of the resolution authorizing the City to execute the easement.

Vice-Mayor Cloninger asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

## **UDO AMENDMENT REVIEWS**

### **Revision of Process for Review of Ancillary Use Requests in Residential Districts**

City Attorney Oast said that this Unified Development Ordinance amendment is being brought before City Council in order that staff may respond to questions Council may have prior to the public hearings, which are scheduled for Tuesday, November 27, 2001. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

Chief Planner Gerald Green said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to revise the process for the review of requests for ancillary uses in residential districts.

The Planning and Zoning Commission is recommending adoption of an amendment to the UDO revising the process for reviewing requests for ancillary uses in residential districts and changing the name of this provision. The change in the review process is proposed in response to concerns regarding the current process voiced by citizens and Council members. This issue was discussed at a Planning and Zoning Commission meeting, with the changes proposed in the ordinance amendment identified by the Commission. The following revisions are proposed by the proposed wording amendment:

- The name of the use will be changed from "Ancillary Non-Residential Uses" to "Ancillary Commercial Uses in Residential Districts"; and
- The Technical Review Committee will have the authority to send, at its discretion, requests that are controversial to the Planning and Zoning Commission for review and recommendation, following a public hearing. The recommendation of the Commission will be

forwarded with the request to City Council for final action. Currently all requests are sent directly to the City Council following TRC review.

The name change will clarify the types of uses permitted through this permitting process. By providing an opportunity for additional public input on controversial requests, the revised review process will provide time to resolve issues before requests are heard by City Council.

Staff has received no comments in opposition to the proposed revisions.

At their October 3, 2001, meeting, the Planning and Zoning Commission voted 7 to 0 to recommend approval of the proposed ordinance amendment. The Planning and Development staff also recommends approval of the amendment.

A brief discussion surrounded the name of the use. It was the consensus to change the name of the use to Ancillary Non-Residential Uses in Residential Districts.

A brief discussion occurred after Councilwoman Bellamy stated her concerns that this amendment does not address the problems regarding the number of spaces, buffering, traffic flow, etc. Mr. Green responded that the Planning & Zoning Commission realized that as this is a conditional use, Council would have the discretion to make requirements on a case by case basis as the need arose, rather than trying to find one, for instance, buffer, to fit all needs.

In response to Councilwoman Bellamy, City Attorney Oast said that we do encourage developers to meet with the surrounding neighborhood and business property owners, however, it would be difficult to require that without specifically designating the neighborhood representatives and the specific business property owners.

Councilman Peterson said that he plans to make a motion to delete the entire provision since we do have the process for conditional use rezoning. Mr. Green responded that this, however, does not require a zoning change.

Councilman Peterson stated that the difference between rezoning and this being a non-rezoning is the protest petition process which gives the nearby property owners that added protection that requires the approval by the super majority of Council. He asked if the ordinance could be amended to include provisions for a protest petition process with the same voting requirements. Mr. Green responded that the protest petition procedure is established by state statutes and very specifically applies only to rezonings, not to conditional use processes. City Attorney Oast also responded that in fact, with respect to conditional use permits, that the statute says that a simple majority vote is all that is required. If it is a rezoning, then the protest petition procedure would apply, but we couldn't incorporate into the ordinance a protest petition procedure applicable to a particular kind of conditional use permit.

### **Revision of Certain Development Standards in the Central Business District**

Chief Planner Gerald Green said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to revise certain development standards in the Central Business District.

The Planning and Zoning Commission is recommending adoption of an amendment to the UDO revising certain development standards in the Central Business District (CBD). The proposed revisions address issues that were identified during the process of extending the CBD zoning to areas adjacent to the current CBD. With these revisions, the creation of non-conforming uses will be avoided and continuation of the historic urban development pattern in the

CBD will be encouraged. The proposed revisions would make the following changes in the development standards in the CBD:

- Identify automobile sales as a conditional use in the CBD and establish standards for this use. The proposed standards include:
  - Minimum lot size of one acre;
  - In order to maintain an urban streetscape the number of automobiles that can be stored outside an enclosed building shall be limited to not more than 25% of the total offered for sale, or, alternately, the outdoor storage of automobiles for sale shall be screened by buildings occupying at least 75% of the street frontage of the property;
  - Prohibit outdoor storage of autos needing repair or, alternately, require autos needing repair to be screened from all public rights-of-way; and
  - New structures proposed within the Downtown Design Review Area must substantially comply with the Downtown Design Review Guidelines.
- Identify government buildings and uses as conditional uses and establish conditions for these buildings and uses. The proposed conditions include:
  - The proposed location of the building or use will not restrict the availability of key land for private development;
  - No alternative location for the building exists within areas previously developed for government buildings and/or uses; and
  - New structures proposed within the Downtown Design Review Area must substantially comply with the Downtown Design Review Guidelines.
- Clarifies the standard for a zero front setback and provides the Downtown Commission or the Planning and Development director with the authority to allow greater setbacks if certain conditions are met.

The proposed revisions are designed to strengthen the development pattern in the CBD while providing for some flexibility in the standards for development. The need for the revisions was identified by staff and the Planning and Zoning Commission while listening to comments from the property owners during the discussion of the extension of the CBD boundaries.

Staff has received no comments in opposition to the proposed revisions.

At their October 3, 2001, meeting, the Planning and Zoning Commission voted 7 to 0 to recommend approval of the proposed ordinance amendment. The Planning and Development staff also recommends approval of the amendment.

Councilwoman Field thought it might be a good idea for the Planning staff and Planning & Zoning Commission to review the Downtown Design Review Guidelines which are still in draft form after several years.

Vice-Mayor Cloninger asked that the record show that City Council has received this information and instructs the City Manager to proceed with the appropriate public hearings on November 27, 2001.

### **BUILDING CODE PILOT PROGRAM**

Director of Building Safety Terry Summey said that this is the consideration of a resolution acknowledging the City of Asheville as a participant in the pilot program for rehabilitating existing buildings in the City of Asheville and adopting the Pilot Code, currently being prepared by Mecklenburg County.

Mr. Summey said that North Carolina General Assembly approved Session Law 2001-373, Senate Bill 633 on August 17, 2001, which is an act to establish a building code pilot program for rehabilitating existing buildings. The pilot code is based upon the New Jersey Uniform Construction Code Rehabilitation Subcode, which has received national praise and attention.

In 1999 the State of New Jersey's Rehabilitation Subcode was a winner of the "Innovations In American Government Award, an award competition of the Ford Foundation, the John F. Kennedy School of Government at Harvard University and Council for Excellence in Government." Their prize of \$100,000 recognized their innovation and leadership of implementing a user friendly rehab code.

Benefits of the Rehabilitation Subcode in New Jersey included:

- Dramatic increase in the estimated dollar amount of rehabilitation work undertaken in New Jersey's urban areas during the first year that the rehabilitation subcode was in place.
- Takes a common sense approach and applies building code requirements to the rehabilitation of existing buildings in a rational manner, protecting the safety of building occupants without imposing needless requirements or unnecessary additional costs.
- Eliminate building code requirements as a disincentive to the rehabilitation of existing buildings

Senate Bill 633 authorizes a lead local jurisdiction in North Carolina to develop a pilot rehabilitation building code based upon the New Jersey Subcode. Substantive changes to the New Jersey model are not allowed. The pilot code may then be administered by local building inspection departments that have been approved by the Building Code Council to do local plan reviews. Asheville obtained local plan review approval in December 1997.

In order to participate in the pilot program, the eligible local jurisdiction's governing body must adopt the pilot code. Mecklenburg County, the lead local jurisdiction is currently in the process of finalizing the pilot code. It is anticipated the pilot code will be available for use before April, 2002.

Mr. Jim Bartl, Director of the Land Use and Environmental Services Agency Code Enforcement Department for Mecklenburg County, gave a brief summary of the 15-month effort to initiate the pilot rehab code for existing structures.

Mr. Summey recommended City Council approve the resolution acknowledging the City of Asheville as a participant in the pilot program for rehabilitating existing buildings and further recommends adopting the pilot code.

Vice-Mayor Cloninger asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

## **PARKS AND RECREATION SUMMER ACTIVITIES REPORT**

Recreation Division Superintendent Butch Kisiah highlighted activities and programs offered to the City of Asheville during the summer of 2001 (May – August).

Mr. Kisiah responded to Councilman Peterson regarding the City's summer employment for young people.

Councilman Peterson encouraged the City to participate more in education by possibly providing facilities for tutoring and mentoring.

Vice-Mayor Cloninger thanked Mr. Kisiah and the entire Parks and Recreation Department for the activities they offer.

## **ANNUAL COMMUNITY DEVELOPMENT BLOCK GRANT/HOME REPORT**

Councilman Peterson moved to excuse Councilwoman Bellamy from participating in this discussion. This motion was seconded by Councilman Worley and carried unanimously.

Ms. Charlotte Caplan, Community Development Director said that this is the review of information on the City's Consolidated Annual Performance and Evaluation Report.

The Community Development Division has submitted to HUD on September 28, 2001, its annual performance report on our Community Development Block Grant (CDBG) and HOME programs. The City spent a total of \$2,779,361 CDBG and HOME funds, leveraging at least \$11,543,000 in other funding. Key performance indicators are as follows:

- 424 units of housing production (367 with CDBG or HOME assistance and 57 through fee rebates and Housing Trust Fund assistance), comprising:
  - 20 owner-occupied houses completely rehabilitated
  - 157 rental units rehabilitated
  - 54 homes given urgent repairs
  - 40 new houses built and sold to first-time homebuyers
  - 6 other new homeowners received down-payment assistance
  - 100 new rental units built and leased
  - 47 households received rent assistance to avoid homelessness;
- 158 people helped with jobs or self-employment;
- 3500 people helped through other programs (housing counseling, homeless shelter youth activities, etc).

These figures greatly exceed the targets set in the Strategic Plan for 2000-2005 and represent a year of record achievement by the City and its many non-profit and for-profit partners.

Ms. Caplan answered various questions from Councilman Peterson with regard to the Report.

## **AMENDMENT TO COMMUNITY DEVELOPMENT BLOCK GRANT/HOME CONSOLIDATED PLAN**

Councilman Peterson moved to excuse Councilwoman Bellamy from participating in this discussion. This motion was seconded by Councilman Worley and carried unanimously.

Ms. Charlotte Caplan, Community Development Director said that this is the review of an amendment to the Community Development Block Grant (CDBG)/HOME Consolidated Plan.

The City's Consolidated Action Plan, approved in May each year, allocates our annual entitlement of CDBG and HOME funds to specific projects. From time to time, amendments are needed to deal with cancelled projects, cost over-runs, new urgent projects, or differences between actual and estimated program income. At this time, staff recommends the following amendments:

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## **HOME Funding**

The Board of the Asheville Regional Housing Consortium recommends the following amendments:

## **1. Cancellation of Neighborhood Housing Services' multi-family rehabilitation project.**

NHS used \$103,500 in 1998 HOME funds to rehabilitate 14 apartments in three buildings in the Montford and midtown neighborhoods. However, NHS did not have enough other funding to bring the units completely up to standard and has decided to sell the buildings "as is" as part of its financial restructuring. The tenants have been relocated with help from the City, and NHS is repaying the HOME investment as each building is sold. \$70,700 has already been repaid. These funds will be returned to the City's HOME Fund for future use on eligible activities.

## **2. Reduction in funding for Rankin Heights project.**

The construction of infrastructure for 17 new single family homes on Buttonwood Court in West Asheville was completed in 1999, slightly under budget. \$4,469 is available to be re-allocated.

## **3. Reduction in funding for HOME Administration.**

Up to 10% of HOME funds may be set aside for the planning and administration of the program. The City of Asheville and the other Member Governments of the Regional Housing Consortium have consistently used only 6%-7% for this purpose. The Board recommends reducing the administrative allocation for 2001 by \$43,000 and allocating that amount to projects instead.

## **4. New HOME loan to Mountain Housing Opportunities to acquire land in Woodfin ( \$118,169)**

Mountain Housing Opportunities plans to acquire a 9-acre site on Reynolds Mountain Blvd, off Weaverville Highway in Woodfin, for the construction of 70 affordable family apartments to be called Northpoint Commons. MHO currently holds an option on the site which is about to expire. It proposes to use HOME funds and private financing to acquire the site for a total price of \$405,000. MHO intends to apply for Low Income Housing Tax Credits in the 2002 round and start construction in fall 2002.

## **5. Cancellation of Probart Hills Subdivision Project in Brevard and Reallocation of unexpended funds to scattered site development.**

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