

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor Terry M. Bellamy; Councilman Joseph C. Dunn; Councilman James E. Ellis; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; and Councilman Brian L. Peterson; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Mayor Worley gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE MONTH OF APRIL, 2002, AS “CHILD ABUSE PREVENTION MONTH”

Vice-Mayor Bellamy read the proclamation proclaiming April, 2002, as "Child Abuse Prevention Month" in the City of Asheville. She presented the proclamation to Bill McGuire, director of the WNC Child Advocacy Center, who briefed City Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING THE MONTH OF APRIL, 2002, AS “PARKINSON'S DISEASE AWARENESS MONTH”

Mayor Worley read the proclamation proclaiming April, 2002, as "Parkinson's Disease Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Tom Fitzpatrick, President of the Parkinson Support Group of Asheville, who briefed City Council on some activities taking place during the month.

C. RESOLUTION NO. 02-52 – RESOLUTION OF CONCERN REGARDING STATE BUDGET

Councilman Mumpower read the following resolution: “The City of Asheville relies heavily on annual state reimbursements to fund critical services for our citizens. The Governor of the State of North Carolina has withheld local reimbursements for inventory and intangibles taxes, homestead exemptions, and utility franchise taxes as a means to balancing the state budget. This action was initiated without warning or proper sensitivity to the budgetary impact on the City of Asheville. The withheld amount of \$2.7 million is locally generated revenue that is being utilized to address a revenue shortfall in the state budget. This action has served to further erode the trust between the citizens of Asheville and the leadership of the State of North Carolina. The leadership of the State of North Carolina holds a trusted position intended to serve as a model of good stewardship, responsible and predictable action, and accountability. These actions are shifting a burden to our City that may result in reductions of service, and the imposition of additional tax burdens that are ultimately servicing the budget of the State of North Carolina, the effect of which is to require local governments to impose taxes to solve the State's budget crisis.

This is the third time in 10 years that reimbursements have been withheld from Asheville and other cities and counties in North Carolina, all leading to inability of local governments to reliably budget. Now, therefore, be it resolved by the City Council of the City of Asheville that we express strong concern to the Governor of the State of North Carolina regarding these actions. We hereby request release of funds withheld for fiscal 2001-2002 and further seek legislative action

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to assure that the reimbursement revenues or replacement revenues will be reliably available to local governments in the 2002 - 2003 fiscal year.”

All Council members spoke in support of the resolution and thanked Councilman Mumpower and Councilwoman Jones for taking the initiative to draft the resolution.

Upon inquiry of Councilman Mumpower, Mayor Worley said that the resolution would be distributed as widely as possible, but in particular to the Metro Coalition, our local delegation in Raleigh, the North Carolina City and County Managers Association, and the N. C. League of Municipalities.

Councilman Mumpower moved for the adoption of Resolution No. 02-52. This motion was seconded by Councilwoman Jones and carried unanimously.

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II. CONSENT:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 26, 2002, AND THE WORKSESSION HELD ON APRIL 2, 2002**
- B. RESOLUTION NO. 02-53 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID FROM ROBERT CAMILLE JR., PETER ALBERICE AND ROBERT TODD TO PURCHASE THE AIR RIGHTS TO THE PARKING LOT ON SOUTH LEXINGTON AVENUE AT THE REAR OF 9-13 BILTMORE AVENUE**

Summary: The consideration of authorizing the Mayor to convey air rights to parking lot on South Lexington Avenue at rear of 9 - 13 Biltmore Avenue to Centrino, LLC.

On March 26, 2002, the City Council of the City of Asheville directed the City Clerk to advertise for upset bids regarding an offer to purchase the air rights to the parking lot on South Lexington at the rear of 9 - 13 Biltmore Avenue (PIN No. 9649.18-40-1091) for the sum of \$67,500. The notice ran in the Asheville Citizen-Times on March 29, 2002, as provided in N. C. Gen. Stat. sec. 160A-269. No upset bids were received in response to said advertisement.

Planning Department staff recommends adoption of the resolution to authorize the sale of the property to Centrino, LLC, for the amount of \$67,500.

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- C. RESOLUTION NO. 02-54 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE PROPERTY AT 17 KENDALL STREET**

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer to purchase property at 17 Kendall Street in the West Asheville community.

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A bid has been received from Neighborhood Housing Services of Asheville in the amount of \$10,000 for the purchase of land at 17 Kendall Street in the West Asheville Community.

The land at 17 Kendall Street is a rectangular shaped residential zoned lot comprising 0.11 acre±. It is level at street grade and slopes down from front to rear. The property was

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acquired at a tax foreclosure sale in 2000 to recover on a demolition lien and has been available for sale since that time. The property was acquired at the tax foreclosure sale for the amount of \$3,700.00. Of that amount \$634.13 was remitted back to the City for the City's share of delinquent taxes. The amount of the demolition lien which included asbestos removal and removal of abandoned furniture was \$7,842.44 bringing the City's total cost related to the property to \$10,908.31. The previous tax value was \$4,700. The bid from Neighborhood Housing Services in the amount of \$10,000 includes a request for short term financing of \$9,500 of the purchase price and the proposal to construct an affordable house on the property for sale. The purchase money loan would be due on sale of the completed structure. Staff recommends that if the bid is accepted the following terms be added: (1) the loan be due on sale or within 24 months of closing whichever comes first, (2) the loan bear interest at the rate of 2% per annum. The proposed construction is consistent with the policy of encouraging infill development.

The current tax appraisal on the subject parcel is \$14,300 (\$2.98 per square foot). That amount is almost triple the previous tax appraisal and more than double the per square foot price of recent appraisals of comparable parcels on Choctaw Street (0.22 ac. each @ \$11,800 or \$1.23 per square foot) which were twice as large, but clearly more buildable. The upset bid process will provide the opportunity for the market to produce the true value of the property.

Planning & Development staff recommends adoption of the resolution, which will initiate the sale of the property through the upset bid process.

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D. RESOLUTION NO. 02-55 - RESOLUTION SCHEDULING A CITY COUNCIL COMMUNITY MEETING ON TUESDAY, APRIL 30, 2002, AT 7:00 P.M. IN THE NORTH ASHEVILLE COMMUNITY CENTER, 37 E. LARCHMONT ROAD, ASHEVILLE, N.C.

RESOLUTION BOOK NO. 27 – PAGE 99

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

III. PUBLIC HEARINGS:

A. PUBLIC HEARING ON THE CONSOLIDATED COMMUNITY DEVELOPMENT BLOCK GRANT/HOME ACTION PLAN

Councilman Peterson moved to excuse Vice-Mayor Bellamy from participating in this issue due to a conflict of interest. This motion was seconded by Councilwoman Jones and carried unanimously.

Mayor Worley opened the public hearing at 5:21 p.m.

Community Development Director Charlotte Caplan said that this is the consideration of a resolution authorizing submission of the City's Consolidated Action Plan for 2002/03, allocating federal Community Development Block Grant (CDBG) and HOME funds. This public hearing was advertised on March 29, 2002.

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The City expects to have available \$1,902,224 in CDBG funds and \$1,506,326 in HOME funds to allocate for housing and community development activities in the fiscal year beginning July 1, 2002. The City's Housing and Community Development Committee and the Asheville Regional Housing Consortium have made recommendations for allocating these funds to 21 CDBG-assisted and 13-HOME assisted projects.

If approved, the funding will assist in adding or preserving 92 affordable housing units in the City and 109 units in the rest of the Consortium area. CDBG funds will also help provide 150 Asheville residents with employment or business training and over 3,000 residents with other needed services. CDBG will also continue to support revitalization of the WECAN and South Pack Square neighborhoods.

Notice of the public hearing and a summary of the draft plan were published on March 22. A 30-day public comment period is required by federal regulations. The final plan must be submitted to HUD by May 15, 2001.

Mr. James Judd, City resident, hoped that the HOME funds to Mountain Housing Opportunities would help meet some of the community goals with Ross Creek Commons.

Mayor Worley closed the public hearing at 5:37 p.m.

Mayor Worley said that the resolution to adopt the Consolidated Action Plan will be considered at Council's April 23, 2002, meeting.

B. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO INCREASE THE THRESHOLD FOR LEVEL I ADMINISTRATIVE REVIEW OF RESIDENTIAL PROJECTS FROM 7 TO 50 UNITS

ORDINANCE NO. 2911 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO INCREASE THE THRESHOLD FOR LEVEL I ADMINISTRATIVE REVIEW OF RESIDENTIAL PROJECTS FROM 7 TO 50 UNITS

Mayor Worley opened the public hearing at 5:38 p.m.

Urban Planner Carter Pettibone said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to increase the threshold for Level I administrative review of residential projects from 7 units to 50 units. This public hearing was advertised on March 29 and April 5, 2002.

Currently, by-right residential development projects containing 8 to 50 units are required to be reviewed by the Technical Review Committee (TRC), while residential developments containing three to seven units are reviewed administratively as Level I projects. This amendment would increase the Level I threshold to include these projects containing up to 50 units.

This ordinance amendment will help streamline the review process for smaller residential developments by removing the requirement for these projects to go before the TRC. These projects would still be reviewed by all applicable city departments but only administratively. Applicants would also not have to wait until the submission deadline since Level I projects may be submitted anytime.

The ordinance amendment would also provide for a more equitable treatment of smaller residential projects as compared to commercial, office, or institutional uses at the current

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threshold levels for Level II review in terms of traffic impact. The current residential minimum of 8 units for Level II review generates about 53 trips per day while the minimum levels of commercial, office, and institutional generate 385 to 3,903 trips per day.

Staff believes this ordinance amendment provides a more streamlined and equitable alternative for review of smaller residential projects. There is an estimated timesaving for a developer of 2-5 weeks. This will only apply to by-right residential development projects that have appropriate zoning in place and subdivision will still go to the TRC.

At their March 6, 2002, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the proposed ordinance amendment. The Planning and Development staff also recommends approval of the amendment.

Councilman Peterson said that presently when a project from between 8-50 units is being considered, the developer has to go through the TRC with a notice being sent out to adjoining property owners within 400 feet of the property and also a sign posted on the property. With this proposed amendment, he was concerned that adjoining property owners will not know when a project of 8-50 units is being proposed near their property because no notices are sent out to advise people of the TRC meeting. If these projects are going to be handled administrative, there is no opportunity for public comment or questions.

Upon inquiry of Vice-Mayor Bellamy, Mr. Pettibone said that Planning staff is looking at enlarging the signs posted on the property. He also noted that the public still has an opportunity to bring up concerns after they see the signage posted on the property.

Planning & Development Director Scott Shuford stressed that these projects will still be reviewed by all the applicable departments and still have to meet all standards.

The following individuals spoke against the proposed amendment for several reasons, some being, but are not limited to: the neighboring properties should be notified because only people in the neighborhood can provide valuable information regarding infrastructure, etc.; no notification will further distance the community from having input on what is happening in their neighborhoods; this amendment will cause more contention between developers and neighborhoods; a 50 unit development would have an impact on neighboring properties and they should be notified; neighborhoods have a lot of knowledge and not notifying them of a meeting eliminates their ability to voice their concerns; this amendment is an attempt by City officials to silence neighbors and keep them in the dark; if the project is good the development will go through so don't cut the citizens out of the process; surrounding neighbors should be involved as decisions are being made by developers for projects; residents need to have oversight on these projects; citizens want to have input into politics; neighborhoods need to be involved at the early stages; and staff shouldn't look at public comment as bothersome:

Ms. Barber Melton, Haw Creek resident and President of the Coalition of Asheville
Neighborhoods
Ms. Jean Penland, City resident
Mr. Andrew Brown, City resident
Mr. James Judd, City resident
Ms. Patty Robertson
Ms. Terri Finch, Chunns Cove resident

Ms. Carol Collins, City resident
Mr. Jeff Burleson, property owner in Chunns Cove
Mr. Carl Nyberg, Kenilworth resident
Mr. Dick Washam, Chunns Cove resident
Ms. Rebecca Campbell, West Asheville resident
Mr. Mark Legard, City resident

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

Mr. Shuford stressed that Planning staff does value public input. However, public input at the TRC meeting is often frustrating in that if the project meets all the technical review standards, the TRC should approve the project whether the neighborhood thinks it's a good project or not. At the TRC meeting, residents talk about a variety of things that are not technical issues. Planning staff will work on the signage that will provide notification of these type projects and as a part of the review process, residents can either call or visit the Planning Office to give input.

Councilman Peterson was opposed to the ordinance amendment and suggested a compromise to raise the threshold from 7 units to 12 or 15 units because 50 units are too many to net let people know what is going to be developed in their neighborhood. He felt that by having somewhat of a public process, the City would get a better development. He felt that people who live in the area have knowledge about issues that City staff might not be aware of.

Upon inquiry of Councilwoman Jones, Mr. Shuford said that his Chief Planner noted that he didn't recall a single case where there has been a change to the TRC's decision with regard to what the public brought up at the TRC meeting and it applying to the technical standards.

There was discussion with regard to public input from citizens at the TRC level and the most effective and efficient way to notify them when projects are being considered.

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

Councilman Ellis moved for the adoption of Ordinance No. 2911. This motion was seconded by Councilman Dunn and carried on a 6-1 vote with Councilman Peterson voting "no".

ORDINANCE BOOK NO. 19 – PAGE 460

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At 6:55 p.m., Mayor Worley announced a short break.

C. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO IDENTIFY LOT SIZE, LOT WIDTH, OFF-STREET PARKING, AND LANDSCAPING AS CATEGORIES FOR MODIFICATION BY DESIGN REVIEW BOARDS USING FLEXIBLE DEVELOPMENT STANDARDS AND TO IDENTIFY ALTERNATIVE LANDSCAPE COMPLIANCE AS A FLEXIBLE DEVELOPMENT STANDARD

ORDINANCE NO. 2912 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO IDENTIFY LOT SIZE, LOT WIDTH, OFF-STREET PARKING, AND LANDSCAPING AS CATEGORIES FOR MODIFICATION BY DESIGN REVIEW BOARDS USING FLEXIBLE DEVELOPMENT STANDARDS AND TO IDENTIFY ALTERNATIVE LANDSCAPE COMPLIANCE AS A FLEXIBLE DEVELOPMENT STANDARD

Mayor Worley opened the public hearing at 7:12 p.m.

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Chief Planner Gerald Green said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to identify lot size, lot width, off-street parking, and landscaping as categories for modification by design review boards using flexible development standards and to identify alternative landscape compliance as a flexible development standard. This public hearing was advertised on March 29 and April 5, 2002.

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Flexible development standards allow minor modifications to be approved administratively or as part of the standard review process rather than requiring a separate hearing by the Board of Adjustment to grant a variance. This procedure streamlines and simplifies the review process for all involved. Currently, design review boards are authorized to modify structure floor area and

height and setbacks when structures or lots subject to design review are found to comply with the applicable design guidelines. The proposed ordinance amendment identifies two new dimensional categories, lot area and lot width, as well as off-street parking and landscaping, for the application of flexible development standards. In addition, the proposed amendment identifies alternative landscape compliance as a flexible development standard. Alternative landscape compliance is a tool that has been in place for almost 5 years. This change will not result in any change in the tool; it will only bring it under the umbrella of flexible development standards, possibly resulting in increased use of the tool.

This ordinance amendment encourages infill development that follows historic development patterns within the design review areas of Montford, Biltmore Village, Albemarle Park, Downtown Asheville, and the River District. This flexibility will allow development on lots that do not conform to the UDO standards, helping to implement the City's smart growth policies. The revision should also result in increased use of the alternative landscape compliance tool.

Staff believes that this ordinance provides needed flexibility to evaluate and approve reasonable adjustments to lot dimensions, off-street parking and landscape requirements.

At their March 6, 2002, 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.

Upon inquiry of Ms. Hazel Fobes, Mr. Green explained the makeup of the River District Design Review Committee, the Downtown Commission and the Asheville-Buncombe Historic Resources Commission.

Mr. James Judd, resident on Rollingwood, voiced his concerns on alternative landscape compliance. He also felt there was an oversight in the ordinance because it states that only the developer can appeal.

Mr. Green responded to Mr. Judd's concerns and said that he will review the ordinance to see if there is an error with regard to only the developer having the right to appeal, and will correct it accordingly.

Councilman Dunn hoped that the City and private landscape architects would work out a compromise if disagreements occur.

Mayor Worley closed the public hearing at 7:30 p.m.

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

Councilman Dunn moved for the adoption of Ordinance No. 2912. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

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IV. UNFINISHED BUSINESS:

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A. RESOLUTION NO. 02-56 – RESOLUTION RECEIVING REPORT ON SUBCOMMITTEE ON CAMPAIGN FINANCE CHANGES

Councilman Peterson thanked Vice-Mayor Bellamy and Councilman Mumpower for working with him on the Council Subcommittee on Campaign Finance Changes. He said that he has amended the following report to be consistent with Council discussion on April 2, 2002: The Subcommittee recommends that City Council explore options to improve campaigns for Council and Mayor by appointing a Citizen Study Committee for Campaign Finance Reform. The Subcommittee members believe that recommendations to improve local campaigns should come from Asheville citizens and not from individual members of Council or from City staff. The Subcommittee further recommends that consideration of changes in the process for conducting City elections be postponed until a later time.

Make-Up of the Citizens Study Committee – To begin the process, the Subcommittee recommends that Council appoint a Citizen Study Committee ("Committee") composed of seven voting members. Each member of Council and the Mayor shall nominate one individual to serve on the Committee.

Operations of the Citizens Study Committee – The operations of the Committee shall be left to the members of the Committee. The Committee members should elect a Chair, Secretary, and other positions (i.e. facilitator, parliamentarian) as they

see necessary. The City shall provide limited clerical assistance such as mailing notices and copying material that the Committee may require. The City Attorney's office shall provide legal or other administrative support. As this is an official City Committee, it will be subject to the Open Meetings Law. The City shall provide adequate meeting space for the Committee to conduct their meetings. The meeting space should be at a location that is accessible to the public. The Subcommittee encourages the Committee to establish, if possible, a regularly scheduled meeting time and place. The Subcommittee recommends that the Committee allow reasonable public comment at each of their meetings. The Subcommittee will be available to the Committee should they need any additional guidance or assistance with process or administrative issues.

Goals for the Citizens Study Committee – The Subcommittee recommends that we ask the Committee to provide Council with a written Final Report within 120 days of their appointment. This time-line may be extended by the Subcommittee upon request of the Committee. Following the submission of their written report, the Committee should make a presentation to City Council of their recommendations. The Subcommittee recommends that the Final Report include (1) possible options to improve the financing of city elections; (2) the Committee's recommendations and rationale as to the best option or options; (3) steps to implement their recommendations; and (4) relevant research material they gathered. The Subcommittee recommends that the Committee research the following specific issues: (1) What ordinance or campaign limits would be permitted under current North Carolina law; (2) What have other cities (in North Carolina and in other states) done to address the problems of campaign finance reform; (3) What Constitutional limits would the City face; and (4) What federal regulations would the City face. The Subcommittee recommends that the Committee consider the following possible campaign finance changes: (1) public funding for local campaigns (A) what threshold should there be to qualify for public funding (i) funding candidates in the primary; (ii) funding only candidates in the general; (B) how much to fund candidate; (C) how much could it cost; and (D) how could it be funded; (2) voluntary spending limits (A) what should the limits be; and (B) how to enforce the limits; (3) voluntary limits on contributions (A) what should the limits be; and (B) how to enforce the limits; (4) ways to reduce campaign spending and improve voter education (A) better coverage by media outlets; (B) free coverage by media outlets; (C) coverage by the Government Channel; and (D) other means to reduce campaign costs; (5) increased reporting requirement of contributions; (6) non-public funding options; (7) the role of the political action committees (PACs); (8) filing fee costs; and (9) any additional options.

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Councilman Peterson moved to adopt Resolution No. 02-56 receiving the report of the Council Subcommittee on Campaign Finance Changes. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

For the Citizen Study Committee, Councilman Peterson nominated Wanda Adams; Councilman Mumpower nominated Kent Wolff; Vice-Mayor Bellamy nominated Rod Whiteside; Councilwoman Jones nominated Marie Colton; Councilman Dunn nominated Christina McCormick; Councilman Ellis nominated Max Haner and Mayor Worley nominated Lou Bisette.

RESOLUTION BOOK NO. 27 – PAGE 100

V. NEW BUSINESS:

- A. RESOLUTIONS OF INTENT TO ANNEX THE LEICESTER HIGHWAY AREA, SHERWOOD HEIGHTS AREA, HUNTINGTON CHASE AREA, BELL ROAD AREA, FOREST LAKE AREA, MILL STONE AREA AND KENSINGTON-WINDSOR AREA AND SETTING A PUBLIC INFORMATION MEETING ON JUNE 3, 2002, IN THE PUBLIC WORKS BUILDING LOCATED AT 161 S. CHARLOTTE STREET, AT 5:30 P.M., AND SETTING CITY COUNCIL PUBLIC HEARINGS ON JUNE 11, 2002, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING AT 5:00 P.M.**

Mr. Paul Benson, Urban Planner, said that the State of North Carolina enables cities to grow by annexation, and provides incentives in the form of various shared revenues tied to population and street mileage.

This state legislation is based on the proposition that strong cities are the basis of a strong state economy and essential to the continued economic development of the state, and that cities are the best units of government to meet the needs of urban areas. The state's intent is often summed up as "what is urban should be municipal."

In a growing urban area, annexation becomes an equity issue. This stems from the fact that the true "City of Asheville" (like most cities) is always growing and at any given time is larger than the area in the current city limits. North Carolina state law recognizes that the cities need to expand their boundaries to include this growth so that we don't end up in a situation where an increasingly relatively smaller number of citizens are financing the urban infrastructure used by a much larger population. The fact is that people living in close proximity to cities benefit from the cities, and state annexation law is designed to include these people in the costs and benefits of governing and servicing the City.

The City of Asheville has initiated annexations for the past two years – six areas in 2001 and five areas in 2002. These recent annexations, like the ones being presented are designed to include: areas that are clearly urban, areas surrounded by the City but not within the City of Asheville and can only be accessed through the City; areas that will create a more logical City boundary; and areas with at least some existing water and sewer service.

Mr. Benson reviewed with Council the past two year annexations which showed annual revenue, annual expenditures and capital costs for each of the areas. In the past two years, ten areas have been annexed (two are pending court decisions). In total, the estimated annual revenue from these areas is \$2,199,869, with estimated annual costs of \$281,987.

The following steps and dates meet the process required by State law:

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Adoption of Resolutions of Intent	April 9, 2002
Adoption of Plans of Services	April 23, 2002
Public Informational Meeting	June 3, 2002
Public Hearings	June 11, 2002
Adoption of Annexation Ordinances	June 25, 2002
Effective Date of Annexations	June 30, 2003

Mr. Benson under State law the City must follow a specific process for annexation that begins with the adoption of resolutions that describe the boundaries of the areas under consideration, and fix dates for a public informational meeting and a public hearing on the question of annexation. State law does allow simultaneous annexation of multiple non-adjacent areas. He passed out a chart of "Growth of Largest (at 2000 Census) Municipalities from April 1990 to April 2000."

Mr. Benson stated that the resolutions of intent state that (1) it is the intent of the City Council of the City of Asheville to consider annexation of the territory described in the resolution pursuant to Part 3 of Article 4A of Chapter 160A of the North Carolina General Statutes; (2) a public informational meeting on the question of annexing the above-described territory will be held in the Public Works Building located at 161 S. Charlotte Street, Asheville, N.C., at 5:30 p.m. on the 3rd day of June , 2002, at which time a representative of the City of Asheville shall make an explanation of plans for extending services to said territory and all residents and property owners in said territory and all residents of the City of Asheville will be given the opportunity to ask questions and receive answers regarding the proposed annexation; (3) a public hearing on the question of annexing the above-described territory will be held in the Council Chamber located on the 2nd Floor of the City Hall Building, 70 Court Plaza, Asheville, N.C., at 5:00 p.m. on the 11th day of June, 2002, at which time a representative of the City of Asheville will make an explanation of plans for extending Services to said territory and all residents and property owners in said territory and all residents of the City of Asheville will be given an opportunity to be heard; (4) a report of plans for extending services to the above-described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting; (5) the statement of financial impact contained in the report shall be delivered to the Buncombe County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting; (6) a legible map of the area to be annexed and a list of identified persons holding freehold interests in property in the area to be annexed shall be posted in the office of the City Clerk, Asheville City Building, 70 Court Plaza, Asheville, North Carolina, at least thirty (30) days prior to the date of the public informational meeting; (7) the effective date of annexation shall be at least one year, but no more than 400 days, from the date of passage of the annexation ordinance; and (8) notice of the public informational meeting and public hearing shall be given as required by law.

City staff has identified the following seven areas with the potential for being annexed:

Leicester Highway – This is a one-mile corridor along Leicester Highway. This has 68 lots, is 64 acres, and has an estimated population of 113. It has a mixture of commercial and residential development and provides a more rational City boundary. Current boundary excludes a pocket on east side of the highway. There is a one-time capital cost of \$160,000 for improvements in fire protection water service.

Sherwood Heights – This is a subdivision in North Asheville. This is the only pocket of development out of the City in this area and their only access is through the City of Asheville. This has 50 lots, is 97 acres and a population of 73.

Huntington Chase – This is a new subdivision in Haw Creek and forms isolated pocket out of the City. Their only access is through the City of Asheville. This has 41 lots, is 63 acres

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and a population of 68. There is a one-time capital cost of \$105,000 for some sewer and fire protection water service improvements, which are planned.

Bell Road – This is a section of Bell Road between two existing sections of the City in Haw Creek. There is currently a service delivery problem. This has 14 lots, 22 acres and a population of 32. There is a one-time capital cost of \$116,000 for fire protection water service improvements, which are planned.

Forest Lake – This is a large subdivision in South Asheville off of Sweeten Creek Road. Its access is only through the City. This has 128 lots, is 53 acres and a population of 250.

Mill Stone – This is a subdivision off Round Top Road and is in a corner formed by the City limits. This has a population of 51. There is a one-time capital cost of \$30,000 for some sewer improvements, which are planned.

Kensington-Windsor – This is a large residential area off Sweeten Creek Road and Mills Gap Road. It includes two apartment complexes (Kensington Place and Pine Ridge Apartments) and the Windsor Park Subdivision. This has 30 lots, is 67 acres and has a population of 500.

Under State law the City must follow a specific process for annexation that begins with the adoption of resolutions that describe the boundaries of the areas under consideration, and fix dates for a public informational meeting and a public hearing on the question of annexation. State law does allow simultaneous annexation of multiple non-adjacent areas.

City staff recommends that the seven Resolutions of Intent be adopted. They have been working on these areas since last fall and City staff feels they can handle these annexations with existing staff and equipment.

Upon inquiry of Councilman Mumpower, Mr. Benson said that as to the level of service, state law requires the City provide the same level of service that we provide to people living within in the existing City limits. He felt that there are no areas bordering the City of Asheville that have the same level of service, but recognized there are areas that probably have all the services that people there require.

Upon inquiry of Councilman Dunn, Mayor Worley stressed that City Council will make the determination on whether to annex all or some of these areas on June 25, 2002. Adoption of the resolutions of intent will direct City staff to start gathering specific information and start the process to involve the public.

The following individuals spoke against annexation for several reasons, some being, but are not limited to: the City needs to maintain what they already have; the City shouldn't annex if neighborhoods currently have all their needs met; has the City ever not annexed even if the area met the technical requirements; the City has nothing to offer Forest Lake Subdivision residents; don't annex because the City needs more money; affordable housing is needed; annexation will place a severe burden on residents when people are struggling to make ends meet; there should be better ways for the City to make money than to annex especially when areas are not getting any services; and now is not the City for the City to consider annexing, especially after the County has just completed their re-evaluation of property and we are still in a serious economic downturn:

Mr. Fred English, City resident
Ms. Nancy Williams
Mr. Dennis Seeney, Forest Lake resident

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Mr. Barry Siegle, Manager of KP Investments which is the owner of Kensington Place
Apartments
Mr. Mark Rusko, President of the Huntington-Chase Homeowners Association

Councilman Peterson spoke in support of annexation noting that the effective date will not take effect until June 30 of next year and taxes won't be due until the end of that year. He noted that County residents do enjoy City amenities. He did say that he would visit all the areas proposed for annexation to see if they meet the qualification of an urbanized area.

Councilman Mumpower didn't like the concept of annexation and felt it was forced participation. However, he perceived annexation as a necessary evil. He felt that if the City is not growing, it's dying. He felt the City is annexing mostly pockets around the City and they are being very selective and strategic about their choices. He doesn't favor annexation, however he has come to understand the factors and the scale tips more toward annexation than against it.

Councilman Dunn felt that he would be in a better position regarding his stance on annexation after the budget process is over.

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

RESOLUTION NO. 02-57 - RESOLUTION OF INTENT TO ANNEX THE LEICESTER HIGHWAY AREA, SETTING A PUBLIC INFORMATION MEETING ON JUNE 3, 2002, IN THE PUBLIC WORKS BUILDING LOCATED AT 161 S. CHARLOTTE STREET, AT 5:30 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 11, 2002, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING AT 5:00 P.M.

Councilman Mumpower moved for the adoption of Resolution No. 02-57. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 105

RESOLUTION NO. 02-58 - RESOLUTION OF INTENT TO ANNEX THE SHERWOOD HEIGHTS AREA, SETTING A PUBLIC INFORMATION MEETING ON JUNE 3, 2002, IN THE PUBLIC WORKS BUILDING LOCATED AT 161 S. CHARLOTTE STREET, AT 5:30 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 11, 2002, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING AT 5:00 P.M.

Councilman Peterson moved for the adoption of Resolution No. 02-58. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

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RESOLUTION NO. 02-59 - RESOLUTION OF INTENT TO ANNEX THE HUNTINGTON CHASE AREA, SETTING A PUBLIC INFORMATION MEETING ON JUNE 3, 2002, IN THE PUBLIC WORKS BUILDING LOCATED AT 161 S. CHARLOTTE STREET, AT 5:30 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 11, 2002, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING AT 5:00 P.M.

Councilwoman Jones moved for the adoption of Resolution No. 02-59. This motion was seconded by Councilman Ellis and carried unanimously.

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RESOLUTION BOOK NO. 27 – PAGE 113

RESOLUTION NO. 02-60 - RESOLUTION OF INTENT TO ANNEX THE BELL ROAD AREA, SETTING A PUBLIC INFORMATION MEETING ON JUNE 3, 2002, IN THE PUBLIC WORKS BUILDING LOCATED AT 161 S. CHARLOTTE STREET, AT 5:30 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 11, 2002, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING AT 5:00 P.M.

Vice-Mayor Bellamy moved for the adoption of Resolution No. 02-60. This motion was seconded by Councilwoman Jones and carried unanimously.

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RESOLUTION NO. 02-61 - RESOLUTION OF INTENT TO ANNEX THE FOREST LAKE AREA, SETTING A PUBLIC INFORMATION MEETING ON JUNE 3, 2002, IN THE PUBLIC WORKS BUILDING LOCATED AT 161 S. CHARLOTTE STREET, AT 5:30 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 11, 2002, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING AT 5:00 P.M.

Councilman Ellis moved for the adoption of Resolution No. 02-61. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 121

RESOLUTION NO. 02-62 - RESOLUTION OF INTENT TO ANNEX THE MILL STONE AREA, SETTING A PUBLIC

INFORMATION MEETING ON JUNE 3, 2002, IN THE PUBLIC WORKS BUILDING LOCATED AT 161 S. CHARLOTTE STREET, AT 5:30 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 11, 2002, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING AT 5:00 P.M.

Councilman Peterson moved for the adoption of Resolution No. 02-62. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 125

RESOLUTION NO. 02-63 - RESOLUTION OF INTENT TO ANNEX THE KENSINGTON-WINDSOR AREA, SETTING A PUBLIC INFORMATION MEETING ON JUNE 3, 2002, IN THE PUBLIC WORKS BUILDING LOCATED AT 161 S. CHARLOTTE STREET, AT 5:30 P.M., AND SETTING A CITY COUNCIL PUBLIC HEARING ON JUNE 11, 2002, IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF THE CITY HALL BUILDING AT 5:00 P.M.

Councilman Ellis moved for the adoption of Resolution No. 02-63. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 129

B. RESOLUTION NO. 02-64 - RESOLUTION IDENTIFYING THE AREA DESCRIBED HEREIN AS BEING UNDER CONSIDERATION FOR ANNEXATION

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Urban Planner Paul Benson said that this is the consideration of a Resolution of Consideration identifying areas with potential for future annexation.

State law provides that a Resolution of Consideration may be adopted by cities as a preliminary step in the annexation process. While not required, the Resolution of Consideration serves the purpose of providing citizens with advance notice that certain areas in proximity to the city may, within the reasonably near future, be subject to annexation. After being in effect for a least 1 year, the Resolution of Consideration also has the benefit of reducing the time period required between adoption of the annexation ordinance and the effective date of that ordinance from a minimum of 1 year to a minimum of 40 days. The Resolution of Consideration is effective for 2 years.

The map staff has prepared in connection with the Resolution of Consideration basically includes areas with the potential for urbanization, such as the areas along major thoroughfares, areas within the City's existing extraterritorial jurisdiction, areas with existing infrastructure or areas where utility extensions are feasible, such as areas that are within drainage basins with existing sewer service, and other areas with potential for urban development. The map includes many areas that may not experience urban development in the near future, because the boundaries are drawn to be expansive enough so that any possible near term (1-5 years), annexation areas will be within the boundaries.

City staff recommends that the Resolution of Consideration be adopted.

Councilman Mumpower supported the concept of giving people advance notice. However, he felt that even though with the Resolution of Consideration on file and Council could make the annexation effective within the window of 70-400 days after adoption of the annexation ordinance, there should be at least a one year effective date after the annexation ordinance is adopted.

Councilman Peterson felt perhaps the ordinance should take effect after six months especially since making the effective date at the beginning of a new fiscal year makes budgeting more predictable.

Councilman Dunn asked what kinds of options were available to major employers if the City annexes them and that step forces them to go out of business. Mr. Benson said that the only thing he was aware of was that the City has some economic development incentives that may be used to mitigate the tax burden for a period of time. However, if that is a major concern, then City Council always have the discretion to exclude that industry, provided the City still meet the other standards.

Upon inquiry of Mr. Doug Birch, Mr. Benson said that if the City successfully annexes the entire boundary of this Resolution of Consideration it would be adding approximately 60 square miles to the current City, which is presently 40 square miles now.

Mayor Worley called for a short recess.

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

Councilman Mumpower moved to adopt the Resolution of Consideration with the addition that in the name of consistency we do not make the annexation ordinances effective until at least one year after adoption of the ordinance.

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City Attorney Oast said that he didn't think that addition was appropriate for inclusion in the Resolution of Consideration. He felt Council's views have been made very clear and when the time comes when Council is considering annexation of other areas, then if Council then wants to implement that additional delay, that would be the appropriate time to include that language.

Councilman Mumpower didn't feel comfortable in moving for adoption of the Resolution of Consideration without the delayed effective date language and therefore withdrew his motion.

Planning & Development Director Shuford explained how every annexation is different and perhaps separate guidelines could be drawn up to follow the longer schedule. He hoped City Council would not tie their hands because some exceptional event may occur in the future to where the Council might want to make the effective date sooner than one year.

Councilman Ellis moved to adopt Resolution No. 02-64. This motion was seconded by Vice-Mayor Bellamy and carried on a 6-1 vote, with Councilman Mumpower voting "no".

It was the consensus of Council to instruct the City Attorney to work with the Planning Department to develop some guidelines that would allow the effective date of annexation ordinances be delayed.

RESOLUTION BOOK NO. 27 – PAGE 133

C. RESOLUTION NO. 02-65 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

Vice-Mayor Bellamy said that this is the consideration of appointing a member to the Board of Electrical Examiners.

There currently exists a vacancy for an electrical contractor on the Board of Electrical Examiners until July 1, 2003.

On March 26, 2002, City Council interviewed Tommy Wilson.

Councilman Mumpower moved to appoint Tommy Wilson to the Board of Electrical Examiners to fill the position for an electrical contractor. Said term will expire on July 1, 2003, or until his successor has been appointed. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 135

D. RESOLUTION NO. 02-66 - RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION

Vice-Mayor Bellamy said that this is the consideration of appointing three members to the Civic Center Commission.

Mr. Dan Breneman and Dr. Carl Mumpower have resigned their positions on the Civic Center Commission thus leaving two expired terms until June 30, 2004. In addition, Robert Dungan has resigned, thus leaving an unexpired term until June 30, 2003.

On March 26, 2002, City Council interviewed Kathryn Nash and James Grant. On April 2, 2002, City Council interviewed John Hutchby. On April 9, 2002, City Council interviewed Dan Breneman and Jerri Goldberg.

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Kathryn Nash received 0 votes, James Grant received 7 votes, John Hutchby received 7 votes, Dan Breneman received 0 votes and Jerri Goldberg received 7 votes. Therefore, James Grant and John Hutchby were each appointed to serve unexpired terms until June 30, 2004, respectively, or until their successors have been appointed. In addition, Jerri Goldberg was appointed to fill the unexpired term of Mr. Dungan, term to expire June 30, 2003, or until her successor has been appointed.

RESOLUTION BOOK NO. 27 – PAGE 136

E. RESOLUTION NO. 02-67 - RESOLUTION APPOINTING A MEMBER TO THE EDUCATIONAL ACCESS CHANNEL COMMISSION

Vice-Mayor Bellamy said that this is the consideration of appointing a member to the Educational Access Channel Commission.

Adam Baylus has resigned from the Educational Access Channel Commission, thus leaving an unexpired term until June 1, 2003.

On April 2, 2002, City Council interviewed Frank Dastoli and Nat Myers.

Frank Dastoli received 1 vote and Nat Myers received 6 votes. Therefore, Nat Myers was appointed to serve the unexpired term of Mr. Baylus, term to expire June 1, 2003, or until his successor is appointed.

RESOLUTION BOOK NO. 27 – PAGE 137

F. RESOLUTION NO. 02-68 - RESOLUTION APPOINTING MEMBERS TO THE FILM COMMISSION

Vice-Mayor Bellamy said that this is the consideration of appointing members to the Film Commission.

Sarah Blankenship, David Quinn, Diana Bilbrey and Jerry Birdwell have expired from the Film Commission, thus leaving four unexpired terms. Two unexpired terms are until November 1, 2003, and two unexpired terms are until November 1, 2004.

On March 5, 2002, the Asheville Film Commission requested City Council reduce the membership of the Film Commission from 15 to 13 members. City Council agreed with that recommendation and the ordinance was amended on March 26, 2002.

In addition, on March 5, 2002, the Film Commission recommended City Council appoint Leni Sitnick and Kathi Petersen to serve the two of the unexpired terms – one until November 1, 2003; and one until November 1, 2004.

On April 2, 2002, City Council interviewed Marcianna Miller, Terry Adams and Kathi Petersen. Leni Sitnick is also a candidate, however, she was not brought in for an interview.

Marcianna Miller received 0 votes, Terry Adams received 1 vote, Kathi Petersen received 6 votes and Leni Sitnick received 6 votes. Therefore, Kathi Petersen was appointed to serve an unexpired term until November 1, 2003, or until her successor has been appointed. In addition, Leni Sitnick was appointed to serve an unexpired term until November 1, 2004, or until her successor has been appointed.

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G. RESOLUTION NO. 02-69 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Bellamy said that this is the consideration of appointing a member to the Asheville-Buncombe Historic Resources Commission.

Annamarie Rickman has resigned from the Historic Resources Commission, thus leaving an unexpired term until July 1, 2004.

On March 26, 2002, City Council interviewed Marsha Shortell and Laurie Rotundo. On April 2, 2002, City Council interviewed Stephen Olin. On April 9, 2002, City Council interviewed Alice Keller.

Marsha Shortell received 2 votes, Laurie Rotundo received 4 votes, Stephen Olin received 0 votes, and Alice Keller received 1 vote. Therefore, Laurie Rotundo was appointed to fill the unexpired term of Ms. Rickman, term to expire July 2, 2004, or until their successor is appointed.

RESOLUTION BOOK NO. 27 – PAGE 139

VI. OTHER BUSINESS:

Memorial Day Task Force

Councilman Mumpower reported that Mayor Worley appointed him, Councilman Dunn and Councilman Ellis to serve as the Council Memorial Day Committee ("Committee"). The Committee met on April 5, 2002, and with their mission in mind to develop a Memorial Day Task Force that will focus on coordinating a Memorial Day event at the City-County Plaza in cooperation with Buncombe County, the Committee made the following recommendations: (1) that each member of Council and County Commissioners be permitted to select one person for the Memorial Day Task Force; (2) that Mr. Walter Plaue be appointed to the Task Force in view of his commendable efforts to bring this issue up for consideration; (3) that, with the approval of the County Commissioners, Jerome Jones be appointed as the Chair of the Task Force; and (4) that the respective recreation directors of Buncombe County and the City of Asheville be asked to serve as ex-officio consultants to the Task Force. The Committee's recommendation to the Task Force includes (1) that care should be taken to not overlap with other pre-planned Memorial Day events (VA Hospital, Veterans Cemetery, etc); (2) that an effort should be made to incorporate police, fire and emergency care personnel into the event; and (3) that this event be conducted with a minimum of City and County monies due to the current budgetary crisis – donations, support from Veteran organizations, and business investment should be encouraged as much as possible.

Councilwoman Jones moved to accept the recommendations of Council Memorial Day Committee with the exception that the Committee be empowered to make the appointments to the Task Force and oversee the process. This motion was seconded by Councilman Ellis and carried unanimously.

Budget Worksession Rescheduled

At the request of City Manager Westbrook, Councilman Mumpower moved to reschedule the budget worksession from May 16, 2002, until May 13, 2002, beginning at 1:00 p.m. in the First Floor North Conference Room. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

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Claims

The following claims were received by the City of Asheville during the period of March 22-April 4, 2002: Brooks Howell Home (Water), WCQS (Streets), Annelore McMahan (Streets), Blue Ridge B&J (Inspections), Holly Elledge (Water), Marlin Harbin (Water), Thomas Tuten (Water), Jeffrey D. Shepherd (Police), Chester Davis (Parks & Recreation) and Maggie Guyton (Streets).

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

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fred English felt that the City of Asheville should not annex people who do not wish to become City residents.

Ms. Rebecca Campbell was disappointed with Council's decisions at the meeting regarding less public comment on projects being built in neighborhoods and also an accelerated involuntary annexation process.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 9:33 p.m.

CITY CLERK

MAYOR