

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; 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: Vice-Mayor Terry M. Bellamy (maternity leave)

PLEDGE OF ALLEGIANCE

- Retired Air Force veteran Dr. Joe Wayne Burton led City Council in the pledge of allegiance.

INVOCATION

Councilman Dunn gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE MONTH OF APRIL 2003, AS “CHILD ABUSE PREVENTION MONTH”

Councilwoman Jones read the proclamation proclaiming April, 2003, as "Child Abuse Prevention Month" in the City of Asheville. She presented the proclamation to Mr. Bill McGuire who briefed City Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING THE MONTH OF APRIL 2003, AS “FAIR HOUSING MONTH”

Mayor Worley read the proclamation proclaiming April, 2003, as "Fair Housing Month" in the City of Asheville. He presented the proclamation to Mr. Bob Smith, Executive Director of the Asheville-Buncombe Community Relations Council, and Ms. Brown, Asheville-Buncombe Community Relations Council Board member, who briefed City Council on some activities taking place during the month.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 25, 2003

B. RESOLUTION NO. 03-51- RESOLUTION AUTHORIZING THE SALE OF A PORTION OF THE AIR RIGHTS ADJACENT TO 21 BATTERY PARK AVENUE TO 21 BATTERY PARK, LLC

Summary: The consideration of a resolution authorizing the Mayor to convey air rights adjacent to 21 Battery Park Avenue to 21 Battery Park, LLC, in the amount of \$9,000.

On March 25, 2003, the City Council of the City of Asheville directed the City Clerk to advertise for upset bids regarding an offer to purchase air rights to City owned property adjacent to 21 Battery Park Avenue (PIN Nos. 9648.18-30-1581 and 9648.18-30-1416) for the sum of \$9,000. The notice ran in the Asheville

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Citizen-Times on March 28, 2003, as provided in N. C. Gen. Stat. sec. 160A-269. No upset bids were received in response to said advertisement.

Approval of the resolution will authorize the sale of the property to 21 Battery Park, LLC, for the amount of \$9,000.

- Planning Department staff recommends adoption of the resolution authorizing the Mayor to convey air rights adjacent to 21 Battery Park Avenue to 21 Battery Park, LLC, in the amount of \$9,000.

C. RESOLUTION NO. 03-52 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE PROPERTY ON KILDARE PLACE IN THE MT. CARMEL COMMUNITY FROM JIM NORRIS

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer to purchase property on Kildare Place in the Mount Carmel community.

- A bid has been received from Melvin James Norris in the amount of \$26,500 for the purchase of property on Kildare Place in the Mount Carmel community.

The land on Kildare Place is an irregular shaped, un-zoned, residential lot comprising 0.91 acre±. It is level at street grade and slopes down from front to rear. The property was acquired from the now defunct Carolina Water Service, Inc. The property was determined to be surplus and has been available for sale since that time. The current appraisal on the subject parcel by Joseph Moore is \$26,000.

Mr. Norris owns the property adjacent to the subject property where he resides.

Approval of the resolution will initiate the sale of the property through the upset bid process as approved by N. C. Gen. Stat. sec. 160A-269.

Planning & Development staff recommends adoption of the resolution authorizing the City Clerk to advertise an offer to purchase property on Kildare Place.

RESOLUTION BOOK NO. 27 – PAGE 362

D. RESOLUTION NO. 03-53- RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE A VACANT LOT AT THE CORNER OF LUFTY AND DRAKE STREETS FROM NEIGHBORHOOD HOUSING SERVICES

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

- A bid has been received from Neighborhood Housing Services of Asheville (NHS) in the amount of \$9,500 for the purchase of land on Lufty Street in the West Asheville community.

The property on Lufty Street is a rectangular shaped residential zoned lot comprising 0.17 acre±. It is level at street grade and slopes down from front to rear. The property was acquired in 1929. It has been declared surplus and has been available for sale since that time. The bid from NHS in the amount of \$9,500 is not less than the appraised value of \$9,500. NHS

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proposes to construct an affordable house on the property for sale. The proposed construction is consistent with the policy of encouraging infill development.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Planning & Development staff recommends adoption of the resolution authorizing the City Clerk to advertise an offer to purchase property on Lufty Street.

RESOLUTION BOOK NO. 27 – PAGE 363

E. RESOLUTION NO. 03-54 - RESOLUTION ACCEPTING THE NEW STREET NAME "OZARK SPRING LANE" LOCATED OFF BELL ROAD

Summary: The consideration of a resolution accepting the new proposed street name "Ozark Spring Lane."

Riverwood Real Estate Development Company, owner of lots off of Bell Road, has petitioned the City of Asheville to accept the street name "Ozark Spring Lane." The new street will begin at Bell Road and end at cul-de-sac on Ozark Spring Lane.

City staff recommends adoption of the resolution accepting the new street name "Ozark Spring Lane."

RESOLUTION BOOK NO. 27 – PAGE 364

F. RESOLUTION NO. 03-55 - RESOLUTION FINDING THE UNOPENED ALLEY OFF GAY STREET IS NOT PART OF AN ADOPTED STREET PLAN

Summary: The consideration of a resolution finding that an unopened alley off Gay Street is not part of an adopted street plan.

Timothy Walsh submitted to the City a Declaration of Withdrawal for unopened alley off Gay Street. The purpose of the request is to make the property more useful. The alley is not used as an ingress or egress nor has it ever been used as such. Mr. Walsh's request for a resolution from Council finding that the unopened alley off Gay Street is not part of the street plan adopted under G. S. 136-66.2 is supported by the legal research performed by the law firm of McGuire, Wood & Bisette, P.A., certifying that the three criteria set forth below have been met.

N. C. Gen. Stat. sec. 136-96 permits the filing of a Declaration of Withdrawal of any street dedicated to public use and not utilized within 15 years from and after dedication.

In order to withdraw a street from public dedication, N. C. Gen. Stat. sec. 136-96 requires:(1) that the street must have been dedicated to public use; (2) the person desiring to withdraw, must be the original dedicator or someone claiming under the original dedicator; and (3) that the street not have been opened and used by the public for 15 years from and after the dedication. The statute goes on to state that upon request, the City shall adopt a resolution stating whether the street is or is not part of the street plan adopted under G. S. 136-66.2.

Public Works Department staff has consulted with all appropriate City departments and determined that the unopened alley off Gay Street as set forth is not part of an adopted street plan and is not a City maintained right-of-way.

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City staff recommends City Council adopt the resolution finding that the unopened alley off Gay Street as shown in Plat Book 2, Page 105, is not part of an adopted street plan.

RESOLUTION BOOK NO. 27 – PAGE 365

G. RESOLUTION NO. 03-56 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT EARTH DAY 2003

RESOLUTION NO. 03-57 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT PINK RIBBON CELEBRATION

RESOLUTION NO. 03-58 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT HARDLOX CAFÉ JEWISH FOOD FESTIVAL

RESOLUTION NO. 03-59 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT SISTERS ON STAGE

RESOLUTION NO. 03-60 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT SUNSET STAMPEDE

RESOLUTION NO. 03-61 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT ASHEVILLE AREA ARTS COUNCIL'S WALK INTO HISTORY

RESOLUTION NO. 03-62 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT 2003 BREWGRASS FESTIVAL

RESOLUTION NO. 03-63 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT 2003 BELE CHERE FESTIVAL

RESOLUTION NO. 03-64 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT 4TH OF JULY CELEBRATION AND FIREWORKS

RESOLUTION NO. 03-65 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT ASHEVILLE DOWNTOWN ASSOCIATION'S 2003 EVENTS

RESOLUTION NO. 03-66 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT 2003 GOOMBAY! FESTIVAL

RESOLUTION NO. 03-67 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT 2003 GREEK FESTIVAL

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Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the following events: Earth Day 2003, Pink Ribbon Celebration, Hardlox Café Jewish Food Festival, Sisters on Stage, Sunset Stampede, Asheville Area Arts Council's Walk into History, Annual Brewgrass Festival, Bele Chere 2003, Asheville's 4th of July Celebration, Asheville Downtown Association events, Asheville Goombay Festival, and Asheville Greek Festival.

The below listed groups have requested through the Asheville Parks and Recreation Department that City Council permit them to serve beer and/or unfortified wine at their events and allow for consumption at these events.

Earth Day 2003, scheduled for April 19, 2003, is a celebration committed to raising awareness of the environment and what every person can do to help maintain and improve our world.

The Pink Ribbon Celebration, scheduled for May 27, 2003, is an event to raise funds for the American Cancer Society in conjunction with the Grape Escape wine bar.

The Hardlox Café Jewish Food Festival is a celebration of Jewish cuisine and heritage and is scheduled for October 19, 2003.

Sisters on Stage is an event to raise funds for Helpmate, an organization committed to assisting battered women. This year's event is scheduled on May 3, 2003.

The Sunset Stampede is a run and event that will raise funds for Big Brothers/Big Sisters. The event is scheduled on May 3, 2003.

The Asheville Area Arts Council's Walk into History is an event designed to showcase the Urban Trail and to bring Asheville's history alive with characters and performances at many of the stations. This year's event is scheduled for October 25-26, 2003.

For several years, the Annual Brewgrass Festival has served as a unique celebration of the art of brewing beer in the spirit of Oktoberfest with a Smokey Mountain twist. This year's event is scheduled for September 13, 2003.

For many years, the Bele Chere Board in cooperation with the Asheville Parks and Recreation Department has produced Bele Chere to bring both the public and visitors to the Downtown area. This year the request is being made for July 24-26, 2003. The Bele Chere Board and Asheville Parks and Recreation has requested permission to allow possession and consumption of beer and wine during this event as they have been allowed in the past.

Asheville Parks and Recreation produces the 4th of July Celebration and Fireworks spectacular as a community celebration and to attract visitors to the downtown area.

For many years, the Asheville Downtown Association has co-sponsored with the City of Asheville events to bring both the public and visitors to the downtown area. These events include: *Moonlight Over Downtown* and four *Downtown After Five* activities. The Asheville Downtown Association has requested permission to allow possession and consumption of beer and wine during these events as they have been allowed in the past.

The Asheville Goombay Festival is a unique celebration of African heritage and traditions. The Festival is co-sponsored by the Asheville Parks and Recreation Department and will be held August 22-24, 2003. The 2003 Goombay Festival has requested permission to allow possession and consumption of beer and wine during these events as they have been allowed in the past.

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The Asheville Greek Festival is a unique celebration of Greek heritage and traditions at City/County Plaza. The Festival is co-sponsored by the Asheville Parks and Recreation Department and will be held September 26-28, 2003. The 2003 Greek Festival has requested permission to allow possession and consumption of beer and wine during these events as they have been allowed in the past.

The Asheville Parks and Recreation Department recommends approval of the resolutions to authorize the possession of malt beverages and/or unfortified wine for the above-mentioned events at specific locations and times noted in the resolutions.

Resolution No. 03-56 - **RESOLUTION BOOK NO. 27 – PAGE 366**
Resolution No. 03-57 - **RESOLUTION BOOK NO. 27 – PAGE 368**
Resolution No. 03-58 - **RESOLUTION BOOK NO. 27 – PAGE 371**
Resolution No. 03-59 - **RESOLUTION BOOK NO. 27 – PAGE 372**
Resolution No. 03-60 - **RESOLUTION BOOK NO. 27 – PAGE 375**
Resolution No. 03-61 - **RESOLUTION BOOK NO. 27 – PAGE 377**
Resolution No. 03-62 - **RESOLUTION BOOK NO. 27 – PAGE 379**
Resolution No. 03-63 - **RESOLUTION BOOK NO. 27 – PAGE 381**
Resolution No. 03-64 - **RESOLUTION BOOK NO. 27 – PAGE 385**
Resolution No. 03-65 - **RESOLUTION BOOK NO. 27 – PAGE 387**
Resolution No. 03-66 - **RESOLUTION BOOK NO. 27 – PAGE 389**
Resolution No. 03-67 - **RESOLUTION BOOK NO. 27 – PAGE 391**

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

Councilman Ellis 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 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAMS FOR 2003-04

Mayor Worley opened the public hearing at 5:16 p.m.

Community Development Director Charlotte Caplan said that this is the consideration of a public hearing on the City's Consolidated Action Plan for 2003/04, allocating federal Community Development Block Grant (CDBG) and HOME funds.

The City expects to have available \$1,764,368 in CDBG funds and \$1,505,345 in HOME funds to allocate for housing and community development activities in the fiscal year beginning July 1, 2003. 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 15-HOME assisted projects.

If approved, the funding will assist in adding or preserving 244 affordable housing units in the City and 114 units in the rest of the Consortium area. CDBG funds will also help provide 250 Asheville residents with employment or business training and as many as 3,000 residents with other needed services. CDBG will also continue to support revitalization of the WECAN and South Pack Square neighborhoods.

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Notice of the public hearing and a summary of the draft plan was published on March 24, 2003. A 30-day public comment period is required by federal regulations. The final plan must be submitted to Dept. of Housing and Urban Development by May 15, 2003.

Ms. Caplan then summarized the funding and then briefly reviewed with Council the details of the proposed projects.

City staff recommends City Council hold the public hearing on April 8, 2003. Adoption of the resolution authorizing submission the City's Consolidated Action Plan for 2003/04 will be brought before Council at it's April 22, 2003, formal meeting.

Mayor Worley closed the public hearing at 5:23 p.m.

Mayor Worley said that City Council will vote on this issue at it's April 22, 2003, City Council meeting.

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IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 03-68 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CONSTRUCTION DOCUMENTS WITH WOOLPERT, LLC, FOR FURTHER DEVELOPMENT OF AZALEA ROAD PARK

Mr. Jim Orr, Superintendent of Parks & Public Facilities, said that this is the consideration of a resolution authorizing the City Manager to enter into a contract with Woolpert LLP to prepare construction documents for Azalea Road Park.

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The City of Asheville Parks and Recreation Department is continuing the development of Azalea Road Park. In June of 2000, the City of Asheville selected Woolpert LLP from a Request for Proposal (RFP) process to develop a feasibility study, provide a master plan and prepare construction documents for Azalea Road Park. At the present time, the first two components of the RFP process have been completed. The final portion, construction documentation, is needed in order to continue the development of the park. The construction documents would be for the parking lots, restroom/concession building, two soccer fields, playground area, greenway trails and a No Impact Analysis (required since a portion of the park will be built in the flood plain). The construction document portion of the contract with Woolpert will cost \$152,249.

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City staff recommends that City Council authorize the City Manager to enter a contract with Woolpert LLP to prepare the construction documents for further development of Azalea Road Park.

When Councilman Peterson asked if these construction documents were part of some planning for a new bridge or anything connected to the part of the property for an inert dump, Mr. Orr said no, that this is only a park plan.

Upon inquiry of Councilman Peterson about bridges crossing the Swannanoa River, Mr. Orr said that in the master plan there are two pedestrian bridges and one vehicular bridge with a pedestrian crosswalk.

Upon inquiry of Councilman Dunn, Mr. Orr said that the cost of this portion of the contract comes from the Tourism Development Authority grant, the Lewis family grant, the Parks and Recreation Trust Fund and Pepsi-Cola. He further explained that as much work that can be done

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in-house is, however, due to the large scope of the project it would take a considerable amount of man-hours. Also, two major components of the \$153,000 contract would be for the No Impact Analysis that City staff is not capable of performing and there is no structural engineer on staff to handle development of the building design. In addition, there are so many environmental issues that are tied to the development of the soccer fields that it becomes too large of a project to do in-house.

Mr. Paul VanHeden asked what Pepsi-Cola is getting out of their donation. Mr. Orr said that their donation is for name recognition for developing the soccer complex. Mayor Worley said that Pepsi-Cola has traditionally been a supporter of many community events and youth facilities throughout this community. In fact, Councilwoman Jones said that Pepsi-Cola donated \$1,000 to the Asheville High School's Girls Basketball Team in order to purchase their rings.

Upon inquiry of Councilman Dunn, Mr. Orr said that we hope to have the building, playground and parking lot finished in the fall of 2004.

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

Councilman Peterson moved for the adoption of Resolution No. 03-68. This motion was seconded by Councilwoman Jones and carried unanimously.

B. RESOLUTION NO. 03-69 - RESOLUTION DIRECTING THE CITY CLERK TO PUBLISH A NOTICE OF INTENT REGARDING ENTERING INTO A LEASE WITH SUPER SOD FOR APPROXIMATELY 47 ACRES OF CITY-OWNED PROPERTY LOCATED ACROSS FROM THE MILLS RIVER WATER TREATMENT PLANT

Field Services Coordinator Ed Vess said that this is the consideration of a resolution directing the City Clerk to publish a Notice of Intent regarding a proposed Lease with Super Sod, a division of Patten Seed Company, for approximately 47 acres of land on Mills River.

The land on Mills River is a portion of the property acquired by the City of Asheville for the Mills River Water Treatment Plant. It is located across the river from the treatment plant northwest of the confluence of the Mills and French Broad Rivers. It is not currently in use by the City and can be used for agricultural purposes without interfering with the operation of the Water Treatment Plant provided appropriate requirements and controls are incorporated into the lease for protection of the environment.

Super Sod has offered to enter into a three-year lease with option to renew for two additional three-year terms at a rent of \$6,000 per year. Staff recommends that a CPI annual adjustment be included in the lease. The proposed lease would require a 50' buffer along Mills River. Super Sod would utilize the tillable land, about 42-43 acres for growing sod and mow the non-wooded portions of the buffer area to maintain weed control. The proposed lease may be terminated by either party upon six months written notice. In the case of default, the Lessor may terminate the lease if the default is not cured after ten days notice.

Approval of the resolution will authorize the City Clerk to publish a Notice of Intent to enter into the Lease.

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Water Resources Department and Planning Department staff recommend adoption of the resolution directing the City Clerk to publish a Notice of Intent regarding a proposed Lease with Super Sod, a division of Patten Seed Company, for approximately 47 acres of land on Mills River.

City Manager Westbrook said that the \$6,000 revenue would go to the Asheville-Buncombe Regional Water Authority.

Upon inquiry of Councilwoman Jones, Mr. Vess said that the employees at the water treatment plant take a water sample everyday and if there is anything not acceptable in the water, we would know about it very soon.

Upon inquiry of Councilman Peterson, Mr. Vess explained why the City is leasing the property opposed to selling it.

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 for the adoption of Resolution No. 03-69. This motion was seconded by Councilman Peterson and carried unanimously.

C. REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE FOLLOWING FIVE AREAS PROPOSED FOR ANNEXATION WHICH ARE GENERALLY KNOWN AS (1) THE DEAVERVIEW ROAD AREA; (2) THE CROWELL ROAD AREA; (3) THE SMOKY PARK HIGHWAY AREA; (4) THE SAND HILL ROAD AREA; AND (5) THE HENDERSONVILLE ROAD AREA

Urban Planner Carter Pettibone said that the Annexation Services Plan is being submitted for Council's approval for the following areas: Deaverview Road area, Crowell Road area, Smoky Park Highway area, Sand Hill Road area, and Hendersonville Road area.

City Council approval of this document is the second step in the annexation process that began on March 25, 2003, when Council adopted the resolutions of intent to annex these five areas.

Upon review and approval by City Council, the Plan will be made available for public review. The follow steps will complete the annexation process.

Approval of Annexation Services Plan	April 8, 2003
Public information meeting	May 15, 2003
Public hearings	May 27, 2003
Adoption of annexation ordinances	June 10, 2003
Effective date of annexations	June 30, 2004

The N.C. General Statutes require that municipalities exercising annexation authority make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing and public information meeting, prepare a report setting forth such plans.

The Statutes require that the reports include:

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- 1) Maps showing: (a) The present and proposed boundaries of the municipality; (b) The present major water and sewer lines, and any proposed extensions; and (c) The general land use pattern in the area to be annexed.
- 2) A statement that the area to be annexed meets the standards of N. C. Gen. Stat. sec. 160A-48 (basically contiguity and urbanization).
- 3) A statement setting forth the plans of the municipality for extending to the annexation area each major municipal service performed within the municipality. Specifically, (a) police protection, fire protection, solid waste collection and street maintenance on the date of annexation; and (b) extension of major trunk water mains and sewer outfall lines so that property owners in the area will be able to secure public water and sewer service according to the municipal policies in effect for extending such service to individuals lots or subdivisions.
- 4) The method under which the municipality plans to finance extension of services into the area to be annexed.
- 5) A statement of the impact of the annexation on any rural fire department providing service in the area to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area to be annexed.
- 6) A statement showing how the proposed annexation will affect the City's finances and services, including City revenue change estimates.

He then reviewed with Council the specifics of how each area qualifies for annexation.

Mr. Pettibone then explained the Plan for extension of services, including police protection, fire protection, solid waste collection, street maintenance, water distribution and sewer collection.

Police protection: The additional land area, street mileage, dwelling units, businesses and improvements will require expansion of the Police Department. Extending service into the proposed annexation areas will require operational adjustment in two primary areas (1) configuration of patrol districts covering the proposed annexation areas so as to provide for effective manpower deployment and a balanced response time to calls for service; and (2) filling vacancies in sworn personnel positions to accommodate the anticipated increase in demand for police services. He explained how each area would be served by an expansion of a particular district. Based on the projected population increase at the time of annexation, it will be necessary to add two police officers to maintain the current ratio of one officer to 423 residents. The plan of services calls for the addition of these two officers, at the annual cost of \$70,000 plus associated capital costs, on or before January 1, 2005.

Fire protection: The additional land area, street mileage, dwelling units, businesses and improvements will require the hiring of one additional Deputy Fire Marshal at an annual cost of \$37,000 plus associated capital costs for equipment on or before January 1, 2005. The N.C. Gen. Statutes require the City to offer existing fire service entities contract opportunities, which allow for the continued service of annexed areas by existing rural fire departments. The City maintains the responsibility of assuring a level of service comparable to the service level within the existing incorporated areas. The involvement of the suburban/rural fire department may require the City to supplement service where contract service is not comparable to the municipal service. The City recognizes these circumstances and may affect its plan for extending fire protection; therefore, the City has developed a plan that incorporates alternative solutions to extending fire protection to annexed areas.

Solid waste collection: The additional land area, street mileage, dwelling units, businesses and improvements will not require immediate expansion of Public Works Department, Sanitation Division. New customers would receive the automated collection service. Compensation would be offered to private solid waste hauler to offset economic loss as required by the statutes. Therefore, there will be costs to the City associated with the purchase of new rollout containers and potential "economic loss" payments to affected contractors.

Street maintenance services: The additional land area, street mileage, dwelling units, businesses and improvements will not require immediate expansion of Public Works Department, Street Maintenance Division. Existing personnel and equipment are planned to serve the proposed additions to the City maintenance system; therefore, no specific personnel and equipment additions will be made. Streets are resurfaced on a scheduled rotation established by classification, construction type, use, condition and inspections. The following are private and state maintained streets planned for inclusion for maintenance on the scheduled rotation for the Hendersonville Road area: 0.29 mile of Buck Shoals Road and 0.38 mile of Walden Drive.

Water distribution: On the effective date of annexation, all residents, businesses and property owners within the proposed five annexation areas that are adjacent to existing water facilities will receive service on a basis substantially equal to all current portions of the City. The following four areas require no water line improvements: Deaverview Road area, Crowell Road area, Smoky Park Highway area and Sand Hill Road area. In the Hendersonville Road area, potable water and fire protection service are available to all parcels in this annexation area on substantially the same way as other parts of the City, however, in an effort to further enhance fire protection coverage, two fire hydrants are proposed to be installed within this annexation area. This water system improvement is planned for completion by June 30, 2006.

Sewer collection: No sanitary sewer system improvements are required or proposed or planned for any of the five proposed areas.

Administrative and other municipal services: The City provides a full range of services. Basically key professional and department directors specializing in public works, police protection, fire protection, urban land use planning and zoning, building code enforcement, legal matters, parks and recreation and various other municipal activities and functions. The City is active in minimum housing code and State building code administration, zoning and subdivision ordinance administration, recreational programs and parks administration, community revitalization and affordable housing grants administration, economic development efforts and many other planning and related activities.

Financial Impact:

Revenue: Total ad valorem property tax revenue - \$128,364; Total state utility tax revenue - \$14,234; Total local option sales tax - \$49,400; Total Powell Bill allocation - \$2,082; and Total fees, permits, licenses and charges for services - \$1,683. Total revenue - \$195,763.

Annual recurring expenditures: Police (two additional officers) - \$70,000; Fire (rural fire department contracts expected to be in place for at least 5 years and the hiring of one Deputy Fire Marshall) - \$55,775; Solid waste - \$133; and Street lighting - \$2,160. Total recurring expenditures - \$128,068.

Annual capital expenditures: Police - \$75,000 (vehicles and associated capital equipment for the additional two police officers); Fire - \$30,000 (vehicles and associated capital equipment for the additional Deputy Fire Marshall position); Water lines - \$3,500; Rollout containers - \$160; Street lighting - \$2,820. Total one-time annual capital expenditure - \$11,480.

Mr. Pettibone explained the impact on insurance rates to property owners and commercial properties.

Mr. Pettibone then reviewed with Council the following amendments to the Plan:

- (1) Revision to page 35 under "Impact on Insurance Rates." The volunteer fire departments should read: West Buncombe VFD – 9/6; Enka VFD – 9/5; and Skyland VFD – 4.
- (2) Revise the Deaverview Road Annexation Area "Present and Proposed Boundaries Map" and the "Generalized Land Use Map" to be consistent with the boundary line map attached to the Resolution of Intent.
- (3) Replace all Water & Sanitary Sewer Systems Maps with ones that have been stamped and approved by a licensed

engineer. He pointed out that even though the Water & Sewer Sanitary Systems Maps in the Plan before Council are not stamped, they have been reviewed by a licensed engineer.

- (a) Revision to the Deaverview Road "Water & Sanitary Sewer Systems Map" boundary line change to be consistent with map attached to Resolution of Intent.
- (b) Revision to the Sand Hill Road "Water & Sanitary Sewer Systems Maps" because it did not show a subdivision that occurred since the date of the Resolution of Intent (March 25, 2003).

Mr. Pettibone asked City Council to adopt the resolutions approving the report of plans for the five annexation areas, as amended.

Mr. Pettibone responded to various questions/comments from Council, some being, but are not limited to: explain how homeowners and commercial properties might save on their insurance rates; can the City guarantee the Insurance Service Office (ISO) rating of 3 in the future; what is the criteria for how the ISO rating is determined;

Upon inquiry of Councilman Dunn, Police Chief Annarino explained the police ratio per resident and how Asheville determines that ratio vs. how other large cities determine that ratio. He said that he would provide Council with additional information regarding sworn and non-sworn positions and how we compare to other cities. He did note that if Asheville were to convert the non-sworn officers (who do clerical and technical work) back to sworn positions, our ratio would be significantly higher than other cities in North Carolina.

Councilman Dunn said that there is a perception that we don't have enough police officers to handle the "little" stuff. Police Chief Annarino responded that it is a balancing act but a lot of it is perception and there will always be issues.

Councilman Ellis pointed out that there are savings to residents being annexed, e.g. garbage collection and insurance rates. In addition, the resident may be entitled to deductions on their income tax if they fall within a certain tax bracket. Also, once annexed, the residents have the opportunity to vote in City Council elections and determine who will be their elected representatives.

Councilman Peterson said that a lot of the proposed annexation areas are commercial and asked what kind of police services would be provided for those businesses. Police Chief said that in addition to the basic law enforcement services, we would work with them on crime prevention, environmental design review, community watches and we can offer safety security

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seminars for their employees. In addition, we have an expert on staff that can be called in for a comprehensive security analysis of their business.

When Councilman Dunn questioned if we can provide garbage collection to all the properties being annexed, Mr. Pettibone replied yes.

Mr. Fred English, Haw Creek resident, spoke against annexation in that the City needs to give current City residents service before trying to add more residents.

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

RESOLUTION NO. 03-70 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE DEAVERVIEW ROAD AREA

Councilman Peterson moved for the adoption of Resolution No. 03-70, as amended. This motion was seconded by Councilman Ellis and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 395

RESOLUTION NO. 03-71 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE CROWELL ROAD AREA

Councilman Ellis moved for the adoption of Resolution No. 03-71, as amended. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 396

RESOLUTION NO. 03-72 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE SMOKY PARK HIGHWAY AREA

Councilwoman Jones moved for the adoption of Resolution No. 03-72, as amended. This motion was seconded by Councilman Ellis and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 397

RESOLUTION NO. 03-73 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE SAND HILL ROAD AREA

Councilwoman Jones moved for the adoption of Resolution No. 03-73, as amended. This motion was seconded by Councilman Ellis and carried unanimously.

RESOLUTION BOOK NO. 27 – PAGE 398

RESOLUTION NO. 03-74 - RESOLUTION APPROVING THE REPORT OF PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE HENDERSONVILLE ROAD AREA

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Councilman Peterson moved for the adoption of Resolution No. 03-74, as amended. This motion was seconded by Councilman Ellis and carried on a 6-1 vote with Councilman Dunn voting “no”.

RESOLUTION BOOK NO. 27 – PAGE 399

VI. OTHER BUSINESS:

Reopening of Park at Vance Monument

Councilman Peterson asked for an update about the possibility of re-opening the park at Vance Monument soon. He asked how far City staff was along in bringing the Council some changes to address safety concerns in some of our urban parks, like people being back a certain distance, or limiting the number of people in the park.

City Attorney Oast said that details have not been developed to any significant degree yet. But, to the extent we are able to implement changes that don't require City Council action, staff will let Council know and then move ahead with that action.

Claims

The following claims were received by the City of Asheville during the period of March 21-27, 2003: Janice Molnar (Water), Tom Steward (Water), Annie Mae Martin (Streets), Budweiser of Asheville (Civic Center), Arlene Wilson (Water), Lawrence Grillo (Parks & Recreation), Johan Par Forsberg (Water) and Henry Peters (Streets).

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

Lawsuits

The City received a Complaint for Declaratory Judgment on March 8, 2003, from Carol Ann Winter and Albert Ganzenhuber. The nature of the proceeding is to declare Ordinance No. 2988, the rezoning ordinance in the Broadway Corridor North of Magnolia Street, as invalid. This matter will be handed by outside counsel.

The City received a lawsuit on April 3, 2003, from Peggy Griffin. The nature of the proceeding is a complaint for medical expenses resulting from a motor vehicle accident with City employee Melanie Elizabeth Robbins, who was driving a City vehicle. This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Fisher Caudle, west Asheville resident, voiced concern over the deplorable neighborhood conditions due to the lack of management of the Housing Authority and of the Pisgah View Apartments. This has been an on-going issue for three years. Property owners' rights around the Apartments are being discriminated against and their property values severely hurt by the continued allowance of blatant on the street drug dealings. Trash on the street by these dealers and their visitors is outrageous. Pisgah View Apartments are over 60 years old and far exceed the government mandate for sale and redevelopment. It should be bulldozed and rebuilt for single-family affordable homes not controlled by the Housing Authority. With the enhancement of the new French Broad River Park, the time to redevelop this property is now. If the goal of rebuilding single-family homes on that property cannot be achieved, at the very minimum, he asked Council to consider calling for the resignation of the current Executive

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Director of the Housing Authority and the Pisgah View General Manager, who cannot seem to fulfill their management duties. The amount of public housing in Asheville and it's inherit abuses is a disgrace to the taxpayers and providing housing is simply not a function of government. This warrants immediate action to circumvent the very real possibility of a class action lawsuit for neighborhood discrimination and property rights violations. He asked Council to act swiftly and accordingly to clean up their neighborhood.

Mr. Kevin Nuttall, representing the Lighthouse Group, read a prepared statement of concerns regarding police tolerance, Constitutional freedoms, historical records, action by City Council to sell off our history and public parks, and the recent closing of Vance Monument to the public.

Mr. Fred English, Haw Creek resident, supported the Police Department's closing off Vance Monument.

Mr. Paul VanHeden, west Asheville resident, urged City Council to open up the park at the Vance Monument.

Mr. Don Yelton presented City Council with a book entitled "Heartstone, Celebrating the Emergent Ecologic Century" by the Environmental Leadership Center of Warren Wilson College. He suggested Council read the article entitled "Social Justice Meets Environmental Ethics" by Peter Marin. He urged City Council to take the lead in changing its meeting day and time so as not to conflict with the Buncombe County meetings.

Closed Session

At 6:53 p.m. Councilman Mumpower moved to go into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in N. C. Gen. Stat. sec. 143-318.11 (a) (4). This motion was seconded by Councilman Ellis and carried unanimously.

At 7:11 p.m., Councilman Ellis moved to come out of closed session. This motion was seconded by Councilman Mumpower and carried unanimously.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 7:11 p.m.

CITY CLERK

MAYOR