

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; Councilman Brian L. Peterson; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

- Veteran of the U.S. Air Force Ray Green led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Bellamy gave the invocation.

AGENDA CHANGE

At the request of Mayor Worley, it was the consensus of City Council to move the resolution authorizing the Mayor to enter into an Interlocal Agreement with Buncombe County to provide funding of a Countywide public access television operation and facility immediately after the public hearing.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING NOVEMBER 8, 2003, AS "WORLD TOWN PLANNING DAY"

Mayor Worley read the proclamation proclaiming Saturday, November 8, 2003, as "World Town Planning Day" in the City of Asheville. He presented the proclamation to Planning & Zoning Commission Chair Hedy Fischer, who briefed City Council on some activities taking place during the day.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 14, 2003, AND THE WORKSESSION HELD ON OCTOBER 21, 2003

B. RESOLUTION NO. 03-177 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SERVICE AGREEMENT RENEWAL WITH MOTOROLA COMMUNICATIONS & ELECTRONICS INC.

Summary: The consideration of a resolution authorizing the City Manager to execute a service agreement renewal with Motorola Communications and Electronics, Inc. to provide maintenance of the City's radio communication system for another year at a cost of \$11,161.39 per month.

Motorola Communications and Electronics, Inc. has provided maintenance services for the City's radio communications system since installation of the system in 1992. The service agreements are renewed annually. The maintenance cost per unit of equipment for the renewal period of September 1, 2003, through August 31, 2004, has increased by three percent. This is the first increase in the maintenance cost per unit in ten years.

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This renewal agreement reflects a monthly increase of \$1,366.29. The agreement covers additional equipment purchased by the City that has come out of warranty during the past year. The agreement also covers radio equipment for the Asheville Transit Authority this year. The monthly cost of this service is \$11,161.39.

Funds have been appropriated in the Finance Department, Information Services Division, in Account No. 110-1005-415-3001 C44108 to cover the monthly cost of this agreement.

City staff recommends City Council adopt the resolution which authorizes the City Manager to execute a renewal of the service agreement with Motorola Communications and Electronics, Inc. to provide maintenance to the City's radio communication system.

RESOLUTION BOOK NO. 28 – PAGE 40

C. RESOLUTION NO. 03-178 - RESOLUTION ACCEPTING OXFORD COURT AND THE REMAINDER OF PINE ACRE BOULEVARD AS CITY MAINTAINED STREETS

Summary: The consideration of a resolution to accept Oxford Court and the remainder of Pine Acre Boulevard as City maintained streets.

Section 7-15-1(f)-4.a requires that streets dedicated for public uses be accepted by resolution of City Council.

Oxford Court and a portion of Pine Acre Boulevard were constructed approximately ten years ago with the understanding that they were to become publicly maintained streets. Engineering Department Staff inspected the streets at the time of construction and found them to be constructed in accordance with the standards at that time.

The streets were never officially accepted by City Council for maintenance. Oxford Court is approximately 490 feet long and has an average width of 20 feet. The length of Pine Acre Boulevard that staff is requesting acceptance of is approximately 930 feet long and has an average width of 20 feet. Staff is only requesting a portion of Pine Acre Boulevard be accepted by the City for maintenance because the remainder of the street is currently maintained by the City.

Following City Council's approval of this resolution, Oxford Court and the remainder of Pine Acre Boulevard will be added to the official Powell Bill list.

City staff requests City Council accept Oxford Court and the remainder of Pine Acre Boulevard as City maintained streets.

RESOLUTION BOOK NO. 28 – PAGE 41

D. RESOLUTION NO. 03-179 - RESOLUTION SUPPORTING ASHEVILLE'S ENTRY INTO THE GREAT AMERICAN MAIN STREET AWARD COMPETITION

Summary: The consideration of a resolution of support for an entry into the Great American Main Street Award competition.

The Asheville Downtown Association, Public Interest Projects, Inc. and the City of Asheville are putting together an application for the Great American Main Street Award. If selected, the award will be given to the community of Asheville as a whole. The award

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recognizes the accomplishments in the revitalization of traditional downtowns and neighborhood commercial districts and is given to five towns or cities each year from across the country. As part of the application, there is a required resolution of support from the applicant's city or town council.

The application package will include the following: a history of downtown's revitalization; the key participants; major achievements; business development; a summary of the economic impact of revitalization; slides depicting our success including before and after shots of renovated buildings; and other letters of support.

City staff recommends approval of the resolution of support for an entry into the Great American Main Street Award competition.

RESOLUTION BOOK NO. 28 – PAGE 42

E. RESOLUTION NO. 03-180 - RESOLUTION AUTHORIZING THE CHAIRMAN OF THE ASHEVILLE REGIONAL AIRPORT AUTHORITY TO EXECUTE A GRANT AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION (PROJECT 36244.15.5.1)

Summary: The consideration of a resolution with the N.C. Dept. of Transportation for matching funds for improvements to the Asheville Regional Airport.

The City is required by law to execute certain contracts and agreements for the Airport Authority. This grant agreement is to allow the Authority to receive additional matching funds from the N. C. Dept. of Transportation ("DOT") for the following project: AIP 24: Raise and Recable HIRL, Runway and Taxiway Safety Area Improvements.

The grant, in the amount of \$27,777, has been approved by DOT based on a total estimated cost of \$555,540.

City staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 28 – PAGE 43

F. RESOLUTION NO. 03-181 - RESOLUTION AUTHORIZING THE CHAIRMAN OF THE ASHEVILLE REGIONAL AIRPORT AUTHORITY TO EXECUTE A GRANT AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION (PROJECT 36244.15.6.1)

Summary: The consideration of a resolution with the N.C. Dept. of Transportation for matching funds for improvements to the

Asheville Regional Airport.

The City is required by law to execute certain contracts and agreements for the Airport Authority. This grant agreement is to allow the Authority to receive additional matching funds from the N. C. Dept. of Transportation ("DOT") for the following project: AIP 25: Rehabilitate Airfield Electrical Vault, Expand General Aviation Apron, Construct Bypass Taxiway – Runway 34, and Expand Terminal Building – Phase I.

The grant, in the amount of \$298,965, has been approved by DOT based on a total estimated cost of \$5,979,300.

City staff recommends adoption of the resolution.

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RESOLUTION BOOK NO. 28 – PAGE 44

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 Councilman Mumpower and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE REZONING TWO PROPERTIES LOCATED AT 653 AND 659 BREVARD ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT

ORDINANCE NO. 3065 - ORDINANCE TO REZONE TWO PROPERTIES LOCATED AT 653 AND 659 BREVARD ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT

Mayor Worley opened the public hearing at 5:09 p.m.

Urban Planner Carter Pettibone said that this is the consideration of an ordinance to rezone two properties located at 653 and 659 Brevard Road from RS-8 Residential Single-Family High Density District to Office District. This public hearing was advertised on October 17 and 24, 2003.

The property owners, Jeannette Hall, Dr. Phil Davis and Janna Gower, wish to rezone the properties in order to utilize them for uses permitted in the Office District. The purpose of the Office District is to reserve areas for the development of small-scale office uses adjacent to residential uses. The district may also serve as a transition as residential areas convert to other uses or between residential and commercial areas.

The properties, which total 1.81 acres, are located in the City limits on Brevard Road south of Interstate 40 (PIN Nos. 9627.16-92-8533 and 9627.16-92-8606). The existing land uses and zoning in the area include a dentist office and residence to the north zoned Office/Conditional Use Zoning and vacant and residential uses zoned RS-8 and Commercial Industrial District to the west. Property to the east across Brevard Road is unzoned agricultural land while the property directly south, which is also zoned Commercial Industrial District, contains a medical office and single-family residences. The subject properties are also part of a small, 17-acre RS-8 District along Brevard Road that is surrounded by large Highway Business and Commercial Industrial zoning districts to the north, west, and south.

Currently, there are two buildings on the northern site, a single-family residence and a shed/warehouse structure that appears to have been used commercially in the past. There are two access points to the site, one directly in front of the shed building and another to the south of the parcel, which also provides shared access to the landlocked property behind. The southern property contains a single-family residence that is accessed by a driveway on the southern portion of the site.

Initially the applicant was encouraged by the staff to pursue a conditional use rezoning for the properties that could tie into the property to the north that was conditionally rezoned in 2000, but the property owners did not choose to pursue that option. Staff's rationale for a conditional use rezoning was the same as for the property to the north, to preserve the existing residential-scaled buildings for specific low impact commercial uses, limit land disturbance and tree removal on the site, and ensure compatibility with surrounding residential uses. A conditional plan could

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also be used to help design an integrated complex of office and similar uses, consolidate access points onto Brevard Road and preserve and improve the shared access to the landlocked parcel to the west, which is partially zoned Commercial Industrial District.

This area along Brevard Road has and will continue to receive increased pressure to transition to commercial uses, especially as the North Carolina Department of Transportation (NCDOT) plans to widen this section of Brevard Road to four or five lanes. In order to

deal with the increasing development pressure, a corridor study could be undertaken to help formulate guidelines for future land use decisions along Brevard Road.

Rezoning the properties would allow the property owners the opportunity to redevelop their parcels for uses permitted in the Office District. If rezoned, the existing buildings on the properties could be adaptively reused or the owners could choose to demolish the buildings and erect new buildings subject to the standards of the Unified Development Ordinance (UDO).

While a conditional use rezoning would provide the best compatibility with the existing surrounding development pattern, staff recognizes that the purpose of the Office District states that the District "may serve as a transition as residential areas convert to other uses", which is the case in this situation as the area is in transition from residential to more commercial types of uses and will continue to feel pressure to change as Brevard Road is widened. Office zoning on these two parcels would also act as a step in the transition of zoning districts from the north as zoning goes from the purely residential RS-8 District to limited medical office and residential use of the Office/Conditional Use Zoning District to more flexible Office zoning to the even more flexible Commercial Industrial and Highway Business districts along Brevard Road.

In consideration of the above, the adjoining zoning and land uses in the area surrounding site, and the site's frontage on Brevard Road, the proposed zoning change appears to be consistent with the intent and purpose of the UDO and staff recommends approval of the request. The Planning and Zoning Commission at its October 2003 meeting voted 6-0 to recommend approval of the rezoning as well. It also recommended that Council direct staff to perform an abbreviated corridor study for this area to help determine appropriate zoning for the future.

Councilman Peterson spoke in support of an abbreviated corridor study

Dr. Phil Davis, property owner, asked for City Council's support of the proposed rezoning.

Mayor Worley closed the public hearing at 5:20 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. 3065. This motion was seconded by Councilman Mumpower and carried unanimously.

Councilman Peterson moved to direct staff to perform an abbreviated corridor study for this area to help determine appropriate zoning for the future. This motion was seconded by Vice-Mayor Bellamy.

When Councilman Mumpower asked what would be involved in the corridor study, Mr. Shuford said that it would comprise of reviewing the land use and zoning to correspond to widening of Brevard Road for areas around the road. He said that the cost would be for staff time and would take approximately 3-6 months.

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Councilman Dunn wanted to make sure that if someone came in and wanted their property rezoned that the corridor study would not prevent them from moving forward.

The motion made by Councilman Peterson and seconded by Vice-Mayor Bellamy carried unanimously.

ORDINANCE BOOK NO. 20 - PAGE

AGENDA CHANGE

RESOLUTION NO. 03-182 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY TO PROVIDE FUNDING OF A COUNTYWIDE PUBLIC ACCESS TELEVISION OPERATION AND FACILITY

Public Access Commission Chair Beth Lazer said that this is the consideration of a resolution authorizing the Mayor of the City of Asheville to enter into an Interlocal Agreement with Buncombe County for the purpose of providing funding of a Countywide public access television operation and facility.

In March 2000 the Asheville City Council appointed the Public Access Channel Commission (PACC) to facilitate the establishment and management of a public access channel in Asheville. Since that time, the Commission has formed a non-profit organization to manage the channel (URTV, Inc.), developed a management and operations plan for the station, identified sources of funding, and worked with other groups, to include the Asheville Chamber of Commerce and Buncombe County government to identify opportunities for collaboration.

Most recently, Buncombe County government reviewed and agreed to enter into an Interlocal Agreement with the City of Asheville to provide for funding of a Countywide public access television operation and facility. This agreement provides that the City and County will cooperate in the provision of public access television to serve the Asheville-Buncombe area, through a non-profit corporation.

This agreement is the first step in the realization of a Public Access Channel. Over the next month, PACC board members will work with City and County staff to orchestrate next steps and provide additional recommended action for Asheville City Council's consideration.

City staff recommends City Council adopt the resolution authorizing the Mayor to enter into an Interlocal Agreement with Buncombe County for the purpose of providing funding of a Countywide public access television operation and facility.

Ms. Lazer said that the organizational work still needs to be done to mature this collaboration. Therefore, she said that they plan to report back to Council in approximately 30-45 days to update Council on what they see URTV needs to get going, to ask Council to dissolve the PAC as currently constituted, to ask Council to endorse the URTV, Inc. organization and Board as the management organization, and to direct staff to work on drafting one management agreement.

Ms. Lazer responded to various questions/comments from Councilman Peterson, some being but are not limited to: what has the discussion been about a multi-media center; funds collected for the PAC should not be diverted for use as an economic development tool; where do we stand with cooperating with UNC-Asheville; A-B Tech and the local high schools; how is it envisioned to insulate the governing bodies from programming material; who determines program

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content; and what will be non-profit board make-up and who will make appointments to said board.

Upon inquiry of Councilman Peterson, City Attorney Oast said that the non-profit organization (URTV, Inc.) has been formed to insulate the governing bodies from program content criticism and decisions and to a certain extent liability. He said that this is a model that exists and works in other cities across the state and this arrangement is a better way to take care of problems that most routinely arise.

Councilman Dunn was concerned that free speech can be slanted one way or the other and he would pay particular attention to the make-up of the non-profit board.

Mr. Fred English, resident of Asheville, felt we should not use taxpayers money to fund the channel because the Educational Channel is not being fully utilized plus there will be commercials run on the Public Access Channel.

Mr. Peter Dawes spoke about the need for the Public Access Channel, but urged City Council to scrutinize the board's make-up.

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

Councilman Ellis moved for the adoption of Resolution No. 03-182. This motion was seconded by Councilwoman Jones and carried unanimously.

RESOLUTION BOOK NO. 28 – PAGE 45

IV. UNFINISHED BUSINESS:

A. RESOLUTION NO. 03-183 - RESOLUTION ADOPTING THE ASHEVILLE CITY DEVELOPMENT PLAN 2025

Planning & Development Director Scott Shuford said that this is the consideration of a resolution accepting Asheville City Development Plan 2025 as the official comprehensive plan for the City. The public hearing on this Plan was held on April 22, 2003.

This culminates a two year + planning and public participation process that has been overseen in great detail by a 60 member committee (the City Plan Advisory Committee – CPAC) and has involved nine public forums, one major community meeting, and innumerable CPAC meetings, focus group meetings and public presentations. The effort to involve the public in developing this plan has been unprecedented in the City's history and has included surveys, television presentations and announcements, outreach to specific groups (particularly groups that might typically be underrepresented at standard public forums, including minority groups and business organizations), media coverage, newspaper editorials, and other inventive methods of capturing public input. The reward for this effort has been over 1,000 specific comments from the public that have been carefully evaluated by CPAC and included in the plan.

The Asheville City Development Plan 2025 will serve as guide for development approvals, rezonings, code amendments, infrastructure improvements, legislative action requests, and other City efforts. However, the plan is not an end into itself – it is a guide for specific actions, with the individual consideration and implementation of these actions being the method by which the plan will be put into effect. The Asheville City Development Plan 2025 replaces the Asheville City Plan 2010, adopted in 1987.

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He has proposed a number of amendments that are reflective of Council's comments and those of the Planning and Zoning Commission. In addition, staff will take steps to better distinguish headings and subheadings in the Implementation Matrix through the use of shading and/or color.

He felt some Council comments were already accommodated adequately in the plan. Specifically, please note:

- The way "big box" development is addressed under Goal VII and its associated strategies on page 155.
- The extent to which the relationship between infrastructure capacity and future development is considered (see especially Strategies 4, 11, 12, and 14 on pp. 147-149).

He was less successful in determining ways to specifically address the comment concerning directing development away from some areas. He hoped that that this is accommodated adequately in Goal III and its associated strategies on pp. 94-98 and through the following additional Goals and Strategies:

- Strategy 2 under Goal IV (p, 154)
- Goal IX and its associated strategies on pp. 156-157
- Goal XIII on pp. 159-160.

Please be aware that, for a variety of reasons, he was unable to accommodate a number of specific and general comments about such items as the plan's length, its "over-regulation" content, deletion of inclusionary zoning proposals, and its "minor focus" on all City services, especially public safety.

In addition, based on further contact from Council, a few additional comments have been incorporated to the list of amendments. The most substantive of these amendments is the proposed change to the name of the plan, but two others deserve note. These changes are listed as follows:

Title - The proposed name of the plan - Asheville City Development Plan 2025 (plus the new subtitle previously proposed).

Page 50 - Revise Goal III to read: Goal III. "Explore the full range of zoning tools necessary to increase both the supply of affordable housing and the compatibility of such housing with existing neighborhoods and community development patterns, including development incentives, code streamlining efforts, neighborhood design standards, and inclusionary zoning practices."

Page 66 - Revise the last sentence of the first paragraph (continued from page 65) to read: "The City of Asheville should explore statutory authority for mandatory design review, and if such authority is granted, the City should review its potential application to selected zoning districts and to specific areas of the City for which this development tool is determined appropriate."

The Planning and Zoning Commission recommended approval of Asheville City Development Plan 2025 as the official comprehensive plan for the City on March 27, 2003, by a unanimous vote (5-0), subject to a variety of amendments. City staff also recommends approval of the Plan as proposed.

Mr. Shuford said that he will regularly review the Plan implementation with Council and within 5 years a comprehensive review and update will take place.

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Upon inquiry of Councilwoman Jones, Mr. Shuford said that the Plan amendments have been circulated.

Mr. Jim Torpey, member of the CPAC, spoke in support of the Plan noting that when he was on the Planning & Zoning Commission, the 2010 Plan was used as a guide only. He was certain the 2025 Plan will be used as a guide as well.

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

Vice-Mayor Bellamy moved for the adoption of Resolution No. 03-183 with Plan amendments previously presented to Council and the amendments outlined by Mr. Shuford today. This motion was seconded by Councilman Peterson.

Councilwoman Jones suggested that the motion be amended to make a revision on page 51 – Goal IV, as follows: "Enforce and evaluate the City's Minimum Housing Code program ..." (underlining denotes addition)

Mayor Worley suggested that the motion be amended to make a revision on page 154, Strategy 3 under Goal V, as follows: "The City should consider legislation authorizing inclusionary zoning for larger residential developments." (underlining denotes change)

There was a brief discussion initiated by Councilman Dunn on page 93 about cooperating with the Blue Ridge Parkway to determine the effectiveness of current viewshed protection measures. Councilman Dunn was supportive of protecting the viewshed, but where is their support for the City of Asheville since they will not issue the City a permit to cross a bridge located on Parkway property, which it is costing Asheville taxpayers \$15-18,000 a month to dump land clearing and inert debris elsewhere. He suggested that Open

Space Strategy 2 under Goal I be deleted or a strong letter be sent to the Parkway pointing out the money the taxpayers are having to spend on this particular issue.

Mayor Worley agreed with Councilman Dunn's frustrations but pointed out in terms of the language, this is a guide and how we coordinate and determine the effectiveness of current viewshed protection measures is entirely up to City Council.

Councilman Mumpower suggested this matter be scheduled at a worksession to separate that issue from the adoption of the 2025 Plan.

Mr. Shuford said that this particular strategy is scheduled for implementation in 2005.

Vice-Mayor Bellamy and Councilman Peterson were agreeable to amending their motion to include the two amendments suggested by Councilwoman Jones and Mayor Worley

Councilwoman Jones said that a lot of viewpoints have been captured and the scope of the Plan is broad. She felt that the title "Asheville City Plan 2025" was accurate and didn't support the name change, however, she felt it was vital to move forward.

Councilman Mumpower still had some concerns about the document, but pointed out there are no perfect documents and he is comfortable with the majority of it. He felt they all worked together to reach a reasonable compromise that will protect the future of our community.

Mayor Worley spoke in support of the collective desire of this Council to work together for the betterment of the entire community and on behalf of City Council, thanked the CPAC for their extraordinary service to the citizens in developing this document.

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The original motion made by Vice-Mayor Bellamy and seconded by Councilman Peterson (including amendments by Councilwoman Jones and Mayor Worley) carried unanimously.

RESOLUTION BOOK NO. 28 – PAGE 46

V. NEW BUSINESS:

A. RESOLUTION NO. 03-184 - RESOLUTION ADOPTING THE CLINGMAN FOREST GREENWAY MASTER PLAN

At the request of Vice-Mayor Bellamy, Councilman Mumpower excused Vice-Mayor Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Ellis and carried unanimously.

Ms. Tamara Calabria, representing Mountain Housing Opportunities, said that this is the consideration of a resolution to adopt the Clingman Forest Greenway Master Plan.

Clingman Forest is an approximately 10-acre forest in downtown Asheville, bounded roughly by the YWCA, Asheville Middle School, and Charles Street to the East, Aston Park to the North, Clingman Avenue to the West, and the River/Arts Warehouse District to the South.

A committee of stakeholders was formed to lead the project and work closely with the design consultant to develop the plan. This committee included representatives from the City's Parks and Recreation and Planning Departments, the Asheville Greenway Commission, Mountain Housing Opportunities, the West End/Clingman Avenue Neighborhood, Buncombe County Parks and Recreation and Buncombe County Board of Education. The planning effort was made possible through generous grants received by Mountain Housing Opportunities from the Pigeon River Fund and Carolina Power and Light.

Much of the property within the proposed greenway corridor is currently owned by public or quasi-public agencies, including the City of Asheville, Buncombe County, and the Buncombe County Board of Education. There are several small parcels within these larger tracts that are currently in private ownership. The proposed linear park is indicated as a primary off-road greenway corridor in the Asheville Greenway Master Plan.

The purpose of the Master Plan was to develop an understanding of the site through detailed site analysis, receive public input, and establish guidelines for development of the greenway. The future Clingman Forest Greenway will eventually provide a greenway connection between Buncombe County's Aston Park and Asheville's French Broad River Riverfront District. The corridor is planned to serve as a valuable natural resource for recreation and environmental education, and also contribute to the revitalization of the surrounding area. The future greenway will serve both the community in the immediate vicinity as well as the broader Asheville area.

Key design concepts will be to (1) provide network of trails; (2) incorporate infill housing; (3) protect the site's natural character; (4) incorporate environmental education; and (5) reinforce a sense of place.

Currently secured funding and support includes: (1) The N.C. Dept. of Transportation (NCDOT) Enhancement Grant (\$172,000) for streetscape improvements to Clingman Avenue, to include construction of the on-street portion of the Clingman Forest Greenway and

stormwater infrastructure within Clingman Forest; (2) Community Development Block Grant funding (\$34,000) which will provide the local match for the first phase of the NCDOT Enhancement Grant; and EPA 319 Stormwater Grant (\$95,000) secured by NCSU Water Quality Group for constructed stormwater wetland within Clingman Forest.

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The Parks and Recreation Department and Asheville Greenway Commission recommend the City of Asheville adopt the Clingman Forest Greenway Master Plan as a document that will serve as a guideline for greenway development.

Councilman Ellis stated that since some of this land will be used for infill development, he assured the public that the City will go through extensive public hearings prior to any public land being sold.

Councilwoman Jones said that this process has been a very open public process to date and will look forward to seeing how that continues.

Councilman Peterson asked what some thoughts have been to address the safety concerns at Aston Park and also on the greenway itself. Ms. Calabria explained that the consultants have worked with guidelines that the Asheville Police Department has for environmental design for safety and they also listened to residents. The idea of natural surveillance or "having eyes on the park" will go hand in hand with the Police guidelines.

Upon inquiry of Councilman Mumpower, Parks & Recreation Director Irby Brinson guessed that maintenance of this greenway would be approximately \$8,000/year. He felt that because of the neighborhood setting, the greenway will have a fairly heavy use. Regarding funding for this greenway vs. other park needs, Mr. Brinson felt that the opportunities for outside funding is greater for greenways than for park renovations. He felt this particular greenway will have a lot of partners, and has the potential to be funded in a number of creative ways. Regarding policing concerns, Mr. Brinson said that to date we have had no problems on any greenways. He felt that the building of the park would be in the range of medium/high renovation because it is a difficult corridor to work in with a number of board walks to be constructed and topography being an issue. The total budget for both phases of the project is approximately \$1.3 million and he anticipated approximately 15% would ultimately be the City taxpayer's contribution.

Councilman Peterson noted that a big part of the funding is the roundabout and since that's not the trail, it's something that if this hadn't been brought forward the Public Works Department might have suggested that anyway. In addition, Councilwoman Jones felt the same situation might have occurred for the road improvements to Haywood Road.

Upon inquiry of Councilwoman Jones, Ms. Calabria said that some of the secured funding is part of the overall plan.

Councilman Dunn understood the concept of leveraging money, but pointed out it is still spending money.

Mr. Fred English felt the cost of the greenway was too much and wondered why Mountain Housing Opportunities was involved since he thought they were in the housing business and not the greenway business.

Mayor Worley said that we anticipate being able to get a substantial portion of this project from grants, but this is more than a greenway. This is about what we are as a City and our ability to attract people and jobs to our area.

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. 03-184. This motion was seconded by Councilwoman Jones and carried unanimously.

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RESOLUTION BOOK NO. 28 – PAGE 48

VI. OTHER BUSINESS:

Claims

The following claims were received by the City of Asheville during the period of October 3-16, 2003: Jesse Morris (Water), Andre Griffin (Police), Latosha R. Little (Streets), Asheville Showcase (Water), Sonja Davis (Parks & Recreation), Natasha Allen (Police), Caroline Yongue (Water), and Christal Brice (Transit Services).

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

Lawsuits

On October 15, 2003, the City filed a Complaint against Harlan J. Henderson, and wife Debra Paulette J. Henderson. The nature

of the proceeding is a violation of City Code sec. 10-31 – regulating abandoned or junked motor vehicles. This matter will be handled in-house.

On October 15, 2003, the City filed a Complaint against Michael Ross Butner and wife Debra Darlene Butner. The nature of the proceeding is a violation of City Code sec. 10-31 – regulating abandoned or junked motor vehicles. This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Martin Reidinger, attorney representing Mr. Mike Fryar, felt that there is a legal defect in the ordinance annexing the property of Mr. Fryar. He said that the ordinance incorporated two descriptions – a metes and bounds description; and a map – and they don't match. He felt that raises a problem as to whether or not the City has defined adequately what you have annexed and what the boundary is of Asheville. An underlying problem is that one of the reasons that was stated to Council as to why you need to annex was that Mr. Fryar has a building on his property that was 40% in the City and 60% out of the City and you needed to be consistent. The description in metes and bounds show that it incorporates 100% of the building. So if that is accurately your annexation area, then the reason that was stated for adopting the ordinance was inaccurate. He asked that Council repeal the ordinance and then, if you wish, go back and do it right. If Council chooses not to repeal the ordinance, he suggested City Council waive the statute of limitations for appeal, since Mr. Fryar has let the deadline pass, and then let a Court decide. Again, he asked Council to either repeal the ordinance or let them challenge it in court. Councilman Mumpower responded that he wished he was in a position to support the suggestions, but the precedent concerns him and the arguments are not persuasive to him.

Mr. Peter Dawes stressed the need for the City to audit the ABC Board in that sales were up by \$300,000 last year but the City received less money.

Mr. Fred English questioned why a permit was issued to the Wiccans to use park property for a religious ceremony. Mayor Worley responded that the City can't discriminate against any group in the use of public property.

Mr. Chad Nesbitt wanted to make sure that the Wiccans have to comply with the same regulations, in particular insurance provisions, that other groups have to comply with to use public property. City Attorney Oast responded that the City is satisfied they are meeting our insurance requirements.

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Mr. Dennis Justice thanked the Civic Center Commission for reviewing the two hockey proposals at the Civic Center. He feels that this is hockey's last chance in Asheville and it should be their best chance. Because of the financial concerns of the City, he felt the team should provide safety nets but the City should install them and perhaps the Plexiglas should be on a 50/50 basis. Mr. Waronker was not convinced that the ice cooling system would survive for 3 years and felt that work needs to be done on the Zamboni. Mr. Justice said that other sports teams that have been at the Civic Center have had infrastructure upgrades. He pointed out that every dollar of every ticket that is bought at the Civic Center goes into some sort of fund for upgrades. He calculated if you have 2,000 people attend each game for 3 years at 30 games a season, you get \$180,000. Even if you don't tie them in exclusively to hockey specific upgrades, that money could go for upgrades for scoreboards, new speakers or painting. There is a meeting of the hockey community Monday night and he invited City Council and will also invite Mr. Al White of the Altitude.

Councilman Dunn explained his reasons why the City needs a total accounting from the ABC Board. He felt that \$168,000 for two police officers needed clarification. Mayor Worley said that Councilman Dunn's concerns are well taken and it is incumbent on us to review the financial information to make sure things are being run appropriately. He did note that the new Chair has met with him and he has shared with her Council's concerns. The ABC Board is in the process of hiring a new Supervisor and hopes to have them in place by January. He also said that the ABC Board is concerned about being certain that the ABC system is being run properly too.

CLOSED SESSION

At 7:17 p.m., Councilwoman Jones moved to go into closed session in order to consider the qualifications, competence, performance, character, or fitness of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(3); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(2). This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

At 8:05 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 8:05 p.m.

CITY CLERK

MAYOR