

Regular Meeting

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor R. Carl Mumpower; Councilwoman Terry M. Bellamy; Councilman Jan B. Davis; Councilman Joseph C. Dunn; Councilwoman Diana Hollis Jones; Councilman Brownie W. Newman; Interim City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

- Vice-Mayor Mumpower led City Council in the Pledge of Allegiance.

**INVOCATION**

Councilman Newman gave the invocation.

**ADDITION TO THE AGENDA**

- At the request of City Attorney Oast, it was the consensus of City Council to add a resolution regarding a power line easement to Progress Energy under the "Consent Agenda."

A brief discussion was held about the substance of a closed session following this meeting. Vice-Mayor Mumpower felt that if the subject matter will be to talk about compromise plans regarding the Water Agreement then it should be held in open session. City Attorney Oast said that the reason for the closed session was to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including potential litigation.

**I. PROCLAMATIONS:**

**A. RECOGNITION OF EXCELLENCE IN PUBLIC SERVICE AWARD WINNERS**

Mayor Worley read the certificates honoring the City of Asheville Excellence in Public Service Award Winners for 2005 and presented each one with a Certificate.

**B. PRESENTATION OF THE SONDLLEY AWARD TO ZOE RHINE AND ANNE WRIGHT**

Mayor Worley recognized Scott Riviere, Chairman of the Asheville-Buncombe Historic Resources Commission. Mr. Riviere said that the Historic Resources Commission gives the Sondley Award to an individual(s) in the community who by word or deed has kindled among the citizenry of Asheville and Buncombe County an appreciation for the history or historic resources of the area. He presented this year's Sondley Award to Ms. Zoe Rhine and Ms. Anne Wright.

**C. RECOGNITION OF MC COMMUNICATIONS IN SWANNANOA RIVER CLEAN-UP DAY**

Mayor Worley commended MC Communications' volunteers who worked diligently to clean up the Swannanoa River in mid-March, 2005. He presented the recognition certificate to Ms. Toni Fisher of MC Communications.

-2-

**D. PROCLAMATION PROCLAIMING JUNE 2005 AS "APHASIA AWARENESS MONTH"**

Councilwoman Bellamy read the proclamation proclaiming the month of June 2005 as "Aphasia Awareness Month" in the City of Asheville. She presented the proclamation to Ms. Edna Tipton and Ms. Robin Jones who briefed City Council on some activities taking place during the month.

**E. RECOGNITION OF CITY CLERK MAGDALEN BURLESON**

Mayor Worley recognized City Clerk Burleson for obtaining the Master Municipal Clerk status from the International Institute of Municipal Clerks. This professional designation represents the Institute's highest recognition for Clerk achievement. City Clerk

Burleson is the first City Clerk in Asheville's history to receive the designation.

## **II. CONSENT AGENDA:**

Mayor Worley announced that Consent Agenda Items "E" and "F" would be pulled from the Consent Agenda.

### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 24, 2005**

### **B. RESOLUTION NO. 05-119 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH VAUGHN & MELTON CONSULTING ENGINEERS FOR THE EAST OAKVIEW ROAD BRIDGE REPLACEMENT PROJECT**

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Vaughn & Melton Consulting Engineers for the project known as East Oakview Road Bridge Replacement Project for professional consulting engineering services.

The East Oakview Road Bridge Replacement Project consists of the provision of professional consulting engineering services for the preparation of the required planning document, engineering design, right-of-way and easement acquisition assistance, bidding and award assistance, construction inspection services and construction administration services associated with the construction of a new permanent bridge on East Oakview Road over Hominy Creek. The new bridge will be constructed to replace the existing temporary bridge that was put in place after structural failure of the old original bridge.

The City's Engineering Department requested qualification proposals from several consulting engineering firms from a list of approved N.C. Dept. of Transportation (NCDOT) design firms. The Engineering Department received and evaluated seven different proposals. City staff selected Vaughn & Melton Consulting Engineers as the most qualified firm along with NCDOT's approval.

The Project will be financed with monies from the City's Capital Improvements Fund. The NCDOT will reimburse the City 80% of the approved allowable Project costs from Federal Highway Administration funds.

The Project is in line with "Partnerships to Improve Critical Services and Infrastructure" focus area of the Strategic Operating Plan of the City.

The pros of executing the contract are:

-3-

- The process will commence to provide permanent access to residents of East Oakview Road.
- The professional services contract and cost amount of \$ 318,376.92 has been approved by all applicable agencies.

The con of executing the contract is:

- The temporary land and creek disturbance that will be brought about by construction activities.

Staff recommends that City Council adopt a resolution authorizing the City Manager to execute a professional consulting engineering services contract with Vaughn & Melton Consulting Engineers for the project known as East Oakview Road Bridge Replacement Project, not to exceed the budgeted amount.

### **RESOLUTION BOOK NO. 29 – PAGE 144**

### **C. RESOLUTION NO. 05-120 – RESOLUTION TO APPROVE LOAN FROM THE CITY'S HOUSING TRUST FUND**

Summary: The consideration of a resolution allocating a \$150,000 Housing Trust Fund (HTF) loan to Tim and Wendy Vorst for affordable housing development.

The balance of Housing Trust Funds currently available to lend is \$395,000. We have received an application from Tim and Wendy Vorst requesting a \$150,000 HTF loan for the development of 6 units of affordable housing on Patton Avenue (corner of Mimosa Drive).

The building will consist of six 1-bedroom units to be rented for \$525 each per month. The developer successfully

completed the construction of an identical 6-plex on Hendersonville Road in 2002 using HTF dollars and continues to have success leasing that property at affordable rents.

The application was evaluated by staff and scored well against the HTF criteria, particularly for developer qualifications and cost-effectiveness. The Housing and Community Development Committee reviewed the application on May 23, 2005, and has recommended a loan of \$150,000 for 30 years at an interest rate of 2%.

This action supports Housing Opportunities Goals 3 and 4 of the Strategic Operating Plan.

**Advantage:** Assists the development of 6 units of affordable rental housing

**Disadvantages:** None

City staff recommends approval of the HTF loan to Tim and Wendy Vorst, in the amount of \$150,000.

**RESOLUTION BOOK NO. 29 – PAGE 145**

**D. RESOLUTION NO. 05-121 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY AN EASEMENT OVER CITY-OWNED PROPERTY ON CAUBLE STREET TO SET SAIL DEVELOPMENT INC. FOR A PRIVATE RESIDENTIAL SEWER LINE**

-4-

Summary: The consideration of a resolution authorizing the Mayor to convey an easement over a portion of City-owned property on Cauble Street to Set Sail Development Inc. for a private residential sewer line.

The City owns property (PIN No. 9649.13-14-0658) located on Cauble Street. The property, which is part of the Reed Creek Greenway, is located about 200' west of the intersection of Cauble Street and Broadway. It is irregular in shape following the meandering of Reed Creek and containing approximately 0.32 acre. It is generally level with the street and forms a grassy plain along the bank of the creek.

Set Sail Development Inc. owns property on Cauble Street, comprised of two residential lots, which adjoins the City's property on Cauble Street. Set Sail proposes to build a house on each lot. Due to the location of the sewer main, the most direct and efficient route to provide sewer to the new houses is across a portion of the City's property. The requested easement would be solely for the purpose of installing and maintaining the sewer line and would not restrict the use of the easement area for a greenway, which is the proposed use of the property. The portion of land encumbered by the permanent easement comprises approximately 1,277 square feet

The City recently acquired the property on Cauble Street at a price of \$31,100 reflecting a per square foot value of \$2.23. The easement comprises an area of 1,277 square feet. The easement value is calculated at 50% of the land value rendering an easement value of \$1,424.

The advantages of conveying the easement are:

- The easement will enable Set Sail to proceed with construction of two new homes on his property which will increase the tax base, generate economic activity, further smart growth objectives of urban densification and provide needed housing.
- The easement will provide the most practical and efficient access to the public sewer.

The disadvantage is the land within the easement area (1,277 sq. ft.) cannot be built upon or planted with large trees; however, that is mitigated by the fact that the land within the easement area is within the building set back area and cannot be built upon anyway.

Planning & Development staff and Parks & Recreation staff recommend adoption of the resolution authorizing the Mayor to convey an easement over a portion of City-owned property on Cauble Street to Set Sail Development Inc. for a private residential sewer line.

**RESOLUTION BOOK NO. 29 – PAGE 146**

**E. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. STATE HISTORIC PRESERVATION OFFICE FOR A GRANT FROM THE U.S. DEPT. OF INTERIOR, NATIONAL PARK SERVICE, FOR HAYWOOD ROAD NATIONAL REGISTER DISTRICT NOMINATIONS**

This item was removed from the Consent Agenda.

**F. BUDGET AMENDMENT FOR GRANT FROM THE N.C. STATE HISTORIC PRESERVATION OFFICE FOR PREPARATION OF THE WEST HAYWOOD ROAD COMMERCIAL HISTORIC DISTRICT AND EAST HAYWOOD ROAD COMMERCIAL HISTORIC DISTRICT NATIONAL REGISTER NOMINATIONS**

This item was removed from the Consent Agenda.

-5-

**G. RESOLUTION NO. 05-122 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE THE EXCHANGE OF PROPERTY BETWEEN CHRISTOPHER J. PETERSON AND THE CITY OF ASHEVILLE FOR ACCESS INTO RICHMOND HILL PARK VIA RICHMOND HILL DRIVE**

Summary: The consideration of a resolution authorizing the City Manager to approve the exchange of property between Christopher J. Peterson and the City of Asheville for access into Richmond Hill Park via Richmond Hill Drive.

The City of Asheville Parks and Recreation Department and Legal staff have been working for several months on acquisition to the Richmond Hill Park from Richmond Hill Drive. A purchase option agreement was signed in February, 2005, between the City of Asheville and Christopher J. Peterson. This purchase option agreement deals with the exchange of approximately one acre of property owned by Mr. Peterson and valued at approximately \$35,000. The City wishes to exchange an equal value of property to Mr. Peterson for the one acre that will allow access into the park. Staff is requesting City Council approval to give Mr. Peterson notice of exercise of this option in order to move forward with this exchange.

Pros:

- This exchange of property will allow for extension of the Richmond Hill Drive into Richmond Hill Park for the purpose of development of the National Guard Armory and other park features.
- This access meets the conditions of the conditional use permit approved by City Council.

Cons:

- The City will be exchanging approximately five to six acres of property from the Richmond Hill Park site

The Parks and Recreation Department recommends City Council approval for the City Manager to exercise the purchase agreement option dated February 17, 2005, in order to proceed with the exchange of property by Christopher J. Peterson and the City of Asheville to allow access into Richmond Hill Park via Richmond Hill Drive.

**RESOLUTION BOOK NO. 29 – PAGE 147**

**H. ORDINANCE NO. 3240 - BUDGET AMENDMENT FOR FIRE DEPARTMENT U.S. DEPT. OF HOMELAND SECURITY GRANT**

Summary: The consideration of a budget amendment, in the amount of \$77,117, to receive grant money from the U.S. Dept. of Homeland Security (DHS), sub-granted through the Federal Emergency Management Agency's (FEMA) Fiscal Year 2004 Assistance to Firefighter's Grant Program, for procurement of fire and safety education equipment and computers and associated fire inspection supplies.

The City of Asheville Fire and Rescue Department, with endorsement of the Asheville City Council in November, 2003, requested \$71,126 from the U.S. Dept., of Homeland Security to fund educational material for children attending public elementary schools and day care centers, public service announcements for fire and life safety education, and personal field use computers for fire prevention and inspection activities. The Federal grant was for 70% of the costs with the City to match 30%, or \$23,135. Staff was successful in obtaining those Federal funds.

The goal of the project is to reduce the number of deaths and injuries to the residents of Asheville by at least 10% over a five-year period. The focus of the program benefits those individuals most likely to be affected by fire. Public safety spots, produced by the City, will be

-6-

aired on local television at times the public is watching TV. The announcements will cover topics such as holiday safety, use of

smoke detectors, the importance of home fire escape plans, fire extinguisher use, fire drills and more, including topics of interest to children. Mobile interface capability through new handheld computers and printers will address the redundant procedure now in use by Deputy Fire Marshals. They will be able to complete the inspection form while performing the inspection and print the form for the occupant while at the building site. The procedure will streamline the inspection process, improve communication with occupants, and provide a safer environment for the occupants, residents, and visitors.

Pros:

- Increased public awareness and education will decrease the number of deaths and injuries to the residents of the City of Asheville.
- The increased efficiency and increase communication with the handheld computers will benefit the building owners, the occupants, and staff.

Cons:

- The City of Asheville's share of the matching grant.

Asheville City Council has directed staff to validate levels of emergency services provided for our citizens through the City's Strategic Operating Plan. Within the City of Asheville Strategic Operating Plan section on Critical Services and Infrastructure: Goal 3 – Strong City and County Partnerships; Objective 1 – Review and validate the levels of critical emergency services provided throughout the city; Task 3 – Review and validate the levels of critical emergency services provided throughout the city.

City staff recommends City Council approve the budget amendment to receive grant money from the U.S. Dept. of Homeland Security.

#### **ORDINANCE BOOK NO. 22 – PAGE 119**

##### **I. RESOLUTION NO. 05-123 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE FILM COMMISSION**

Summary: At the City Council meeting on May 10, 2004, it was the consensus of City Council to appoint Mary Trimarco, AdvantageWest Film Commissioner, to the next vacancy on the Film Commission. Mr. David Shulman has resigned, this leaving an unexpired term until November 1, 2007. Therefore, Mary Trimarco will be appointed to fill the unexpired term of Mr. Shulman, term to expire November 1, 2007, or until her successor has been appointed.

#### **RESOLUTION BOOK NO. 29 – PAGE 148**

##### **J. ORDINANCE NO. 3241 – BUDGET AMENDMENT FOR REIMBURSEMENT INCOME**

Summary: The consideration of a budget amendment, in the amount of \$765,000, for insurance recovery reimbursement.

The City has incurred health care expenses this year that are eligible to be reimbursed. This budget amendment adds the reimbursements to the Fiscal Year 2004-05 budget in order to replenish our accounts.

-7-

The City operates a self-funded health care program whereby the City is responsible for paying employee medical expenses directly with funds included in the City's budget. In order to protect the City from large health care claims, and provide a cap for the cost of our health plan on a yearly basis, the City's health care budget includes a "stop-loss coverage" policy, which sets a limit on the amount the City has to pay on any individual health care claim. Eligible health care expenses above the established limit are reimbursed by our stop-loss insurance provider.

In the current fiscal year, the City has incurred higher-than-normal medical claim expenses, which has caused the medical claims budget to be overspent. However, due to these higher than normal expenses, the City has received additional stop-loss coverage reimbursement revenue, over and above what was budgeted as well. In order to cover the overspent medical claims account, staff requests an amendment adding \$765,000 to our medical claims expense budget to be funded with an additional \$765,000 in stop-loss reimbursement revenue that will be received by June 30. There is no net cost to the City associated with this amendment.

City staff recommends the budget be amended to add revenue received from insurance recovery and investment earnings

to offset higher than anticipated health care expenses.

## **ORDINANCE BOOK NO. 22 – PAGE 121**

### **K. RESOLUTION NO. 05-124 - RESOLUTION AUTHORIZING THE CITY TO CONVEY AN EASEMENT FOR LOCATION OF ELECTRIC POWER FACILITIES**

Summary: The consideration of a resolution authorizing the City to consider an easement for power line location at Azalea Park

Since last summer, the City has been proceeding with the development of the park facility on Azalea Road; this work was interrupted by the hurricanes in September. In connection with this work, Progress Energy is installing some power lines, and needs an easement for the installation and any ongoing maintenance or repair. The exact location is unknown, and may change as our needs change, but Progress Energy will work with the Parks and Recreation Department as to the location of these lines and the easement will so provide.

#### Considerations:

- This is a routine request and will benefit the City.
- The easements are necessary to the use and enjoyment of the park
- Progress Energy will work with the City to minimize interference with activities.

If Council approves of this conveyance, adoption of the resolution is recommended.

## **RESOLUTION BOOK NO. 29 – PAGE 149**

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.

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

### **III. PUBLIC HEARINGS:**

#### **ANNEXATION PUBLIC HEARINGS**

-8-

Planning & Development Director Scott Shuford explained that purpose of these hearings is for the City to explain the plan for extending City services to the proposed annexation areas, and to give all persons resident or owning property within the areas, and all residents of the City, the opportunity to be heard.

On April 12, 2005, the City Council adopted Resolutions of Intent beginning the annexation process for the following six areas: the Ridgefield Business Park area, the Ascot Point Village area, the Long Shoals Road area, the Airport Road area, Two Town Square, and Town Square East. The Annexation Services Plan was approved on April 26, 2005, and a public information meeting was held on May 31, 2005. Approximately 7 persons affected by the proposed annexations attended this meeting. On June 28, 2005, City Council will consider adoption of the ordinances extending the corporate limits, with an effective date of Ridgefield Business Park, Two Town Square and Town Square East being September 30, 2005, and the effective date of the Ascot Point Village area, the Long Shoals Road area and the Airport Road area being December 31, 2005.

Urban Planner Julia Cogburn advised Council that she would be bringing forward, at the June 28, 2005, meeting, a resolution amending the plan for services. Said amendment will consist of minor corrections and updates to the revenue estimates based on newer data.

#### **A. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE RIDGEFIELD BUSINESS PARK AREA**

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

Ms. Cogburn reviewed with Council the specifics of the Ridgefield Business Park area.

City Attorney Oast said that N.C. Gen. Stat. sec. 160A-49 requires that the appropriate persons who handled those tasks make certain certifications regarding public notice provided for this hearing. Urban Planner II Blake Esselstyn and City Clerk Burleson have made the appropriate certifications. In addition, City Clerk Burleson has certified certain other ministerial facts regarding the availability of the Annexation Services Plan; the delivery of the statement of impact to Buncombe County; letters to volunteer fire departments and their responses; and letters to the solid waste providers and their responses. He asked that these certifications be entered into the record.

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

Mayor Worley said that the ordinance to extend the corporate limits into this area would be considered by City Council on June 28, 2005.

**B. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE ASCOT POINT VILLAGE AREA**

Mayor Worley opened the public hearing at 5:39 p.m.

Ms. Cogburn reviewed with Council the specifics of the Ascot Point Village area.

Mr. Eric Gorny felt that density does not equal community, and City Council should take care of the existing infrastructure, etc. in the City before trying to bring in more people.

City Attorney Oast said that N.C. Gen. Stat. sec. 160A-49 requires that the appropriate persons who handled those tasks make certain certifications regarding public notice provided for

-9-

this hearing. Urban Planner II Blake Esselstyn and City Clerk Burleson have made the appropriate certifications. In addition, City Clerk Burleson has certified certain other ministerial facts regarding the availability of the Annexation Services Plan; the delivery of the statement of impact to Buncombe County; letters to volunteer fire departments and their responses; and letters to the solid waste providers and their responses. He asked that these certifications be entered into the record.

Mayor Worley closed the public hearing at 5:41 p.m.

Mayor Worley said that the ordinance to extend the corporate limits into this area would be considered by City Council on June 28, 2005.

**C. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE LONG SHOALS ROAD AREA**

Mayor Worley opened the public hearing at 5:42 p.m.

Ms. Cogburn reviewed with Council the specifics of the Long Shoals Road area.

Mr. A.B. Wexler felt that this annexation does not meet the density requirements. He felt that the City of Asheville caters to developers and does not support existing businesses or residents. He strongly expressed his dissatisfaction in this annexation process.

City Attorney Oast said that N.C. Gen. Stat. sec. 160A-49 requires that the appropriate persons who handled those tasks make certain certifications regarding public notice provided for this hearing. Urban Planner II Blake Esselstyn and City Clerk Burleson have made the appropriate certifications. In addition, City Clerk Burleson has certified certain other ministerial facts regarding the availability of the Annexation Services Plan; the delivery of the statement of impact to Buncombe County; letters to volunteer fire departments and their responses; and letters to the solid waste providers and their responses. He asked that these certifications be entered into the record.

Mayor Worley closed the public hearing at 5:47 p.m.

Mayor Worley said that the ordinance to extend the corporate limits into this area would be considered by City Council on June 28, 2005.

**D. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF THE AIRPORT ROAD AREA**

Mayor Worley opened the public hearing at 5:48 p.m.

Ms. Cogburn reviewed with Council the specifics of the Airport Road area.

Ms. Carolyn Baity, co-owner of Baity's Precision Machining on Glen Bridge Road, spoke in opposition to the annexation of this area. She said they have all the services they need. She felt this is a heavy tax burden on small businesses and felt they should be been allowed to vote on whether to be annexed or not.

Mr. Eric Gorny felt that density does not equal community. He felt City Council should take care of the existing infrastructure, etc. to make it more appealing to be a City resident.

-10-

Ms. Frances Briggs, resident on Long Shoals Road, spoke against annexation. She felt annexation pushes businesses out of the area. She felt it was not the County's responsibility to clean up Asheville's problems.

City Attorney Oast said that N.C. Gen. Stat. sec. 160A-49 requires that the appropriate persons who handled those tasks make certain certifications regarding public notice provided for this hearing. Urban Planner II Blake Esselstyn and City Clerk Burleson have made the appropriate certifications. In addition, City Clerk Burleson has certified certain other ministerial facts regarding the availability of the Annexation Services Plan; the delivery of the statement of impact to Buncombe County; letters to volunteer fire departments and their responses; and letters to the solid waste providers and their responses. He asked that these certifications be entered into the record.

Mayor Worley closed the public hearing at 5:54 p.m.

Mayor Worley said that the ordinance to extend the corporate limits into this area would be considered by City Council on June 28, 2005.

#### **E. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF TWO TOWN SQUARE**

Mayor Worley opened the public hearing at 5:55 p.m.

Ms. Cogburn reviewed with Council the specifics of the Two Town Square area.

City Attorney Oast said that N.C. Gen. Stat. sec. 160A-49 requires that the appropriate persons who handled those tasks make certain certifications regarding public notice provided for this hearing. Urban Planner II Blake Esselstyn and City Clerk Burleson have made the appropriate certifications. In addition, City Clerk Burleson has certified certain other ministerial facts regarding the availability of the Annexation Services Plan; the delivery of the statement of impact to Buncombe County; letters to volunteer fire departments and their responses; and letters to the solid waste providers and their responses. He asked that these certifications be entered into the record.

Mayor Worley closed the public hearing at 5:56 p.m.

Mayor Worley said that the ordinance to extend the corporate limits into this area would be considered by City Council on June 28, 2005.

#### **F. PUBLIC HEARING TO CONSIDER THE ANNEXATION OF TOWN SQUARE EAST**

Mayor Worley opened the public hearing at 5:57 p.m.

Ms. Cogburn reviewed with Council the specifics of the Town Square East area.

Mr. A.B. Wexler spoke in opposition to this annexation.

City Attorney Oast said that N.C. Gen. Stat. sec. 160A-49 requires that the appropriate persons who handled those tasks make certain certifications regarding public notice provided for this hearing. Urban Planner II Blake Esselstyn and City Clerk Burleson have made the appropriate certifications. In addition, City Clerk Burleson has certified certain other ministerial facts regarding the availability of the Annexation Services Plan; the delivery of the statement of

-11-



impact to Buncombe County; letters to volunteer fire departments and their responses; and letters to the solid waste providers and their responses. He asked that these certifications be entered into the record.

Mayor Worley closed the public hearing at 5:58 p.m.

Mayor Worley said that the ordinance to extend the corporate limits into this area would be considered by City Council on June 28, 2005.

At 5:59 p.m., Mayor Worley announced a short recess.

#### **B. PUBLIC HEARING ON THE FISCAL YEAR 2005-06 ANNUAL OPERATING BUDGET**

Mayor Worley opened the public hearing at 6:08 p.m.

Budget Director Ben Durant said that the City Council conducts a public hearing each year to receive public input on budget issues before the Annual Operating Budget is adopted.

The Fiscal Year 2005-06 Annual Operating Budget was presented to City Council on May 2, 2005. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the Public Hearing was published on June 3 and June 10, 2005. Adoption of the Budget Ordinance is scheduled for June 28, 2005, at the City Council meeting.

The Fiscal Year 2005-06 Annual Operating Budget is balanced with an Ad Valorem Tax rate of \$0.53 per \$100 assessed value.

A copy of the Budget is available for public inspection in the City Clerk's Office. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption with the only exception being the Ad Valorem Tax rate, which cannot be changed once adopted.

City staff requests City Council conduct the public hearing on the City of Asheville Fiscal Year 2004-05 Annual Operating Budget and include public input in consideration of the budget.

Two residents on South French Broad Avenue urged City Council to not eliminate traffic calming on South French Broad Avenue. They urged Council to finish their traffic calming on the south end of French Broad Avenue.

Councilman Newman explained that City Council is not eliminating traffic calming, just expanding the definition to include pedestrian safety measures into the traffic calming terminology.

Mr. David Bailey, CEO of United Way of Asheville and Buncombe County, updated City Council on the United Way 211 Call Center and asked for support on their outside agency funding request.

Ms. Leslee Kulba urged City Council to proceed with termination of the Water Agreement.

At 6:21 p.m., Mayor Worley closed the public hearing.

-12-

After a lengthy discussion on the budget process to date and the next step, it was the consensus of City Council to ask City staff to come back at the June 21, 2005, worksession with funding options for other initiatives.

Mayor Worley announced that on June 28, 2005, City Council will take all comments into consideration and consider the adoption of the Fiscal Year 2005-06 Annual Operating Budget.

#### **IV. UNFINISHED BUSINESS:**

#### **V. NEW BUSINESS:**

##### **A. ORDINANCE NO. 3242 - ORDINANCE TO ENACT OR CHANGE SPEED LIMITS ON VARIOUS STREETS**

## AND TO ENACT THROUGH TRUCK PROHIBITIONS ON SPECIFIC CITY STREETS

Mr. Anthony Butzek, Traffic Engineer, said that this is the consideration of an ordinance to enact or change speed limits and enact through truck prohibitions on specific city streets.

The streets listed below have been identified for speed concerns or truck concerns by residents, City boards and commissions, City Council, the Asheville Police Department, Transportation Services Division staff, or other City staff. Transportation Services Division staff has conducted field reviews of street geometry and conditions. Streets with requests for truck prohibitions have been reviewed for appropriateness. The Police Department supports these recommendations.

### **Through Truck Prohibitions**

The following streets are streets on which it is recommended that through trucks be prohibited. All are residential, with the exception of Page Avenue and Maxwell Street. Page Avenue is a commercial street that was not designed to accommodate large vehicles. Maxwell Street is a mixed-use street on which it is desirable to discourage use by trucks.

1. Maxwell Street, between Broadway and Chestnut Street
2. Overbrook Road, between Tunnel Road and Governors View Road
3. Page Avenue, between Battery Park Avenue and Battle Square
4. Springside Road, between Hendersonville Road and Overlook Road
5. Sunset Terrace, in its entirety
6. Woodlink Road, in its entirety

### **15 Miles Per Hour**

The following streets are narrow residential streets with extreme street geometry problems, including severe and frequent crests and curves, and heavily used on-street parking. These streets warrant a significantly lower speed limit than the typical 25 mph. The recommended safe operating speed on these streets is 15 mph:

1. Dundee Street, in its entirety

### **20 Miles Per Hour**

The following streets are narrow residential streets with street geometry problems or business district streets. NCDOT has adopted a matching speed limit on Biltmore Avenue. Street geometry problems on residential streets include frequent crests and curves. The recommended safe operating speed on these streets is 20 mph:

-13-

1. Biltmore Avenue (US 25), between Hilliard Avenue and Aston Street (NCDOT)
2. Cane Street, in its entirety
3. College Street, between Charlotte Street and Valley Street
4. Sweetspire Ridge, in its entirety

### **25 Miles Per Hour**

Most of the following streets are typical local residential streets without significant street geometry problems. The appropriate speed limit for typical local residential speeds is 25 mph. Cedar Street and Wood Avenue are collector residential streets with character and geometry warranting lower than typical collector speed limit. Roberts Street is a mixed-use street warranting a speed limit higher than a typical business district street but lower than a typical collector street. The recommended safe operating speed on these streets is 25 mph:

1. Allen Street, between State Street and Haywood Road
2. Altamont View, in its entirety
3. Burton Street, between Haywood Road and Florida Avenue
4. Carrier Street, between Sulfur Springs Road and Baker Place
5. Cedar Street, between Wood Avenue and Fairview Road
6. Courtland Avenue, in its entirety
7. Dortch Avenue, between Hillside Street and Mount Clare Avenue

8. Druid Drive, between Patton Avenue and Mitchell Avenue
9. East Maple Drive, between New Haw Creek Road and the dead end
10. East Oakview Road, in its entirety
11. Finalee Avenue, in its entirety
12. Gashes Creek Road, between Azalea Road and the dead end
13. Haw Creek Circle, in its entirety
14. Kenilwood Place, in its entirety
15. Klondyke Avenue, in its entirety
16. Lakeside Drive, between Old Haywood Road and Appalachian Way
17. Langwell Avenue, in its entirety
18. Mann Road, in its entirety
19. Maple Drive, between Old Haw Creek Road and New Haw Creek Road
20. McDade Street, in its entirety
21. Morningside Drive, in its entirety
22. Old Stone Gate Place, in its entirety
23. Olmsted Drive, between Dearborn Street and Columbine Road
24. Pressley Road, in its entirety
25. Racquet Club Road between Hendersonville Road and Boddington Court
26. Rhododendron Place, in its entirety
27. Roberts Street, between Craven Street and Lyman Street
28. Samayoa Place, in its entirety
29. Senator Reynolds Road, in its entirety
30. Trinity Chapel, between New Haw Creek Road and Old Haw Creek Road
31. West Maple Drive, between Old Haw Creek Road and Hillview Road
32. Wilmington Street, in its entirety
33. Winthrop Road, in its entirety
34. Wood Avenue, between Cedar Street and end of City maintenance

### **30 Miles Per Hour**

The following streets have features that warrant operating speeds less than the typical collector street speed limit of 35 mph. These features include residential character, narrow widths, and roadside obstructions. The recommended safe operating speed on these streets is 30 mph:

-14-

1. Azalea Road, in its entirety
2. Edwin Place, in its entirety
3. Florida Avenue, between Burton Street and Patton Avenue
4. Gerber Road, in its entirety
5. Hill Street, between Montford Avenue and US 19-23-70
6. Kimberly Avenue, in its entirety
7. London Road, between Bellview Road and West Chapel Road
8. Lyman Street, between Riverside Drive and Amboy Road
9. Pinecroft Road, in its entirety
10. River Hills Road, in its entirety
11. Riverside Drive, between Interstate 240 and Lyman Street
12. Royal Pines Drive, in its entirety
13. Shelburne Road, in its entirety
14. Spooks Branch Road, in its entirety
15. State Street, in its entirety

Mr. Butzek said that at the May 17, 2005, City Council worksession, Council requested staff to review the speed limits on Edwin Place and Kimberly Avenue for conformance with standard speed limit adoption practices. Included in this ordinance is a recommendation for increasing these limits from 25 mph to 30 mph.

The Engineering Department requests that City Council approve the ordinance amending these speed limit and through truck prohibition changes.

The following residents urged City Council to not raise the speed on Kimberly Avenue and Edwin Place for several reasons, some being, but are not limited to: Edwin and Kimberly are residential streets being used as north/south major thoroughfares to Merrimon Avenue; no other streets in Asheville averages over 10,000 vehicles a day; Kimberly Avenue has more pedestrian traffic than other streets in Asheville, other than the downtown streets; raising the speed limit will give people permission to go faster; Merrimon Avenue is the real problem, not Kimberly Avenue; and the speed on Kimberly and Edwin work fairly well now and should remain 25 mph

Ms. Barbara Hodgson, resident on the corner of Evelyn and Kimberly  
Ms. Judi Williams, resident on Kimberly Avenue  
Ms. Stacy Ibrahim, resident on Kimberly Avenue  
Mr. Dennis Hodgson, resident on the corner of Evelyn and Kimberly  
Mr. Peter Luther, resident on Kathryn Place

When Councilman Dunn asked if Kimberly Avenue is slated for traffic calming, Mr. Butzek responded that a portion of Kimberly Avenue and Edwin Place are slated for traffic calming in conjunction with the Grove Park Inn expansion. He said that \$375,000 will be spent by the developer, which will be spent on a number of City streets as well as sidewalk and engineering associated with that.

Vice-Mayor Mumpower said that he was the person who raised the issue about the speed limit on Kimberly and Edwin. He doesn't really have an advocacy position on what that speed limit would be, but he has been hearing for years that staff has recommended one speed limit, but for political or other reasons, previous councils have elected to put an artificially low speed limit on those streets. It is his belief that we should not make our decisions on the basis of political pressures or people's personal preferences. He believes we should treat all streets the same and have the same kind of policies regardless of who lives there. People who live there resent the fact that this is a major thoroughfare, but it is. We rely heavily on Kimberly and Edwin to move people in the City.

-15-

Upon inquiry of Vice-Mayor Mumpower, Mr. Butzek said that typically there is a balance between efficiency and safety when setting speed limits on particular streets. Higher speeds are generally always going to lead to reduction in safety, but increasing efficiency. Lower speed limit results in improved safety with a decrease in efficiency. Setting artificially low speed limits can generate enforcement problems. At this point, staff does not see a severe safety problem with either the 25 mph or 30 mph speed limit. However, given the fact that Kimberly Avenue is a collector street in a residential neighborhood, staff would typically recommend 30 mph for that type of street.

Councilwoman Jones noted that Kimberly Avenue has a vast amount of pedestrian traffic on it all the time and hoped that would be a factor considered in setting speed limits.

Councilwoman Jones moved to adopt Ordinance No. 3242, deleting the increase of the speed limit on Kimberly Avenue and Edwin Place to 30 mph. This motion was seconded by Councilwoman Bellamy.

Upon inquiry of Vice-Mayor Mumpower, Police Department Capt. Splain said that in the past 12 months they have issued 82 citations on Kimberly Avenue and the majority of those were speed violations. Capt. Splain said that they have an on-going plan regarding speed enforcement on Kimberly Avenue, which is managed through the North District Traffic Officer.

As Mr. Butzek responded to various questions from Council, discussion was held regarding the issue to raise or continue the existing speed limit on Kimberly and Edwin.

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

The motion made by Councilwoman Jones and seconded by Councilwoman Bellamy carried on a 6-1 vote, with Vice-Mayor Mumpower voting "no."

## **VI. OTHER BUSINESS:**

Vice-Mayor Mumpower announced vacancies on various boards for the month of June and urged citizens to apply.

On behalf of City Council, Mayor Worley congratulated Councilman Dunn on becoming a grandfather. Councilman Dunn proudly announced the birth of his grandson today, Bryce Cooper Davidson.

Vice-Mayor Mumpower urged citizens to come forward and volunteer for the For Our Kids Clean-Up at Pisgah View Apartments on Saturday, June 18, 2005.

City Council expressed their sincere sympathy to Councilwoman Bellamy upon the passing of her grandmother.

As this was City Manager Westbrook's last formal meeting before retirement, City Council thanked him for his 11 years of service with the City of Asheville.

The following claims were received by the City of Asheville during the period of May 13-26, 2005: Deanna Frisbee (Sanitation), George Frisbee (Sanitation), Dennis E. Eatmon (Transit Services), Tracy Crowe (Transit Services), Curtis Crooks (Police), Diane Dalton (Water),

-16-

BellSouth (Water), Carol Schell (Streets), Juanita Grantham (Transit Services) and Marcia Egan (Streets). These claims have been referred to Asheville Claims Corporation for investigation.

## **VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Mike Fryar spoke to Council about traffic calming.

Ms. Leslee Kulba, speaking on behalf of the Libertarian Party of Buncombe County, expressed their opinions regarding the negotiations on the water agreement.

### **Closed Session**

Councilwoman Bellamy left the regular meeting and was not present during the closed session, but had not been excused.

At 7:56 p.m., Councilman Newman moved to go into closed session in order to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including potential litigation. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilwoman Jones and carried unanimously.

At 9:05 p.m., Councilman Newman moved to come out of closed session. This motion was seconded by Vice-Mayor Mumpower and carried unanimously.

Vice-Mayor Mumpower moved for Council to request the Buncombe County Board of Commissioners to honor their commitment to have a public meeting with the City Council to discuss the Water Agreement, and authorized the Mayor to send the Board a letter renewing this request. There was a brief discussion regarding the content of the letter, and specifying that the meeting should occur on or before June 28, 2005. This motion was seconded by Councilwoman Jones and carried unanimously.

Councilman Davis informed City Council that it looked like no agreement would be reached with the Asheville Aces hockey team for the next season.

## **VIII. ADJOURNMENT:**

Mayor Worley adjourned the meeting at 9:15 p.m.

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CITY CLERK

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MAYOR

