

Tuesday - May 5, 1992 - 4:00 p.m.

Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the April 14, 1992, City Council minutes.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-56 - RESOLUTION CONDEMNING VIOLENCE IN THE RODNEY KING INCIDENT AND PRAISING NON-VIOLENT PROTEST IN THE CITY OF ASHEVILLE

Vice-Mayor Ellison read a resolution stating that the City Council does not condone the violence that erupted from the Rodney King verdict and praised the residents of the City of Asheville for venting their frustrations through non-violent demonstrations and community meetings.

Councilman Moore moved for the adoption of Resolution No. 92-56. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 171

B. PROCLAMATION PROCLAIMING THE WEEK OF MAY 10-16, 1992, AS "NURSING HOME WEEK"

Mayor Michalove proclaimed the week of May 10-16, 1992, as "Nursing Home Week" in the City of Asheville and presented it to Ms. Marsha Kaufman who urged everyone to take time out of their busy schedules and become acquainted with the quality of care, service and management provided by nursing facilities across the country.

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C. PROCLAMATION PROCLAIMING THE WEEK OF MAY 3-9, 1992, AS "RESPECT FOR LAW WEEK"

Mayor Michalove proclaimed the week of May 3-9, 1992, as "Respect for Law Week" in the City of Asheville and presented it to Police Chief Gerald Beavers.

D. PROCLAMATION PROCLAIMING THE WEEK OF MAY 10-16, 1992, AS "ASHEVILLE'S HERITAGE WEEK" AND "NATIONAL HISTORIC PRESERVATION MONTH"

Mayor Michalove proclaimed the week of May 10-16, 1992, as "Asheville's Heritage Week" and the month of May 1992 as "National Historic Preservation

Month" in the City of Asheville. He presented the proclamation to Ms. Jane Matthews who passed out information on various activities that will be taking place in May.

E. PROCLAMATION PROCLAIMING MAY 7, 1992, AS "NATIONAL DAY OF PRAYER"

Mayor Michalove proclaimed May 7, 1992, as "National Day of Prayer" in the City of Asheville.

F. PROCLAMATION PROCLAIMING THE WEEK OF MAY 3-9, 1992, AS "PUBLIC SERVICE EMPLOYEE RECOGNITION WEEK"

Mayor Michalove proclaimed the week of May 3-9, 1992, as "Public Service Employee Recognition Week" in the City of Asheville and recognized the following City of Asheville employees who are finalists in the Public Service Employee Recognition Program:

Outstanding Manager - James M. Harrison Jr.

Outstanding Supervisor - Kenneth R. Kendall

Outstanding Professional - Iola P. Byers

Outstanding Clerical - Cheryl S. Lunsford

Outstanding Crafts - Fred McKenzie

Outstanding Technician - Tommy Brooks/Chris Morgan

Equal Employment

Opportunity Service - Oralene Simmons

Heroic Act - Joseph D. Palmer

G. PROCLAMATION PROCLAIMING THE WEEK OF MAY 10-16, 1992, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Michalove proclaimed the week of May 10-16, 1992, as "Emergency Medical Services Week" in the City of Asheville and presented it to Fire Chief John Rukavina.

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Firefighter Tim Hinman passed out a report showing a breakdown of the 265 reports of medical emergencies the Asheville firefighter EMTs responded to during the month of March, 1992.

H. PROCLAMATION PROCLAIMING THE MONTH OF MAY 1992 AS "NATIONAL SENIOR CITIZENS' MONTH"

Mayor Michalove proclaimed the month of May 1992 as "National Senior Citizens' Month" in the City of Asheville and presented it to Ray Kisiah, Director of Parks, Recreation and Public Facilities.

I. PROCLAMATION PROCLAIMING THE WEEK OF MAY 11-17, 1992, AS "NATIONAL PUBLIC WORKS WEEK"

Mayor Michalove proclaimed the week of May 11-17, 1992, as "National Public Works Week" in the City of Asheville and presented it to Assistant Public Works

Director Larry Ward.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 25 - HENDERSONVILLE ROAD (KNOWN AS THE ASHEVILLE OIL COMPANY, INC., PROPERTY)

ORDINANCE NO. 1969 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 25 - HENDERSONVILLE ROAD (KNOWN AS THE ASHEVILLE OIL COMPANY, INC., PROPERTY)

Mayor Michalove opened the public hearing at 4:24 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Tallerday, Senior Planner, said that a petition for the annexation of a non-contiguous area located at 2310 Hendersonville Highway was received on March 12, 1992. She said that the City Clerk has certified the sufficiency of the petition. The property is owned by the Asheville Oil Company Inc. and leased to Bosco's Italian Eatery Inc. The non-contiguous area proposed for annexation meets all of the requirements of N. C. Gen. Stat. sec. 160A-58.

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Ms. Tallerday said the Asheville Fire Department is negotiating an agreement with the Skyland Volunteer Fire Department to provide fire protection service to the property proposed for annexation on a first response basis in case of an emergency. She said the Asheville Fire Department and the Skyland Volunteer Fire Department have decided to base payment for these services on the amount of tax paid for the property based on the fire district tax rate. The annual compensation to the Skyland Volunteer Fire Department, based on a rate of \$.08 per \$100 valuation, would be equal to approximately \$315.84.

She said the Asheville Police Department will provide law enforcement services to this area. There are no additional costs to the City to provide law enforcement services.

She said the area proposed for annexation is presently served by a 6" public water main located along U.S. Highway 25 which is maintained by the Asheville-Buncombe Water Authority. The area proposed for annexation is also served by an 8" public sewer line along U.S. Highway 25 owned by Buncombe County and maintained by the Metropolitan Sewerage District. There will be no additional costs to the City to provide water services.

The area proposed for annexation is serviced by U.S. Highway 25 and therefore would remain the North Carolina Department of Transportation's responsibility to maintain. Maintenance of private roads and lighting on private property are the owner's responsibility. The entrances to the property and the parking lot are private, and will, therefore, be maintained by the owner. There will be no additional cost to the City for street maintenance and street lighting.

The Public Works Department reports that due to the nature of the business, the property proposed for annexation is responsible for making arrangements with a private solid waste collector for daily service. There will be no impact on the Public Works budget as a result of this annexation.

The subject property does not exceed, when added to the area within all other satellite areas, 10% of the total area within the primary corporate limits of the City of Asheville.

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The Asheville Oil Company, Inc., property is approximately 2.25 acres. The total of the land area of all current satellite areas in the City of Asheville is approximately 8.93 acres. Upon annexation of the Asheville Oil Company, Inc., property, the combined land for all satellite areas of the City of Asheville would be 11.18 acres. The total land acreage of the City of Asheville is approximately 36.12 square miles. Ten percent of the area of the City is 3.61 square miles or 2310.40 acres.

The real property values of the property under consideration for annexation is \$394,800. The 1992 annual ad valorem revenues based on the City's tax rate of \$.60 per \$100 valuation would be \$2,368.80.

Based on a valuation of \$394,800 at the present fire district tax rate of \$.08 per \$100 valuation, the annual compensation to the Skyland Volunteer Fire Department would equal \$315.84.

Mayor Michalove closed the public hearing at 4:28 p.m.

Mayor Michalove stated that members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1969. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 1969 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1969. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1969 passed on its second reading.

B. PUBLIC HEARING RELATIVE TO FINAL APPROVAL OF A SITE PLAN FOR THE NEW INGLES TO BE LOCATED ON HENDERSONVILLE ROAD.

Mayor Michalove opened the public hearing at 4:30 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that Ingles Markets, Incorporated, is proposing the redevelopment of an -6-

existing 6.75 acre shopping center located on Hendersonville Road. The existing shopping center, which is zoned CH, contains an Ingles grocery store, a vacant Sky City store, and other retail space.

He said plans presented by the developer call for the demolition of the Sky City store and construction of a new 40,000 square foot Ingles grocery store, demolition of all or a portion of the existing Ingles store and construction of retail space. Approximately 19,000 square feet of new retail space will be constructed as part of the project. The existing Eckerd's Drug Store will remain.

He stated that utilities and fire protection are available at a level adequate to meet the needs of the proposed development. The developer will provide new utility service lines and will abandon sections of storm drainage lines located under buildings, replacing them with new lines. The site will be improved with landscaping as required to comply with the ordinances of the City of Asheville. Variances are being requested by the developer to permit a reduction in the width of a portion of the landscape strip located along the street frontage of the site and to permit a reduction in the number of required parking spaces.

He said that after reviewing the site plan, the Planning and Zoning Commission on April 1, 1992, recommended approval with the following contingencies:

1. Street trees must be spaced at least 15 feet apart;
2. City Council grant a variance to permit a reduction in width from 10 feet to 5 feet for the portion of the landscaping strip beginning at the north end of the site and ending at the planting island located in front of the 4,900 square foot retail shop;
3. City Council grant a variance to permit a reduction in the number of required parking spaces from 283 to 270; and
4. The developer must provide a revised site plan showing the proposed changes in the parking and the landscaping strip.

Mr. Green did state that the developer has already provided a revised site plan showing the proposed changes in the parking and the landscaping strip.

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When questioned by Councilwoman Field about staff's recommendation of reducing the width for the portion of the landscaping strip, Mr. Green responded that the staff felt the developer should comply with the ordinance.

Mr. Don Whitlow, architect for the project, stated that the landscaping strip variance is being requested in order to allow more parking in the front of the new Ingles.

Mayor Michalove closed the public hearing at 4:37 p.m.

Vice-Mayor Ellison moved to accept the recommendation of the Planning and Zoning Commission and approve the site plan subject to the four above contingencies. This motion was seconded by Councilman Peterson and carried on a 5-2 vote, with Councilwoman Field and Councilman Moore voting "no".

#### C. PUBLIC HEARING RELATIVE TO FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES

Mayor Michalove opened the public hearing at 4:38 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Marvin Vierra, Community Development Director, said that the City anticipates receiving \$1,342,000 through the CDBG Entitlement Program for 1992-93. The total budget including \$22,500 of program income and prior year surplus will be \$1,364,500. The City has received requests for CDBG funds totalling \$2,071,030. The requests have been reviewed by the Housing and Community Development Committee and the Committee has recommended the funding as follows:

Hill/Cherry (Head of Montford) area \$ 405,500

City Wide Housing Rehabilitation \$ 264,600

Neighborhood Housing Services \$ 125,000

Mountain Housing Opportunities - HOPE 3 \$ 15,000

Mountain Housing Opportunities - New

Rental Housing \$ 100,000

Hospitality House Transitional Shelter \$ 27,000

YMICDC-South Pack Square Redevelopment \$ 114,500

Hillcrest Enrichment Program \$ 30,000

City Contracting Disparity Study \$ 45,000

A-B Community Relations Council \$ 14,500

CD Planning \$ 30,000

Minority Business Program \$ 44,000

CD Administration \$ 149,400

Total \$1,364,500

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Vice-Mayor Ellison said that the Committee worked very hard in continuing the commitment of the City Council to provide affordable housing for the poor and elderly in the City.

Ms. Beth Maczka spoke in support of continuing those programs, such as Mountain Housing Opportunities, that further leverage federal funds for affordable housing.

Mr. Curtis Venable felt that CDBG funds should not be used for the City Contracting Disparity Study or the Minority Business Program because those programs benefit the citizens at large and should be funded through the general fund. He said that he did appreciate the continued funding of the non-profit programs.

Mr. Jim Barrett, attorney at Pisgah Legal Services, spoke about the need of housing for low and moderate income families. He commended the Council for doing what they could for housing but felt that some programs should be funded through the general fund, not CDBG funds.

Mr. Lewis Kraus, Director for Habitat for Humanity, thanked the Council for their support in the past. He expressed concern that Habitat for Humanity's proposal was not funded for this year.

Mr. Scott Dedman thanked the Council for the funds for Mountain Housing Opportunities and stressed the need for all CDBG funds to benefit the low and moderate income.

Ms. Karen Cragolin asked that the Council reconsider granting Riverlink's

proposal in which to continue the study of Chicken Hill.

Mr. Tony Sayer, Director of the Affordable Housing Coalition, thanked the City Council for their support and suggested that they might reconsider Habitat for Humanity's proposal for funding. He felt it was important to concentrate on projects that produce measurable results.

Mr. Larry Holt, Housing Authority of the City of Asheville, spoke about the number of units that have been and will be rehabilitated through the use of CDBG funds.

Mr. Tom Fitzpatrick stated that he has done two internal audits on the Neighborhood Housing Services and has found the money to be efficiently used.

Vice-Mayor Ellison was pleased that the Mayor will be appointing the head of the housing coalition to the -9-

Housing and Community Development Committee. He stated that all the members of the Committee were concerned about the cost for administration of the program and they are continuing to try to reduce that amount and put more into the housing programs.

Mayor Michalove closed the public hearing at 5:10 p.m.

#### D. PUBLIC HEARING RELATIVE TO BRACKETTOWN ROAD AND WHITE PINE DRIVE

Mayor Michalove opened the public hearing at 5:11 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mayor Michalove stated that the City Council has looked at a lot of information, visited the site of this intersection, and has studied all the letters sent to them in order for them to make this important decision.

Councilman Moore moved to adopt Plan A (the design for the interchange of Brackettown Road and White Pine Drive which design was originally directed by the City Council on December 22, 1987). This motion was seconded by Councilwoman Field.

Mr. Rick Coleman, representing the Asheville Mall, stated that they have studied the comments relative to egress and ingress for emergency vehicles. He said that Jerry Vebaun, Director of Civil Preparedness, was of the opinion that 95% of the emergency vehicles make a left hand turn when coming off of White Pine Drive onto Tunnel Road. He said Mr. Vebaun made a statement to them that the double left hand turn lane would be beneficial to emergency vehicles.

Mr. Coleman said that he spoke with Mr. McCanless (with the County school bus system) and said Mr. McCanless felt that for safety purposes it would be beneficial to have a traffic signal at the intersection on the developer's Plan B. He said that they did contact the North Carolina Department of Transportation and they have secured a traffic signal design cycle for that intersection. Mr. Coleman urged the City Council to approve the developer's Plan B with this additional signal included.

Mr. Coleman said that in regard to the bus service onto the Mall property, he met two times with the Asheville Transit Authority ("ATA") and asked them to develop a suggested plan concerning the routing of the City buses onto -10-

the Mall property. He said that the ATA did present a plan and a portion of

that plan depends upon the improvement of the design of the intersection of White Pine Drive and Brackettown Road. He presented the Council with a letter from Wanda Winslow, Chairman of the ATA, which explains the ATA plan and also submitted a copy of the ATA plan. He also presented a letter from Jerry Vehaun relative to the left hand turn movement.

It was the consensus of the Council not to deal with the issue of City buses entering onto Mall property at this time.

In response to Councilman Swicegood's question relative to why City buses could not run on the Mall property with Plan A, Mr. Coleman responded that in accordance with the plan submitted by the ATA, 1/3 of Route 4 (the route which would be using the Mall) would be using the already congested White Pine Drive and Brackettown Road for ingress and egress and felt that the intersection would have to be improved before a plan like the ATA's could be adopted.

Mr. Hugh Murphy, President of the Kenilworth Forest Community Club Inc. presented the Council with a petition with almost 500 signatures urging the "Council to observe the rulings of both the Buncombe County Superior Court and the North Carolina State Court of Appeals which require R.L. Coleman Co., Inc. to alter the intersection of White Pine Drive and the private mall entrance known as Brackettown Road to a "T" status with White Pine Drive to maintain the right of way." He thanked the Council for listening to the residents of the area and understanding that kind of impact the developer's Plan B would have on the neighborhood.

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

Upon inquiry of Vice-Mayor Ellison, City Manager Bean said that the "T"ing of Brackettown Road and White Pine Drive would be the responsibility of the developer. He said the additional widening and improvements to White Pine Drive would be the responsibility of the City. He estimated the cost to be \$14,000-\$15,000 using the City workforce and anticipated 60 days for the City's portion of the work to be done.

Vice-Mayor Ellison felt that what swayed him to endorse Plan A was that Plan B eliminated the direct access of the homeowners to having a right-of-way and he felt it was not fair in this situation.

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Councilman Worley felt that the neighborhood has a right of ingress and egress and hoped that with the "T" intersection, the traffic problem would be reduced. He feared, however, that in the future a second left hand turn lane might be needed.

The motion to adopt Plan A (the design for the interchange of Brackettown Road and White Pine Drive which design was originally directed by the City Council on December 22, 1987) made by Councilman Moore and seconded by Councilwoman Field was unanimously adopted.

At this time (5:30 p.m.) the City Council took a five minute recess.

### III. OLD BUSINESS:

A. ORDINANCE NO. 1970 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO AN AREA KNOWN AS THE BEAVERDAM RUN AREA UNDER THE AUTHORITY GRANTED BY PART 3, ARTICLE 4A, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA



City Manager Bean stated that he has met with the Beaverdam Run Homeowners Association since the public hearing on April 7 and there are still some issues of concern to them. He said that the Association will be meeting this week to consider some of those items and they will get back to us before the second reading scheduled for May 19. He said that they are aware that the first reading of the ordinance was being held today and that a joint report would be given to the Council prior to the second reading date.

Mayor Michalove said that Council has been furnished with copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 5-2, Ordinance No. 1970 passed on its first reading, with Councilmen Peterson and Swicegood voting "no."

B. REPORT FROM CITY ATTORNEY REGARDING TAX FORECLOSURE PROCEEDING RELATING TO 10 SUNSET SUMMIT AND CONSIDERATION OF THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA

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City Attorney Slawter said that at the February 4, 1992, meeting of the City Council, he was directed to proceed with the necessary actions to accomplish a tax foreclosure of the property located at 10 Sunset Summit in Asheville. As we completed our research of the public records to make a final determination of all parties necessary to such a proceeding, we discovered that there were 22 lienholders of record who would be necessary parties, in addition to the owner, Mrs. Brummer. Since he was one of those lienholders of record, and therefore had to be made a party defendant, Keith Snyder in the County Attorney's Office agreed to be the attorney of record in this foreclosure proceeding.

He said we were able to get two of the lienholders to cancel their liens on the public records prior to the institution of the lawsuit. Suit was then filed against Mrs. Brummer and the remaining 20 lienholders. Two additional lienholders have cancelled their liens on the public records since the filing of the suit. Service of process has been accomplished upon Mrs. Brummer and upon all of the lienholders except for a couple of exceptions which are being served by publication in the newspaper. Additional service is also being made upon Mrs. Brummer by newspaper publication.

He said that in addition to the number of parties involved and the complexities of the various liens against the property, we have encountered some delay in achieving service of process upon Mrs. Brummer in Florida and Tom Brummer in Canada. In addition, having the United States of America as a party defendant has been somewhat of a complicating factor. The final date by which all parties must file a written response with the Court if they wish to do so is anticipated to be during the second week of June. Thereafter, we expect to be able to obtain the necessary judgment providing for the sale of the property. The judicial sale that follows requires legal notice of at least 30 days, meaning that the sale could occur in mid-July. The highest bid placed at the judicial sale must remain open and subject to upset bids for a period of 10 days. If there is no upset bid, the sale can be confirmed and the property deeded upon the expiration of that 10 day period.

Mr. Slawter said the consideration of the third reading of the ordinance providing for the demolition of the structure located at 10 Sunset Summit was postponed until May 5, 1992, so that parties in interest who had previously been given notice of the initial public hearing on that question would not have to be re-notified, as they would if

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the matter had not been continued to a specific date. He recommended that the third reading again be continued to a specific date. A continuance until the first City Council meeting in August would allow sufficient time to accomplish the foregoing, if things go smoothly.

Vice-Mayor Ellison moved to continue the third reading of Ordinance No. 1958 until August 11, 1992, without further advertisement. This motion was seconded by Councilman Moore and carried unanimously.

#### IV. NEW BUSINESS:

##### A. REPORT ON PATTON AVENUE LANDSCAPE PLAN

Mr. John Broadbooks, landscape architect for the project, said that tree locations were based upon many factors, including, but not limited to overhead wires, driver visibility, pedestrian space, etc. He said that the area west of South French Broad has numerous driveway entrances and he doesn't want to create site distance problems for people coming out of the driveways and unsignalized intersections. He was not in favor of tree lawns because of the needed continuity of tree grades for the corridor into the City.

Upon inquiry of Councilman Peterson, Mr. Broadbooks said that an average tree life would be 7-15 years.

Councilman Worley had a concern about where trees are located closer to the buildings and utility poles are near the curbs, pedestrians have to zig-zag to keep from hitting them.

Vice-Mayor Ellison questioned the \$2,500 per year maintenance cost.

Upon inquiry of Councilman Swicegood, Assistant City Manager Charles Penny said that there are 39 trees to be installed from South French Broad to Clingman at a cost of \$250.00 per tree, if installed by the contractor, with a one year guarantee.

Councilman Worley reminded the Council that tree lawns could be made up of all different types of surfaces that would require little or no maintenance.

Mr. Mike Calhoun, with Vaughn & Melton Engineers, did not recommend the inclusion of a tree lawn from South French Broad to Clingman Avenue because this is a commercial area with an abundance of driveways and unsignalized intersections.

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Vice-Mayor Ellison suggested the number of trees be reduced and not put near any intersections or driveways.

Councilman Swicegood questioned why trees would create a safety hazard at the driveways and intersections when those same intersections have telephone poles located on them.

Upon inquiry of Councilwoman Field, Mr. Broadbooks said that there was no uniform spacing for the trees.

In response to Mayor Michalove, City Manager Bean said that the streetscape plan was accepted in concept only by the City Council.

Mr. Julian Price, member of the Tree/Greenway Commission, spoke in favor of the tree lawns. He felt it is a good design and would be healthy for the trees. He

thought greenery in an urban area would be fine. He said there was a lot of flexibility with a tree lawn - not only regarding ground cover but the flexibility of moving the trees, which can't be done in tree grates.

Upon inquiry of Councilwoman Field, Assistant City Manager Penny said that the sidewalks vary in width from 6' to 7' and a 4' tree lawn would result in a 2' to 3' sidewalk. He said the minimum width of a sidewalk should be 4'.

In response to Councilman Swicegood's question about the life of a tree in a tree lawn versus a tree pit, Mr. Price said a tree in a tree lawn might live for up to 35 years whereas a tree in a tree pit might live for 10 years. He said the trees have a better chance to live in a tree lawn.

Assistant City Manager Penny felt that this was a very difficult decision for the Council to make and suggested a 4x8 tree hole.

In response to Mayor Michalove, Assistant City Manager Penny said that if a tree lawn were to be constructed at this stage in the project that 1) a portion of 18", non-reinforced concrete curbing would have to be pulled out because it was designed to rest against the concrete sidewalks (with no cost involved); 2) an estimated cost of \$1,000 for the consulting engineer to redesign the sidewalks from French Broad Avenue to Clingman Avenue (which would take approximately 1 week); and 3) the time involved to have a change order processed. He said that if the Council decides to just move the trees to the curbs, without a tree lawn, there will be no delay in the project.

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A letter was discussed concerning the consensus of the Streetscape Task Force with regard to a tree lawn along the Patton Avenue corridor.

Mr. Mike Green felt that a tree lawn is an excellent idea except not on Patton Avenue. He felt that since the project has been moving along so well, changes in the middle of it would ultimately cause delays. He was in favor of 4x4 tree pits and felt moving them close to the curb would be acceptable.

A representative from Blooming Art Floral Shop read a letter supporting greenways.

Assistant City Manager Penny said that should the City change the current design to include a tree lawn, the estimated savings to the project would be approximately \$6,300, but there would be the \$1,000 consulting engineer cost (to redesign the sidewalks), resulting in a total savings of \$5,300. Although there is some savings in the cost of the current project, the estimated cost for maintaining this area by City crews is approximately \$2,500 per year which would eliminate any savings which the City may realize within a two year period. He said the maintenance cost would be continuous.

City Manager Bean said that he would recommend the City not tearing out the curbing already in place if the Council decided to go with a tree lawn.

Councilman Moore moved to place the trees at the curb in 4x8 frames in order to expedite the project and not expend any more money. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman Swicegood voting "no."

City Manager Bean did state that even though the City can use the 4x4 sections already purchased to make 4x8 frames, there will be additional costs for the 4x8 grates to be placed over the pits in the future.

B. ORDINANCE NO. 1971 - BUDGET AMENDMENT RELATIVE TO APPROPRIATION OF CDBG FUNDS FOR WNC HABITAT FOR HUMANITY'S OAKWOOD SUBDIVISION

City Manager Bean said WNC Habitat for Humanity has requested \$9,450 to pay for the cost of installation of 21 sixteen foot driveway aprons in the new Oakwood Subdivision currently under construction. In the past the Street Division has installed the driveway aprons for the cost of -16-

materials to each house built by Habitat. Since the Street Division will not be able to provide the usual assistance because of the large number of aprons, Habitat has secured a contractor who will install the aprons for \$450 each. The Community Development Block Grant fund contains sufficient surplus funds for this request.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1971. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1971 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 72

V. CONSENT AGENDA:

A. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND SKYLAND VOLUNTEER FIRE DEPARTMENT, INC., TO PROVIDE FIRE PROTECTION SERVICES TO THE NEWLY ANNEXED NON-CONTIGUOUS AREA LOCATED AT 2310 HENDERSONVILLE ROAD (ASHEVILLE OIL COMPANY, INC., PROPERTY)

At the request of the City Attorney, this item was deleted from the agenda.

B. RESOLUTION NO. 92-57 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING PROPERTY IN THE LEICESTER TOWNSHIP

Summary: The City of Asheville owns property in the Leicester Township consisting of a .93 acre tract previously used as the Mt. Carmel water pumping station. Mark Carlson has made an offer to purchase said property for \$6,074 "as is" and the most recent Buncombe County appraisal of said property was \$6,100. The City has no anticipated use for the property. Before the sale can be authorized, notice of the offer must be published in a newspaper of general circulation. This resolution will direct the City Clerk to publish the required notice. Assuming there is no upset bid, a subsequent resolution will authorize the Mayor to execute a deed of conveyance.

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C. RESOLUTION NO. 92-58 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE TWO SEPARATE BOUNDARY LINE AGREEMENTS WHICH RELATE TO PROPERTY RECENTLY ACQUIRED BY THE CITY OF ASHEVILLE FROM DANIEL BOONE COUNCIL, INC., BOY SCOUTS OF AMERICA, FOR THE ASHEVILLE REGIONAL AIRPORT PROPERTY

Summary: The Mayor will be authorized to execute two Boundary Line Agreements, one involving the "Shuford property" and one involving the "Fitzpatrick property," which relate to the boundaries of property recently acquired by the City of Asheville from Daniel Boone Council, Inc., Boy Scouts of America, for the Asheville Regional Airport property.

RESOLUTION BOOK NO. 19 AT PAGE 173

D. RESOLUTION NO. 92-59 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF APPROXIMATELY 32 TONS OF SCRAP METAL BY SEALED BID

Summary: The Fire Department has accumulated approximately .75 ton of scrap metals consisting of steel garage doors, cast iron, brass and approximately .4 ton of wiring, cable and conduit. The Water Maintenance Division has accumulated 30.5 tons of scrap metals consisting of approximately 22 tons of fire hydrants, 7.5 tons of cast iron, .4 tons of brass and .6 ton of copper tubing. Requests to dispose of these metals have been made by the Director of Water and Engineering and the Fire Chief.

RESOLUTION BOOK NO. 19 AT PAGE 174

E. RESOLUTION NO. 92-60 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDUM SCHEDULES WITH UNISYS CORPORATION TO PROVIDE COMPUTER HARDWARE AND SOFTWARE PRODUCTS AND SERVICES

Summary: Hardware and software products purchased from UNISYS are added to a support agreement with UNISYS through the use of supplemental schedules.

RESOLUTION BOOK NO. 19 AT PAGE 176

F. APPOINTMENT OF COMMISSIONER OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Summary: The term of Annette Coleman will expire on June 11, 1992. Pursuant to the North Carolina Housing -18-

Authorities Law, as amended, the Mayor will reappoint Mrs. Coleman as a member of the Housing Authority of the City of Asheville to serve a term of five years, term expiring June 11, 1997.

G. BIDS RELATIVE TO ONE MULTI-PURPOSE, FOUR WHEEL DRIVE ARTICULATING WHEEL LOADER/BACKHOE FOR PARKS AND RECREATION DEPARTMENT

Summary: Recommendation to award to sole bidder, Viking Equipment Company, Asheville, North Carolina, in the amount of \$38,683.46 for the purchase of a 1991 Melroe "Bobcat" Model 2410/914B.

See bid summary attached hereto and made a part hereof.

Vice-Mayor Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. MOTION AUTHORIZING THE CITY MANAGER TO SIGN LEASE TO RELOCATE PERSONNEL AND EQUIPMENT TO 300 RIVERSIDE DRIVE

City Manager Bean said plans to vacate the present Public Works facilities on South Charlotte Street, earlier than originally anticipated in the contract, have been finalized. This is to allow the demolition of the present old building and the completion of new buildings C, D, E and F by February 1993 or approximately 9 months earlier than originally scheduled.

This was made possible when the old Westall Lumber Company buildings, located at 300 Riverside Drive, became available for rental on a short term basis. These facilities appear to be adequate to house both personnel and equipment

and it is planned to occupy them on or about May 11, 1992, until October 31, 1992. A fraction over 5-1/2 months at \$1,700/month or \$9,672.

Since this move to accommodate the accelerated schedule would be of benefit to all concerned and not included in the contract, the contractors were requested to contribute. To date Argo Construction Company has agreed to share \$5,000 of the cost and M. B. Haynes will contribute \$800. We have not heard from Price Piping Company or Pyatt Heating and Air Conditioning Company but in any event their benefit would be less and their contribution would be small. This would  
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leave a maximum of \$3,872 that the City would have to contribute. This we feel can be absorbed from the City's portion of the contract.

Councilwoman Field moved to authorize the City Manager to sign a lease for rental of 300 Riverside Drive, on a short term basis. This motion was seconded by Councilman Moore and carried unanimously.

#### B. POLICY ON EMERGENCY REQUESTS FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Mr. Marvin Vierra, Community Development Director, asked that the following policy be adopted by the City Council:

The Community Development Block Grant (CDBG) Program Budget does not contain a line item for contingency. The budget therefore does not provide for payment of any cost overrun on CDBG funded projects. Any cost overrun is the responsibility of the recipient of CDBG funds.

Should unexpected program income or surplus funds exceeding \$50,000 become available prior to August 15 each year, applications will be received for new projects or cost overruns on existing projects. These applications will be received during the month of September. Applications during the September cycle will be reviewed on a competitive basis and ranked using the ranking process from the March cycle of the same year.

This policy shall be distributed with the notice of grant approval to all applicants approved for CDBG funding.

Vice-Mayor Ellison moved for the adoption of the policy on emergency requests for Community Development Block Grant funds. This motion was seconded by Councilman Peterson and carried unanimously.

#### C. CLAIMS

City Manager Bean said the following claims have been received by the City of Asheville during the week of April 27 - May 1, 1992: Donald Johnson (Transit Authority bus); Teresa Wells (Water); and Annie Weaver Trust (Water).

He said these claims have been referred to the appropriate insurers for investigation.

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#### D. LAWSUIT

City Manager Bean said the City was served with a lawsuit on April 20, 1992, as follows: Donald Eugene Johnson (alleged personal injury from bus accident). He said that the City was served with a small claims action on April 24, 1992, as follows: John & Ramona Acuff (alleged confiscation of personal property).

He said these have been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 6:50 p.m.

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CITY CLERK MAYOR

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