

Tuesday - November 14, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Also Present: Councilmen Elect Charles Cloninger, Edward C. Hay Jr., Tommy G. Sellers, James J. Skalski and Charles R. Worley

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF NOVEMBER 19-26, 1995, AS "CHRISTIAN HERITAGE WEEK"

Mayor Martin read the proclamation proclaiming the week of November 19-26, 1995, as "Christian Heritage Week" in the City of Asheville. He presented the proclamation to Ms. Libby Bagwell who quoted some esteemed leaders noting that our government was formed by men and women who firmly believed that no country could thrive without God as its ultimate leader.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CLOSE NICHOLS STREET

RESOLUTION NO. 95-166 - RESOLUTION TO PERMANENTLY CLOSE NICHOLS STREET

Mayor Martin opened the public hearing at 5:08 p.m.

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

Assistant Public Works Director Larry Ward said that a petition has received from Harry's Cadillac-Pontiac-GMC Truck Company Inc. requesting that Nichols Street be permanently closed to public use. The petition received includes signatures of all property owners adjoining the portions of streets being petitioned for closing. No property owner in the area would be deprived of reasonable means of ingress or egress from their property.

The Public Works staff recommends the petition to close Nichols Street be approved.

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

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

Councilman Swicegood moved for the adoption of Resolution No. 95-166. This motion was seconded by Councilman Watts and carried unanimously.

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RESOLUTION BOOK NO. 23 - PAGE 15

B. PUBLIC HEARING TO CLOSE AN UNNAMED ALLEY RUNNING SOUTH FROM ASTON STREET TO HILLIARD AVENUE BETWEEN ASHLAND AVENUE AND COXE AVENUE

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

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

Assistant Public Works Director Larry Ward said that a petition has received from Harry's Cadillac-Pontiac-GMC Truck Company Inc. requesting that the portion of an unnamed alley, which is really a part of old Federal Alley, be closed running south from Aston Street to Hilliard Avenue between Ashland Avenue and Coxe Avenue be permanently closed to public use. The alleyway is actually open all the way through. By use of a map, he pointed out a portion of that alley had sometime been closed or was never actually a public alleyway. The petition received includes signatures of all property owners adjoining the portions of streets being petitioned for closing. No property owner in the area would be deprived of reasonable means of ingress or egress from their property.

The Public Works staff recommends the petition to close the unnamed alley running south from Aston Street to Hilliard Avenue between Ashland Avenue and Coxe Avenue be approved.

City Attorney Slawter said that it has recently come to his attention that a nearby property owner indicated that he had an interest in this alleyway remaining open and also indicated that he had not received notice of the alley closing. He explained that the reason for that is that typically on an alley closing, the owners immediately adjacent to the portion of the alley to be closed are given notice. It's unusual to have an alley which is being closed mid-way through a block like this. The resolution of intent calling for a public hearing today has been posted on the alley and has been run in the newspaper indicating the public hearing today. He felt it is appropriate for Council to consider any comments of anyone here today but based upon the nearby property owner's comments, and in order to cure any potential defect that would be associated with that, he suggested continuing the public hearing for two weeks. During that two week period, notice will be sent to these additional property owners giving them an opportunity to be heard. Also, in order to alleviate any burden that might be placed on any adjoining property owner, the people who are acquiring this lot had talked with us about providing an easement through the lot which this alley runs. The people who will be purchasing from Harry's Cadillac, First Union Bank, said that they would give an easement to allow traffic to come out of the alleyway over to Coxe Avenue. We will hope to finalize the details of that easement within the next two weeks as well.

Councilwoman Sitnick asked if there were any other conditions that exist in the alley that we need to question as far as cost to the City for maintenance. By use of the map, Mr. Ward pointed out the portion of the alley that the City Street Division does not maintain, noting that they are public rights-of-way, but they are not City maintained alleys. He also used the map to show there is storm drainage that will be maintained by the City because a portion of it is on the public right-of-way. He felt there would be no problem for us to maintain the drain -3-

because the main drain is not actually on the alley right-of-way. There is a portion of an inlet that leads into that main drain and he felt the City would

probably need to maintain an easement just for that.

Mr. Jim Hughes, adjacent property owner, stated that he was not notified of this proposed alley closing. He pointed out where his property lies. He wondered why the notice read that it was an "unnamed alley" since the alley has a sign on it naming it Federal Alley. If Mr. Ward was correct in that a specific portion of the alley was already closed, he would be in favor of the closing. However, he wanted to make sure that the closing extended down to include his property. He wanted to tie it into one petition.

Mayor Martin said that Council could not consider including his property at this time. He would need to contact the Public Works Department on the proper procedure to close an alley.

When Mr. Hughes asked who the correct person was to tell him if that portion of the alley has already been closed, Mr. Ward responded that he would prefer to double-check the records and he would notify Mr. Hughes if that portion of the alley is actually closed.

Councilwoman Sitnick moved to continue this public hearing until November 28, 1995. This motion was seconded by Councilwoman Field and carried unanimously.

C. PUBLIC HEARING RELATIVE TO DESIGNATING THE RANKIN HOUSE AT 5 WOODLAWN AS A LOCAL HISTORIC LANDMARK

At the request of the petitioner, this item has been withdrawn from the agenda.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR STONEBRIDGE SUBDIVISION

Mr. Gerald Green, Senior Planner, said that the Planning & Zoning Commission approved the preliminary subdivision plat for Stonebridge Subdivision on Old Haw Creek Road (formerly known as Royal Palms Subdivision) on March 1, 1995. The developer, Mike Pierce, Biltmore Development Company, is seeking final plat approval for 20 lots in Phase I of the Subdivision.

The 68 single family lots for patio homes received variances from the Board of Adjustment for building setbacks on December 5, 1994. Other variances granted to the developer were the reduction of the road width to a minimum of 40 feet on August 22, 1995, and a driveway clearance variance for two of the lots now numbered 4 and 5 from the Board of Adjustment on October 16, 1995.

The Water and Engineering Departments have approved of the installation of water lines in the Phase I development. They insisted that the developer relocate the water meter on Lot 7 to the front of the lot, which he has done.

The Public Works Department has inspected the street system in Phase I and found that the work completed meets Public Works construction standards. This does not mean that the City has accepted the streets in Phase I at this time, but that they will accept the -4-

streets when the final paving is completed and the developer requests acceptance by the City. No letter of credit was required by the Public Works Department for the last layer of paving.

Because the final layer of paving is not completed on Phase I at this time, it would be to the City's advantage to have all phases of this project completed

before accepting the streets and to the developer's advantage to hold off on the final paving layer until the total construction is complete. This will eliminate the damage to this finish paving that results from construction activities.

The developer also needed to furnish documentation on the acceptance of a sewer easement for the relocation of a portion of the MSD line. The developer has said that MSD has approved the sewer easement and it will be recorded along with the final plat.

Councilwoman Field moved for the final plat approval of Stonebridge Subdivision This motion was seconded by Councilman Watts and carried unanimously.

B. RESOLUTION NO. 95-167 - RESOLUTION APPROVING THE CITY OF ASHEVILLE'S ADMINISTRATIVE POLICY FOR COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

Mr. Lyle Willis, ADA Coordinator, said that during the course of the City's efforts to comply with the Americans with Disabilities Act, procedures have been established to assist employees and the public in acquiring equal access to the City's programs, services, activities and facilities. The culmination of these procedures is the assembly of the proposed Administrative Policy as written conveyance of the City's ongoing commitment to compliance with this federally mandated Act.

Councilwoman Sitnick commented that she was happy to work with Mr. Willis on the PACE Committee and they are weaving all the conditions and requirements at the outset of this project.

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

Councilman Watts moved for the adoption of Resolution No. 95-167. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 16

C. ORDINANCE NO. 2249 - ORDINANCE AMENDING CHAPTER 19 REGARDING PARKING REGULATIONS TO AUTHORIZE THE USE OF WHEEL LOCKS FOR FAILURE TO PAY PARKING TICKETS

Mr. Larry Fisher, Finance Director, said that the City Council requested special authorization from the N.C. General Assembly to use wheel locks on certain illegally parked vehicles. The N.C. General Assembly provided that authority to the City in Chapter 75 of the 1995 N. C. Sess. Laws.

This ordinance would authorize the use of wheel locks to immobilize vehicles which are illegally parked when there are three or more unpaid and overdue parking tickets which are outstanding for a period of 90 days or more. A notice would be placed on the vehicle setting forth the \$25.00 immobilization fee and the address and phone number to use to have the vehicle released. If the parking penalties -5-

and immobilization fee were not paid within 24 hours, the vehicle would be towed and the owner would also have to pay the towing and storage fees.

The owner of the vehicle would have the right of a hearing before the City Manager or his/her designee. No further appeals are included.

The ordinance also makes it unlawful to remove, damage or destroy a wheel lock. To allow time for the wheel lock to arrive, an effective date of January 1,

1996, is proposed.

He said the 20 top offenders in our system have over 1,600 citations outstanding. Our efforts to collect utilizing civil processes have been ineffective. We felt this device, which will be used judiciously, will help us collect revenue due to the City.

We did not utilize a dollar amount because citations have different dollar values and we were concerned that if we used \$100, that might be 20 \$5 tickets, but it is the value of one handicapped citation. So we did it on a combination of number of citations outstanding and time outstanding versus a dollar amount.

Upon inquiry of Councilman McClure, Mr. Fisher said that there is over \$250,000 outstanding in the system at this time.

Upon request of Councilwoman Field, Mr. Fisher explained how the public will be warned about their cars being wheel locked.

Councilwoman Sitnick said that it seemed to her "that we know the license plates of these vehicles for the most part and allowing people one more chance when they have been so in arrears in obeying the law, just says to me that we'll give you another chance to either be honest or not. And I just wish we didn't have to give people another chance with \$250,000 owed to the City."

Councilwoman Sitnick asked what was the reason we decided that these names could not be listed in the paper. City Attorney Slawter said that there are General Statutes in North Carolina regulating methods for which bills can be collected and to publish names of people who owe bills to a creditor would be illegal under that Act.

Vice-Mayor Peterson said that he remembered in the Fees and Charges Committee meeting that a dollar amount was going to be used. Revenue Collector Deborah Crowder responded that at the beginning of discussions that was true. However, then the State increased the maximum amount for a handicapped violation to \$100 and we thought that because that one citation being that large of an amount that it would be better to state the number of violations, as opposed to a dollar figure.

At the request of Vice-Mayor Peterson, Mr. Fisher said that the first person on the top 20 list owes the City \$3,088.

When Councilwoman Sitnick asked why can't the City boot the top 20 without another violation, Ms. Crowder responded that in order to allow them due process before we actually place a physical device on their vehicle. She felt it was in the City's best interest that we notify them in writing so that they would then have no recourse with the City.

Mayor Martin suggested, and City Council agreed, that since we have their names and their address, we will send them a letter indicating that the next time their vehicles are caught illegally parked, they will get booted. This will be handled internally. -6-

Upon inquiry of Councilwoman Sitnick, Mr. Fisher said that the top 20 offenders owe the City \$25,564.

Councilman Watts said that he would like to see an article in the paper when the first car that gets booted to send a message to the community that we are strongly supporting this ordinance.

Councilman-Elect Charles Worley stated that he totally supported the ordinance. He wondered if the person's car was only worth \$2,000 and he owed \$3,000, could the City sell the car and collect the money? City Attorney Slawter responded there is no authorization under the enabling legislation to give the City a lien against the car.

Councilwoman Sitnick suggested the next Council request that authorization from the legislative delegation.

Mr. Chris Johansen questioned if City staff has considered the possibility, once parking tickets are issued, of selling the debt to a private collection agency since it seems to be the collection that is the problem. Mr. Fisher responded that we are using a collection agency with some measure of success. We do, however, lose 50 cents on the dollar. The essential ingredient here is that we don't have a forceful enforcement mechanism and he felt adoption of this ordinance will give that to them.

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

Councilman Watts moved for the adoption of Ordinance No. 2249. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2249 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 248

V. CONSENT:

Councilwoman Sitnick asked that item A be removed from the consent agenda for discussion.

Councilwoman Field asked that item F be removed from the consent agenda for discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 31, 1995, AND THE WORKSESSION HELD ON NOVEMBER 8, 1995

This item was removed from the Consent Agenda to be discussed below.

B. RESOLUTION NO. 95-168 - RESOLUTION TO AWARD BID TO PURCHASE FLAME RETARDANT TROUSERS FOR THE ASHEVILLE FIRE DEPARTMENT TO WHOLE ARMOR UNIFORM COMPANY, INC., ASHEVILLE, NORTH CAROLINA

Summary: Sealed bids were received to furnish 525 pair of flame retardant trousers for the Fire Department. Nine bids were received. Staff recommends that the award be made to the second low bidder as the lowest bidder meeting specifications, Whole Armor Uniform Company Inc., -7-

in the amount of \$25,961.25 for 525 pair of Topps Style No. 73021 Fibrous Flame Retardant Fiber Trousers. The following bids were received:

Vendor Net Cost

R&R Uniforms, Asheville, NC \$28,806.75

Zimmerman-Evans, Greensboro, NC \$28,812.00

Carolina Firemasters, Bennettsville, SC \$30,712.50

Kay Uniforms, Kingsport, TN \$30,922.50

Carolina Safety Association, Arcadia, SC \$35,700.00

Newton's Fire & Safety, Swepsonville, NC \$22,312.50

Whole Armor Uniforms, Asheville, NC \$25,961.25

Mid-America Uniforms, New Albany, IN \$27,930.00

Whole Armor Uniforms, Asheville, NC \$28,481.25

The low bidder, Newton's Fire and Safety Company, Swepsonville, NC, took exceptions to our specifications which requires the successful bidder to perform local measuring sessions to determine size and alteration needs for 175 firefighters receiving trousers.

Funds for this purchase are to be from the Fire Department's appropriations.

RESOLUTION BOOK NO. 23 - PAGE 17

C. RESOLUTION NO. 95-169 - RESOLUTION REAPPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Summary: The term of Eugene Ellison expires on November 13, 1995. This resolution will reappoint Mr. Ellison to an additional three year term, term to expire November 13, 1998, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 20

D. RESOLUTION NO. 95-170 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: Keith Green has resigned from the Civic Center Commission. This resolution will appoint Richard Bowman to serve the unexpired term of Mr. Green, term to expire June 30, 1996, or until his successor is appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 21

E. RESOLUTION NO. 95-171 - RESOLUTION OF INTENT TO ANNEX THAT PORTION OF CITY-OWNED PROPERTY KNOWN AS RICHMOND HILLS AND SETTING A PUBLIC HEARING ON THE MATTER FOR NOVEMBER 28, 1995

RESOLUTION BOOK NO. 23 - PAGE 22

F. RESOLUTION TO APPROVE THE REQUEST OF BIKE NUT INC. TO ASSIGN THE LEASE OF THE PREMISES AT 5 BILTMORE TO MILNERIS INC.

This item was removed from the Consent Agenda to be discussed below.

G. RESOLUTION NO. 95-172 - RESOLUTION OF INTENT TO CLOSE SKYLINE DRIVE BETWEEN SKYLINE PARKWAY AND SKYVIEW PLACE, ALL OF SKYLINE PARKWAY, ALL OF AN UNNAMED ROAD BETWEEN SKYLINE -8-

DRIVE AND WEST VIEW ROAD NEAR THE INTERSECTION OF OAK PARK ROAD, AND ALL OF AN UNNAMED ROAD BETWEEN WEST VIEW ROAD AND SKYLINE DRIVE AND SETTING A PUBLIC HEARING FOR DECEMBER 19, 1995

RESOLUTION BOOK NO. 23 - PAGE 25

H. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 28, 1995, TO REZONE LOT LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT

I. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 28, 1995, TO AMEND THE SUBDIVISION REGULATIONS TO PERMIT THE CREATION OF NON-RESIDENTIAL LOTS WHICH DO NOT ABUT A PUBLIC STREET

J. RESOLUTION NO. 95-173 - RESOLUTION CONSENTING TO AMENDMENTS TO THE INDENTURE OF TRUST BETWEEN ASHEVILLE CLAIMS CORPORATION AND NATIONSBANK, N.A., TO THE CHANGE THE CORPORATION'S TRUSTEE FROM NATIONSBANK, N.A., TO FIRST UNION NATIONAL BANK OF NORTH CAROLINA

Summary: This matter pertains to the City's self-insurance program. In order to implement the program, the City entered into a Claims Administration Contract effective September 1, 1993, with Asheville Claims Corporation. The Corporation has assigned certain of its interests in the Contract under an Indenture of Trust to NationsBank. NationsBank has notified the Corporation that it is selling its corporate trust business and, therefore, will no longer be able to provide these services. The City Finance Director, who also serves as the President of Asheville Claims Corporation, discussed this matter with Donald P. Ubell, the special counsel who assisted in establishing this program and prepared the legal documents which put it in place. The action changes the Corporation's Trustee from NationsBank, N.A., to First Union National Bank of North Carolina. This resolution will authorize the signing of the consent documents necessary on the part of the City to permit the corporation to make these changes.

RESOLUTION BOOK NO. 23 - PAGE 27

Councilwoman Sitnick moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Watts and carried unanimously.

ITEMS TO BE CONSIDERED PULLED FROM THE CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 31, 1995, AND THE WORKSESSION HELD ON NOVEMBER 8, 1995

Councilwoman Sitnick asked that the minutes of the November 8, 1995, City Council meeting be amended to include the following sentence (which is underlined) on page 10 under the matter entitled "School Summit": After determining that City Council would not be holding a school summit, Councilwoman Sitnick felt that the City Council was wrong in not holding a public meeting with taxpayers about their concerns with the schools and how we can deal with those concerns. She said that she had no intention on discussing personnel matters at the school summit. The reason that she felt it was important for City Council to meet with the public was so that next time we meet with the School Board we would be fully informed in our ability to ask questions and address issues that have come up to us as members of Council."

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She also asked the record indicate that she had requested the scheduling of the meeting with the School Board to occur within her term on Council. She said that if that was not done at the November 8, 1995, meeting to find the appropriate date that it was, and amend those minutes to reflect her comments.

B. RESOLUTION NO. 95-174 - RESOLUTION TO APPROVE THE REQUEST OF BIKE NUT INC.

TO ASSIGN THE LEASE OF THE PREMISES AT 5 BILTMORE TO MILNERIS INC.

Summary: The City of Asheville acquired title to certain properties on Biltmore Avenue along with the transfer of Redevelopment from the Housing Authority. All of the properties currently leased and occupied.

5 Biltmore Avenue is currently leased to Bike Nut Inc., which is owned by Chris Hardwicke. Mr. Hardwicke operates Be Here Now, a music hall which also serves wine, beer and non-alcoholic beverages. Be Here Now has been open since about August of 1992.

Bike Nut Inc. is selling Be Here Now to Henry Robert Miller Jr. and Theodore S. Warner. Milneris Inc. owns and operates Gatsby's, a music, food and beverage establishment located at 13 Walnut Street. Bike Nut Inc. proposes to assign the lease to Milneris. Mr. Hardwicke will remain as an employee of Mr. Miller and Mr. Warner in charge of booking entertainment. Milneris plans to expand the club to include food and mixed drinks.

Milneris Inc. will assume all of the obligations and responsibilities of Bike Nut Inc. (Hardwicke) under the lease and the rights of the City of Asheville under the lease will remain fully enforceable. Mr. Miller and Mr. Warner will additionally provide personal guarantees to the City for the performance of the terms of the lease. The lease permits assignment of the lease upon approval by the Lessor and provides that approval may not be unreasonably withheld.

Councilwoman Field said that it has been brought to her attention that there is a lawsuit pending and asked the City Attorney if it would have any affect on our assignment of the lease.

City Attorney Slawter said that there was a lawsuit filed involving some of the principles in this. The assignment that the Council will be approving is of a lease that the Housing Authority entered into in 1992 with Bike Nut Inc. Mr. Hardwicke is the principle in that corporation. The assignment would be from the corporation, Bike Nut Inc., to the new operators who would be Milneris Inc. He said that the lawsuit that was filed is a lawsuit filed by Landmark Management against Mr. Hardwicke regarding a conflict arising out of a lease of an adjacent piece of property on Pack Square. It appears to be a dispute between Landmark Management and Mr. Hardwicke relating to alleged money owed by Mr. Hardwicke in connection with the lease of that adjacent property. He did not see any relationship between the two or why it would be a problem for the assignment to Milneris Inc. from Bike Nut Inc.

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

Vice-Mayor Peterson moved to adopt Resolution No. 95-174. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 29 -10-

VI. OTHER BUSINESS:

A. POSSIBLE CANCELLATION OF NOVEMBER 28, 1995, CITY COUNCIL MEETING

Vice-Mayor Peterson noted that there may be a need to cancel the regular meeting of the City Council on November 28, 1995, due to a lack of quorum.

Mayor Martin encouraged all Councilmembers to be present or notify the City Clerk if they would not be in other that rescheduling of items can take place.

B. COMMENTS BY COUNCILWOMAN SITNICK REGARDING (1) A MEETING WITH THE SCHOOL BOARD, (2) ARNIE JINGLE, (3) FRUSTRATION AND DISAPPOINTMENT WITH NC DOT REGARDING STORM GRATE AT THE CORNER OF MERRIMON AND MURDOCK, (4) SENIOR MANAGER FOR THE WATER BONDS, (5) HIRING OF A CITY ARBORIST, AND (6) FEEDBACK TO COUNCIL AND PUBLIC REGARDING COMPLAINTS

Councilwoman Sitnick asked that "if the Council can schedule a meeting with the School Board before my term is up, I would appreciate it. If not, I'll understand.

Mayor Martin said that Council would certainly invite her if the meeting was not scheduled before her term is up.

Councilwoman Sitnick encouraged "the Council again to do an ARNIE campaign to advertise ARNIE to do a jingle contest. To change the name, if necessary, to make sure that the public knows that there is some access for information on what we're doing up here."

Councilwoman Sitnick said that she "would like to state my disappointment and my frustration with the Department of Transportation. It has been almost a year that I have been requesting, through Jim Ewing first, through Larry Ward second, through Mark Combs third, through Mark Slaughter, all of whom have paid particular attention to this request of mine - and I thank you all in Public Works - requesting the DOT to repair a sunken storm grate on the corner of Merrimon and Murdock. I don't know whether it's because the street has been resurfaced so many times that it seems to be disappearing into the ground, but I have had people call me to tell me that they've hit that hole and had their mufflers slammed against the pavement so hard that it's actually snapped mufflers off of the cars. Right in front of the Hop. If you don't know it's there, you have to swing way out to avoid it and then you can hit cars that are coming in the opposite direction. If you go over it, you have injured your car in one way or another. I know it's there and I hit it sometimes because you can't avoid it. The DOT have been dragging their feet on this and I just want that in the record."

Councilwoman Sitnick said that "in going over the letter of confirmation from the senior manager for the water bonds that we designated that apropos of the comments I've made into the record earlier about concerns about a local company hogging the bonds, it's clear that the company designated as senior manager is going to keep 70% of the bonds, which is just what I said would happen."

Councilwoman Sitnick said that she "would like to know, since Mark Combs is not here, if Larry was designated to give us an update on my request for the City to look into the hiring a City arborist."

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City Manager Westbrook said that Mark has completed some initial investigation of what other cities are doing. He sent the information back and asked for more. Mr. Combs' investigation thus far had dealt with cities that have full-time arborists on staff. There are a number of cities, probably more than the ones we contacted that have full-time arborists, that have part-time or arborists who are retired urban foresters who help staff out on an as-needed basis. He asked him to go back and survey those cities. It was his intention to make a recommendation to the Council, as a part of the budget process, on how we should proceed on that. He hoped to use part-time or retired folks who are experts in that field to help us with trees on public rights-of-way.

Councilwoman Sitnick said that "I think it's important for the Council to know that an arborist would be a great asset to the City. George Briggs at the

Arboretum had commented awhile back that there might be someone there who would be willing to either volunteer or participate on an as-needed basis. I know that the streetscape plan would benefit greatly by having an arborist as a consultant. And I certainly hope the new Council at least looks into the merits of this request."

Councilwoman Sitnick said that she has "requested the City Manager find a simple mechanism that would allow, when a member of Council makes a request that comes from the public to staff that, there be some kind of feedback either to the Council member or to the member of the public that has made the request through a Council member - that the issue has been taken up or handled. And the reason I say that is, I will give you one example - I could give you several thousand, at least two thousand examples. I got a postcard a month ago from a man who said that, and I'll give you this paraphrased, I hear that you're not just all talk, talk, talk, let's see if you can get this done. Why don't you clean up the dirt under the I-240 overpass on Central Avenue. This is about a month ago, postcard. I immediately called Mark Combs. I know that Public Works went out and cleaned up that area. They actually swept the street from Woodfin to Orange, on both sides. We also know that's an area that just has a lot of wind tunneling under it and it seems like whatever debris is within a half of mile gets tornadoed under that overpass. I called home a little while ago and my husband said that I got a very disturbing postcard from a guy who accused me of being all talk and just your typical City politician who gets nothing done because I didn't get that area cleaned up. I would like some kind of simple mechanism that when a member of the public makes a request, somebody gets back to that member, to that member of the public, or the Council member that's made the request so that we know what's been done so that we don't have to make the phone call to follow up on that."

Mayor Martin said that there is a complaint form that Council members can fill out to affect that.

City Manager Westbrook said that "we've been trying to work with each Council member the way they would like to have that handled. Some may not want to fill out a form, they just want to make a phone call. We want to handle it whatever way the Council member chooses. Actually, the process is in place and we should be calling you back. I'm glad we took care of the problem, but I'm disturbed that you were not called back - because it's a matter of some discussion in our meetings that we have - the job is not complete until you notify the customer or the Council member on what the situation is. In many cases we can't resolve it the way the citizen wants it because of legal or other possible problems, but we still need to let them know and follow-up."

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Councilwoman Sitnick said that "most citizens are reasonable and will be happy just for a phone call to be informed that it's being looked into. This guy did not sign the postcard I got today, but he did sign the other one. I'm going to pull it from my files and I would like somebody from the City to call him."

C. COMMENTS BY H.K. EDGERTON

Mr. H.K. Edgerton had several comments and questions, some being, but are not limited to: (1) that the investigation into the Minority Business Plan disparity study should be done by an independent body, not internally; (2) how the City defined "minority"; (3) why the NAACP has been denied a seat on the Minority Business Commission; (4)

Mr. Edgerton thanked the Councilmembers individually and collectively for their service during the past two years.

City Manager Westbrook responded to some of the items brought up by Mr. Edgerton.

D. CLAIMS

The following claims were received by the City of Asheville during the week of October 27-November 2, 1995: Sandra Green (Police) and Bobbie Salzer-Rae (Water).

The following claims were received during the week of November 3-9, 1995: Sea-Nic Etn. (Streets), Elizah U. Jones (Police), Rickie D. Morrow (Water), Myra Grozinger (Inspections) and Carol Kemp (Traffic Engineering).

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

E. GENERAL ELECTION RESULTS - CITY OF ASHEVILLE, NOVEMBER 7, 1995

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 7, 1995.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:05 p.m.

CITY CLERK MAYOR
