

Tuesday - December 19, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE SUBDIVISION REGULATIONS WHICH WOULD PERMIT THE CREATION OF NON-RESIDENTIAL LOTS WHICH DO NOT ABOUT A PUBLIC STREET

ORDINANCE NO. 2250 - ORDINANCE AMENDING THE SUBDIVISION REGULATIONS WHICH WOULD PERMIT THE CREATION OF NON-RESIDENTIAL LOTS WHICH DO NOT ABOUT A PUBLIC STREET

Mayor Martin said that this public hearing was originally scheduled for November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set a new public hearing date on this matter was adopted.

Mayor Martin opened the public hearing at 5:05 p.m.

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

Ms. Julia Cogburn, Planning & Development Director, said that the staff of the Department of Planning & Development has drafted a proposed amendment to the City's subdivision regulations which would permit the creation of non-residential lots which do not abut a public street. Adoption of the ordinance amendment would simplify the creation of commercial, institutional, and industrial lots while assuring that the lots meet minimum standards for access.

The proposed amendment was reviewed by the Planning & Zoning Commission ("Commission") at their November 1, 1995, meeting. Following review and discussion of the ordinance amendment, the Commission voted unanimously to recommend its adoption.

Under the current regulations, all subdivision lots must abut a public street. This presents a problem for non-residential properties which are located one lot back from major highways. These properties often cannot provide the 50 foot street right-of-way required by the existing regulations. Adoption of the proposed amendment would make subdivision of these properties easier by permitting the lots to be accessed by a private drive. Certain standards are established by the amendment for these drives: (1) a minimum 30-foot easement is required; (2) the easement must be recorded; (3) a road with a minimum width of 20 feet must be constructed; and (4) a road maintenance agreement must be provided for the access drive. -2-

The Commission and the staff recommend Council's approval of this proposed amendment.

Mayor Martin closed the public hearing at 5:09 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 2250. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, Ordinance No. 2250 passed on its first and final reading.

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B. CONTINUATION OF A PUBLIC HEARING TO CLOSE A PORTION OF FEDERAL ALLEY RUNNING SOUTH FROM ASTON STREET TO HILLIARD AVENUE BETWEEN ASHELAND AVENUE AND COXE AVENUE

RESOLUTION NO. 95-190 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF FEDERAL ALLEY RUNNING SOUTH FROM ASTON STREET TO HILLIARD AVENUE BETWEEN ASHELAND AVENUE AND COXE AVENUE

Mayor Martin said that this public hearing was opened on November 14, 1995, and continued until November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set an additional public hearing on this matter was adopted.

Mayor Martin then opened this public hearing at 5:10 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 been received from Harry's Cadillac-Pontiac-GMC Truck Company Inc. requesting that the unnamed alley running south from Aston Street to Hilliard Avenue between Ashland Avenue and Coxe Avenue 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 a portion of Federal Alley running south from Aston Street to Hilliard Avenue between Asheland Avenue and Coxe Avenue be approved.

Mr. Harold Talbert, adjoining property owner, stated that he had no objection to the portion being closed but wanted some type of right-of-way in order that he be able to get over to his property.

Mayor Martin closed the public hearing at 5:15 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 Cloninger moved for the adoption of Resolution No. 95-190. This motion was seconded by Vice-Mayor Field and carried unanimously.

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Vice-Mayor Field then moved to authorize the City Manager to sign an easement agreement with First Union. This motion was seconded by Councilman Worley and carried unanimously.

C. PUBLIC HEARING TO CLOSE PARKWOOD ROAD RUNNING FROM HAYWOOD ROAD TO PATTON AVENUE

RESOLUTION NO. 95-191 - RESOLUTION TO PERMANENTLY CLOSE PARKWOOD ROAD RUNNING FROM HAYWOOD ROAD TO PATTON AVENUE

Mayor Martin said that this public hearing was originally scheduled for November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set a new public hearing date on this matter was adopted.

Mayor Martin opened the public hearing at 5:16 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 been received from R.B.R. & S.T., a N.C. Limited Partnership, requesting that Parkwood Road between Haywood Road and Patton Avenue be permanently closed to public use. The petition received include the signature of Stewart B. Coleman who is Vice President of Asheville Mall Inc. which is a general partner for R.B.R. & S.T., a N.C. Limited Partnership. The property owned by R.B.R. & S.T. encompasses both sides of Parkwood Road between Haywood Road and Patton Avenue and serves as access to no other property. Parkwood Road does serve as a through street from Haywood Road to Patton Avenue. The petitioners have no immediate intention to close Parkwood Road but to make improvements to it so it will better serve their development along the road which consists of West Terrace Apartment on the west side and Park Terrace Center office complex on the east side. Parkwood Place, which exits off Parkwood Road, is a private street due to the fact that it only serves one property owner. Parkwood Road only serves one owner as well, but since it was a through street, its dedication was accepted by the City of Asheville.

The Public Works staff recommends the petition to close Parkwood Road between Haywood Road and Patton Avenue be approved.

Councilman Sellers said that the Buncombe County Commissioners are considering moving the West Asheville library to the corner of Haywood Road and Parkwood Road. If Parkwood Road is closed, it will be inconvenient for patrons of the library since there will be no access to the library on Haywood Road or on Parkwood Road.

Mr. Stewart Coleman, representing R.L. Coleman Company, said that the term "close" is not accurate. They will not actually close the road. The reason they are requesting this action to be taken is because since 1952 when the road was dedicated to the City, the City has not maintained it. They feel that since they are doing the sidewalk, curb and road paving, they should regain ownership of the road. He stated that they have no intention on closing the road to traffic.

Upon inquiry of Councilman Cloninger, City Attorney Slawter said that even though the Colemans have no plans to close the road at this

time, if this resolution passes, any future property owner can close the road

to traffic.

Mr. Coleman stressed again that it is not practical for them to close the street. In addition to being in violation with lease agreements, they have just built a new building behind the library site that needs access from Parkwood Road.

Mayor Martin closed the public hearing at 5:27 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 Sellers moved for the adoption of Resolution No. 95-191. This motion was seconded by Councilman Cloninger and carried unanimously.

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D. PUBLIC HEARING TO CLOSE A PORTION OF AN ALLEY NAMED BISHOP PLACE, BETWEEN ELIZABETH PLACE AND WOODLAWN AVENUE RUNNING PARALLEL TO STARNES AVENUE

RESOLUTION NO. 95-192 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF AN ALLEY NAMED BISHOP PLACE, BETWEEN ELIZABETH PLACE AND WOODLAWN AVENUE RUNNING PARALLEL TO STARNES AVENUE

Mayor Martin said that this public hearing was originally scheduled for November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set a new public hearing date on this matter was adopted.

Mayor Martin opened the public hearing at 5:28 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 been received from Kathleen McLoughlin and other property owners along a portion of an unnamed alley between Elizabeth Place and Woodlawn Avenue requesting that this portion of the alley be permanently closed to public use. The petition received includes signatures of all property owners adjoining the portion of the unnamed alley 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 portion of the unnamed alley running between Elizabeth Place and Woodlawn Avenue and parallel to Starnes Avenue be approved.

Ms. Kathleen McLoughlin urged Council to close this because the alley is only being used for drug sales and prostitution.

Mayor Martin closed the public hearing at 5:30 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 Worley moved for the adoption of Resolution No. 95-192. This motion was seconded by Vice-Mayor Field and carried unanimously.

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E. PUBLIC HEARING TO CLOSE A PORTION OF SKYLINE DRIVE BETWEEN SKYLINE PARKWAY AND SKYVIEW PLACE, ALL OF SKYLINE PARKWAY, ALL OF AN UNNAMED ROAD BETWEEN SKYLINE 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

RESOLUTION NO. 95-193 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF SKYLINE DRIVE BETWEEN SKYLINE PARKWAY AND SKYVIEW PLACE, ALL OF SKYLINE PARKWAY, ALL OF AN UNNAMED ROAD BETWEEN SKYLINE 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

Mayor Martin opened the public hearing at 5:31 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 property owners along Skyline Drive, Skyline Parkway and two unnamed roads connecting Skyline Drive to West View Road, Skyview Place, all of Skyview Parkway, all of an unnamed road between West View Road and Skyline Drive near the intersection of Oak Park Road and all of an unnamed road between West View Road and Skyline Drive requesting those portions be permanently closed to public use. The petition received includes signatures of all property owners adjoining the roads being petitioned for closing. No property owner in the area would be deprived of reasonable means of ingress or egress from their property. All the road petitioned to be closed are unopened with the exception of Skyline Drive from Oak Park Road up to the intersection of the unnamed unopened road off of West View at the intersection of West View and Oak Park Road.

Mayor Martin stated that City Council has received a letter from Mr. Oliver Pressley stating concerns about this closing. Mr. Ward responded that he had talked with Mr. Pressley that afternoon and explained what was being proposed to be closed. Mr. Pressley understood and expressed no further concern.

The Public Works staff recommends the petition to close the above portions be approved.

Mayor Martin closed the public hearing at 5:34 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.

Vice-Mayor Field moved for the adoption of Resolution No. 95-193. This motion was seconded by Councilman Worley and carried unanimously.

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III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-194 - RESOLUTION AUTHORIZING THE TRANSFER OF A CABLE TELEVISION FRANCHISE FROM UACC MIDWEST (d/b/a TCI Cablevision of Asheville) TO BRENMOR CABLE PARTNERS, L.P.

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RESOLUTION NO. 95-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CONTRACT WITH RICE-WILLIAMS ASSOCIATES, INC., FOR CONSULTING SERVICES REGARDING CABLE TELEVISION

Ms. Patsy Meldrum, Assistant City Attorney, said that this action would consider the request for a transfer of the franchise for cable television from UACC Midwest, Inc. (d/b/a TCI Cablevision of Asheville) to Brenmor Cable Partners, L.P.

TCI Cablevision of Asheville ("TCI") is owned by UACC Midwest, Inc. TCI sent a letter dated August 30, 1995, to the City Council advising it that UACC Midwest, Inc. had entered into an "Asset Exchange Agreement" pursuant to which the assets of UACC Midwest, Inc. regarding the cable television system would be transferred to Brenmor Cable Partners, L.P. ("Brenmor"). In the letter TCI requested approval of the transfer.

If the City Council does not act on the transfer request before December 28, 1995, the transfer is deemed approved under federal law, unless all the parties agree to extend the time period for consideration of the approval request. The City Council may approve the transfer, approve it with conditions, deny approval of the transfer or agree to an extension of the time period to consider.

As required by federal law, TCI and Brenmor submitted an application for the City's consent to the transfer on Federal Communication Form 394 ("FCC 394") with the August 30, 1995, letter. On that form, Brenmor provided certain certifications regarding its legal, financial and technical qualifications to operate a cable television system.

As part of that application process, Brenmor submitted certain financial statements. Subsequently, City staff requested financial information from InterMedia Partners who will be the general partner of Brenmor, after the transfer is consummated. Audited financial statements for InterMedia Partners for the twelve-month periods ending December 31, 1993, and December 31, 1994, were furnished to the City on December 11, 1995. The financial statements are typical of those for cable television companies.

Review of other information submitted on behalf of Brenmor and InterMedia Partners to the City Attorney's Office indicates that Brenmor and InterMedia Partners have the technical qualifications to operate the cable television system presently owned by TCI. The City Attorney's Office has requested that Brenmor furnish certificates of authority to transact business in North Carolina for general partner InterMedia Partners and limited partner InterMedia Partners of Carolina as one of the conditions included in the resolution approving the transfer. Other than this condition, Brenmor has the legal qualifications required.

The City Council previously authorized contracting with a consultant to assist us in the renewal of our franchise with TCI. That consultant is Rice, Williams Associates. Brenmor has agreed to pursue early renewal of the franchise agreement and a condition regarding that is set forth in the transfer approval resolution.

As part of their services, Rice, Williams performed a compliance analysis to determine whether or not TCI has complied with the franchise requirements. In that some issues remain about the compliance of TCI -7-

with the franchise requirements, Rice, Williams Associates recommends that any transfer approval include certain conditions to address those compliance issues. The conditions recommended by Rice, Williams, as well as conditions negotiated by City staff are included in the resolution approving the transfer.

One of the compliance issues relates to whether or not all of the franchise fees due to the City from TCI have been paid during the term of the franchise

held by TCI. Questions about this exist in the community as well as among City staff. City staff recommends amending the Rice, Williams Associates contract to include a franchise fee audit. The franchise fee audit would be done for three years and the cost will be \$10,000.00. The current budget for the agreement with Rice, Williams Associates, Inc. can presently include this additional cost, but may need to be amended later. Their services to assist with negotiations of the franchise renewal will be done on an hourly basis and that amount cannot be fully determined until the negotiations are concluded. She said that Rice, Williams has indicated to her that they can start the franchise fee audit at the first of the year and hope to have it completed by the end of April, 1996. A resolution authorizing an amendment to that agreement is also before City Council for consideration.

Ms. Meldrum then explained to Council each one of the conditions included in the resolution approving the transfer.

Upon inquiry of Councilman Hay about Brenmor agreeing to pursue actively the renewal of the franchise by June 30, 1996, Ms. Meldrum said that Rice, Williams is comfortable with that deadline since they are half-way through the process at this time.

Ms. Meldrum then answered questions from City Council as they related to what would happen if financial documents are not furnished to the City as required by the resolution.

Upon inquiry of Councilman Skalski about a letter City Council received from Wally Bowen, of Citizens for Media Literacy, regarding TCI and their rebuilding of that system, Ms. Meldrum explained that it would be part of the renewal process rather than the transfer process. The issues raised in Mr. Bowen's letter will be addressed through the renegotiation of the franchise agreement. Rice, Williams completed a survey to many organizations asking for their comment on what type of system the community would want. Those responses will also be considered in the renewal negotiations.

Mr. Bruce Stewart, General Counsel from InterMedia, recognized that they are working with a 1967 franchise. Although June 30, 1996, is an aggressive date to complete the renewal negotiations, InterMedia pledges to move forward.

Upon inquiry of Councilman Worley, Mr. Stewart said that it looks favorable that they will carry ACC basketball games on Channel 40.

Mr. H. K. Edgerton asked if there were any plans for the public to view City Council meetings. Mayor Martin responded that that issue will be part of the franchise renewal negotiations.

Mr. Dan Martin, General Manager of TCI Cablevision, responded to questions from Wally Bowen of Citizens for Media Literacy on where TCI stands on the upgrading of the interactive telecommunications system. Mr. Bowen felt a commitment in writing should be obtained from Brenmor -8-

to fulfill the \$24 Million, 3 year rebuild that TCI stated they would do. Mr. Stewart felt that was something that can be discussed in the course of the renewal negotiations.

Mr. Stewart then responded to questions from Councilman Skalski about what percentage of the cable markets have a two-way interactive system and how is it determined if it is feasible to rebuild.

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

Councilman Worley moved for the adoption of Resolution No. 95-194 regarding the cable television transfer. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 57

Councilman Hay moved for the adoption of Resolution No. 95-195 regarding the amendment to the Rice, Williams Associates Inc. agreement to include the franchise fee audit in the scope of services. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 61

B. RESOLUTION NO. 95-196 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH FROEHLING AND ROBERSON INC. TO PROVIDE CONSULTING SERVICES FOR A PHASE I ENVIRONMENTAL SITE ASSESSMENT FOR THE SOUTH PACK SQUARE REDEVELOPMENT AREA

Mr. Marvin Vierra, Community Development Director, said that the Eagle/Market Streets Development Corporation has requested that a Phase I environmental site assessment be developed for the 22 acre South Pack Square Redevelopment Area. The Assessment will be in accordance with standard minimum requirements established by ASTM E-1527 - Standard Practice for Environmental Site Assessments. The Assessment will determine if there is potential for possible hazardous material in the area. Proposals for conducting the Assessment were received from four firms and reviewed by the City's Housing and Community Development Committee. The Committee recommends contracting with Froehling and Roberson, Inc., which is a certified minority business and submitted the lowest cost based on the work requested by the City.

At the request of Vice-Mayor Field, Mr. Vierra said that the contract price of \$5,840 will come out of the CDBG program for the South Pack Square Redevelopment Area.

Upon inquiry of Councilman Skalski about asbestos testing, Mr. Vierra responded that they will not test for asbestos in Phase I only identify if there is a potential for asbestos. If Phase II is required, testing would be done then. It was determine that asbestos has to be removed from buildings before they are torn down and that is the responsibility of the owner.

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

Vice-Mayor Field moved for the adoption of Resolution No. 95-196. This motion was seconded by Councilman Worley and carried unanimously.

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V. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 5, 1995, AND THE WORKSESSION HELD ON DECEMBER 12, 1995

B. MOTION SETTING A PUBLIC HEARING FOR JANUARY 9, 1996, TO CONSIDER A SMALL AREA PLAN FOR WEST END/CLINGMAN AVENUE

C. RESOLUTION NO. 95-197 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT FOR PHYSICIAN SERVICES THROUGH THE HEALTH SERVICES DIVISION

Summary: This resolution will authorize the City Manager to sign an agreement for physician services through the Health Services Division effective 1-1-96, for a period of 6 months.

In January, 1995 the staff reported to Council that the Health Services Division was one of several areas to be considered for privatization. Since that time an assessment of the existing operation has been undertaken by an outside source with expertise in the health care field.

Several months ago the City sent out an RFP to all primary care physicians in the community asking for proposals and costs for providing direct care through the City's Health Services office. The proposal included the provision of basic health care to dependents of employees as well.

Dr. Paul Martin has provided us with a proposal to meet all of our needs in this regard. After a six month period of his being on-site at designated hours, an evaluation of the cost-effectiveness of this arrangement will be conducted by staff, the consultant, and the City's administrator for its health benefits program. If the evaluation indicates significant cost savings over the period of the contract, a plan to privatize the operation and locate it off-premises will be developed.

The previous assessment of the current operation indicates that after accounting for prevailing market rates for health services, and factoring in the cost of the Health Services Division, that annual savings for health care last year were approximately \$94,000.

The proposed agreement here will cost the City \$36,000 for six months. This money will come from the accrued reserves in the Employee's Health and Benefits Trust Account, and will require no appropriation from the City.

At the present time the division is staffed by a full time nursing supervisor, and a part time registered nurse. The part time position was filled last spring upon the resignation of the second of two full time positions previously filled, and represents staff's effort not to fill the second nurse's position with a full time person until this effort at privatization is fully evaluated. If this effort is successful, we anticipate one of the nursing positions being retained in the Personnel Department to manage the contract for services, and to supervise the medical services provided as part of the evolving managed care system. This should avoid the displacement of any full time employees if the function is finally privatized.

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Staff, the consultant, and the Operation's Advisory Committee all recommend the adoption of this resolution.

RESOLUTION BOOK NO. 23 - PAGE 63

D. RESOLUTION NO. 95-198 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE ADMINISTRATIVE SETTLEMENTS FOR THE ACQUISITION OF REAL PROPERTY

Summary: The acquisition of real property under the power of eminent domain is often a necessary tool in carrying out projects for public purposes. That is especially true of redevelopment projects. The use of federal funds for such acquisition requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ("Uniform Act"), as amended. It is desirable,

as well as required by Uniform Act Regulations, that every reasonable effort be made to acquire real property expeditiously by negotiation. However, it is sometimes not possible to obtain an agreement to sell at the established just compensation. As an alternative to judicial resolution of a difference of opinion on the value of property, the Uniform Act Regulations permit the purchase price to exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized agency official approves such administrative settlement as being reasonable, prudent and in the public interest.

The authorization of the City Manager to approve administrative settlements will expedite the settlement process and eliminate the need to take those settlements which have very minor financial impact to City Council. Settlements having greater financial impact or sensitive circumstances may still be referred to City Council as the City Manager deems appropriate.

RESOLUTION BOOK NO. 23 - PAGE 64

E. RESOLUTION NO. 95-199 - RESOLUTION AUTHORIZING THE CITY STAFF TO EXECUTE DOCUMENTS RELATING TO HOUSING REHABILITATION LOANS

Summary: The administration of rehabilitation loans requires the execution of various documents from time to time such as insurance checks and releases related to payment of damage claims on property for which the City holds a deed of trust, subordination agreement documents, loan assumption documents, final inspection certificates, and foreclosure documents. Loans paid in full must be marked paid and satisfied and canceled of record.

The authorization of the Planning and Development Director and the Community Development Director to execute those documents, after ascertaining that the City's interest has been protected, will expedite the process and allow the City to respond more quickly and efficiently to customers.

RESOLUTION BOOK NO. 23 - PAGE 65

F. RESOLUTION NO. 95-200 - RESOLUTION AUTHORIZING THE CITY MANGER TO LEASE OR RENT CITY PROPERTY FOR TERMS OF ONE YEAR OR LESS

Summary: From time to time the City receives offers to lease City property for various purposes on a temporary basis. The lease or rental of City property for short periods of time is consistent with sound -11-

property management when such use of the property and the income derived is appropriate. Under G.S. 160A-272 the City Council may delegate authority to the City Manager to lease or rent City property for terms of one year or less. Delegating authority for short term leases and rentals to the administrative level will result in the more efficient use of time for administrative staff as well as City Council.

RESOLUTION BOOK NO. 23 - PAGE 66

G. RESOLUTION NO. 95-201 - RESOLUTION AUTHORIZING CITY STAFF TO EXECUTE DOCUMENTS RELATING TO THE SALE OF REDEVELOPMENT LAND

Summary: The sale of redevelopment property other than non-buildable parcels requires that the redeveloper (purchaser) complete certain improvements on the property, i.e. constructing or rehabilitating a structure, in accordance with the redeveloper's construction plan for the property which is approved by the City prior to conveyance. The contract for sale of land and the deed of conveyance contain reversion clauses which provide for the reacquisition of the

property by the City should the redeveloper fail to complete the improvements. The reversion clauses in the contract and deed prevent the sale or mortgaging of the property (except for construction financing) until the improvements have been completed and the contract further provides that a Certificate of Completion be issued to evidence the satisfactory completion of the improvements. It is the responsibility of the redeveloper to request the Certificate of Completion. In many cases an impending sale or refinancing are contingent upon the Certificate of Completion when the request is made.

The authorization of the Planning Director and Community Development Director to execute the Certificates of Completion after ascertaining that the improvements have been completed will expedite the approval process and allow us to respond more quickly and efficiently to our customers.

RESOLUTION BOOK NO. 23 - PAGE 67

H. RESOLUTION NO. 95-202 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY IN BETWEEN TWO UNNAMED ALLEYS CONNECTING WEST CHESTNUT STREET AND BLAKE STREET IN THE BLOCK BETWEEN MONTFORD AVENUE AND CUMBERLAND AVENUE AND SETTING A PUBLIC HEARING FOR JANUARY 23, 1995

RESOLUTION BOOK NO. 23 - PAGE 68

I. RESOLUTION NO. 95-203 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR RELOCATION OF WATER LINES ON AIRPORT ROAD

Summary: NC Department of Transportation ("NC DOT") is bidding a project for the reconstruction of Airport Road from I-26 to US 25 (Hendersonville Highway). Construction of this project is scheduled to begin in January of 1996. The City has extensive existing water facilities along Airport Road that will have to be relocated to accommodate this road reconstruction project. Also, this corridor coincides with a portion of the route for the proposed 24-inch waterline from the planned Mills River Water Treatment Plant. NC DOT has included this new 24-inch waterline installation plus the relocation of other existing water facilities as a component of the road reconstruction project.

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Prior to NC DOT performing these water system improvements and relocations, a Utility Agreement between the City and NC DOT must be executed. This Utility Agreement authorizes NC DOT to make water system improvements and relocations and establishes the terms of payment for same. The City is financially responsible for all water system improvements affected by NC DOT and for the relocation of all existing water facilities that are within NC DOT right-of-way. A portion of this project has been budgeted for in the Asheville-Buncombe Water Authority's Capital Construction Budget with the remainder to be paid for by the upcoming revenue bond issue.

RESOLUTION BOOK NO. 23 - PAGE 69

J. RESOLUTION NO. 95-204 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A THIRD MODIFIED GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR PHASE III TERMINAL EXPANSION

Summary: This will be the Third Modified State Grant Agreement with the N. C. Department of Transportation for Phase III terminal expansion. The additional \$300,000 needed will bring the amount of the grant to \$1,133,260. It will also extend the time of completion of the state grant from January 1, 1996, to January 1, 1997.

RESOLUTION BOOK NO. 23 - PAGE 70

K. RESOLUTION NO. 95-205 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: The term of Rock McClure will expire on December 31, 1995. This resolution will appoint M. Charles Cloninger to serve according to the length of his Council term of office.

RESOLUTION BOOK NO. 23 - PAGE 72

L. RESOLUTION NO. 95-206 - RESOLUTION APPOINTING A MEMBER TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Summary: This resolution will appoint Councilman James J. Skalski to serve as the elected representative to the Americans with Disabilities Act Compliance Committee.

RESOLUTION BOOK NO. 23 - PAGE 73

M. RESOLUTION NO. 95-207 - RESOLUTION APPOINTING A MEMBER TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: This resolution will appoint Councilman James J. Skalski to serve as the Council representative, to serve as Chairman, to the Police Officers and Firefighters Disability Review Board.

RESOLUTION BOOK NO. 23 - PAGE 74

N. RESOLUTION NO. 95-208 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS COMMITTEE

Summary: Vice-Mayor Barbara Field has resigned from this Committee. This resolution will appoint Thomas G. Sellers to the Asheville-Buncombe Crime Stoppers Committee to serve the unexpired term of Vice-Mayor Field, term to expire June 30, 1996, at which time he is hereby reappointed to serve a three year term, term to expire June 30, 1999, or until his successor is appointed and qualified. -13-

RESOLUTION BOOK NO. 23 - PAGE 75

O. MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 1996, TO AMEND THE SIGN REGULATIONS CONCERNING MULTI-TENANT SIGNAGE IN THE CENTRAL BUSINESS DISTRICT, MARQUEE SIGNS, ANIMATED SIGNS, AND ELECTRONIC MESSAGE BOARDS

P. MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 1996, TO GRANT A VARIANCE TO REDUCE THE RIGHT-OF-WAY WIDTH REQUIREMENT OF THE SUBDIVISION REGULATIONS FROM 50 FEET TO 45 FEET FOR THE BLUEBIRD KNOLL SUBDIVISION

Q. RESOLUTION NO. 95-209 - RESOLUTION EXTENDING CITY COUNCIL'S CONDOLENCES TO PRIME MINISTER YITZHAK RABIN'S FAMILY

RESOLUTION BOOK NO. 23 - PAGE 76

R. RESOLUTION NO. 95-210 - RESOLUTION ENDORSING COMMUNITY COMMON VALUES

Summary: The Buncombe County Commissioners appointed the Community Common Values Committee ("CCVC") in the spring of 1994. The purpose of the committee was to find some way to create a sense of common values and community among the people of Buncombe County. After seventeen community meetings, the CCVC has

finished their work and they have asked that City Council endorse the 15 community common values.

RESOLUTION BOOK NO. 23 - PAGE 77

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

Councilman Worley moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Cloninger and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2251 - BUDGET AMENDMENT RELATIVE TO THREE VEHICLE VIDEO RECORDER/CAMERAS FOR THE POLICE DEPARTMENT

Summary: This budget amendment, in the amount of \$14,250, is to allocate funds for the Governor's Highway Safety Program for the purchase of three vehicle video recorder/cameras for the Police Department. This expenditure is to be fully reimbursed by the Governor's Highway Safety Program.

ORDINANCE BOOK NO. 15 - PAGE 253

B. ORDINANCE NO. 2252 - BUDGET AMENDMENT TO ESTABLISH FUNDS FROM THE N.C. WILDLIFE RESOURCES COMMISSION TO DESIGN A BOAT RAMP AND ACCESS AREA AT AMBOY ROAD

Summary: This budget amendment, in the amount of 20,000, is to establish a budget for funds received from the N. C. Wildlife Resources Commission to design a boat ramp and access area at Amboy Road.

ORDINANCE BOOK NO. 15 - PAGE 255

C. ORDINANCE NO. 2253 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE URBAN TRAIL IV PROJECT

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Summary: This budget amendment, in the amount of \$56,720, is to establish a budget for the Urban Trail IV project. All costs for project will be funded by private donations/participation.

ORDINANCE BOOK NO. 15 - PAGE 257

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

Vice-Mayor Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Hay.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City

Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on December 6, 1995:

#### COUNTRY CLUB CONDOMINIUMS LOCATED ON DOVER STREET

Mr. Mike Matteson, Urban Planner, said that County Club Condominiums will be a 28 unit condominium development located on a 1.78 acre site on Dover Road.

The development will be located at the corner of Dover Street and Lee Street and will consist of two buildings, each with 14 units. The property will be developed in two phases. The building on the west side of the site will be constructed initially and the other building will be built at a later time. The developers are seeking a zoning vested right for the second phase of development. While recognizing that it is not the developer's responsibility, the Commission expressed concern regarding the condition of Dover Street particularly at its intersection with Beaverdam Road. A resolution concerning Dover Street will be considered by the Commission at their January meeting and forwarded to Council.

At their December 6, 1995, meeting, the Commission voted 5-1 to recommend approval of this group development. The Planning Department staff recommended approval with no conditions.

Upon inquiry of Councilman Skalski, Mr. Matteson said that he did not know the cost for road improvements at this time.

Ms. Leni Sitnick felt it would be a good time for Council to consider impact fees if Dover Street needs improvements in order to accommodate the additional units. She felt it would not be fair for the taxpayers to pay for the costs associated with that development.

Mr. John Broadbooks, representing the owner, answered various questions from Council as they related to the allowable density and if the units have been priced yet.

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Councilman Skalski moved to set a public hearing on the zoning vested right issue for January 9, 1996. This motion was seconded by Councilman Sellers and carried unanimously.

#### B. CLAIMS

The following claims were received by the City of Asheville during the week of November 23-December 6, 1995: Tamara Harris (Police), John Henry Kilgore (Water), Henry D. Severn (Inspections) and Reed & Louise Gregory (Water).

The following claims were received during the week of December 8-14, 1995: Beverly-Hanks (Sanitation), Kiku Medford (Streets), CP&L (Police), Joshua Hertel (Water), Phil Dunn (Sanitation) and Freddie Mitchell (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

#### C. LAWSUIT ACTIONS

The following lawsuit was received by the City of Asheville on December 14, 1995: Ronnie C. Davis v. City and Civil Service Board (Petition for

Certiorari). This action will be handled in-house.

The following lawsuits have been settled by the City of Asheville, which have been previously authorized by the City Council: (1) Suit filed by the City against Southern International Fireworks related to damage to some City vehicles following a fireworks show on July 4, 1993. That case was settled by payment to the City of \$2,250; (2) Suit instituted by Hobson Construction Company against APAC-Carolina. APAC-Carolina then brought the City of Asheville in. This was a dispute over the street and sidewalk improvement contract on Patton Avenue. That suit settlement resulted in payment out by the City to Hobson on their contract of an additional \$59,446.67.

#### D. BOARD AND COMMISSION COMMITTEE

Councilman Hay reported that the Board and Commission committee established by Mayor Martin has met and briefly looked into the process of making board appointments. He said that the Committee will be looking at new ways to get the word out about vacancies. He assured the public that City Council cares a lot about balance on the committees. The Committee felt that a quarterly appointment process might be more suitable than the process used currently. Also after quarterly appointments are made, there will be an opportunity for an orientation meeting with the new members to be held with Council and appropriate staff. He stated that the Committee will be meeting again on January 2.

Councilman Skalski said that the City Clerk will be notifying organizations, like the Chamber of Commerce, Council of Independent Business Owners, West Asheville Business Association, National Association for the Advancement of Colored People, Coalition of Asheville Neighborhoods, etc., far enough in advance so that newsletters can be circulated with the vacancy information in them. He also said that the Council will not be interviewing and appointing members on the same day.

#### E. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick commented that she was glad that City Council was going to look into the board and commission vacancy process. -16-

She stressed to Council the need to let the public know of the City's automated phone system (ARNIE). She suggested (1) some type of jingle or slogan contest to make the public aware of the system, (2) a one page ad similar to what the Citizen-Times uses for their information number, or (3) a water bill insert with the phone number and the codes.

Regarding the extraterritorial jurisdiction ("ETJ") area, she suggested that since City taxpayers pay for all the staff time associated with enforcement in the ETJ area, that (1) either the City be compensated for that time, (2) that the City get rid of the ETJ, or (3) that County appointees to the Board of Adjustment and the Planning & Zoning Commission not be allowed to vote on matters not in the ETJ area.

#### F. COMMENTS BY H.K. EDGERTON

Mr. H.K. Edgerton hoped to be able to have many applicants from the NAACP organization apply for vacancies on the boards and commissions.

He suggested the City work with private enterprise in order to make it possible for entrepreneurs to bring their talent, resources and creativity to the City in order to help them develop the river area.

Mayor Martin said that he would be happy to meet with Mr. Edgerton to discuss if there is a way this can be done.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:55 p.m.

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CITY CLERK MAYOR

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