

Tuesday - March 26, 1996 - 5:00 p.m.

Regular Meeting

Present: Vice-Mayor Barbara Field - Presiding; 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: Mayor Russell Martin

INVOCATION

Councilman Hay gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-46 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE PATRICIA TALLERDAY JOYCE, SENIOR PLANNER

City Manager Westbrook read the resolution stating that Patty Joyce has been an employee for 15 years and has requested retirement from her position as Senior Planner in the Asheville Planning & Development Department. He expressed City Council's appreciation to Patty for her service to the City of Asheville and its citizens.

Councilman Worley moved for the adoption of Resolution No. 96-46. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 136

C. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 1-7, 1996, AS "COMMUNITY DEVELOPMENT WEEK"

Vice-Mayor Field read the proclamation proclaiming the week of April 1-7, 1996, as "Community Development Week" in the City of Asheville. She presented the proclamation to Mr. Marvin Vierra, Community Development Director, who noted that since the inception of the CDBG program in 1974, the City has received in excess of \$37,700,000 in CDBG funding for activities that benefit low and moderate income persons. He then passed out T-shirts to the Council to help advertise Community Development week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE ALL OR A PORTION OF THE PROPERTIES LOCATED IN THE HAW CREEK AREA WHICH ARE ZONED R-3 MEDIUM DENSITY TO EITHER R-2 LOW DENSITY RESIDENTIAL, R-1A SINGLE FAMILY MODERATE DENSITY RESIDENTIAL OR R-1 SINGLE FAMILY RESIDENTIAL

ORDINANCE NO. 2267 - ORDINANCE TO REZONE ALL OR A PORTION OF THE PROPERTIES LOCATED IN THE HAW CREEK AREA WHICH ARE ZONED R-3 MEDIUM DENSITY TO EITHER R-2 LOW DENSITY RESIDENTIAL, R-1A SINGLE FAMILY MODERATE DENSITY RESIDENTIAL OR R-1 SINGLE FAMILY RESIDENTIAL

Vice-Mayor Field opened the public hearing at 5:14 p.m.

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

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Ms. Patty Joyce, Senior Planner, said that City Council has requested that a portion of the Haw Creek area currently zoned R-3 be considered for a zoning amendment to either R-2, R-1 or R-1A or retaining the R-3 zoning for all or a portion of the properties as part of the City's comprehensive plan for this area.

The City Council directed the Planning & Zoning Commission ("Commission") and its Planning & Development Dept. to study the portion of the Haw Creek area currently zoned R-3 in order to make a recommendation as to whether all or a portion of the area should be rezoned. At their March 6, 1996, meeting, the Commission reviewed the area in question and considered the following: (1) Land Use Plan: The Asheville City Plan 2010 identifies this area as low density residential; (2) Current Land Use: The area is developed with single homes, many duplex parcels both small and large apartment complexes, churches and an elementary school. There are several large vacant parcels in the area that have development potential; and (3) Zoning Pattern: All of the remaining Haw Creek Valley in the City's zoning jurisdiction is already zoned R-1 or R-2. As annexed areas were zoned, low density residential districts were assigned to those areas in conformance with the 2010 Plan. The remaining R-3 area under consideration at this time shares the same residential character as the upper valley and should likewise be considered for a low density district designation.

The Commission recommended rezoning the portion of Haw Creek as follows: the majority of the area is proposed to be rezoned to R-2; 17 parcels between Arco Road and Mt. View Road are proposed to be rezoned R-1A; 26 parcels generally between Avon Road and Lynnstone Court are proposed to be rezoned R-1; and three parcels are proposed to remain R-3 - the Mews Apartments (2 parcels) and the adjacent Beverly Road Apartments (1 parcel).

Ms. Barber Melton, Haw Creek Homeowners Association and Coalition of Asheville Neighborhoods, thanked the Council and staff for their assistance in this rezoning. The Association is pleased with this rezoning, except they would prefer not to have any R-3 in Haw Creek, even if it is built out. However, they feel that they might be able to address this when the UDO mapping is done.

Mr. Jay Winer, property owner on Whitson Road, said that he purchased a vacant piece of property several years ago with the intention of developing 10 units on it - not the 16 units per acre allowed under the R-3 district. He now finds that he has a need to sell his property and has a potential buyer. He felt that rezoning his property to R-2 would cause him damage. He requested Council consider excluding his property from the R-2 designation and let it remain zoned R-3. He also asked if Council has considered any type of reimbursement for loss as a result of this rezoning.

Vice-Mayor Field said that Council could not exclude his piece of property because it would be illegal spot zoning.

Upon inquiry of Councilman Cloninger, Ms. Joyce explained why Mr. Winer's property was recommended to be rezoned to R-2. She said the R-2 zoning in this entire area classifies the character of the neighborhood. Property values might be enhanced if low density residential were to be built on his property. She noted access problems of multi-family units on curved roads and on very sharp intersections located in Haw Creek.

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She did mention the UDO to Mr. Winer and that he might explore that particular view offering more options for that piece of land at a later time.

Councilman Skalski suggested Mr. Winer talk with the neighborhood association about his concern. He then stated that perhaps when the UDO mapping is completed, his zoning may change again.

It was Vice-Mayor Field's understanding that this basically was the work that was going to be done for the UDO and that's why Council decided to move forward with it, rather than holding it for the UDO mapping. Planning & Development Director Julia Cogburn said that there are different districts proposed in the UDO, but staff and the Planning & Zoning Commission was looking at this area in light of densities that they felt would be appropriate to carry forward. As staff moves forward with the UDO mapping in general, they are trying to create as few non-conformities as possible.

Mr. Steve Bias said that he and his parents just bought two lots in the fall on Old Haw Creek Road. Unfortunately their realtor did not mention the proposed rezoning request. He said that one lot has a house on it and the other lot is vacant. He said that the lot size is such that if it goes from R-3 to R-2, the vacant lot could not be built on. He asked if they could be grandfathered in since they did purchase that property with the expectation of being allowed to build on it.

Upon inquiry of Vice-Mayor Field about the possibility of grandfathering a lot, City Attorney Slawter said that selecting an individual lot to rezone it R-3, within an area that's otherwise zoned R-2, would constitute spot zoning and would be a legal problem. He could not see any way that Council could appropriately single out an individual lot and leave it R-3 and rezone everything else around R-2.

Mr. Jerry Crow, attorney representing Haw Creek Mews Apartments, said that they are not opposing the rezoning since it leaves the zoning for the Haw Creek Mews as it was, and as it should be. He urged Council, if they are on the threshold of enacting the UDO, that the mapping be consistent with what's going in that direction. He did not want to see Haw Creek Mews rest with this and then only to find out that the UDO or the neighborhood association has another change in mind. He did not want to find the Haw Creek Mews in a non-conforming situation in the event of a fire or something else.

Upon inquiry of Vice-Mayor Field, Ms. Cogburn said that if Council wanted to, over time, transform the entire nature of a particular area, they could create a lot of non-conforming uses. The interest being in as development took place over time or as uses changed out the use and the nature of the area would evolve toward whatever Council's suggested direction was for that. Typically, however, it's generally been the decision of the legislative bodies here in Asheville, as well as nation-wide, to try to create as few non-conformities as possible.

Ms. Betty Winston, resident on Lynnstone, spoke in support of the proposed rezoning.

Mr. Chris Pelly, President of the Haw Creek Homeowners Association, noted that there were several things that could be done on a piece of R-2 property. He stated the efforts that the Association made to inform the community of this requested rezoning. He said that R-3 zoning is no longer appropriate for Haw Creek. He said that R-2

zoning will still allow apartments, but at a lower, more manageable, density. He said that it is the Association's wish that there be no more R-3 in Haw Creek after the rezoning. They believe this is the most consistent approach to areas already built out to R-3 standards. They do not believe the Haw Creek Mews are built to stand the test of time and will have a short live expectancy due to the quality of construction. If they come down in 10 or 20 years, they hope the land can then be used in a more reasonable manner as would be allowed by R-2 zoning.

Vice-Mayor Field closed the public hearing at 5:31 p.m.

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

Councilman Cloninger moved for the adoption of Ordinance No. 2267. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2267 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 330

B. PUBLIC HEARING TO REZONE 105 LOTS IN THE MORNINGSIDE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

ORDINANCE NO. 2268 - ORDINANCE TO REZONE 105 LOTS IN THE MORNINGSIDE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Vice-Mayor Field opened the public hearing at 5:34 p.m.

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

Mr. Carl Ownbey, Urban Planner, said that a petition has been received that requests that 105 lots in the Morningside Park area off Brevard Road be rezoned from R-3 Medium Density Residential to R-1A Single Family, Moderate Density Residential.

At the City Council meeting held on February 13, 1996, the Council directed the Planning Department to study the Morningside Park area for possible rezoning. The Planning staff reviewed the petition and found it to be valid and submitted the petition to the Planning & Zoning Commission ("Commission") for their recommendation.

The subject property is approximately 41.75 acres. The 105 lots are located within the area called Morningside Park which is directly west of Brevard Road behind the Laurelwood Condominiums. The 2010 Plan recommends this area to be low density residential.

Of the 105 lots, 72 have single family residential structures and 33 lots are currently vacant with two of these vacant lots owned by a governmental agency. Of the 105 lots, 103 of them conform to the R-1A standard which is minimum lot size of 5,400 square feet and minimum lot width of 50 feet. The petition contains 74 verified property owner signatures or 70% of the property owners and the 74 lots constitute 66% of the land area.

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The Planning staff reviewed the petition and recommended that the 105 lots be

rezoned from R-3 to R-1A. At the Commission's meeting on March 6, 1996, they voted unanimously to recommend approval of the rezoning request.

Vice-Mayor Field closed the public hearing at 5:36 p.m.

Vice-Mayor Field 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. 2268. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2268 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 337

C. PUBLIC HEARING TO CONSIDER A MODIFICATION REQUEST FOR WOLFE COVE ROAD SUBDIVISION

Vice-Mayor Field opened the public hearing at 5:37 p.m.

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

Mr. Gerald Green, Senior Planner, said that Allan Henke and David Burnette are requesting a modification request from the subdivision regulations provision that all lots must abut a public street.

The subject property, which totals 3,429 acres, became part of the City of Asheville in May of 1991. In 1992, Mr. Burnette bought the property. In 1994, Mr. Burnette subdivided the property into two lots and sold approximately one acre to Mr. Henke. The County approved this subdivision although it was already in the City's jurisdiction. The City became aware of the subdivision when Mr. Henke applied for permits to construct a single-family house.

The one acre lot owned by Mr. Henke does not meet the City's subdivision regulations requirement that it abut a public street. Access to the lot is provided by a private drive.

At their March 6, 1996, meeting, the Planning & Zoning Commission voted unanimously to recommend approval of the modification request.

Mr. Green said that he received a call from Nicole Dimarzo who owns two lots in the subdivision. Her concern was that in 1986 she signed a letter with Mr. Medicus giving her the right of first refusal to buy any property that Mr. Medicus might sell and she felt that was not honored. Mr. Green felt that there was nothing the City could do because her concern is outside the bounds of this request.

City Attorney Slawter answered questions from Councilman Skalski as they related to the driveway access.

Vice-Mayor Field closed the public hearing at 5:48 p.m.

Councilman Cloninger moved to approve the modification request for Wolfe Cove Road Subdivision. This motion was seconded by Councilman Worley and carried unanimously.

D. PUBLIC HEARING TO REZONE 25 LOTS IN THE VINEWOOD CIRCLE/KENWOOD STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

ORDINANCE NO. 2269 - ORDINANCE TO REZONE 25 LOTS IN THE VINEWOOD CIRCLE/KENWOOD STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

Vice-Mayor Field opened the public hearing at 5:49 p.m.

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

Mr. Carl Ownbey, Urban Planner, said that this petition requests that 25 lots in the Vinewood Circle/Kenwood Road area be rezoned from R-3 to R-5.

The subject properties are approximately 9.2 acres. The area contains 17 residential structures and 12 mobile homes. The subject properties are surrounded on the north and west by R-3 and on the south and east by R-5. The majority of the surrounding area is well developed with mobile homes, including a mobile home subdivision directly to the northeast. The 2010 Plan shows this area to be low density residential; however, the character of the area inside and outside the City limits has developed into high density residential.

The Planning staff reviewed the petition and recommended that the 25 lots in the Vinewood Circle/Kenwood Road area be rezoned from R-3 to R-5. At the Planning & Zoning Commission meeting on March 6, 1996, the Commission voted unanimously to recommend approval of the rezoning request.

Mr. Samuel Camp, resident in the Richmond Hill area, asked questions about what impact this rezoning would have on his neighborhood and what the difference was in the density levels in R-5 and R-3. He said the Richmond Hill neighborhood did not want any more housing to be built in their area. He invited Council to attend their next neighborhood meeting. He suggested public hearing notices contain a little more information so property owners can understand what is being requested.

At the request of Mr. Ralph Bishop, Vice-Mayor Field read the uses permitted in the R-3 district and also the uses in the R-5 district. Mr. Bishop then felt that City Council is not giving adequate information to the public in order that they can make a rational comment.

Ms. Patsy Silver, petitioner requesting the rezoning, urged Council to rezone these lots so that the property owners can make improvements to their property, some improvements being to tear down old houses and put in new mobile homes.

When Mr. Camp was informed that mobile homes were not allowed in the present R-3 zoning, he asked Council table any action on this rezoning request until the City can meet with his neighborhood and they have an opportunity to discuss the request.

When Councilman Skalski asked if anyone from the Richmond Hill area went to the Planning & Zoning Commission meeting to express their concerns, Mr. Camp said that he did receive a notice in the mail but did not attend the meeting.

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Ms. Silver stated that the Richmond Hill property is 1/8th of a mile away from the area they are asking to be rezoned. She said that it will have no bearing on the Richmond Hill property at all.

Upon inquiry of Councilman Hay, Ms. Silver stressed that the petition is from

100% of the affected property owners and she filed the original rezoning petition on February 5, 1996, with the Planning Department.

Vice-Mayor Field closed the public hearing at 6:05 p.m.

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

Councilman Hay moved for the adoption of Ordinance No. 2269. This motion was seconded by Councilman Cloninger.

Councilman Hay said that basically what the City is doing is reducing the density and allowing for mobile homes. He encouraged the Richmond Hill neighborhood group to get involved and perhaps become a member in the Coalition of Asheville Neighborhoods so that their area is well represented in the decision-making process. In this particular situation, he feels that this will do nothing but enhance the neighborhood and feels that this rezoning is a step in the right direction, especially since 100% of the property owners affected favor the rezoning.

Councilman Worley said that he appreciated the request to postpone the matter and ordinarily would honor that request, however, prior notice was given and no one attend the Planning & Zoning Commission meeting nor has anyone previously posed questions regarding this rezoning.

On a roll call vote of 6-0, Ordinance No. 2269 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 342

E. PUBLIC HEARING TO CONSIDER THE CITY'S PARTICIPATION IN A SEWER LINE UPGRADE PROJECT OF GERBER PRODUCTS OF ASHEVILLE

RESOLUTION NO. 96-47 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH GERBER PRODUCTS OF ASHEVILLE TO PARTICIPATE IN SEWER LINE IMPROVEMENTS

ORDINANCE NO. 2270 - BUDGET AMENDMENT TO ASSIST IN THE EXTENSION OF A SEWER LINE TO SERVE THE EXPANSION OF A PRIVATELY-OWNED INDUSTRIAL FACILITY KNOWN AS GERBER

Vice-Mayor Field opened the public hearing at 6:08 p.m.

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

Ms. Julia Cogburn, Planning & Development Director, said that in October of 1995, Gerber Products of Asheville sent a formal request to the City for assistance with sewer line improvements. The request was that the City participate in funding the construction of sewer line improvements (public) necessitated by and in conjunction with other waste water system improvements (private) being conducted by Gerber.

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The public improvements which the City is being asked to assist with will become part of the Metropolitan Sewerage District system. The estimated cost of these infrastructure improvements is \$18,250. The City Council, if approving this resolution, will also need to approve a budget ordinance amendment, in the amount of \$18,250, to appropriate the funds.

Ms. Cogburn noted that she received a phone call today from Mac Williams, with the Chamber of Commerce, who called to express the Chamber, as well as the County's Economic Development Commission, is in favor of this resolution and they do support the City's participation in this effort.

The staff's recommendation is adoption of the resolution and budget amendment. The agreement with Gerber does contain a provision indicating that the City's participation is contingent upon approval by the County of their share.

When Councilman Skalski inquired about Gerber's commitment to the community if the City participates in the request, Mr. Bill Rogers, Gerber's Plant Engineer, tried to respond by saying that one area identified by a task force, formed to make the Asheville plant more viable in comparison to their sister plants, was to reduce their costs for sewerage. In order to do that, they need access to a different type of line and part of this request is for improvements that will be in the public right-of-way that allow them access to that line. He felt that if this request was not granted, it would cost Gerber more for sewerage and make them less competitive against our sister plants, which could result in loss of jobs in Asheville.

Mr. Ray Burrows, N. C. Dept. of Commerce economic development representative, said that they have been coordinating this project since 1994. He said that Mayor Martin was on the task force when they went to corporate headquarters. He said while there is no commitment in writing, Gerber has made substantial improvements and they have been enabled to be identified as serving the growing Eastern, Caribbean and Brazilian markets from Asheville. He felt that this is the final piece of financial aid that will bring all of their capital improvements, that were in the program that were needed to reduce costs, together. He urged Council to proceed with these actions because it will mean continual savings of those good jobs and the tax investment.

Vice-Mayor Field felt this request was very positive.

When Mr. Richard Nantelle questioned if the Gerber plant's present discharge into the Metropolitan Sewerage District system is in compliance at this time, Mr. Burrows responded that it is.

Vice-Mayor Field closed the public hearing at 6:20 p.m.

Councilman Worley spoke in support of this request.

Vice-Mayor Field said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Skalski moved for the adoption of Resolution No. 96-47. This motion was seconded by Councilman Worley and carried unanimously.

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Councilman Worley moved for the adoption of Ordinance No. 2270. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2270 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 344

F. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE IN THE OFFICE INSTITUTIONAL DISTRICT STANDARDS TO IDENTIFY OUTDOOR RECREATIONAL USES AS A PERMITTED USE

ORDINANCE NO. 2271 - ORDINANCE TO AMEND THE ZONING ORDINANCE IN THE OFFICE INSTITUTIONAL DISTRICT STANDARDS TO IDENTIFY OUTDOOR RECREATIONAL USES AS A PERMITTED USE

Vice-Mayor Field opened the public hearing at 6:22 p.m.

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

Mr. Gerald Green, Senior Planner, said that at the request of an Asheville resident and property owner, the Planning & Development Department staff investigated the feasibility of revising the City's zoning ordinance to permit outdoor recreational uses in the OI Office Institutional District. Their research indicated that outdoor recreational uses are compatible with other uses permitted in the OI District and that several other cities permit these type uses in similar use districts. The proposed ordinance amendment was presented to the Planning & Zoning Commission ("Commission") at their March 6, 1996, meeting and after their review, they voted unanimously for its adoption. The ordinance amendment also includes a definition for outdoor recreational uses.

Upon inquiry of Councilman Hay, Mr. Green said that someone is interested in building a riding stable this summer in the Office Institutional District and under our current ordinance it is not allowed.

Vice-Mayor Field closed the public hearing at 6:25 p.m.

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

Councilman Skalski moved for the adoption of Ordinance No. 2271. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2271 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 346

G. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED ALLEY EXTENDING FROM ATKIN AVENUE TO ITS DEADEND

RESOLUTION NO. 96-48 - RESOLUTION TO CLOSE AN UNNAMED ALLEY EXTENDING FROM ATKIN AVENUE TO ITS DEADEND

Vice-Mayor Field opened the public hearing at 6:26 p.m.

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

Public Works Director Mark Combs said that the City has received a petition from Midas Realty Corporation requesting that an unnamed alley connecting Atkins Avenue and Arden Avenue to permanently closed to public use. The petition received includes only the signature of Midas Realty Corporation, Inc. The other property owners affected by the requested closing, with the exception of CP&L, have been contacted by phone and none have indicated objection to the

requested closing. A short section of the alley off Atkins Avenue is open as a driveway and the remaining section connecting to Arden Avenue is only an unopened right-of-way. Other property owners who have not signed the petition have been notified by registered mail.

The closing is subject to the retention by Carolina Power and Light of an easement for the full length and width of the unnamed alley to be closed for maintenance of an existing utility.

The Public Works Department staff recommends the petition to close the unnamed alley between Atkins Avenue and Arden Avenue be approved.

Vice-Mayor Field closed the public hearing at 6:28 p.m.

Vice-Mayor Field said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-48. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 138

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

At the request of Mr. Ralph Bishop, Item A. Approval of the Minutes, was removed from the Resolutions & Motions Consent Agenda to be discussed individually.

RESOLUTIONS & MOTIONS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 12, 1996, AND THE WORKSESSION HELD ON MARCH 19, 1996

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

B. RESOLUTION NO. 96-49 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE ASHEVILLE CITY BOARD OF EDUCATION RELATIVE TO SCHOOL RESOURCE OFFICER CONTRACT

Summary: Authorization is needed to staff the School Resource Officer Program with one additional, full-time police officer. The

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existing agreement was last modified on September 13, 1994, to reflect two officers. Since that time the School Board has sought and received funding for a third school resource officer through a grant process. The program has been expanded as School Administration and faculty realized there is a crucial need for police officers on campus.

RESOLUTION BOOK NO. 23 - PAGE 140

C. RESOLUTION NO. 96-50 - RESOLUTION AMENDING THE RESOLUTION THAT ESTABLISHED THE BELE CHERE COMMISSION

Summary: The purpose of this resolution is to recognize the Bele Chere Board as

being appointed by the City of Asheville.

Resolution 93-45 was established to recognize the Bele Chere Commission as an appointed board and commission for the City of Asheville in 1993. The approval of this resolution provided some liability protection for the members of the Commission through City's excess liability insurance program. This resolution did not, however, cover the Bele Chere Chairman or the Bele Chere Board. This resolution will amend Resolution 93-45 to include liability protection for the Bele Chere Chairman and the Bele Chere Board.

RESOLUTION BOOK NO. 23 - PAGE 141

D. RESOLUTION NO. 96-51 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE LEASE AMENDMENT NO. 3 TO THE LEASE WITH THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

Summary: This action will authorize the Mayor to execute an agreement between the City and the Asheville Regional Airport Authority.

Pursuant to the Airport Agreement which was entered into between the City and the County on November 29, 1979, the City leases to the Airport Authority land used by the Airport. The Airport Authority has recently acquired, with Airport funding, additional land to be used for Airport purposes. That land was acquired by the Airport Authority in the name of the City of Asheville and an amendment to the Lease is required in order to officially put the property under the control of the Airport Authority.

RESOLUTION BOOK NO. 23 - PAGE 142

E. RESOLUTION NO. 96-52 - PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING ON MAY 14, 1996, TO LEVY SPECIAL ASSESSMENTS FOR THE RHODODENDRON CIRCLE PROJECT

Summary: The City of Asheville Public Works Department received a petition from the property owners on Rhododendron Circle requesting that the street be upgraded to City street standards and placed upon the City Street System.

Public Works staff has determined that the street will need spot repairs to the base and patching with asphalt in the spot areas that are badly "alligatored" along with total resurfacing. The cost of these repairs has been estimated at \$32,038.52. The current policy in Public Works is that if the majority of the petitioning property owners who represent a majority of the front footage agree to pay their share of

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the cost, which is 50% of the total, that the petition will be presented to City Council for consideration. Each property owner along the street has been contacted and given their 50% share of the cost as well as the opportunity to respond as to whether they agree to participate or not. Over 50% of the property owners who represent over 50% of the front footage have responded that they agree to participate in the share of their estimated amount. Out of 11 property owners, six responded "yes" to sharing the cost, four responded "no" to sharing in the cost and no response was received from one owner. The "yes" response represents 54.44%. The total front footage along the street is 1,358.91 feet. The "yes" responses represented 904.44 feet. The "no" responses including the one owner who did not respond represented 608.18 feet of frontage. The "yes" responses represents 66.56% of the frontage along the street.

Rhododendron Circle is a through street that runs between Old Haw Creek Road

and Rhododendron Place. The area was annexed into the City in 1988. When the area was annexed, the City accepted all streets in the area that were publicly maintained by the N.C. Dept. of Transportation as City System Streets, with the exception of Haw Creek Road. Rhododendron Circle was not maintained by N.C. Dept. of Transportation so it did not become a City System Street.

Public Works staff recommends that City Council adopt a resolution calling for a public hearing to levy special assessments for the petitioned Rhododendron Circle Project.

RESOLUTION BOOK NO. 23 - PAGE 145

F. RESOLUTION NO. 96-53 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR APRIL 23, 1996, ON THE QUESTION OF ANNEXATION OF PROPERTY LOCATED AT 150 WESTSIDE DRIVE IN THE WESTSIDE INDUSTRIAL PARK PURSUANT TO G.S. 160A-58.1 (CARE FREE WINDOWS/KINCO DIVISION)

Summary: The Planning Department has received a petition under G.S. 160A-58.1 to annex a non-contiguous property on 150 Westside Drive known as Carefree Windows.

On September 29, 1995, the City of Asheville received a signed petition from Carefree Windows requesting annexation of their property. The annexation is in accordance with the agreement between Carefree Windows and the City of Asheville for extension of sewer services. The property is not more than three miles from the primary corporate limits and is not closer to the primary limits of another city than it is to the City of Asheville.

RESOLUTION BOOK NO. 23 - PAGE 148

G. MOTION SETTING A PUBLIC HEARING ON APRIL 9, 1996, TO CONSIDER REZONING 865 HAYWOOD ROAD AND 2 DYSART STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY

H. MOTION SETTING A PUBLIC HEARING ON APRIL 9, 1996, TO CONSIDER A PARKING MODIFICATION FOR BLUE RIDGE CENTER

Vice-Mayor Field said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

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

ORDINANCES:

A. ORDINANCE NO. 2272 - BUDGET AMENDMENT FOR AFTER SCHOOL/DAY CAMP PROGRAM AT EAST ASHEVILLE AND MURPHY-OAKLEY RECREATION CENTERS

Summary: This budget amendment, in the amount of \$19,653, is to appropriate funds to operate an After School/Day Camp Program at the East Asheville and Murphy-Oakley Recreation Centers.

ORDINANCE BOOK NO. 15 - PAGE 349

B. ORDINANCE NO. 2273 - BUDGET AMENDMENT TO MOVE RADIO REPEATERS

Summary: This budget amendment, in the amount of \$19,970, is to upgrade an

existing radio repeater from conventional to trunked status and move the Mt. Royal in Skyland to Spivey Mountain site.

Due to a lack of system resources, radio users now incur "system busies" on a daily basis and an unacceptable number of these busies during emergency situations. The objective of this upgrade and move is to utilize existing resources more effectively, thereby reducing busies for Public Safety system users. The Police Chief and the Fire Chief are in agreement with the intent of this project.

The equipment that must be purchased will upgrade the existing system and can only be supplied by Motorola. If anyone other than Motorola-approved service personnel install this equipment, all maintenance and warranty contracts will be void. At the present time, there are no minority-owned Motorola service facilities in this area.

ORDINANCE BOOK NO. 15 - PAGE 352

Vice-Mayor Field said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they would not be read.

Councilman Cloninger moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, the Ordinance Consent Agenda passed on its first and final reading.

ITEM PULLED FROM THE CONSENT AGENDA TO BE DISCUSSED INDIVIDUALLY

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 12, 1996, AND THE WORKSESSION HELD ON MARCH 19, 1996

Mr. Ralph Bishop, resident of the City of Asheville, felt that City Clerk Burleson was not complying with State law since she does not transcribe the City Council minutes verbatim.

City Attorney Slawter said that in a case decided by the N.C. Supreme Court within the last two weeks, Maready vs. the City of Winston-Salem, the N.C. Supreme Court said that verbatim minutes are not

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required. All that has to be kept in the minutes is a statement of any actions taken by the Council. He said that he would be happy to furnish Mr. Bishop a copy of that decision.

Mr. Bishop said he wanted "to see where the State Supreme Court has the right to abolish the Constitution of the State of North Carolina which states you must have a vote on it. To amend the Constitution of the State of North Carolina, the people must vote on it. The State Supreme Court has no legal authority to abolish the State Constitution."

Councilman Worley moved to approve the minutes of the formal meeting held on March 12, 1996, and the worksession held on March 19, 1996. This motion was seconded by Councilman Skalski and carried unanimously.

VI. OTHER BUSINESS:

A. COMMENTS BY H.K. EDGERTON REGARDING AFFIRMATIVE ACTION

Mr. H.K. Edgerton stated his concerns (1) about whether the City reviews the affirmative action plans of the companies it does business with; (2) whether the City is complying with their own Affirmative Action Plan; and (3) why African Americans are unable to move forward in Asheville.

B. CLAIMS

The following claims were received by the City of Asheville during the week of March 8-14, 1996: Mark Crain (Finance) and NC Dept. of Transportation (Water).

The City received the following claims during the week of March 15-21, 1996: Robert Cline (Water), Ron Dula (Water), Sandra Justus (Water), Roy Gogel (Water), Ellie Brown (Water) and Martha Parker (Water).

These claims will be referred to Asheville Claims Corporation for investigation.

C. COMMENTS BY CHRIS JOHANSON

Mr. Chris Johanson, resident of the Asheville downtown neighborhood, stated that he has followed City Council for many years and he finds the present City Council not only working well together, but they conduct their business more simply, cleanly, streamlined and with more understanding than any previous Council.

Closed Session

At 6:50 p.m., Councilman Worley moved to go into closed session as authorized by G.S. 143-318.11 (a) (5) to establish the City's position regarding the acquisition of real property located at 41 Eve Lake Drive and as authorized by G.S. 143-318.11 (a) (3) in order to preserve the attorney-client privilege, including matters related to the lawsuit involving Lamont Baird vs. the City, County and others (File # 1:95 CV 63). This motion was seconded by Councilman Hay and carried unanimously.

At 7:30 p.m., Councilman Skalski moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

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VII. ADJOURNMENT:

Vice-Mayor Field adjourned the meeting at 7:30 p.m.

CITY CLERK MAYOR
