

Tuesday - May 14, 1996 - 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:

A. PROCLAMATION PROCLAIMING MAY 12-18, 1996, AS "ARSON AWARENESS WEEK"

Mayor Martin read the proclamation proclaiming May 12-18, 1996, as

"Arson Awareness Week" in the City of Asheville. He presented the proclamation to Harley Shuford, Director of the Asheville-Buncombe Arson Task Force and Asheville's Fire Investigator. Mr. Shuford thanked the Council for their support and reiterated the importance of stopping arson.

Mr. Ralph Bishop thanked the Fire Department for rescuing him and others from a fire in the early 1970's.

Mr. Bob York, owner of the Grace Apartments, stated that the Arson Task Force did an excellent job when investigating the fire set at Grace Apartments last year.

B. PROCLAMATION PROCLAIMING MAY 18-24, 1996, AS "NATIONAL SAFE BOATING WEEK"

Mayor Martin read the proclamation proclaiming May 18-24, 1996, as "National Safe Boating Week" in the City of Asheville. He presented the proclamation to the Commander of the Asheville Power Squadron who briefed the Council on the importance of safe boating.

C. PROCLAMATION PROCLAIMING MAY 19-25, 1996, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Martin read the proclamation proclaiming May 19-25, 1996, as "Emergency Medical Services Week" in the City of Asheville. He presented the proclamation to Fire Captain Tim Hinman who summarized four incidents in 1996 that EMS personnel played a vital role in.

D. PROCLAMATION PROCLAIMING MAY 21, 1996, AS "BIKE TO WORK DAY"

Mayor Martin read the proclamation proclaiming Tuesday, May 21, 1996, as "Bike to Work Day" in the City of Asheville. He presented the proclamation to Ms. Elizabeth Teague, Facilitator with the Asheville Urban Area Bikeways Task Force.

Councilman Hay personally challenged City Council to bike to the worksession on Tuesday, May 21. Vice-Mayor Field stated that she doesn't ride bikes, but would be willing to walk. Vice-Mayor Field suggested the City put in bike racks at

City Hall for those who do chose to ride.

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E. MAGDALEN BURLESON - RECIPIENT OF THE CERTIFIED MUNICIPAL CLERK DESIGNATION

Mayor Martin and members of Council congratulated City Clerk Maggie Burleson for receiving the distinguished title of Certified Municipal Clerk from the International Institute of Municipal Clerks.

Mayor Martin noted that Maggie is the first City Clerk in Asheville's history to have received this honored title.

F. RESOLUTION NO. 96-65 - RESOLUTION AUTHORIZING AND ENDORSING THE LOGO FOR ASHEVILLE'S BICENTENNIAL YEAR

Mayor Martin said that on February 27, 1996, the City Council established a Bicentennial Committee to help organize and promote the bicentennial year celebration featuring Asheville's cultural and social diversity, and history. After reviewing eight logos, the Bicentennial Committee has requested that the City Council authorize and endorse the logo created by Kristi Pfeffer, from Design One, as the official bicentennial logo of the City of Asheville.

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. 96-65. This motion was seconded by Vice-Mayor Field and carried unanimously.

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G. RESIGNATION OF CITY ATTORNEY WILLIAM F. SLAWTER

City Attorney William F. Slawter read the following letter dated May 14, 1996, to Mayor Martin and Members of City Council: "As I have now informed each of you individually, I have decided to resign from my position as City Attorney. I appreciate very much all of the support and confidence that this Council and prior Councils have placed in me in allowing me to serve in this capacity since 1983. When I accepted the appointment as City Attorney 13 years ago, I never intended to remain in the position for as long as I have. While I have enjoyed the opportunities and challenges presented by the position of City Attorney, it has at times been difficult to meet the demands of that office and at the same time maintain my private law practice. It has always been my intention to return full time to my private law practice, and I have decided that now is the time for me to do so.

In trying to determine the best time to make the change in order to have the least impact upon the City, it seemed to me that a resignation date of July 1, 1996, coinciding with the beginning of the new fiscal year, would be most appropriate. I will be happy to continue to work with the City in any way possible after that date, both to facilitate the change to a new City Attorney and also to assist the City in addressing any other legal issues that may arise.

It has been my desire from the beginning to see that the City is provided competent legal services at reasonable cost. I hope that my service to the City has been successful in accomplishing that result. With the benefit and assistance of two capable and qualified full-time Assistant City Attorneys, I am sure that the transition will flow smoothly.

Thank you again for allowing me the opportunity to serve as City Attorney."

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Mayor Martin said that "it's with sadness that we received this because we all feel very good about what you have done here in the past and we'll really hate to see you leave. I'll invite any other comments."

Vice-Mayor Field said that "we're not going to accept it."

Mayor Martin said that "I can't even get anybody to make a motion to accept his resignation. You're going to have to stay. We really do regret this but we have to understand your wish, really, to move on into your private practice and understand that we do so with reluctance. Thank you for all those years."

City Manager Westbrook said that "on behalf of the staff I'd like to say, too, how much not only I and the folks here today but all the ones who have served with Bill over the years, how we appreciated his sound advice and confidence and we're going to be real sorry to see him go."

Vice-Mayor Field said that "actually I've known Mr. Slawter for longer than I've been on Council and he's always there when you have a question and he always provides balanced and just well thought out advise to all of us on Council and I certainly will miss you and I'm not going to accept your resignation."

Councilman Sellers said that "I appreciate Bill, being a lay person of the law, I appreciate his simplicity in explaining things to us - not only here in the formal sessions but in closed sessions. He'll be greatly missed."

Councilman Worley said that "I also have known Bill for a good deal longer than the time I've been on City Council - it goes all the way back to our days in a fraternity house at Chapel Hill. Well, I've threatened to tell tales on him if he didn't withdraw the resignation. As a lawyer myself, I think I'm in a unique position to appreciate the soundness of the advise that he's given us, both in my first term on Council and during this term on Council. I have never found fault with any of the advise that he's given. I've never felt the need to go back and double-check the research he's done. I have the utmost confidence in Bill - always have and, I believe, always will. And I hope that Bill will continue to be of assistance to the City in his legal services in some capacity even beyond July 1. I asked Bill when he told me that he wanted to resign, if he had any problems with serving on a Council with three other lawyers on it - he assured me that's not the case and I haven't seen any evidence of that."

Councilman Hay said that "those of us who are new, I speak for myself, but I bet it's true for the rest, you know, the whole thing has been pretty overwhelming coming into it and being able to count on you as somebody we can trust and feel comfortable with has made a big difference to me and I really appreciate your being there."

Councilman Cloninger said that "I would just like to echo what's been said and also say, similar to what Charlie was saying - as a fellow attorney, I have just really appreciated how knowledgeable Bill is on a variety of topics. We will in some meetings bombard him with questions on, you know, 15 different subjects and yet he has such a good command of the law in so many areas that he's able to give us quick and good sound advise whenever we've asked for it. So, I think the City's really losing a valuable asset, but we certainly wish him the best and hope to find out, work out some way to continue to draw upon his expertise in City related matters."

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Councilman Skalski said that "even your attorney friends that I know at the Y, Bill, I haven't heard one of them say one bad thing about you. So, if you can survive the Y locker room, you can survive anything. It is true that Bill has a wide range of knowledge in just about every area of municipal law. And one of the things that makes it hard is that different cities have different applications of General Statutes and Bill seems to know which ones apply to us."

Councilman Worley said that "only with the understanding that the majority of Council has conspired to vote against the motion do I move to accept Bill's resignation with deep regret." This motion was seconded by Councilman Sellers and reluctantly carried unanimously.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO LEVY SPECIAL ASSESSMENTS FOR THE RHODODENDRON CIRCLE PROJECT

RESOLUTION NO. 96-66 - RESOLUTION DIRECTING THAT THE RHODODENDRON CIRCLE PROJECT BEGINNING AT ITS INTERSECTION WITH RHODODENDRON PLACE AND ENDING AT ITS INTERSECTION WITH OLD HAW CREEK ROAD BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

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

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

Mr. Mark Combs, Director of Public Works, said that the City of Asheville Public Works Department has received a petition from the property owners who represent the majority of lineal feet of frontage on Rhododendron Circle requesting that the street be upgraded to City street standards and placed on the City's 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 City policy is that if the majority of the petitioning property owners who represent a majority of the front footage agree to pay their share of 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, 6 responded "yes" to sharing the cost, 4 responded "no" to sharing in the cost and no response was received from one owner. The yes response represents 54.55%. 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.

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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 N.C. DOT as City's system streets, with the exception of New Haw Creek Road. Rhododendron Circle was not maintained by N.C. DOT so, therefore, did not become a City maintained street.

Staff recommends that the City Council adopt a resolution to levy special assessments for the petitioned Rhododendron Circle project and agree to accept maintenance following completion of this work.

Mayor Martin closed the public hearing at 5:44 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. 96-66. This motion was seconded by Vice-Mayor Field and carried unanimously.

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III. UNFINISHED BUSINESS:

A. ORDER REGARDING LARRY LINNEY UNSAFE BUILDING STATUTE APPEAL

City Attorney Slawter said that this Order comes out of the hearing Council conducted on April 30, 1996, which was related to an appeal to the Council pursuant to State law made by Larry Linney, owner of the building located at 44 South Market Street. That building had previously been found unsafe and an Order had been entered by Fire Marshal Wayne Hamilton on March 8, 1996, that the building vacated and closed in addition to ordering an engineering analysis of the building to be conducted. Pursuant to law, Mr. Linney appealed to City Council. Following the hearing on April 30, the City Attorney was directed to draft this Order. He did provide a copy of this Order to Mr. Linney prior to last week's worksession and has to date received no comment from him.

This order, as directed by Council, will uphold the Order entered by Fire Marshal Wayne Hamilton on March 8, 1996, but makes just a couple of changes. Mr. Hamilton's Order had found that the building was unsafe (1) due to having excessive cracks in the exterior building walls; (2) due to sagging and decayed roof rafters; (3) extensive water damage to the third floor; and (4) unsafe electrical wiring. This Order carries forth those findings but adds the additional finding that the building has inadequate means of egress. In addition, this Order makes the finding that the building identified as 44 South Market Street is especially dangerous to life because of bad condition of walls, decay, unsafe wiring and inadequate means of egress. Based upon those additional findings, the Conclusion of Law in this Order is amended to read that the building, in its present condition, is unsafe and especially dangerous to life. The Order directs that Mr. Hamilton's Order be complied with in that the building must be vacated and closed and the engineering report obtained on the structural integrity of the building, but it extends from 30 days to 60 days the time period within which Mr. Linney is allowed to do those things and that's based upon a statutory provision. Other than that, this Order carries forward Mr. Hamilton's Order of March 8, 1996.

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Councilman Worley responded to questions from Mr. H.K. Edgerton as they related to the building and it's location in the South Pack Square Redevelopment Project area.

Upon inquiry of Mr. Daniel Breen on whether the inspection of 44 South Market

Street was politically motivated, Mayor Martin stated that City Council listened for 4-1/2 hours at the appeal hearing on April 30 and they were satisfied that there was nothing was directed toward Mr. Linney as a politician or as a person.

Councilman Worley moved to authorize the Mayor to sign the Order prepared by City Attorney Slawter. This motion was seconded by Councilman Sellers and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-67 - RESOLUTION AUTHORIZING SUBMITTAL OF THE CONSOLIDATED PLAN TO HUD

Mr. Marvin Vierra, Community Development Director, said that the City has now received notification from HUD of the allocations for next year. The funding for CDBG funds is \$73,000 less than reported at last week's worksession. The total we will now be applying for \$1,621,000. The funding for HOME program funds is \$157,000 less than reported at last week's worksession. The total for HOME funds we will now be applying for is \$1,015,000. Anticipated program income will increase available revenue for CDBG activities by \$290,000. The Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs.

The Housing & Community Development Committee have since met and the following is the revised breakdown of the projects and funding source for the year beginning July 1, 1996:

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<u>PROJECT</u>	<u>AGENCY</u>	<u>CDBG</u>	<u>HOME</u>			
Housing Crisis Counseling	AHC	78,750	0			
Homeowner Education	AHC	32,500	0			
Asheville Area Habitat for Humanity	AAHH	84,932	0			
Fair Housing/Employment	ABCRC	26,250	0			
West End/Clingman Improvement	COA	25,000	0			
City Wide Rehab	COA	500,000	0			
Credit Counseling	CCCS	10,000	0			
South Pack Square Redevelopment	E/MSDC	185,688	0			
Homeless Program	HH	40,000	0			
Hillcrest Enrichment	HACA	52,500	0			
Affordable Homeownership	MHO	200,000	0			
Emergency Repair	MHO	50,000	0			
Rehab & Homeownership	NHS	367,500	83,206			
Legal Services	PLS	20,000	0			
Vanderbilt Apartments	VA	43,970	0			

Rehab						
C D Administration	COA	193,910	0			
Overlook Apartments	COA	0	225,000			
Volunteers of America Apartments	COA	0	37,500			
Rural Housing Rehabilitation	BC	0	80,000			
River Glen Apartments	BC	0	120,000			
Homeowner Rehabilitation	HC	0	171,625			
New Construction Site Development	HAC	0	65,817			
Homeowner Rehabilitation	MC	0	75,144			
Rowenwald Hills New Construction	TCHDC	0	85,348			
HOME Administration	COA	0	71,360			
TOTAL		1,911,000*	1,015,000			

* Includes \$290,000 program income

Agency Index:

AHC - Affordable Housing Coalition; AAHH - Asheville Area Habitat for Humanity; ABCRC - Asheville-Buncombe Community Relations Council; COA - City of Asheville; CCCS - Consumer Credit Counseling Service; E/MSDC - Eagle/Market Streets Development Corporation; HH - Hospitality House; HACA - Housing Authority of the City of Asheville; MHO - Mountain Housing Opportunities; NHS - Neighborhood Housing Services of Asheville, NC, Inc.; PLS - Pisgah Legal Services; VA - Vanderbilt Apartments, Inc.; BC - Buncombe County; HC - Henderson County; HAC - Housing Assistance Corporation; MC - Madison County; TCHDC - Transylvania County Housing Development Corporation;

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Councilman Hay, Chairman of the Housing & Community Development Committee, noted that the HOME grant is not something the City Council has responsibility over.

Upon inquiry of Councilman Skalski, Mr. Vierra explained why the allocation for the Eagle/Market Street Development Corporation funding was \$30,000 last week and now is \$185,688. He said that on an average, all agencies were getting 77% of what they had requested - most got funded at less than they had applied for.

Mayor Martin stressed that we need to see the Eagle/Market Street area redeveloped in a mannerly fashion.

Vice-Mayor Field, Chairman of the HOME Regional Housing Consortium, said that they went through a very exhaustive process and it was very hard to cut back. She said they are required to give 15% of the income to non-profits but they are giving, even with the cutbacks, 24% to the non-profits. She respectfully requested that the Council approve the HOME application amounts in the

Consolidated Plan.

Mr. H.K. Edgerton voiced concern over the \$225,000 going to Overlook Apartments. He once again stressed that the community does not want to separate young people from old people.

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

Councilman Hay moved for the adoption of Resolution No. 96-67. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Skalski voting "no".

Councilman Skalski explained his vote by saying that he could not support the motion because he felt the money was misallocated. He felt the money that was transferred since last week from housing programs for the poor should stay with housing programs for the poor. He didn't think that money should be transferred to the Eagle/Market Street Development Corporation because he didn't think that's what the money is going to be used for. He supported all the other agencies that are receiving money. However, because of that one misallocation, which he feels is inappropriate, he would have to vote against the resolution.

Ms. Minnie Jones thanked Council members for revisiting the funding issue for Eagle/Market Streets Development Corporation. While directing the comment to Councilman Skalski, she asked that the minutes reflect "at 6:15 p.m. on May 14, 1996, that you voted against the minority people on Eagle and Market Street."

Dr. J.H. Grant, Chairman of the Board of Directors of the Eagle/Market Streets Development Corporation, thanked the Council for their support of the Eagle/Market Streets Development Corporation.

Mr. Daniel Breen felt that more money should be allocated to Pisgah Legal Services and ABCCM to directly help with the poor in the community. He suggested cutting the Chamber of Commerce funding and allocating that money to services that directly benefit the poor.

Councilman Hay said that out of the \$1,911,000 that the City has allocated with the CDBG funds, almost \$1,800,000 go to low income housing projects. We are funding for the first time Pisgah Legal Services out of the CDBG grant money and we're increase virtually every allocation that was made last year.

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Mr. Tony Sayer, President of the Affordable Housing Coalition, made it clear that our agencies are aware that the allocation that was made to the Eagle/Market Streets Development Corporation was not made at the expense of the housing agencies. He also said that we are seeing first hand the effects of cuts at the national level and we understand that this makes our task locally much more difficult. That means that we all have to work hard to find other ways of making funds available at the local level.

RESOLUTION BOOK NO. 23 - PAGE

B. RESOLUTION NO. 96-68 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PROFESSIONAL LAWN CARE FOR MOWING AND LEAF REMOVAL SERVICES

Mr. John Miall, Risk Manager, briefed the Council on his presentation at the worksession held on May 7, 1996, relating to the proposals from private contractors to provide mowing and leaf removal services at various City-owned locations.

Because of the concerns expressed at that worksession regarding the low bidder's compliance with the Minority Business Plan ("MB Plan"), Mr. Miall outlined portions of the MB Plan and how the low bidder has complied with those specific portions. He also presented a letter dated May 10, 1996, from Marilyn Bass, Minority Business Coordinator, which states, in part "Mr. Pitts has supplied the information requested corresponding with bullet #3 on the MB Form 2 detailing his current work force from 1995 to the present. He has also agreed and you indicated language will be included in the body of the contract that should he decide to subcontract at any time during the contract period he will perform good faith efforts to provide subcontracting opportunities for minority businesses. Based upon the discussion at both meetings and the information received as well as the fact that according to the bid documents, the work for this project was to commence April 22nd, the bidder has satisfactorily complied with the Minority Business Plan."

He then addressed each of the other concerns raised last week regarding the equipment availability, the perception of the minority businesses being deceived and the feeling that there was not enough time to submit bids.

Mayor Martin said that it is the intent of this Council to outsource were we can to save for all taxpayers of the City and this privatization seems to be in that mode. If, however, this is not successful, the City can revisit it again.

Councilman Hay felt this privatization could have been a good opportunity for some healthy minority business involvement. He felt that the City should go back and study the process that was used in order to see how we can improve our system so that these type frustrations don't come up again in similar situations.

Mr. Miall agreed with Councilman Hay by saying that if this process has taught us anything, it has taught us that

we need to review the process. He said the Plan relates to a lot of construction-type issues and there is not a lot of guidance when you get into the profession services issues.

Vice-Mayor Field said that unfortunately a large portion of the minority business process is generated from the state level and one of the things we might work on is some changes at that level.

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Upon inquiry of Ms. Minnie Jones about if there were any bids from minority contractors, Mr. Miall stated that only two bids were received from minority contractors. When Ms. Jones stated that the bids should have been awarded on an area-by-area basis, Mr. Miall responded that the lower bidder was in fact the lowest bidder in each of the areas.

Mr. Clarence Benton felt this privatization effort could have been a golden opportunity for the minority businesses in the area.

Mr. H.K. Edgerton felt that there was serious problems with the MB Plan. He felt the minority businesses that the approximately 20 people who attended the pre-bid conference might have been intimidated and, as a result, only two businesses bid on the project.

Councilman Worley noted that Council is in a clash between two admirable goals - one is to see the MB Program succeed, and the other is to have more minority participation in our contracts. However, at the same time, Council has to consider what is the most economical way to handle services to keep the cost

down for all taxpayers. He agreed that we need to find ways to improve the system.

Vice-Mayor Field felt that education of the process is essential. She urged the MB Commission to revive it's education program.

Councilman Cloninger stated that he was now satisfied that we would not be compromising the quality of the basic services we provide by privatizing this work. He suggested staff follow-up with the people who attended the pre-bid conference to find out why there were only two minority businesses who bid the project.

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. 96-68. This motion was seconded by Councilman Sellers and carried on a 6-1 vote, with Councilman Skalski voting "no."

Councilman Hay suggested Councilman Skalski, liaison to the MB Commission, discuss Council's concerns with the commission members and see if they have any suggestions on how we can improve the process.

City Manager Westbrook said that he will also ask the Minority Business Coordinator to look into other issues brought up today - in particular, the MB Plan being more friendly for service oriented businesses and education.

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V. CONSENT:

Ordinances:

A. ORDINANCE NO. 2278 - BUDGET AMENDMENT REGARDING SISTER CITY VISIT

Summary: The City has received a grant of \$500 from the Robert J. and Eunice J. Wagner Foundation to be used toward a Sister City Visit to San Cristobal de las Casas, Mexico. This action will appropriate that grant to the Sister City budget.

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B. ORDINANCE NO. 2279 - ORDINANCE AMENDING CHAPTER 3 (ANIMALS) OF THE CODE OF ORDINANCES TO PROHIBIT CERTAIN ANIMALS, WILD ANIMALS AND LIVESTOCK FROM COMMUNITY EVENTS AND FESTIVALS

Summary: The purpose of this ordinance amendment is to prohibit animals from community events and festivals unless allowed as part of an event.

Community events and festivals serve a tremendous need for the community by showcasing our heritage and cultural diversity. These events traditionally draw large numbers of participants usually in a very concentrated area. Problems have occurred during these events by participants bringing in animals and reptiles which have become a nuisance to other participants and event organizers. In an effort to control this problem, the Parks and Recreation Department wishes to amend Chapter 3 of the Code of Ordinances, Section 3-27, Subsection (E). This amendment shall not apply to guide dogs trained to provide assistance to sight or hearing impaired persons. Furthermore, this ordinance

would allow festival organizers to permit other animals which may be part of the festival program.

The staff of the Parks and Recreation Department recommends amending Chapter 3 of the Code of Ordinances, Section 3-27, Subsection (E), to prohibit animals from community events and festivals.

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C. ORDINANCE NO. 2280 - ORDINANCE AMENDING ARTICLE V OF CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (PARKING METER ZONES AND PARKING PROHIBITION)

Summary: The City of Asheville currently has established parking meter zones in various locations at various times, and it would be beneficial to establish one list of those zones in the Code of Ordinances. In addition, the City allows on-street parking in areas that are not metered, but are restricted by signs or traffic conditions. Enforcement of these unmetered spaces will be simplified by requiring all legal spaces in the Central Business District to be designated.

This recommendation has been reviewed by the Revenue Manager, the Traffic Engineer, the Superintendent of Parking Services and the City Attorney's Office.

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D. ORDINANCE NO. 2281 - ORDINANCE REGULATING CONSUMPTION AND POSSESSION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE ON CITY STREETS AND SIDEWALKS ON CITY PROPERTY AND DURING COMMUNITY EVENTS AND FESTIVALS

Summary: This ordinance would establish regulations regarding the consumption and possession of malt beverages and/or unfortified wine on City streets and sidewalks, on City property and during community events and festivals.

In 1995, the North Carolina General Assembly authorized cities to adopt a local ordinance to regulate or prohibit the consumption of malt beverages and/or unfortified wine or the possession of open containers of malt beverages and/or unfortified wine on public streets and to regulate or prohibit the possession of malt beverages and/or unfortified wine on public streets, alleys or parking lots which are temporarily

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closed to regular traffic for special events. The North Carolina League of Municipalities prepared a model ordinance for cities in North Carolina to consider. The Asheville Police Department and the Asheville Parks and Recreation Department have reviewed the model ordinance prepared by the League and recommend adoption of that model, with certain modifications for community events and festivals and for outdoor dining areas which are permitted by the City of Asheville.

The ordinance would prohibit consumption of malt beverages and/or unfortified wine on public streets and on property which is owned, occupied or controlled by the City, but excluding specific locations for which an ABC permit has been issued and only according to the requirements to the ABC permit. In addition, the attached ordinance would prohibit the possession of open containers of malt beverages and/or unfortified wine on the public streets and on property owned, occupied or controlled by the City, excluding again specific locations for which an ABC permit has been issued.

The ordinance would allow possession and consumption of malt beverages and/or unfortified wine at community events and festivals whenever the City Council adopts a resolution making specific provisions for that. In a separate resolution, the Asheville Police Department and the Asheville Parks and Recreation Department are setting forth provisions for consumption and possession during the 1996 Bele Chere Festival.

Finally, the ordinance would allow possession and consumption in outdoor dining areas which have been issued a City of Asheville permit as the Code of Ordinances now provides. Those permits would be temporarily suspended during community events and festivals, unless the City Council provides otherwise by separate resolution.

A violation of the ordinance constitutes a misdemeanor. Enforcement would be by the Asheville Police Department.

The Asheville Police Department and the Asheville Parks and Recreation Department recommend adoption of the ordinance.

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Mayor Martin 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 Worley 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.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF (1) THE FORMAL MEETING HELD ON APRIL 23, 1996, AND CONTINUED UNTIL APRIL 30, 1996; (2) THE COMMUNITY MEETING HELD ON APRIL 30, 1996; AND (3) THE REGULAR WORKSESSION HELD ON MAY 7, 1996

B. RESOLUTION NO. 96-69 - RESOLUTION ADOPTING THE FAIR HOUSING PLAN

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Summary: The Fair Housing Plan identifies certain impediments to fair housing and sets forth affirmative steps to overcome impediments. This Fair Housing Plan fulfills the HUD requirements for CDBG and HOME. Adoption of the Plan will demonstrate the City's commitment and support of a housing policy that integrates fair housing opportunity for all people.

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C. RESOLUTION NO. 96-70 - RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS & RECREATION TO EXECUTE FESTIVAL AGREEMENTS FOR FESTIVALS THAT ARE SPONSORED OR CO-SPONSORED BY THE PARKS & RECREATION DEPARTMENT

Summary: The Parks and Recreation Department currently sponsors or co-sponsors approximately 17 festivals and special events on an annual basis. These events include, but are not limited to, Bele Chere, July 4th, First Night, and Goombay. There are a number of agreements for entertainment and sponsorships which are currently signed by the City Manager. This resolution would allow the Parks and Recreation Director the authority to execute these agreements and has also been approved by the City Manager.

The Parks and Recreation Department requests that the Director be authorized to execute agreements related to conducting, sponsoring, promoting, and assisting with community festivals and special events which are included in the responsibilities of the department.

RESOLUTION BOOK NO. 23 - PAGE 168

D. RESOLUTION NO. 96-71 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 4A TO HILLIARD AVENUE PARTNERSHIP

Summary: Disposal Parcel 4A is a CS Commercial Service lot near the corner of Hilliard and South French Broad Avenues, comprising 16,852 square feet. The bid from Hilliard Avenue Partnership for Disposal Parcel 4A includes the proposal to incorporate the lot into the property currently owned by Hilliard Avenue Partnership where the offices of Waddell Sluder Adams & Co. and Maryland Casualty Co. are located. The development proposal consists of landscaping and maintaining the lot

consistent with the currently owned property. Hilliard Avenue Partnership consists of Robert B. Gelder Jr. and Julia Adams Slipher.

The bid of Hilliard Avenue Partnership in the amount of \$67,400 for the purchase of Disposal Parcel 4A in the East Riverside Redevelopment Project is not less than the established minimum price of \$67,400.

The bid process was properly followed and the City received no upset bids.

RESOLUTION BOOK NO. 23 - PAGE 169

E. RESOLUTION NO. 96-72 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 28, 1996, REGARDING A REQUEST OF TCI CABLEVISION OF ASHEVILLE FOR AN ANNUAL ADJUSTMENT TO ITS RATE SCHEDULE FOR THE BASIC SERVICE TIER

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Summary: This resolution will set a public hearing for May 28, 1996, to review the request of TCI Cablevision of Asheville for an annual adjustment to its rate for the basic service tier.

The Cable Television Consumer Protection Competition Act of 1992 authorized local franchising authorities, such as the City of Asheville, to regulate the basic service tier of its local franchisee for cable television services (TCI Cablevision of Asheville - hereinafter "TCI"). The City Council of the City of Asheville has previously reviewed rate schedules of TCI for the basic service tier.

Regulations recently adopted by the Federal Communications Commission (hereinafter "FCC") allow TCI to make annual adjustments to its basic service tier and to its expanded service tier. Those FCC regulations only allow the City of Asheville to review the rates for the basic service tier and only allow a review of the rates proposed for the basic service tier to determine whether or not TCI has followed the rate formula set by the FCC.

The FCC regulations further provide that the proposed rates will become effective 90 days after the filing of the annual rate adjustment by TCI with the City of Asheville. TCI filed its request on March 4, 1996, and the 90-day time period expires on June 2, 1996.

TCI Cablevision of Asheville provided the City of Asheville with a notice of its intent that its rate for the basic service tier would change effective June

1, 1996. The rate for basic service tier will increase from \$9.95 a month to \$10.46 a month.

The City Council has previously provided an opportunity for comment from the public and TCI by scheduling a public hearing on requests for rate increases. May 28, 1996 is the next available date for a public hearing on this matter.

RESOLUTION BOOK NO. 23 - PAGE 170

F. RESOLUTION NO. 96-73 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE A GRANT APPLICATION WITH THE N.C. DEPT. OF CRIME CONTROL & PUBLIC SAFETY IN SUPPORT OF A PUBLIC NUISANCE ABATEMENT TEAM

Summary: The Police Department is seeking federal support for a project designed to assist the public with solving persistent crime problems and quality of life issues within neighborhoods of the City of Asheville. The Public Nuisance Abatement Team project is designed to deny criminals the use of real property as a base of operations and to secure owner cooperation in removing criminal elements from offending properties. The proposed project will target owners of properties that engage in assignation, prostitution, gambling, illegal sell or possession of alcohol/controlled substances/obscene or lewd material and where repeated actions of breeches of the peace are committed. Federal support is requested for 75% of the project costs. The project budget is \$73,000 beginning July 1, 1996, and continuing through June 30, 1997. A local matching contribution of \$18,250 is required by the grantee.

RESOLUTION BOOK NO. 23 - PAGE 171

G. MOTION SETTING A PUBLIC HEARING ON MAY 28, 1996, TO REZONE SEVEN PARCELS IN THE ROCK HILL PLACE AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

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H. MOTION SETTING A PUBLIC HEARING ON MAY 28, 1996, TO AMEND THE ZONING ORDINANCE TO REDUCE THE FRONT SETBACK REQUIREMENTS FOR NON-RESIDENTIAL USES IN THE R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

I. MOTION AUTHORIZING THE MAYOR TO SEND A LETTER TO THE CHAIRMAN OF THE ABC COMMISSION TO REQUEST THAT THERE BE NO EXTENSION OF PREMISES FOR ABC OUTLETS DURING THE 1996 BELE CHERE FESTIVAL WEEKEND

Summary: The Parks & Recreation Department and the Bele Chere Board are recommending that a letter be sent to the ABC Commission requesting that they deny an extension of premises permit to businesses who have existing ABC permits. It is the intention of the Parks & Recreation Department and the Bele Chere Board to not deny any business who has an existing permit or a temporary permit to do business within the confines of the premises. However, problems have occurred in the past when an extension of their existing permit has been granted which results in businesses removing their windows to sell beer and wine on the street and sidewalk. - Also, see Item J Summary below.

J. RESOLUTION NO. 96-74 - RESOLUTION MAKING PROVISION FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ANNUAL BELE CHERE FESTIVAL

Summary: This resolution will regulate the consumption and possession of malt beverages and/or unfortified wine at the 1996 Bele Chere Festival. The letter to the ABC Commission requests that there be no extension of premises for ABC outlets during the 1996 Bele Chere Festival weekend.

The Bele Chere Board of Directors last year approved performing an alcohol assessment for the 1995 Bele Chere Festival. The results of this report indicate that the Bele Chere staff and volunteers are committed to responsible alcohol management during the Festival. Several concerns were made that include the lack of written alcohol policies and procedures and local businesses within the perimeter of the Festival selling cans and bottles of beer in an irresponsible and sometimes illegal manner. According to reports given by the Asheville Police Department and ALE, a total of 151 arrests or citations were given by both agencies during Bele Chere which, for the majority, were alcohol related.

In an effort to address concerns established from the Home Team report, the Parks and Recreation Department and the Bele Chere Board of Directors are recommending certain actions be taken. First, we recommend that City Council write the ABC Commission and request that the ABC Commission not grant extension of premises for ABC outlets during the 1996 Bele Chere Festival. This extension allows businesses to sell off premises and outside their establishment. We feel that this would help alleviate some of the problems caused by businesses removing their windows and selling beer directly from their premises and into the street. Secondly, the Parks and Recreation Department and the Bele Chere Board of Directors request the adoption of a resolution which would restrict the possession and consumption of alcohol to only certain areas of the Bele Chere Festival area. Restricting possession and consumption to certain areas will further promote the establishment of areas for family-oriented activities. The resolution also establishes a time period after which alcohol sales will stop during the Festival and only allows possession and consumption from Bele Chere Festival containers. The Parks and Recreation Department and the Bele Chere

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Board of Directors will also be developing alcohol policies and procedures which will govern the Bele Chere operations.

The Parks and Recreation Department, the Bele Chere Board of Directors and the Police Department recommend authorizing the Mayor to send a letter to the ABC Commission and recommend adoption of the resolution regarding alcohol possession and consumption at the 1996 Bele Chere Festival.

RESOLUTION BOOK NO. 23 - PAGE 172

Mayor Martin 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.

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

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

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 Planning and Zoning Commission on May 1, 1996:

River Bend Business Park on Swannanoa River Road

Mr. Mike Matteson, Urban Planner, said that at the Commission meeting held on May 1, 1996, the Commission the Planning and Zoning Commission voted unanimously to recommend approval of Phase II of the River Bend Business Park.

Phase II of River Bend Business Park consists of the renovation of approximately 150,000 square feet of the former Sayles Bleachery industrial building. The renovated space will be used as storage/warehouse space.

Construction of new loading docks is included in the renovation. The project site, consisting of approximately 79 acres, is located on Swannanoa River Road and is zoned Heavy Industrial and Light Industrial. Existing parking and access roads will serve the renovated building. Following their review of the site plans, the Planning and Zoning Commission unanimously recommended approval with the following conditions:

1. Receipt of letters confirming availability of water and sewer services;
2. Receipt of letter from Fire Marshal confirming availability of fire protection;
3. Provision of required number of handicap accessible parking spaces; and
4. Work with City Traffic Engineer to assure adequate and safe access to the business park.

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The Planning and Zoning Commission has recommended approval of the group development with the four (4) conditions identified above. The Planning and Development staff recommends approval of this group development with the conditions.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

Country Club Condominiums on Dover Street

Mr. Mike Matteson, Urban Planner, said that Country Club Condominiums will consist of two 14 unit buildings on a 1.78 acre site on Dover Street. This group development was previously approved by City Council. The plans have since been revised to include one additional floor for each of the two buildings. The new proposal would include five levels of condominiums over a garage level. The number of condominium units has not changed and the plans continue to meet all of the development standards for the R-3 zoning district, as well as the group development requirements. The Planning & Development staff has received no public comment on this revised group development.

At the Commission meeting held on May 1, 1996, the Commission voted unanimously to approve the revised plans. The Planning & Development staff recommended approval of the revised plans with no conditions.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. UDO MAPPING

Councilman Cloninger asked that the City Manager begin authorizing staff to assist the UDO Committee in successfully advertising the upcoming UDO mapping

process.

City Manager Westbrook said that steps are already being made toward that goal and since only advertising that is legally required is in the budget, staff may need to come back to Council for a small appropriation for additional advertising.

Councilman Skalski felt that five community meetings are not nearly enough to get the word out to the community concerning the UDO mapping process.

Planning & Development Director Julia Cogburn said that she would relay Councilman Skalski's concern to the UDO Committee and also to Ms. Robin Westbrook (who will be working on the advertising aspect of the mapping).

C. RIVER MASTER PLAN FUNDING

Councilman Cloninger said that the City (through the Outside Agency Review Committee) has been requested to appropriate \$11,500 as a portion of the cost in developing a master plan for the river. Because other agencies are also being asked to contribute, it has been requested that some type of approval (prior to adoption of the upcoming budget) be given quickly so that others will see that the City is supportive of the Plan and they should be supportive too. He did say that the Outside Agency Review Committee does recommend this allocation.

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Upon inquiry of Vice-Mayor Field, City Manager Westbrook said that the \$11,500 could be funded this year out of contingency or fund balance if the Council wishes.

It was the consensus of Council to place this topic on the next worksession agenda.

D. SUMMER YOUTH PROGRAM

Upon inquiry of Mr. H.K. Edgerton, City Manager Westbrook explained the \$100,000 funding of the 1996 Summer Youth Program.

E. FAIR HOUSING PLAN - JIM BARRETT

Mr. Jim Barrett, City representative on the Fair Housing Commission, thanked Council for the adoption of the Fair Housing Plan for our community.

F. RALPH BISHOP

Mr. Ralph Bishop said there had been a cover-up regarding a fire at his house in the early 1970's.

G. CLAIMS

The following claims were received by the City of Asheville during the week of April 19-24, 1996: Martha Ellis (Water), Yoko Nakamura (Fire), Claudette Batson (Streets), Floyd Hill (Sanitation) and Greg Stevens (Water).

The following claims were received during the week of April 25-May 2, 1996: Dixie Sain (Civic Center), Debbie Rogers (Water), Sarah Cohen (Streets), State of N.C. (Fire) and Reashandea Walters (Police).

The following claims were received during the week of May 3-9, 1996: Elizabeth

Palmer (Water), Wade Lee Messer (Water), State Employees Credit Union (Street), and Carrie Bowles (Water).

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

H. CLOSED SESSION

At 7:37 p.m., Councilman Sellers moved to go into closed session, as authorized by G.S. 143-318.11 (a) (3), in order to preserve the attorney-client privilege. This motion was seconded by Councilman Worley and carried unanimously.

At 8:10 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:10 p.m.

CITY CLERK MAYOR
