

Tuesday - September 10, 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 Hay gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF MS. ADINA BAILEY, LOGO DESIGN WINNER OF THE ASHEVILLE-BUNCOMBE DRUG FORUM SUBSTANCE ABUSE AWARENESS MONTH

Mayor Martin recognized Ms. Adine Bailey, logo design winner of the Asheville-Buncombe Drug Forum Substance Abuse Awareness Month. She was presented with a banner of her logo design, along with a \$50 savings bond.

II. CONSENT AGENDA:

Councilman Skalski asked that Item E (Resolution amending the South Pack Square Redevelopment Plan) be pulled off the Consent Agenda.

Mr. Ralph Bishop asked that Item A (Approval of the minutes of the meetings held on August 27 and September 3, 1996) be pulled off the Consent Agenda.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 27, 1996, AND THE WORKSESSION HELD ON SEPTEMBER 3, 1996

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

B. RESOLUTION NO. 96-164 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY

Summary: Resolution No. 85-99 adopted on June 25, 1985, established procedures for disposing of personal property valued at less than \$500. Pursuant to these procedures, the attached resolution identifies property disposals for the Fleet Management Division and the Water Resources Department during the period of January 1, 1996, through June 30, 1996.

RESOLUTION BOOK NO. 23 - PAGE 293

C. RESOLUTION NO. 96-165 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES, TRANSIT COACHES, OFF ROAD EQUIPMENT AND OTHER SURPLUS PROPERTY AT PUBLIC AUCTION

Summary: This resolution authorizes the City's Purchasing Division to hold a public auction to dispose of motor vehicles, transit coaches, off-road equipment, and other miscellaneous property declared

surplus by various City departments. The auction to be held Saturday, October 19, 1996, at 10:00 a.m. in the Public Works Complex at 161 S. Charlotte Street.

RESOLUTION BOOK NO. 23 - PAGE 294

D. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 1996, TO CONSIDER DESIGNATING STEPHENS-LEE COMMUNITY CENTER AS A LOCAL HISTORIC LANDMARK

Summary: A public hearing is necessary to adopt an ordinance designating the Stephens-Lee Gymnasium and the site of the former high school as a local historic landmark. This action will be to set a public hearing for September 24, 1996.

E. RESOLUTION AMENDING THE SOUTH PACK SQUARE REDEVELOPMENT PLAN

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

F. MOTION AUTHORIZING THE CITY MANAGER TO SEND A LETTER TO THE N.C. DEPT. OF TRANSPORTATION OUTLINING THE CITY'S AGREEMENT TO PARTICIPATE IN SIDEWALKS ON I-40/SWEETEN CREEK ROAD INTERCHANGE

Summary: N.C. Dept. of Transportation ("NC DOT") has expressed a willingness to participate with the City of Asheville in constructing sidewalks along one side (the east) of the project associated with a new interchange at I-40 and Sweeten Creek Road.

The scope of the project goes from Roberts Road (just south of I-40) to the northern terminus of the project (a few hundred feet north of the interstate). The NC DOT has stated that this would be a shared venture. The State would provide 60% with the City picking up the remaining 40%. They have preliminary estimated the total cost at \$37,000. The City would be asked to provide \$14,800.

NC DOT is also improving Sweeten Creek Road from Roberts Road to Rock Hill Road and the Asheville City Council agreed to participate in a sidewalk along that section of roadway. That project is scheduled to begin construction in mid-1999 and the City's estimated contribution was \$37,000 for 1.5 miles of sidewalk.

The construction date for the interchange project is late fall of 1997 or early in 1998. If the City is willing to participate, then that should give ample time to program needed funds into the Capital Improvement Plan. The first step in this process is for the City to provide a letter to NC DOT indicating our willingness to participate. Following this, a municipal agreement would be prepared and forwarded to the City to review and execute. As part of the approval of the agreement, staff would prepare a budget amendment to appropriate funds for the City's cost participation in the sidewalk construction.

The Transportation Advisory Committee recently looked at this request and unanimously recommended that we pursue sidewalks.

G. RESOLUTION NO. 96-166 - RESOLUTION TO AUTHORIZE THE SUBMITTAL OF A FUNDING APPLICATION TO THE U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT THROUGH THE ECONOMIC DEVELOPMENT INITIATIVE

-3-

Summary: City Council will consider approving the submittal of an application

to HUD for funding through the HUD Economic Development Initiative (EDI) program to increase homeownership opportunities in a target area to be designated as a homeownership zone. The target area will include the West End/Clingman Avenue neighborhood under Phase I and be expanded to surrounding neighborhoods such as West Asheville's WACT 10 area for the second phase. The goal will be to create at least 300 new single family homes as a result of the project.

The City will also be applying for other funding through the HUD Section 108 loan program to augment the EDI funds within the next 60 days. Separate Council action will be needed to authorize the Section 108 loan application at a later date.

Pisgah Legal Services will be responsible for preparing the EDI funding application and coordination with the private sector to leverage additional funding.

Deadline for submittal of the application is September 16, 1996. The Housing & Community Development Committee will discuss the project on September 10, prior to full Council action.

The Community Development staff recommend approval of submitting the funding application.

RESOLUTION BOOK NO. 23 - PAGE 295

H. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 1996, TO REZONE 112 LOTS IN THE WILSHIRE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

I. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 1996, TO REZONE 14 LOTS IN THE BURTON STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT

J. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 1996, TO AMEND THE ZONING ORDINANCE TO CLARIFY THE OPEN SPACE REQUIREMENTS IN THE OI OFFICE INSTITUTIONAL DISTRICT

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.

Councilman Skalski moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2315 - ORDINANCE AMENDING THE OUTDOOR DINING AREAS WHICH WILL ALLOW OUTDOOR DINING PERMIT DURING COMMUNITY EVENTS AND FESTIVALS

Summary: Consideration of a revision of Section 11-11 of the Code of Ordinances to amend subsection (f) which will allow outdoor dining permits during community events and festivals.

The new subsection (f) of the revised Section 11-11 of the Code still provides that the City permits for outdoor dining areas, but will be temporarily suspended at locations designated for community events and festivals which was permitted under section 16-97 of the Code. As

you recall, Ordinance No. 2303 amended subsection 16-143(b) to delete the provision that outdoor dining permits were temporarily suspended for community events and festivals. When that amendment occurred, it was also necessary to amend subsection (f) of Section 11-11 of the Code. In order to clarify this issue, the Parks and Recreation Department wishes to amend Section 11-11 by deleting it in its entirety and substituting a new Section 11-11 which removes that language from subsection (f).

Parks and Recreation Department, along with Planning, Police and Legal recommend that Section 11-11 be deleted and substituted with the new Section 11-11 which will allow outdoor dining permits during festivals and community events.

ORDINANCE BOOK NO. 16 - PAGE

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance on the Ordinance Consent Agenda and it will not be read.

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

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

ITEMS PULLED OFF THE CONSENT AGENDA FOR FURTHER DISCUSSION

RESOLUTION NO. 96-167 - RESOLUTION AMENDING THE SOUTH PACK SQUARE REDEVELOPMENT PLAN

Summary: The South Pack Square Redevelopment Plan was adopted by City Council on June 15, 1993. Technical changes are needed to include reference to the Eagle/Market Streets Development Corporation ("EMSDC") instead of the YMI CDC. The amended plan will also include reference to the City of Asheville instead of the Housing Authority as Redevelopment Commission. Formation of the EMSDC is included in the section on "History".

The Community Development staff recommends adoption of the resolution amending the plan.

Councilman Skalski said that he voted against the amendment to the South Pack Square Redevelopment Plan in the Housing & Community Development Committee and wanted to be consistent on voting in this matter.

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. 96-167. This motion was seconded by Councilman Cloninger and carried on a 6-1 vote, with Councilman Skalski voting "no".

RESOLUTION BOOK NO. 23 - PAGE 296

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 27, 1996, AND THE WORKSESSION HELD ON SEPTEMBER 3, 1996

Mr. Ralph Bishop questioned an article in the newspaper that City Council was going to limit public comment at their worksessions. He said that City Council had no authority to impose that limitation.

Mayor Martin said that worksessions are primarily to inform City Council of the issues at hand. He said they are not making decisions at that time. He said that Council is interested in hearing citizens speak; however, there does not need to be a public hearing on every topic.

Councilman Cloninger said that contrary to what the newspaper indicated, City Council took absolutely no action to limit future public participation in worksessions. He said that was an error in the newspaper reporting.

Councilman Worley said that Council actually talked about was revamping the way Council conducts the worksession because we have been discussing issues on the agenda for the next formal session and we've sometimes indicated how our feelings are about those akin to a straw vote. City Council determined not to do that - the comment about the public input is that Council has taught the public that they need to come to those worksessions and speak because they think Council is making decision. He said that Council is trying to get away from that thought process. We are not trying to limit public input and we didn't say we were going to limit public input. We simply said that there's a possibility that if we treat those as information gathering sessions only, the public will feel less of a need to speak at those. But, there was no move on Council's part to limit public input.

Mr. Bishop pointed out that on the staff reports it gave an indication that Council had already concurred with the staff recommendation.

Vice-Mayor Field responded by saying that Council felt uncomfortable taking straw votes during worksessions and they have directed the City Manager that they will not do that in the future. Council will not indicate their position on an issue during a worksession.

Mayor Martin said that Council will not limit public input. He said that the worksessions are changing to meet the needs of Council and the public.

Mr. Bishop asked if the public will be permitted to speak at worksessions. City Council responded that they would.

Vice-Mayor Field moved to approve the minutes of the formal meeting held on August 27, 1996, and the worksession held on September 3, 1996. This motion was seconded by Councilman Sellers and carried unanimously.

### III. PUBLIC HEARINGS:

#### A. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED ALLEY JOINING MILLER AVENUE AND POND AVENUE

RESOLUTION NO. 96-168 - RESOLUTION TO CLOSE AN UNNAMED ALLEY JOINING MILLER AVENUE AND POND AVENUE IN THE CITY OF ASHEVILLE

Mayor Martin opened the public hearing at 5:24 p.m.

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

-6-

Ms. Suzanne Molloy, Public Works Director, said that a petition has been received from the Skyland Volunteer Fire Department Inc. ("Skyland VFD") and Kay Brown requesting that an unnamed alley joining Miller and Pond Avenues be permanently closed to public use.

The petition received includes the signature of all the property owners along the alley requested to be closed. The City of Asheville's Fire Chief endorses the closing as it is in the best interest of the City. The City of Asheville is participating in construction of the new fire station on the same site as the street closing. The Skyland VFD has agreed to pay for advertising costs for the closing process.

The Public Works Department staff recommends that the \$2,500 fee for closing a street or alleyway be waived and that the Skyland VFD only pay for actual advertising costs as the project is mutually beneficial to the City. The Public Works Department and the Asheville Fire Department will work out the details of the actual expenses. Further, staff recommends the petition to close the unnamed alley joining Miller Avenue and Pond Avenue be approved.

All utilities have been notified and replied that no easements are needed in the unnamed alley.

Vice-Mayor Field said that since alleys were put in mainly as service alleys (for instance picking up garbage, deliveries, etc.), she wondered if they are losing their original purpose since more and more alleys are being closed.

Ms. Molloy said that she hasn't done any research on that particular issue. However, there are a lot of platted alleyways that are on the books, that actually do not serve the public and then, there are other areas where over history and time things have occurred that have changed the purpose of the alleyway.

Mayor Martin closed the public hearing at 5:28 p.m.

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

Vice-Mayor Field moved for the adoption of Resolution No. 96-168. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 297

B. PUBLIC HEARING RELATIVE TO THE ANNUAL TRANSIT OPERATING ASSISTANCE GRANT

RESOLUTION NO. 96-169 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

Mayor Martin opened the public hearing at 5:29 p.m.

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

Mr. Carl Ownbey, Transportation Planner, said that this grant will assist in offsetting the operating cost of the Asheville Transit Authority. These funds will be used for operating the fixed route transit system and assists in funding the City's comparable paratransit program operated under "BOOST".

-7-

Upon inquiry of Councilman Skalski, Mr. Ownbey said that our federal allocation last year was \$570,000, noting that it was cut from last year to this year by \$200,000.

Mayor Martin closed the public hearing at 5:30 p.m.

Mayor Martin 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. 96-169. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 298

C. PUBLIC HEARING RELATIVE TO THE PURCHASE OF 6.156 ACRES OF LAND IN HAW CREEK FROM CAROLINA POWER & LIGHT COMPANY

RESOLUTION NO. 96-170 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY FOR THE PURCHASE OF 6.156 ACRES OF LAND IN HAW CREEK FROM CAROLINA POWER & LIGHT COMPANY

Mayor Martin opened the public hearing at 5:31 p.m.

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

City Attorney Slawter said that N. C. Gen. Stat. sec. 160A-20 requires that the City Council conduct a public hearing prior to authorizing the Mayor to execute a promissory note and deed of trust to CP&L in connection with the acquisition of property in Haw Creek.

CP&L has agreed to sell to the City 6.156 acres of land in Haw Creek for a purchase price of \$90,000.00, plus interest at the rate of 4% per annum which will require total payments by the City of \$99,176.00 in four equal annual payments of \$24,794.00 each commencing September 30, 1996.

Because the City will be giving a promissory note secured by a deed of trust upon property which will be owned by the City, N. C. Gen. Stat. sec. 160A-20 requires that a public hearing be held.

Mayor Martin closed the public hearing at 5:31 p.m.

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

Councilman Cloninger moved for the adoption of Resolution No. 96-170. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 299

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

-8-

A. RESOLUTION NO. 96-171 - RESOLUTION AUTHORIZING THE APPROVAL, EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION WITH WATER SYSTEM REVENUE BONDS

Mr. Bill Schaefer, Finance Director, said that the issuance of bonds by the City of Asheville will require the appointment of a trustee and the approval and execution of the General Indenture among the City and Trustees, Series Indenture among the City and the Trustees, Purchase Contract among the City, the Local Government Commission and Underwriters, Placement Agreement between the City and NationsBank N.A., and the Preliminary Official Statement and Official Statement.

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. 96-171. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 300

B. ORDINANCE NO. 2316 - BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$33,000,000 WATER SYSTEM REVENUE BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

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

Upon inquiry of Mr. H.K. Edgerton, Councilman Worley said that the revenue bonds are backed by the revenues of the water system. In term of what that will do to water rates, that has already been built in the water rate projections for the next five years.

Mayor Martin commented that for the last 20 years we have been searching for an answer to our water problems and by doing this, we are on the verge of realizing the solution to the problem. He was pleased that this Council has been a part of this process.

Councilman Worley moved that the following bond order be adopted. This motion was seconded by Vice-Mayor Field.

Bond Order Authorizing the Issuance

of Not to Exceed \$33,000,000 Water System

Revenue Bonds of The City of Asheville, North Carolina

WHEREAS, the City of Asheville, North Carolina (the "City") is authorized by The State and Local Government Revenue Bond Act, N. C. Gen. Stat. sec. 159-80 et seq. (the "Act") to issue, subject to the approval of the Local Government Commission of North Carolina (the "Commission"), at one time or from time to time, revenue bonds and revenue refunding bonds of the City for the purposes as specified in the Act; and

WHEREAS, the City has determined to issue its Water System Revenue Bonds, Series 1996 (the "Bonds") in an aggregate principal amount not to exceed \$33,000,000 to provide funds to finance the cost of certain improvements as described herein; and

WHEREAS, the City will issue the Bonds pursuant to the terms of the General Trust Indenture dated as of September 15, 1996 (the "General Indenture") among the City, The Bank of New York, as trustee (the

"Trustee") and Central Carolina Bank and Trust Company, as co-trustee (the "Co-Trustee"), and Series Indenture, Number 1 dated as of September

-9-

15, 1996 (the "Series Indenture" and together with the General Indenture, the "Indenture") among the City, the Trustee and the Co-Trustee; and

WHEREAS, the City and the Local Government Commission of North Carolina have arranged for the sale of the Bonds to The Robinson-Humphrey Company, Inc., Alex. Brown & Sons Incorporated and NationsBanc Capital Markets, Inc.



(collectively, the "Underwriters") pursuant to the terms of a Bond Purchase Agreement to be dated on or about September 26, 1996 (the "Purchase Contract"); and

WHEREAS, an application has been filed with the Secretary of the Commission requesting Commission approval of the Bonds as required by the Local Government Revenue Bond Act, and the Secretary has notified the City Council (the "City Council") of the City that the application has been approved by the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Asheville as follows:

Section 1. The City Council has ascertained and hereby determines that it is necessary and desirable (a) to provide for extensions, additions and capital improvements to, and the renewal and replacement of capital assets of, and purchasing and installing new equipment for, the water system of the City and its surrounding areas (the "Water System"), including, without limitation, the acquisition, construction and equipping of (i) the Mills River Regional Water Treatment Facility, (ii) raw water storage facilities near the confluence of the French Broad River and the Mills River in Henderson County, North Carolina, and (iii) certain pump stations, transmission mains, distribution pipelines and additional pipelines throughout the County of Buncombe, North Carolina, and (b) to pay the capital costs of such acquisition, construction and equipping.

Section 2. In order to raise the money required for the capital costs of the acquisition, construction and equipping described above, in addition to any funds which may be made available for such purpose from any other source, the Bonds are hereby authorized and shall be issued pursuant to the Act.

Section 3. The aggregate principal amount of revenue bonds authorized by this order shall not exceed \$33,000,000. The Bonds hereby authorized shall be special obligations of the City, secured by and paid solely from the proceeds thereof or from revenues, income, receipts and other money received or accrued by or on behalf of the City from or in connection with the operation of the Water System.

Section 4. The issuance of the Bonds by the City in the principal amount of not more than \$33,000,000, in substantially the form to be set forth in the Series Indenture, be and the same hereby is in all respects approved and confirmed. The form and content of the Bonds and the provisions of the Series Indenture with respect to the Bonds (including, without limitation, the maturity dates and rates of interest) shall be approved and confirmed in a subsequent resolution of this City Council.

The Bonds shall be special obligations of the City. The principal of and interest on the Bonds shall not be payable from the general funds of the City, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts or revenues except the funds which are pledged under the Indenture. Neither the credit nor the taxing power of the State of North Carolina or the City are pledged for the payment of the principal

-10-

of or interest on the Bonds, and no holder of the Bonds has the right to compel the exercise of the taxing power by the State of North Carolina or the City or the forfeiture of any of its property in connection with any default thereon.

Section 5. The Bonds shall be sold to the Underwriters pursuant to the terms of the Purchase Contract as the same shall be approved in a subsequent resolution of this City Council.

Section 6. The proceeds from the sale of the Bonds shall be deposited in accordance with the Series Indenture.

Section 7. If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof or of the Bonds authorized hereunder.

Section 8. All resolutions or parts thereof of the City Council in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 9. This Bond Order shall take effect immediately on its adoption and pursuant to N. C. Gen. Stat. sec. 159-88 need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the City Council other than the procedures set out in the Act.

On a roll call vote of 7-0, Ordinance No. 2316 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 88

#### 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 Commission on September 4, 1996:

##### JOHNSTON ELEMENTARY SCHOOL ADDITIONS & RENOVATIONS

Mr. Carl Ownbey, Urban Planner, said that this proposed project is for renovations to classrooms, administrative offices, and the library for the existing elementary school located at 230 Johnston Boulevard in West Asheville. He said that on August 5, 1996, the Planning Department received the site plan for the renovations to the existing elementary school. The proposed new construction will be 22,600 square feet of classrooms, administrative offices, and library. The site plan was presented to the Technical Review Committee on August 12, 1996, for their comments.

-11-

On September 4, 1996, the Commission reviewed the site plan. The only concern addressed came from the Commission with regards to bus traffic flow and visibility around the required street trees. After a discussion, the Commission requested that City Council grant a variance to the street tree requirement and allow the architect to propose a landscaping alternative that meets the intent

of the ordinance and provides adequate site visibility for the buses.

The Commission voted unanimously to approve the project with the request for the variance of the street tree requirements.

Vice-Mayor Field moved to set a public hearing on September 24, 1996, to consider the approval of a site plan and a request for a variance to the street tree requirements for renovations and additions to Johnston Elementary School located at 230 Johnston Boulevard. This motion was seconded by Councilman Sellers and carried unanimously.

#### ASHEVILLE HOTEL RENOVATIONS AT 53-55 HAYWOOD STREET

Mr. Carl Ownbey, Urban Planner, said that the Asheville Hotel Building is located at 53 Haywood Street (at the corner of Haywood Street and Walnut Street). The plans are to renovate the building for retail uses at ground level and residential uses (29 apartments) on the upper floors. An addition is planned at the rear of the building which will contain an entry lobby, a stair tower and an elevator shaft.

There is a platted alley running underneath the existing building. In order to clear up any legal issues, the alley should be officially closed or the question of who has the right of ingress and egress should be clarified.

At the Commission meeting held on September 4, 1996, the Commission voted unanimously to recommend approval of the group development with the following conditions: (1) receipt of letters indicating approval for water and sewer availability; and (2) that the platted alley be closed or that the question of who has the right of ingress and egress be clarified.

The Planning Department staff recommends approval of the proposed group development with the same conditions recommended by the Commission.

Mr. Ownbey said that the second condition regarding the platted alley has been cleared up.

Upon inquiry of Vice-Mayor Field relative to a possible conflict of interest since she is part owner of a piece of property at 33 Haywood Street, City Attorney Slawter said that he saw no conflict of interest.

Councilman Hay inquired about the design review process. Mr. Gerald Green, Senior Planner, explained the building is in downtown and is therefore subject to the downtown design review process. The addition is considered major work and major works must be reviewed and action taken by the Planning & Zoning Commission, which is the review board for design review for major works. There were questions by one of the Commission members regarding the design of the addition in that the facade of the addition will be a mixture of concrete blocks, some metal panels and a stucco-type finish which is in contrast to the brick finish of the existing Asheville Hotel. The majority of the Commission did, however, approve the downtown design review. The architect for the project pointed out that they are applying for tax credits under the Federal Rehabilitation Program for Historic Buildings and the Secretary

-12-

of the Interior Standards state that additions must clearly be additions - they should not mimic an existing building. In this case, the local downtown design review guidelines which require compatibility and design were at odds with the Secretary of the Interior design standards for rehabilitation of historic structures. Given that our local review is mandatory with voluntary compliance,

and the Secretary of Interior standards would allow them some tax breaks, they went with standards which were most beneficial to them.

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

B. RESOLUTION NO. 96-172 - RESOLUTION AUTHORIZING DONATION OF SURPLUS BUSES TO ASHEVILLE SISTER CITIES INC.

City Attorney Slawter said that this resolution is a result of a request received on September 3, 1996, for the donation of two of the best running buses to Asheville Sister Cities Inc. to benefit the citizens of the Town of San Cristobal, state of Chipas, Mexico, a sister city to the City of Asheville.

He felt that the conveyance should be to the non-profit corporation rather than to the Town of San Cristobal. He said that the buses will be conveyed for a price of \$1.00 per bus and that a notice be advertised in the newspaper ten days prior to the sale being consummated.

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. 96-172. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 305

#### C. CLAIMS

The following claims were received by the City of Asheville during the week of August 23-September 5, 1996: BellSouth (Water), Amy Blankenship (Streets), Chris McGrayne (Streets) and Wayne Roper (Streets).

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

#### D. CLOSED SESSION

At 5:50 p.m., Councilman Skalski moved to go into closed session pursuant to G.S. 143-318.11 (a) (6) in order to consider the qualifications of prospective City officers or employees; and pursuant to G.S. 143-318.11 (a) (3) in order to preserve the attorney-client privilege. This motion was seconded by Councilman Sellers and carried unanimously.

At 5:15 p.m., Councilman Skalski moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

-13-

#### VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:15 p.m.

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CITY CLERK MAYOR

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