

Tuesday - September 17, 1996 - 3:00 p.m.

Worksession

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

HURRICANE FRAN ASSISTANCE

City Manager Westbrook said that Hurricane Fran left the eastern part of North Carolina in disarray and the City Manager of Wilson called and asked for some emergency assistance. The City of Asheville sent two crews from our Public Works Department, Streets Division, to lend assistance. He then recognized the employees who traveled to Wilson to help - Mark Slaughter, Tony Higgins, Tommy Carver, David Foster, Joe Newell, Bill Weist, Wayne Parham, Robert Jones, James E. Boone, Jackie DeWeese, Robert West, Doyle Petros, Anthony Mills, Jeremy Burleson and Charles Anders.

Mr. Tony Higgins briefed the Council on the devastation suffered in Wilson and how the Street Division crew was able to help.

On behalf of the City Council, Mayor Martin expressed his appreciation to the employees.

CONSENT AGENDA:

Shiloh Park Trail Grant

Summary: The consideration of applying for state grant funds to build a trail at Shiloh Park.

Funds are available through the State of North Carolina, Department of Environment, Health and Natural Resources in the Division of Parks and Recreation through the Adopt-A-Trail Program for construction of trails for public use. The City of Asheville wishes to apply for grant funds to build a trail at Shiloh Park.

The Shiloh Park Trail represents the City of Asheville's commitment to provide open space areas that will encourage urban passive park activities for all ages in neighborhood parks. The paved trail will be located around the perimeter of Shiloh Park. The first segment of the trail will be approximately 8' wide and 1,500' in length.

The cost of the project will be a maximum of \$7,000. The Parks and Recreation Department is requesting approximately \$5,000 in grant funds which would be partially matched by City staff's labor, equipment, design, planning, and project supervision. Funds for this match are available in the operating budget of the Park Maintenance Division.

Parks and Recreation Department recommends Council authorize the City Manager to apply for and enter into this agreement.

Grant Application for Broadway Greenway

Summary: The Planning and Development Department has applied for a grant to be used for the Broadway Greenway.

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Planning staff has applied for The Pigeon River Fund Grant. The deadline for this grant was August 15, 1996. Staff did not request Council's permission beforehand due to a quick deadline. The Pigeon River Fund exists to improve the streams and rivers of Haywood, Buncombe and Madison Counties. One area of funding is for the creation of greenways along creeks and streams. The Broadway Greenway proposal met all the criteria necessary for this grant. Staff requested funds (up to \$20,000) to hire a professional land conservation organization (such as The Trust for Public Land or The Conservation Fund) to help secure the right of way along the greenway. There is no monetary commitment necessary from the City if we were to receive these funds. The Planning and Development requests Council's approval of this grant request.

Staff recommends the concurrence of City Council in the application for this grant for this grant for the Broadway Greenway.

Upon inquiry of Councilman Hay, HRC Director Maggie O'Connor said that we should hear whether or not we received the grant in approximately six weeks.

#### Urban Trail Grant

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the North Carolina Adopt-a-Trail program in the amount of \$2,000. The grant would provide funding for approximately 13 granite markers placed in specific locations in downtown along the Urban Trail to assist walkers to follow the self-guided "trail" walk. The grant will provide covering the costs of the materials, installation and administration for 13 different sites.

The Urban Trail is an historical walking trail composed of 27 stations located throughout downtown with future plans of placing over 200 granite (thematic) markers in specifically designated areas as guided markers for the walkers. Over the past three years, funds have been received by private donors toward the Urban Trail and as of this time, approximately 72 granite markers have been donated and installed.

If the grant is funded, it will cover the cost of 13 granite markers. We are pursuing other funding sources for the balance of the markers.

The North Carolina Adopt-a-Trail grant requires no matching cash for the grant. However, extensive volunteer support has been and will be available from the Urban Trail Committee. City Development staff will also assist through the process.

The Urban Trail Committee and the City Development staff recommend submission of this grant to the North Carolina Adopt-a-Trail program.

#### Budget Amendment re: Structural Analysis of Hopkins Chapel

Summary: The National Trust for Historic Preservation will grant HRC \$2,084 for a structural analysis of Hopkins Chapel.

The Historic Resources Commission (HRC) and the Preservation Society of Asheville and Buncombe County are working with the members of Hopkins Chapel AME Zion Church to save the church from collapse. The National Trust for Historic Preservation will grant HRC \$2,084 for an in-depth structural analysis and to develop a permanent stabilization plan. Preservation North Carolina and

The Covington Foundation have agreed to grant the Preservation Society of Asheville and Buncombe County an additional \$8,500 for the structural analysis. Both HRC and

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the Preservation Society believe that Ellen Harris, William Westcott and Dave Fischetti should conduct the analysis and develop a stabilization plan. Mr. Fischetti is known throughout the nation for his work with historic wooden framed structures.

In January 1995, a structural engineer evaluated the condition of the church and recommended the building not be occupied unless temporary shoring was installed. At that time, the congregation elected to move its worship services to another location. Since then the roof has shifted, the floor has dropped, and the walls have thrust outward. The wood pilasters supporting the scissor trusses are rotted and water logged. In some locations the floor girders (which pocket into the masonry walls) ends have rotted off and the floor is unsupported.

During the past month the church has undergone emergency stabilization, pigeon waste removal, ceiling boards have been removed to allow for a complete investigation of the roof trusses, the pews and stained glass windows have also been removed.

Only a few structures of historic significance to the African-American community remain. Changes in the social, political, and economic areas resulted in the destruction of some area landmarks. If this continues to happen, future generations may suffer from a lack of identity that comes from not seeing evidence of one's roots. "Every child needs a sense of place, a way to identify personally with man-made structures, neighborhoods and communities of yesterday, as well as with the feelings and lifestyles of their inhabitants." Richard C. Balaban and Alison Igo St. Clair.

Hopkins Chapel's rich history and central position in the African-American community is essential to understanding and keeping alive the heritage of African-Americans.

Budget Amendment to Reflect the Transfer of Completed Capital Projects to the Fixed Asset Ledger, to Increase the Appropriations for Pipeline Replacement, to Increase the Appropriation for AM/FM Mapping, and to Delete the Beaucatcher Reservoir Project

Summary: By Resolution No. 92-17 dated May 19, 1992, the Authority authorized and budgeted for various capital projects to be funded by City Water Bond proceeds in the 29 Fund.

This revision is a housekeeping amendment to reflect the transfer of completed projects to the City's Fixed Asset Ledger. It also reprograms funds from savings on projects into the following projects:

- Pipeline Replacement Program Phase I - The Policies/Priorities Committee approved the final Change Order to this contract which will increase the budget \$31,544. Attached are the minutes from the Committee's meeting.
- Pipeline Replacement Program Phase III - This project is expected to be bid shortly. In order to balance the ordinance it is recommended that the appropriation for Pipeline Replacement III be increased \$171,405.
- AM/FM System - The system is operational and negotiations are beginning for the Final Change Order. Scope changes have occurred since project initiation. Staff is recommending that the budget be increased \$100,000 and

adjusted downward after the final change order is approved.

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Staff recommends approval of a Budget Ordinance amending and restating Capital Project Ordinance 92-17.

**Budget Amendment to Reflect the Transfer of Completed Capital Projects to the Fixed Asset Ledger, to Appropriate Funding for the South Brook Water Line Extension, and to Reduce Contingency**

Summary: By Resolution 82-25 dated October 5, 1982, the Authority authorized and budgeted for various capital projects to be funded by Investment Earnings, Contributions From Other Funds, and Appropriated Fund Balance.

This revision is a housekeeping amendment to reflect the transfer of completed projects to the City's Fixed Asset Ledger. It also budgets the Southbrook Master Plan extension project on Mills Gap Road as approved by the Asheville-Buncombe Water Authority on August 20, 1996. This project is included in the Authority's Water Distribution Master Plan and is required to supply water to the South Brook Subdivision off Mills Gap Road in South Buncombe. The Authority agreed to contribute \$27,700 for the cost of extending an 8-inch waterline, as proposed in the Master Plan.

Staff recommends approval of a Budget Ordinance amending and restating Capital Project Ordinance 82-25.

**Participation with the Asheville Partners in Home Ownership**

Summary: The City of Asheville will join with other public and private sector organizations to form a local partnership which is consistent with the National Home Ownership Strategy.

The U. S. Dept. of Housing & Urban Development is encouraging the formation of local home ownership partnerships to increase home ownership by eight million across the nation. Expanding home ownership will strengthen the nation's communities and expand the economy.

This resolution contains a goal to increase the percentage of home ownership in Asheville to 64% by the year 2000. This would be an increase of seven percentage points or 1,990 new home buyers. The resolution also contains a description of specific actions to be undertaken over the next four years. Additional funding resources will be identified, the development permit process will be streamlined for affordable home ownership and a task force of private lenders, home builders, non-profits, realtors, local government, etc., will be formed to recommend additional steps to increase home ownership opportunities.

Community Development staff recommends adoption of the resolution.

**Renovation of Old Water Maintenance Building**

Summary: The consideration of the selection of an architectural/engineering firm to provide design services to renovate the Old Water Maintenance Building in Asheville, North Carolina.

In an effort to renovate the Old Water Maintenance Building at 147 S. Charlotte St. for use by the Asheville City School System, whose existing offices are being displaced by renovations at the Municipal Building, a request for proposal process was implemented to solicit architectural/engineering firms to submit proposals for design services in regard to the renovation of the above-stated.

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Requests for proposal were submitted to 16 architectural/ engineering firms, four of which were from certified minority businesses. A committee comprised of four City staff was established to review the proposals received for this project. Group members were Dick Meehan, Superintendent of Parks and Public Facilities; Mike Brookshire, Civil Engineer; Al Kopf, Landscape Architect; and Lyle Willis, Contract Administrator. This request for proposal committee received three proposal submittals, none of which were from certified minority businesses.

The request for proposal committee met to review all proposals. Criteria used in the review process were set up in a matrix system designed to evaluate each of the firms based on experience, quality of work, experience with and quality of projects of similar scope; and each firm's internal processes addressing procedures for: site analysis, cost control, project management, and structural evaluation. A numerical value was assigned to each of these areas and the two firms with the highest score were requested to come in for an in-depth interview covering issues ranging from design experience to extent of staff involvement with this project.

Upon the conclusion of the interview process, one firm was selected as the best choice for this project.

Staff recommends approval of the firm Padgett & Freeman Architects PA, for this project and requests Council approval to direct the City Manager to enter into an architectural/engineering contract for design services to renovate the Old Water Maintenance Building.

#### Alcoholic Beverages at Greek Festival

Summary: The purpose of this resolution is allow alcoholic beverages at Asheville's 10th Annual Greek Festival.

The N.C. Gen. Stat. section 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on property owned, occupied or controlled by the City. The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority. That ordinance, Section 11-11 in the Code of Ordinances, provides that the City Council may adopt a resolution making other provisions at special event or community festival. Asheville's 10th Annual Greek Festival Board, Holy Trinity Greek Orthodox Church and the Parks and Recreation Department recommends that possession and consumption of malt beverages and/or unfortified wine be allowed at Asheville's 10th Annual Greek Festival.

The Parks and Recreation Department recommends that City Council adopt a resolution allowing the possession and consumption of malt beverages and/or unfortified wine at Asheville's 10th Annual Greek Festival.

#### NEW BUSINESS:

#### 155 ACRE REZONING REQUEST BETWEEN OVERLOOK ROAD AND HENDERSONVILLE ROAD

Mr. Gerald Green, Senior Planner, said that this is consideration of a request to rezone approximately 155 acres to R-1A between Overlook Road and Hendersonville Road.

Planning staff has received a petition requesting a zoning study of approximately 155 acres of land. The location of the area in

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question is south and east of Overlook Road, west of Hendersonville Road and north of Springside Drive. 228 property owners have signed petitions requesting that their land be rezoned from R-2 and R-1 to R-1A. Included in the rezoning area are parcels zoned OI Office Institutional, CH Commercial Highway and R-2 of which the owners have not signed petitions.

The petition meets all requirements to be considered valid. Staff will wait for direction from Council as how to proceed with this request.

Upon inquiry of Vice-Mayor Field relative to a possible conflict of interest since Mr. Richard Green is a client of her firm and a petitioner in this action, City Attorney Slawter said he saw no conflict of interest.

Mr. Green gave the background information of the property in the area zoned OI Office Institutional. The north 10 acre tract is made up of 5 acres Office Institutional and 5 acres Commercial Highway. The OI portion of this tract was rezoned prior to 1988 and has a business on it.

Mr. Green said the south 10 acre tract is made up of 3 acres Commercial Highway, 5 acres Office Institutional and 2 acres R-2 Residential. In 1991, a portion of this tract was rezoned to OI. In 1993, an application was filed for further rezoning of that tract to OI, but that request was denied.

Upon inquiry of Councilman Cloninger, Mr. Green said that in this area the 2010 Plan calls for low density residential and it also calls for some medium density residential just south of Overlook Drive.

Councilman Worley said that he studied the area carefully and talked to a number of property owners. He was opposed to taking the land area called for in the petition for a rezoning study at this time because of Council's strong priority to complete the UDO and the staff resources that studying a land this large would take from the UDO process. He did realize that the OI tract is driving the petition and therefore, he would support sending the 10 acre OI tract to the Planning Department for recommendation to the Planning & Zoning Commission for the potential rezoning of that tract. He felt there is a need to create a better buffer zone between the residential area and the OI in that area.

Upon inquiry of Mayor Martin, Mr. Green and Planning Director Julia Cogburn each felt that if the Planning Department did undertake this 155 acre rezoning study, it would take approximately a month or longer to complete. Mr. Green noted that it has already taken the Planning staff 60 hours to bring this matter to Council.

Councilman Hay felt that he could support studying the 10 acre tract that had a portion rezoned in 1991 because the other 10 acre tract has a building on it and the use has not changed over the years. If an error was made in 1991 rezoning, then a rezoning study might correct that error.

Upon inquiry of Councilman Cloninger, City Attorney Slawter suggested that if Council declines to request the rezoning study pursuant to the petition and requests a smaller area to be studied, it would be best be called a Council initiated rezoning to differentiate from the total area. If Council decided to go that route, he suggested a motion to deny the rezoning study pursuant to the petition and in its

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place to request a rezoning study of only the OI portion of the 10 acre tract.

Councilman Skalski said that this area has never been totally studied in context of the people who live in the area. He felt that this Council had a responsibility to right the wrong that has been done in the area - which allowed the 10 acre tract being partially zoned OI. That rezoning was in violation of the 2010 Plan and putting off the rezoning will only increase the risk to the neighborhoods for more bad planning in the area. He also brought up a concern about a protest petition that could be filed. The property owners have asked the City to help them with this problem and the Council has an obligation to help the citizens of south Asheville. He also felt that it might not require that much staff time to complete the rezoning study.

Upon inquiry of Councilman Hay about why some property owners would want their property rezoned from R-1 to R-1A, Mr. Green said that a requirement of a valid rezoning petition is that 51% of the property owners owning at least 51% of the property is required. In discussions with the petitioners, they included this R-1 area to insure that they had sufficient land mass (minus the signatures of the owners of the OI tracts) to make sure the petition would be valid.

Mr. Richard Green, petitioner, said that the R-1 is already deed restricted with restrictive covenants for the Oak Forest Subdivision. The R-1A will have no affect as long as those restrictive covenants stay in place which automatically renew every 10 years unless the majority of the Oak Forest residents get together and sign an amendment.

Mr. Don Noakley, representing the Board of Realtors, felt that if the property owners want to rezone their own property to R-1A, that was fine. However, they should not be allowed to rezone their neighbors' property against their will. He felt that if Council continually rezoned properties before the UDO was adopted, they would be defeating the purpose of good, sound city planning. His position was that they were against the rezoning of the 155 acres, except for the part where the property owners want to rezone their own property.

Mr. Jim Siemens, attorney representing some residents of Blake Mountain, stated that the heart of the problem is that the OI district allows for 32 units per acre to be built. He stressed that the OI zoning in the area is inconsistent with the 2010 Plan and the neighboring communities in the area do not need that kind of threat. He urged Council to consider a rezoning study of the entire 155 acre tract.

Upon inquiry of Mr. H.K. Edgerton, President of the NAACP, Mayor Martin said that he did not know of any plans for Housing Authority units in this area.

Mr. George Morosani, property owner of the subject tri-zoned 10 acre tract, said that he has already lost a substantial amount of money when a developer came in to see about building on the OI portion and was run off by the neighborhood. He felt that this rezoning request would down-zone his property. He has lived in Asheville for 28 years and wants to see it grow, but to allow neighborhoods to rezone someone else's property is not reasonable. He noted that the neighborhood did not even ask him to sign the rezoning petition, even though he would not have signed it. He felt that it was hard to bring new developers into Asheville and show them a piece of property for development and then the neighbors find out about it and try to rezone it to block that developer from building. He felt that he should have the right to do what he wants with his property and if the neighbors disagree, they should buy

it from him. He said this tract has it's own private access road which connects with Hendersonville Road and the road does not cross any residential property.

Ms. Cogburn explained how the districts are interpreted in the zoning ordinance relative to density and number of units.

When Vice-Mayor Field inquired about the new office district in the UDO, Mr., Green said that this area will probably be zoned office, which will allow possibly 6-12 units per acre (not the 32 units per acre as presently allowed in the current OI district). He noted that in the UDO, the current R-2 designation would allow 6 units per acre.

Councilman Cloninger wondered if some type of an agreement could be reached with Mr. Morosani and the property owners until the UDO is adopted.

Mr. Morosani said that he didn't have a problem with the future uses allowed with his property and he would not solicit someone to build apartments on it in the meantime. However, since he does still have a mortgage on the property he may give it back to the owners and he cannot speak for them.

Vice-Mayor Field said that Ms. Laurel Eide, property owner whose property touches the OI zone, expressed to her that she could not sell her property as R-2 residential because buyers had a concern of what could be built in the OI district. Ms. Eide expressed to her that the OI designation devalues her property.

Mr. Morosani said that he might be willing to give Ms. Eide a 50 foot deed restrictive where his OI property touches her R-2 property. He said that he was not going to build on her property line.

Ms. Eide said that they are not against apartments, just the constant threat of the OI district spreading into the area. She said that for the past four years she has been fighting developers who see that there is an OI pocket there and they keep coming back to see if they can get the adjacent property (which is undeveloped) rezoned to OI. She feels if the property remains zoned OI, it will eventually spread into the whole area.

Mr. Richard Green, President of the Coalition of South Asheville Neighborhoods, stressed that the 2010 Plan is the City's planning document and that document has been violated. He felt the rezoning study is warranted and urged Council to send it to the Planning Department for study.

Councilmen Cloninger and Hay supported the studying of the 10 acres (but not the entire tract) and encouraged the property owners in the area to work together in the interim until the UDO is adopted. They felt that the UDO mapping will probably zone this property office and that might alleviate some of the concerns of the neighbors.

When Councilman Skalski asked Mr. Morosani if he would file a protest petition if his property was zoned to R-2, Mr. Morosani replied that he would.

Councilman Worley stressed that even if the property is rezoned to R-2 now, it doesn't preclude it from being rezoned again when the UDO public hearings begin.

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Councilman Worley moved to deny taking any further action to rezone the 155 acres and that Council initiate a rezoning study of the 10 acre OI tract and direct the Planning staff to begin that rezoning study. This motion was

seconded by Councilman Hay.

At the request of Councilman Skalski, City Attorney Slawter explained the criteria for a valid protest petition, and if a valid petition was filed, then a 3/4's vote of Council would be required.

Mr. Richard Green felt that the boundary lines in the 155 acre rezoning petition were drawn in such a fashion that there would not be the possibility of a valid protest petition being filed.

Councilman Worley said that what is really driving this petition is to get the OI tract rezoned and he didn't feel that asking that the 10 acre OI tract be studied was at the expense of the entire neighborhood. He did state that he felt it was unfortunate to use the rezoning petition process in the manner that it was used.

Councilman Worley's motion then carried on a 6-1 vote, with Councilman Skalski voting "no".

#### STEPHENS-LEE RECREATION CENTER DESIGN PROPOSAL

Mr. Lyle Willis, Contract Administrator, said that this will be consideration of the selection of a final candidate to provide architectural engineering design services for the renovation of the Stephens-Lee Recreation Center.

In January/February 1993, City staff, through a request for proposals process, selected from a pool of architectural firms the firm of Mathews & Glazer Architects P.A., to prepare a feasibility study determining the scope of renovations needed and relative construction budget costs for the Stephens-Lee Recreation Center. This firm worked closely with City Staff and community groups to establish a scope of work and resulting renovation plans for the building. The construction renovations costs were tabulated at that time and were used to determine the 1996-97 budget request. A total of \$1,250,000 has been recommended for renovations to the Stephens-Lee Recreation Center for the 1996-97 budget year.

Rather than open the project up for new design proposals, Staff reviewed and drew from the original proposals for the feasibility study phase of this project. Staff recommends the firm of Mathews & Glazer Architects P.A., who did the feasibility study for this project. If the selected architectural firm is awarded a contract, that contract will be based on a proposed design services fee of 9 percent of the total construction costs, or approximately \$112,500. (Mathews & Glazer have also conveyed in their proposal letter that they will credit the City \$9,000 for the work they have already performed in the development of this project.) In the past we have received design proposals ranging from 8 to 11 percent of the total construction costs, which covers a firm's involvement and operating expenses for their work on that project.

City staff is at a point in the project development process which requires Council approval of an architectural design team in order to enter into an AIA contract and proceed with construction bid documents.

Staff recommends approval of the architectural design firm of Mathews & Glazer Architects P.A., and requests Council to direct the City Manager to enter into contract for that firm's services.

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Upon inquiry of Vice-Mayor Field, Mr. Willis explained that Risk Management would have to make sure that the company carried appropriate insurance before

the City contracted with the firm.

#### PHYSICIAN'S REPORT

Mr. John Miall, Risk Manager, briefed the Council on the six month evaluation of the on-site physician program in the Health Services Division.

In February, 1996 Council approved the addition of a part-time physician for the treatment of employees and their families at an hourly rate. It was projected that this would save the City money if non-critical health needs were not paid for through the emergency rooms, and private offices. The physician was also to provide some services on worker's comp injuries.

An independent evaluation of this service for the past six months was done. Council had previously authorized the hiring of Mike McManus as an independent medical consultant for this process. His report indicates that conservatively allowing for the hourly cost of the physician, the City has realized savings of approximately \$19,270 in general medical, and comp expenses.

He then highlighted the Health Services Program.

The consultant's report concludes with 4 options for current consideration. They include:

1. Continue physician service as it currently is, and further evaluate savings in 6 months.
2. Terminate the current contract, and take the report under advisement.
3. Expand the physician's hours over the next 6 months to allow greater family participation, and re-evaluate the program at that time.
4. Continue the program as it currently is, and ask the local medical community to respond to an RFP for continuing this service.

Staff recommends a combination of numbers 3 and 4 above, to continue the current service for 6 more months; begin expanding services to families; and through an RFP ask the local medical community for proposals to expand the service to a Point of Service medical service for employees and dependents.

Discussion surrounded the satisfaction of how the program has worked and the substantial savings achieved.

#### OTHER BUSINESS

##### City Attorney

Councilman Skalski moved to appoint Robert W. Oast Jr. as the new City Attorney, effective November 18, 1996, and to authorize the Mayor to confirm that appointment in a letter to Mr. Oast. This motion was seconded by Councilman Worley and carried unanimously.

##### October 15, 1996, City Council Worksession

It was the consensus of Council that the City Council Worksession on Tuesday, October 15, 1996, be held at 4:00 p.m. in Room 623 of the City Hall Building. The N.C. League of Municipalities Annual Conference will be ending that day in Winston-Salem, N.C., and moving the time from

3:00 to 4:00 will assure that a quorum will be present for the worksession.

Theatre Koleso in Asheville

Vice-Mayor Field said that a group of 29 actors from the Ukraine will be in Asheville on Tuesday, September 24, 1996. She suggested inviting the group to attend the City Council meeting and be recognized.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:10 p.m.

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CITY CLERK MAYOR

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