

Tuesday - December 17, 1996 - 500 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; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and Deputy City Clerk Phyllis Corns

Absent: Councilman James J. Skalski and City Clerk Magdalen Burleson

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-211 - RESOLUTION IN MEMORY OF ROY M. TRANTHAM

Mayor Martin read the resolution in memory of Roy M. Trantham. Mayor Martin read the resolution in memory of Mayor Roy M. Trantham who served as the City of Asheville's Mayor from December 1978 until December 1983. He presented the resolution to Mayor Trantham's son, Roy Jr.

Councilman Worley moved for the adoption of Resolution No. 96-211. This motion was seconded by Vice-Mayor Field and carried unanimously.

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II. CONSENT:

Mr. Ralph Bishop asked that Item A be removed from the Resolutions & Motions Consent Agenda for discussion.

Councilman Sellers asked that Item C be removed from the Resolutions & Motions Consent Agenda for discussion.

Mr. Rick Tisdale asked that Item B be removed from the Resolutions & Motions Consent Agenda for discussion.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 26, 1996 AND THE WORKSESSION HELD ON DECEMBER 3, 1996

This item was removed from the Consent Agenda for further discussion.

B. RESOLUTION AWARDING BIDS FOR FLEET VEHICLES

This item was removed from the Consent Agenda for further discussion.

C. RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE TERMS OF A CONTRACT FOR ACCEPTANCE OF THE STREETS LOCATED IN THE HILLS OF BEAVERDAM PROJECT AS CITY-MAINTAINED STREETS

This item was removed from the Consent Agenda for further discussion.

D. RESOLUTION NO. 96-213 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. LEAGUE OF MUNICIPALITIES FOR EVALUATION OF FINANCE DEPARTMENT OPERATIONS AND THE DEVELOPMENT REVIEW AND PERMITTING PROCESS

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E. MOTION DIRECTING THE CITY MANAGER AND CITY ATTORNEY TO PROCEED WITH THE 1997 LEGISLATIVE PROGRAM

F. RESOLUTION NO. 96-214 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 2B TO DR. ALBERT B. ANDERSON

Summary: Disposal Parcel 2B is a CS Commercial Service lot located approximately 200 feet south of the intersection of Asheland and Hilliard Avenues comprising 29,344 square feet. The lot is generally rectangular in shape and mostly flat at street level to a depth of about 150 feet then dropping sharply about 15 feet with the rear of the lot being on grade with South Grove Street. The bid from Dr. Albert Bernard Anderson includes the proposal to construct a single story medical office building containing 4,300 square feet on grade with Asheland Avenue. The development proposal includes paved parking and landscaping. The building will be occupied by Dr. Anderson's ophthalmological practice.

The bid of Dr. Anderson, in the amount of \$117,400 is not less than the established minimum price of \$117,400. The upset bid process was followed and an upset bid was received by Oak Valley Associates in the amount of \$123,320. The upset bid process was again followed and an upset bid was received by Dr. Albert Anderson in the amount of \$129,536.

The upset bid process was again followed and an upset bid was received by Oak Valley Associates in the amount of \$136,100. The upset bid process was again followed and an upset bid was received by Dr. Albert Anderson in the amount of \$142,955. The upset bid process was again followed and an upset bid was received by Oak Valley Associates in the amount of \$150,200. The upset bid process was again followed and an upset bid was received by Dr. Albert Anderson in the amount of \$157,760.

The upset bid process was again followed and an upset bid was received by Oak Valley Associates in the amount of \$165,710. The upset bid process was again followed and an upset bid was received by Dr. Albert Anderson in the amount of \$175,045.50. The upset bid process was again followed and there was not another upset bid received.

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

ORDINANCE:

A. ORDINANCE NO. 2342 - BUDGET AMENDMENT RELATIVE TO N.C. LEAGUE OF MUNICIPALITIES STUDIES FOR EVALUATION OF FINANCE DEPARTMENT OPERATIONS AND THE DEVELOPMENT REVIEW AND PERMITTING PROCESS

Summary: This budget amendment, in the amount of \$30,000, is to appropriate funds for the N.C. League of Municipalities' study of the

Finance Department Operations and the Development Review and Permitting Process.

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

Councilman Worley moved for the adoption of Ordinance No. 2342. This motion was seconded by Councilman Sellers.

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 26, 1996 AND THE WORKSESSION HELD ON DECEMBER 3, 1996

Upon inquiry of Mr. Ralph Bishop, City Attorney Oast said that it was his opinion that the minutes do more than is required by State statute.

When Mr. Bishop asked if Council will ask to "change the wording of 160A-72", City Attorney Oast said that no amendment was part of our legislative package.

Vice-Mayor Field moved for the adoption of the minutes of the regular meeting held on November 26, 1996, and the worksession held on December 3, 1996. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION NO. 96-215 - RESOLUTION AWARDDING BIDS FOR FLEET VEHICLES

Summary: Recommendation for award of Bid Request No. 461-97, to purchase 29 assorted fleet vehicles.

Pursuant to G.S. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were received to furnish the Police, Fire, Parks, Engineering, Building Safety and Public Works Departments with vehicles as described in the bid summary attached hereto as Exhibit "A" as bid items 1 through 13. Four bids were received. Bids have been reviewed for technical compliance to specifications by the Fleet Management Division and their concurrence received in the following recommendations.

Funds for the purchase of these vehicles are to be from the requisitioning departments capital equipment appropriations for FY 96/97. All vehicles are budgeted as replacement vehicles.

Subject to Council's approval, it is recommended that awards be made to the low bidder of each item as follows:

Bid items 1, 3, 5, 6, 7, 8, 9, and 11 award to Earl Tindol Ford, Gastonia, N.C., in the amount of \$376,389 for the purchase of vehicles described in the bid summary attached hereto as Exhibit "A" for these items.

Bid items 2, 4, and 10 award to Parkway Chevrolet, Asheville, N.C., in the amount of \$111,615 for the purchase of vehicles described in the bid summary attached hereto as Exhibit "A" for these items.

Bid items 12 and 13 award to Matthews Ford, Asheville, N.C., in the amount of \$100,975 for the purchase of vehicles described in the bid summary attached hereto as Exhibit "A" for these items.

Grand total of all awards as recommended \$588,979.00.

Mr. Rick Tisdale, General Sales Manager with Matthews Ford, said that he felt the bid was held according to statutes, however, he said that Matthews Ford has been in Asheville since 1938 doing business and paying taxes. Last year they paid over \$32,000 in taxes. Earl Tindol Ford, Ford dealer from Gastonia and lowest responsible bidder on the police vehicles, won the state bid and by winning the state bid, they have a \$200 advantage per vehicle over any other Ford dealer. He felt that because Matthews Ford does pay City taxes, they should be given more consideration. He said that vehicles awarded are emergency vehicles and are therefore under warranty. If Matthews Ford sells a vehicle, their vehicle is given priority versus a vehicle from another dealer. He said that if the vehicles come from another dealer, Matthews Ford will service them in the most responsive manner as possible, keeping in mind that their vehicles will be given priority.

Upon inquiry of Mayor Martin, City Attorney Oast said that the City is required to take the lowest responsible bid. He felt that Council's only option to do otherwise is to reject all bids and re-bid the contract.

Mr. Tisdale said that even if the contract is re-bid, Earl Tindol Ford will still have a \$200 advantage over them. He did feel that Council should support local business and perhaps next time, change the specifications to assure that businesses in Asheville have some advantage over any dealerships that are not in 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.

Vice-Mayor Field moved for the adoption of Resolution No. 96-215. This motion was seconded by Councilman Worley and carried unanimously.

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RESOLUTION NO. 96-216 - RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE TERMS OF A CONTRACT FOR ACCEPTANCE OF THE STREETS LOCATED IN THE HILLS OF BEAVERDAM PROJECT AS CITY-MAINTAINED STREETS

Summary: Staff is requesting Council consideration regarding the petition for acceptance of roads for maintenance by the City within the Hills of Beaverdam Subdivision.

The Engineering Department along with the Public Works Department over the course of the last two years has been working with the Hills of Beaverdam Homeowners Association ("Homeowners Association") to facilitate the acceptance of streets within the existing subdivision. The Homeowners Association has completed the appropriate street acceptance petition and collected the necessary revenues to complete the rehabilitation of the streets prior to city acceptance.

The streets were not constructed to City street standards. Therefore, the streets must be rehabilitated prior to acceptance for maintenance by the City. Rehabilitation of these streets consists of providing road construction rehabilitation of 1.1 mile of streets which serve 45 residential lots. The existing streets have varying slopes of 5% to 15%. The proposed cost for improvements of the homeowner

participation is estimated \$137,000. However, the City would contribute toward the project by contributing the necessary labor and equipment for the rehabilitation.

The Engineering Department has completed construction plans for the necessary street repairs and construction. The Street Division will provide construction repairs thereby the city contributing associated labor and equipment as public/private participation on the project. The proposed project schedule is to begin project construction in the spring of 1997.

The City Attorney's Office will prepare required contract documents for the acceptance and approval by the City Manager's office. The City Manager will enter into the agreement with the Homeowners Association for collection of funds needed to purchase materials and supplies to complete the necessary scope of work. The agreement will stipulate that any residual funds will be reimbursed or any additional funds must be provided by the Homeowners Association. As part of the acceptance process, all necessary rights-of-way and easements must be transferred to the City of Asheville for acceptance by City Council.

Staff requests approval of the resolution authorizing the City Manager to negotiate the terms of a contract for acceptance of the streets located in the Hills of Beaverdam project (Skyview Drive, Skyview Circle, Sunset Trail and Crescent Lane) as City-maintained streets.

Mr. Harold Garland, 7 Sycamore Street, did not oppose the City taking the streets over, but spoke in opposition of the City taking over the streets in their present condition. He said the streets, in their present condition, are draining water on his property. He said his driveway continues to be washed away and has recently spent \$1,150 to avoid the water going into his basement. He asked that, during the negotiation period, they try to eliminate this drainage problem. Public Works Director Mark Combs said that they are aware of the problem.

Mr. John Jackson, homeowner in the Hills of Beaverdam, said that the Homeowners Association has been working with City officials for over three years and since then, there has been a change-over of City officials and in the Homeowners Association. Since that time, the petition to take over the streets ended up being no longer valid. In October of 1995, the Homeowners Association met with Technical Services Director of the Engineering Department Tony Lewis who advised them that they needed a new petition to ask that the roads be taken over and that the City would need the money upfront. He told them that engineering could be started in as early as 30 days. Based on that, the Homeowners Association felt that it was no longer wise to put money into the road repairs based on the timeline outlined by Mr. Lewis and they felt they needed to put the money into a fund to pay for their share of the construction. On January 1, 1996, the funds were in escrow. On July 26, 1996, they received a letter from Mr. Lewis stating that repairs would start October 1, 1996. He again stressed that the Homeowners Association prompted got the petition together and the funds necessary in the time requested by the City. On October 25, 1996, a letter was sent to Mr. Combs requesting a meeting because this was not being handled in a timely manner. The engineering that was supposed to have taken place at the end of 1995 and was now going to take place in September of 1996. Mr. Lewis said that the full construction would not be in 1996, but some of the basic foundation work would be done and the finished paving would be completed in the spring of 1997. In talking with other City officials at a later date, he was told that construction could not be done now because of the weather. Mr. Jackson then asked

that some emergency pothole patching be done and Mr. Combs advised him that they could not do that.

Mr. Combs said that he felt the developer did a very poor job in construction the roads and he didn't feel it was the City's responsibility to take care of the roads, which are right now private. He did note that there was still several issues that need to be resolved prior to the City taking over the maintenance.

Mr. Jackson felt that there should be an exception made. He said the area was annexed approximately six years ago against the wishes of the property owners. He felt the City has had the tax revenue from their properties and they have worked promptly on their side to meet all the City's requirements.

Mayor Martin asked that City staff move as quickly as possible in these negotiations.

Upon inquiry of Vice-Mayor Field, Mr. Combs said that the repairs to the road would be major and are not so much potholes, but the total road failure.

Upon inquiry of Councilman Worley, Mr. Jackson said that the engineering actually was finished in October and the City said that they still had time to do some construction on the worst spots and then do the final paving before the year's end. Then in November the City said they didn't have time for any construction but they could just patch the potholes, which they are asking for. He said this is not a financial matter, it is a matter that they have met with City's guidelines and the City has not met their timeline. He said the Homeowners Association was ready to contract for emergency patching and by the time he talked to Mr. Combs who said the City could not do anything at all, the contractor said he couldn't do it because the asphalt factories were shut down. He understood the need for rules and regulations, but he felt this should be an exception.

Councilman Worley was concerned that there was some indication that the City might be able to do something on a temporary basis. The Homeowners Association relied on that indication and now the City will not do anything.

Mr. Jackson said the most serious concern is Skyview Drive, which is approximately 1/4 mile long and very steep. He said the potholes got bad in 1996 but were not maintained in anticipation of the City's help. He admitted to road failure but stated there are simply potholes in the middle of the road too. He said there are two senior citizens out there actually patching the potholes.

City Manager Westbrook said that the City will work with the Homeowners Association as quickly as possible to expedite this. However, in briefly discussing this with the City Attorney, he felt there are some legal issues if we try to maintain a private road before it's properly taken over. He understood that this project will cost the homeowners and the City approximately \$250,000-\$350,000 jointly to fix the road and the City wants to make sure it's fixed right the first time. If the agreement can be worked out and signed quickly, he felt the City could go out and make some repairs.

Mr. Combs clarified a question raised by Mr. Johnny Lloyd regarding the City's annexation procedures.

A senior citizen said that he was tired of trying to keep the road fixed due to the poor construction of the roads in the Hills of Beaverdam.

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. 96-216. This motion was seconded by Councilman Worley and carried unanimously.

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### III. PUBLIC HEARINGS:

#### A. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE RELATIVE TO CONDITIONAL USE REQUIREMENTS FOR NURSERIES AND KINDERGARTENS

##### ORDINANCE NO. 2343 - ORDINANCE AMENDING THE ZONING ORDINANCE RELATIVE TO CONDITIONAL USE REQUIREMENTS FOR NURSERIES AND KINDERGARTENS

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

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

Ms. Julia Cogburn, Planning & Development Director, said that this ordinance is proposed in order to delete reference to the City's standard buffering provisions as a conditional use requirement for nurseries and kindergartens.

Nurseries and kindergartens are currently listed as conditional uses in the R-3 (medium density residential), R-4 (high density residential), R-5 (residential), and the CS (Commercial Service) use districts of Appendix A of the Code of Ordinances of the City of Asheville. Included in the enumerated conditions for these uses are requirements that adequate buffering, as outlined in Sec. 30-3-14, be provided and that fencing be provided. Both of these requirements are redundant as buffering is required by City ordinance and fencing by State regulation. The ordinance amendment before Council proposes that these regulations be deleted from the conditional use stipulations because: (a) they are redundant; and (b) the buffering requirement does not allow for any variance or flexibility in meeting buffering needs for such an establishment.

The Planning and Zoning Commission voted 7-0 at their November 6, 1996, meeting to recommend the adoption of this wording amendment.

Mayor Martin closed the public hearing at 5:45 p.m.

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

Councilman Cloninger moved for the adoption of Ordinance No. 2343. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2343 passed on its first and final reading.

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#### B. PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL

FOR BOSTON WAY ENHANCEMENT PROJECT

RESOLUTION NO. 96-217 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE BOSTON WAY PROJECT

Mayor Martin opened the public hearing at 5:46 p.m.

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

Ms. Suzanne Molloy, Assistant Director of Public Works, said that the Public Works Department has assessed the total costs for the Boston Way enhancement project, completed in May 1995, and prepared a preliminary assessment roll.

In 1992 the Public Works Department was working on some bond improvements throughout the City, and at that time there were people on Boston Way (from its intersection with All Souls Crescent at its eastern end and ending at its intersection with All Souls Crescent at its western end) that petitioned the City to add enhancements to Contract 13E, as designed by Vaughn and Melton, to construct, pave, widen, install curbs and gutters and otherwise build and improve Boston Way. There was a majority of the petitioners who wanted the City to improve the road with things such as the installation of brick sidewalks, colored concrete, and other features. The petition was taken to City Council (which was signed by over 51% of the property owners at that time) to levy a special assessment against them to do the enhancement work if they were to be assessed for 50% of the costs. In 1993 Council granted approval to go forward with the work and in May of 1995, the work was completed. Therefore, property owners on Boston Way east and west of Hendersonville Road should be assessed for 50% of the costs.

In September 1996, the Public Works Department closed out Contract 13E in its entirety, accepted work completed, and determined final costs. The cost of enhancements to the Boston Way project is \$126,303.91 which amount includes the costs of labor, materials, equipment, and the costs of publication of notices and resolution. The assessed values going to the property owners on Boston Way is \$63,151.95.

A preliminary assessment role for benefited property owners has been prepared. The amount assessed to each benefited property owner is based upon 50% of the enhancement costs at an equal rate per foot of frontage.

She noted that during the Boston Way project itself, after the two preliminary petitions had been brought in front of Council and during construction, the engineering firm was approached by three property owners who were not on the original assessment, requesting the improvement work go on the west side of Hendersonville Road also. The City did put in those improvements and the special assessment includes the assessment upon those property owners as well.

The Public Works Department staff recommends the adoption of the resolution confirming the preliminary assessments.

Ms. Molloy said that she had received a telephone call from Mrs. Roy Trantham who expressed her concern over her assessment as they were not one of the original property owners who had signed the petition. She felt that they should not be assessed.

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Upon inquiry of Mayor Martin, Ms. Molloy explained the two options of payment for all the property owners. They can either pay it within 30 days after the



Tax Collector has published notice, or pay the assessment in five annual installments which shall bear the interest rate of 8% per annum, with the first installment including interest to become due and payable on the date when property taxes are next due and payable following confirmation of the assessment roll, with subsequent installments and interest due and payable on the same date in each successive year until the assessment is paid in full.

City Attorney Oast said that even though the preliminary resolution which called for a public hearing allowed a payment option of a 10 year installment plan, the resolution directing the Boston Way Project be undertaken is controlling, which allows for five annual installments as outlined above by Ms. Molloy.

Upon inquiry of Councilman Hay, Ms. Molloy said that the City would not have done any enhancements had the majority of the property owners not requested them.

Mr. Roy Trantham said that his family has property affected by these enhancements. He pointed out that they had no knowledge of this until approximately a week ago. He felt it was unreasonable to impose an assessment on the other 49% without real knowledge of whether they can afford it or what the ramifications to them might be. He questioned if it was right to assess people under those circumstances who are already heavily taxed. He also questioned whether it is reasonable to expect people to pay for their own roads and sidewalks in a City that has taken the responsibility of providing that as a basic service of the City. He felt the City should manage its affairs in such a way that it can afford to fix its roads.

Ms. Molloy noted that with the Boston Way Project and the Kitchen Place Project there was approximately \$555,761 spent overall on both projects. There is only \$100-115,000 being assessment on the two streets, around \$300,000 out of bond money, and the rest came out of general funds for the City. She also said that there have been two public hearings and each time the property owners were notified.

Vice-Mayor Field remembered when the project first was brought before Council, there was very positive input from many property owners requesting the enhancements be done.

Councilman Worley said that the work has been done and the costs have been incurred. He felt that Council has no choice but to go forward with the assessments.

City Attorney Oast agreed with Councilman Worley by stating that Council does not have the option of forgiving any of the liens that result from this. Council may only adjust the amounts if they find that the improvements have not been done. He once again outlined the terms of payment allowed by Council.

Mayor Martin closed the public hearing at 5:59 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. 96-217 at 5:59 p.m. This motion was seconded by Vice-Mayor Field and carried unanimously.

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C. PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL FOR KITCHEN PLACE ENHANCEMENT PROJECT

RESOLUTION NO. 96-218 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE KITCHEN PLACE PROJECT

Mayor Martin opened the public hearing at 6:02 p.m.

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

Ms. Suzanne Molloy, Assistant Director of Public Works, said that the Public Works Department has assessed the total costs for the Kitchen Place enhancement project, completed in May 1995, and prepared a preliminary assessment roll.

The property owners residing on Kitchen Place petitioned the City of Asheville to add enhancements to Contract 13E (also known as Contract 10), as designed by Vaughn and Melton to construct, pave, widen, install curbs and gutters and otherwise build and improve Kitchen Place. Enhancements to the original project included the installation of brick sidewalks, colored concrete, and other features. The property owners agreed to be assessed for 50% of the costs of these enhancements.

In May 1995, the Kitchen Place project was completed. In September 1996, the Public Works Department closed out Contract 13E in its entirety, accepted work completed, and determined final costs. The cost of enhancements to the Kitchen Place project is \$106,299.97 which amount includes the costs of labor, materials, equipment, and the costs of publication of notices and resolution. The assessed value on the property owners is \$53,149.98.

A preliminary assessment roll for benefited property owners has been prepared. The amount assessed to each benefited property owner is based upon 50% of the enhancement costs at an equal rate per foot of frontage.

The Public Works Department staff recommends the adoption of the resolution confirming the preliminary assessments.

Mayor Martin closed the public hearing at 6:04 p.m.

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

Councilman Worley moved for the adoption of Resolution No. 96-218 at 6:04 p.m. This motion was seconded by Councilman Sellers and carried unanimously.

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IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 96-219 - RESOLUTION AUTHORIZING THE NEGOTIATION OF THE RENEWAL OF A LEASE OF PROPERTY AT THE CORNER OF BILTMORE AVENUE AND ASTON STREET FOR USE AS A PARKING LOT

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Mr. Bill Schaefer, Finance Director, said that this resolution would authorize the City Manager to negotiate and enter into the renewal of the lease of property at the corner of Biltmore Avenue and Aston Street for continued use as

a parking lot.

The City has leased the property at the corner of Biltmore Avenue and Aston Street since 1962. The property contains 98 parking spaces (43 monthly rental and 55 meters). The original lease provided for a rent of \$600 per month and that the City pay for maintenance of the property and the property's ad valorem taxes (\$1,034.35 last year). The lease specified an expiration date of September 30, 1987; however, it has continued in effect on a month-to-month basis by mutual agreement until the present.

The property owners' agent (Mr. Harold Talbert) has offered renewal of the lease at \$1,500.00 per month, plus City payment of ad valorem taxes, property maintenance, and indemnity insurance. The duration of the lease is to be determined by further negotiation. This offer expires on December 19, 1996.

The City is currently in the process of issuing an RFP for a parking study, the results of which are not expected to be available until the Summer of 1997. Renewal of the lease will enable the City to continue to provide public parking in the rapidly expanding area south of Pack Square pending implementation of any recommendations of the study. Under the present rate structure, current projections are that revenues from the lot (approximately \$20,000 per year) will cover direct expenses of approximately \$19,000 per year (rent \$18,000 plus taxes \$1,000). However, the revenue will not fully cover the \$8,600 apportionment, based on the number of spaces in the lot, of the overall operations/maintenance/enforcement expenses of the Parking Services function. The vast majority of the apportioned operations/maintenance/ enforcement expenses will still be incurred whether or not the lease is renewed.

The proposed resolution authorizes the City Manager to complete the negotiation of terms and execute a contract for lease of the property at the corner of Biltmore Avenue and Aston Street at a rent of \$1,500.00 per month.

The Finance Department recommends approval of the resolution.

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. 96-219, subject to lease review and approval by the City Attorney. This motion was seconded by Vice-Mayor Field and carried unanimously.

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#### VI. OTHER BUSINESS:

##### A. REQUEST OF CECIL CASSIDY

Mr. Cecil Cassidy, owner of Smoky Tavern, asked for a loading zone sign for his business.

##### B. BOARD & COMMISSION ATTORNEY REPRESENTATION

Councilman Hay asked that the City Attorney review our present procedure of how attorneys are assigned to different boards and

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commissions and if there is a better system to provide that legal advise.

City Attorney Oast said that he would be happy to review those procedures and

report back to the Council.

City Attorney Oast said that with respect to the recent hearing by the Board of Adjustment, his office normally provides representation to that Board. But, because of the nature of that Board, sometimes the decisions it makes puts it in conflict with the City and sometimes it is necessary to engage separate counsel for them. A conflict did arise at the last minute making it necessary to have an outside an attorney present to advise the Board.

#### C. COMMENTS BY LORETTA YOUNG

Mr. Loretta Young asked the status of when a piece of property on Dr. Martin Luther King Jr. Drive would be put out for bid.

Mayor Martin asked the City Manager to meet with Ms. Young and advise her accordingly.

#### D. CLAIMS

The following claims were received by the City of Asheville during the week of November 15-27, 1996: Debra Stewart (Water), George C. Butler (Water), Martha Davis (Fire), Toby Brown (Sanitation), Susan Sinyai (Sanitation), and Fred Engel (Water).

The following claims have been received during the week of November 29-December 5, 1996: Bell South (Streets) and Thomas S. Robertson (Parks & Recreation).

The following claims have been received during the week of December 6-12, 1996: Bell South (Water), Graham McElroy (Water), John Wilkins (Streets), Ernestine Crouch (Water), Nora Murray (Streets), Teresa Surrectt (Streets) and Jay Shelburne (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

#### E. CLOSED SESSION

At 6:16 p.m., Councilman Hay moved to go into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body as authorized by G.S. 143-318.11 (a) (4) and to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body as authorized by G.S. 143-318.11 (a) (3). The parties to the lawsuit to be discussed are City of Asheville and Taylor & Murphy Construction Company. This motion was seconded by Councilman Sellers and carried unanimously.

At 6:17 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

#### F. COMMENTS BY LAUREL EIDE

Ms. Laurel Eide updated City Council on her efforts regarding the possible rezoning of portions of two pieces of property located west of Hendersonville Road.

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Councilman Cloninger said that whatever agreements are reached by the parties involved will be reviewed by the City Attorney's Office and Planning &

Development Department for compliance.

G. CLOSED SESSION

At 6:26 p.m., Councilman Hay again moved to go into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body as authorized by G.S. 143-318.11 (a) (4) and to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body as authorized by G.S. 143-318.11 (a) (3). The parties to the lawsuit to be discussed are City of Asheville and Taylor & Murphy Construction Company. This motion was seconded by Councilman Worley and carried unanimously.

At 7:05 p.m., Councilman Hay 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 7:05 p.m.

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CITY CLERK MAYOR

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