

Tuesday - June 10, 1997 - 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 Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. ASHEVILLE - ALL AMERICA CITY

Mayor Martin proudly announced the City of Asheville being awarded the 1997 All America City designation from the National Civic League. Mayor Martin recognized Ms. Robin Westbrook, Chamber of Commerce representatives, the Hillcrest Highsteppin' Majorette and Drum Corps and several others from the 56 delegation which traveled to Kansas City, Missouri, to compete for the award.

II. CONSENT:

Ms. Jacqueline Larsen asked that Item F. be removed from the Resolutions & Motions Consent Agenda for discussion..

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 27, 1997, AND THE WORKSESSION HELD ON JUNE 3, 1997

B. RESOLUTION NO. 97-83 - RESOLUTION MAKING PROVISIONS FOR POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT RIVERFEST 1997 AT THE RIVERLINK BRIDGE

Summary: The consideration of a resolution for the possession and consumption of open containers of malt beverages and/or unfortified wine for Riverfest '97 to be held on the RiverLink Bridge, June 28, 1997.

For the second year, Riverlink, Inc. will co-sponsor with the City of Asheville Riverfest '97 to bring attention to the current condition and activities along the French Broad River. Beginning in 1996, this event has been facilitated by the Parks and Recreation Department. RiverLink, Inc. has requested permission to allow possession and consumption of beer and wine during this event from 4:00 p.m. to 10:30 p.m. Beer and wine sales will end one hour before the time of closing.

The Asheville Parks and Recreation Department staff recommends approval of this request.

RESOLUTION BOOK NO. 24 - PAGE 85

C. RESOLUTION NO. 97-84 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 24, 1997, TO CONSIDER THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF

BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 116 CLINGMAN AVENUE

RESOLUTION BOOK NO. 24 - PAGE 86 -2-

D. RESOLUTION NO. 97-85 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 24, 1997, TO CONSIDER THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 20 GALAX AVENUE

RESOLUTION BOOK NO. 24 - PAGE 87

E. RESOLUTION NO. 97-86 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 24, 1997, TO CONSIDER THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 72 CLINGMAN AVENUE

RESOLUTION BOOK NO. 24 - PAGE 88

F. RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 5 AT THE CORNER OF COURTLAND AND MONTFORD AVENUE IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT TO ROBERT EIDUS AND JEANETTE SYPRZAK

This item was removed from the agenda for discussion.

G. RESOLUTION NO. 97-87 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION TO AN AGREEMENT WITH COMPLUS DATA INNOVATIONS INC.

Summary: Consideration of a proposal to extend the current Parking Violations Management Agreement between Complus Data Innovations, Inc. and the City of Asheville for two years, with options for two more one year extensions.

In April 1992 the City entered into an agreement with Complus Data Innovation, Inc. for parking citation services. The agreement was for a period of three years with two additional automatic one year extensions. Complus provides the City with data automation equipment (handheld ticket writing devices, bar code reader, desktop computer with parking citation management software and modem), communications links with Complus' nationwide citation management system, nationwide research of vehicle owners and addresses and mailing of delinquent citation notices. In exchange for these services, the City reimburses Complus a percentage of the revenue received from citations issued through the Complus system (14.5% for tickets issued to North Carolina registered vehicles and 20% for out of state vehicles). Estimated reimbursement to Complus in Fiscal Year 96-97 will be approximately \$33,000 and the proposed Fiscal Year 97-98 budget includes an appropriation of \$35,000. Complus' equipment and delinquent citation follow-up services have been instrumental in improving the City's parking citation collection rates and increasing associated revenues.

The proposed extension, under the same terms as currently in effect, is for a period of two years (through April 1999) with automatic options for two more one year periods.

RESOLUTION BOOK NO. 24 - PAGE 89

H. RESOLUTION NO. 97-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HUNTER INTERESTS INC. FOR A MARKET ANALYSIS REGARDING THE FUTURE OF THE CIVIC CENTER

Summary: Hunter Interests Inc.'s proposal is broken into two phases, as requested by the Civic Center Task Force. In the first phase, it will conduct a market overview to understand and identify the -3-

markets offering the greatest use of the Civic Center, as well as a summary of

the competitive issues which should be taken into consideration. The second phase is a detailed market analysis, including a report and presentation with recommendations and proposed projects.

The Task Force believes that Hunter Interests Inc. represents the best choice for conducting the market analysis authorized by City Council, and recommends that City Council engage it on the terms outlined in the proposal.

RESOLUTION BOOK NO. 24 - PAGE 90

I. RESOLUTION NO. 97-89 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH CAROLINA POWER & LIGHT COMPANY FOR DESIGN AND INSTALLATION OF HVAC EQUIPMENT AND ENERGY-SAVING MEASURES FOR LIGHTING RETROFIT FOR THE ASHEVILLE CIVIC CENTER

Summary: Approximately two months ago, City staff became aware that the existing HVAC system for the Asheville Civic Center arena is on the verge of breakdown due to age and wear. Several options were explored, including lease-purchase method vs. an operating lease of new equipment.

First explored was the lease-purchase agreement. This was conducted by request for proposals from design-build firms to furnish the design, specifications, and quality assurance of construction for installation of energy-saving components for lighting and heating/ventilation/air-conditioning aspects of the Civic Center arena; and to finance and install these energy-saving components through a lease-purchase contract for an eight-year duration.

Due to the lack of response to this RFP and the length of time to re-advertise for proposals required by North Carolina General Statutes regarding "contracting," the lease-purchase method was ruled out, and an operating lease agreement was negotiated with Carolina Power & Light to provide the design and installation of a new HVAC system. CP&L also has offered as part of this lease to retrofit the Civic Center's existing lighting to provide a better and more energy-efficient lighting arrangement for the arena, lobby area and parking structure.

The highlights of the lease agreement are provided in the lease agreement proposal letter from CP&L covering scope of work, financing costs, payment schedule and basic terms.

Funding for this project will be obtained through the Civic Center's operating budget.

RESOLUTION BOOK NO. 24 - PAGE 91

J. MOTION SETTING A PUBLIC HEARING ON JUNE 24, 1997, TO CONSIDER THE FOLLOWING MODIFICATION REQUESTS FOR WALDEN RIDGE PROFESSIONAL PARK TO BE LOCATED OFF HENDERSONVILLE ROAD: REDUCTION IN THE STREET RIGHT-OF-WAY FROM 50 FEET TO 40 FEET AND REDUCTION IN THE CUL-DE-SAC RIGHT-OF-WAY RADIUS FROM 50 FEET TO 45 FEET

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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 Skalski and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2371 - ORDINANCE AMENDING THE SPEED LIMITS ON MT. VERNON CIRCLE, MARIETTA STREET, FREDERICK STREET, HOWLAND ROAD, STOCKBRIDGE ROAD AND MADISON AVENUE TO 20 MPH; LINDSEY ROAD TO 25 MPH AND MONTFORD AVENUE TO 30 MPH

Summary: The consideration of changing speed limits on the following streets: Mt. Vernon Circle, Marietta Street, Frederick Street, Howland Road, Stockbridge Road, Madison Avenue, Lindsey Road and Montford Avenue.

The City Traffic Engineer has performed the necessary traffic analyses associated with the following locations as per the Manual on Uniform Traffic Control Devices and the North Carolina Supplement. We are seeking authorization from the City Council to change these speed limits.

Establish 20 MPH

- (1) Mt. Vernon Circle (entirety)
- (2) Marietta Street (entirety)
- (3) Frederick Street (entirety)
- (4) Howland Road (entirety)
- (5) Stockbridge Road (entirety)
- (6) Madison Avenue (entirety)

Establish 25 MPH

- (1) Lindsey Road (entirety)

Establish 30 MPH

- (1) Montford Avenue (entirety)

These locations have been reviewed over the past 12 months as per the request of residents and motorists who utilize these roadways. Field surveys and speed studies were conducted and data reviewed based upon the 85th percentile speed, which is the speed at or below which 85 percent of the vehicles are moving. This speed is reviewed in relationship to the median speed and the pace speed range. The pace speed range is the range of speeds at which the largest concentration of motorists drive. These speeds were all reviewed to address the speeding problems in these areas.

1. Montford Avenue:

A speed study was conducted along Montford Avenue per the request of citizens. The posted speed limit along this roadway is 35 MPH. The Speed Study indicates that the 85th percentile speed is 38 MPH and the pace range is 31-40 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 30 MPH. The Asheville Police Department concurs with our recommendations. We will continue to monitor this area for additional improvements. -5-

2. Mt. Vernon Circle:

A speed study was conducted along Mt. Vernon Circle per the request of citizens in this area. There is no posted speed limit along Mt. Vernon Circle. The

Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 16-25 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

3. Lindsey Road:

A speed study was conducted along Lindsey Road per the request of the Asheville Police Department. There is no posted speed limit along Lindsey Road. The Speed Study indicates that the 85th percentile speed is 28 MPH and the pace range is 21-30 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 25 MPH. The Asheville Police Department concurs with our recommendation. We will continue to monitor this road for further improvements.

4. Stockbridge Road:

A Speed Study was conducted along Stockbridge Road per the request of citizens in this area. There is no posted speed limit on this roadway. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 6-15 MPH. The residential nature of this roadway, it's alignment and width suggest that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

5. Marietta Street:

A Speed Study was conducted along Marietta Street as per the request of citizens in this area. There is no posted speed limit along this roadway. The speed study indicates that the 85th percentile speed limit is 28 MPH and the pace speed range is 21-30 MPH. The residential nature of this roadway and its width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendations.

6 Frederick Street:

A Speed Study was conducted along Frederick Street per the request of the citizens of this area. There is no posted speed limit on this roadway. The speed study indicates that the 85th percentile speed is 23 MPH and the pace speed range is 16-25 MPH. The residential nature of this roadway and its width suggest that the speed limit be 20 MPH. The Asheville Police Department concurs with our recommendations.

7. Howland Road:

A speed study was conducted along Howland Road per the request of citizens. There is no posted speed limit along this roadway. The Speed Study indicates that the 85th percentile speed is 28 MPH and the pace speed range is 21-30 MPH. The residential nature of this roadway and its width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendations.

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8. Madison Avenue:

A speed study was conducted along Madison Avenue as per the request of citizens in the area. There is a 35 MPH speed limit posted along this roadway. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 16-25 MPH. The residential nature of this roadway, its alignment, and its width suggests that the safe speed limit should be 20 MPH. The Asheville

Police Department concurs with our recommendation.

ORDINANCE BOOK NO. 16 - PAGE 205

B. ORDINANCE NO. 2372 - ORDINANCE TO DEMOLISH 94 AURORA DRIVE

Summary: The consideration of an ordinance directing that the Director of the Building Safety Department to demolish and remove the structure located at 94 Aurora Drive.

This structure is located in Kenilworth with an address of 94 Aurora Drive. Over the years, the Building Safety Department has received numerous complaints from neighboring property owners. The structure is a two-story conventional house that has been extensively damaged by fire resulting in substantial deterioration and dilapidation. The unfit structure repeatedly and continuously attracts vagrants as illegal occupants. The Code Enforcement Officer's efforts to eliminate this nuisance has been frustrated by the inability to locate the current owner and a lack of knowledge of the whereabouts of the record owner. After requesting assistance from the Legal staff and receiving same in July of 1995, notice to the absentee owner was mailed and a hearing was conducted before the Code Enforcement Officer on August 17, 1995.

Subsequent to the August 17, 1995, hearing, the Code Enforcement Officer was contacted by the owner's niece, Susan Medling Sansosti. Ms. Sansosti informed the Code Enforcement Officer that her Grandmother, Leila C. Medling was deceased and that her father and uncle were the heirs to their mother's estate. Ms. Sansosti further advised Code Enforcement Officer that she had talked with her father and uncle and they were both in agreement that the structure located at 94 Aurora Drive should be demolished. Ms. Sansosti applied for a demolition permit on 4/29/96 and started her search for a contractor. However, Ms. Sansosti stated that neither she nor her father and uncle were financially able to cause the structure to be demolished and removed. Ms. Sansosti stated that she, her father and her uncle had no problem with the City immediately proceeding with the demolition of the structure. John David Medling and Donald Eugene Medling along with their wives, have executed appropriate forms to allow the City to dispense with all further procedures required by law to protect the interest of the property owners. Donald Eugene Medling and John David Medling desire for the City to immediately proceed with the demolition and removal of the structure and to place a lien against the property for the cost of the demolition. The Historic Resource Commission has been contacted and have no interest.

General information:

- Fair market value of house is \$26,800.00.
- Value to rebuild the house only is \$82,524.00.
- Land value without the house is \$18,500.00.
- Estimated cost to demolish is \$13,500.00
- The Affordable Housing Agencies were notified.

The Building Safety Director recommends adoption of an ordinance directing the demolition of 94 Aurora Drive.

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ORDINANCE BOOK NO. 16 - PAGE 206

C. ORDINANCE NO. 2373 - ORDINANCE TO AMEND ARTICLE 11 OF CHAPTER 10 TO IMPROVE THE ENFORCEMENT PROCESS CONCERNING JUNKED AND ABANDONED VEHICLES

Summary: A Process Management Team organized and started meeting in October to examine the existing processes regarding enforcement of our ordinances concerning junked and abandoned vehicles. The team was to recommend measures for improving the purpose, effectiveness and efficiency of these processes.

The Team recommends that the Building Safety Department be removed from the process, and that the Planning & Development Director and Chief of Police shall be responsible for the overall administration and enforcement of the ordinance. The Zoning Division of the Planning & Development Department will be responsible for the inspection and communication of violations with the vehicle or property owner(s). The Police Department will be responsible for administering the removal and disposition of vehicles from either public or private property when required.

Major changes to the ordinance, those being, the change in the administration of the ordinance, change in the notice provisions and change in the hearing process.

ORDINANCE BOOK NO. 16 - PAGE 208

D. ORDINANCE NO. 2374 - BUDGET AMENDMENT TO PAY THE NOVELTY SALES TAX TO THE STATE OF NORTH CAROLINA

Summary: The Asheville Civic Center owes sales tax on novelties to the State of North Carolina in the amount of \$29,733.82 for which funding is not currently available.

Many events at the Asheville Civic Center include the sale of novelties. Sales tax is due to the State of North Carolina on the sale of such novelties. It has been the practice at the Civic Center to collect such sales tax from the novelty vendors. It is, therefore, the responsibility of the Asheville Civic Center to remit such sales tax to the State of North Carolina on a timely basis. For the period June, 1994 through February, 1997, the sales tax from novelties was collected from the vendors but not remitted to the State. The amount of such taxes due for the period is \$29,733.82 and is currently due and payable. Sales tax due since February, 1997 has been and is being remitted in a timely manner. The Civic Center is seeking additional funding in order to make the payment to the State of North Carolina for the back sales tax due as such funds are not appropriated in the current year. An appropriation of General Fund Contingency is required to meet the funding request.

Staff recommends the approval of the \$ 29,734 funding request by the Asheville Civic Center for the Fiscal Year 1996/97. This appropriation will leave a General Fund Contingency uncommitted balance of \$16,919.

ORDINANCE BOOK NO. 16 - PAGE 218

E. ORDINANCE NO. 2375 - BUDGET AMENDMENT TO UPDATE ASHEVILLE AND BUNCOMBE COUNTY'S 1978 ARCHITECTURAL SURVEY

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Summary: The consideration of a budget amendment to update Asheville and Buncombe County's 1978 architectural survey.

Nearly 20 years ago, the City of Asheville and Buncombe County conducted a survey of our historic resources. That inventory included very few buildings

and neighborhoods within the City of Asheville while many parts of Buncombe County were under surveyed. The N. C. Dept. of Cultural Resources has granted \$10,000 to HRC for a new architectural inventory. The City will match the grant with \$10,000 and HRC is requesting an additional \$10,000 from Buncombe County.

To better understand our development patterns and our historic areas such as: West Asheville, Kenilworth, Proximity Park, Victoria Place, Norwood Park, Shiloh, South French Broad, West End/Clingman, neighborhoods adjacent to McCormick Field, Beaver Lake, and Beverly Hills should be surveyed. Most of these neighborhoods reflect the lifestyles of the middle and working class citizens of Asheville during the late 19th and early 20th centuries.

In the county, Upper and Lower Hominy, Leicester, Limestone, Fairview, Avery's Creek, Broad River, Weaverville, and Black Mountain deserve documentation beyond the cursory work carried out in the 1978 survey. These areas represent a rural way of life that is quickly disappearing.

It is important that every community and neighborhood is proud of their cultural and architectural heritage. So many of Asheville's African-American neighborhoods were destroyed during the Urban Renewal era of this country. Only a handful of these neighborhoods --- Victoria Place, South French Broad, East End, and Shiloh remain intact and reflect the role blacks played in Asheville's development.

With the coming of the railroad in the 1880s Asheville and Buncombe County boomed. That economic boom encompassed four decades from the 1890s through the 1920s. It was not only the wealthy retirees, summer tourists, or those stricken with tuberculosis who came to Asheville and Buncombe County but also the working man and woman, who came in search of jobs. Our history was written on the working persons brow; their history, neighborhoods, and communities must also be respected and understood.

The survey will take about 10 months to complete. The survey will help with the identification of significant architectural and geographic features, settlement patterns, economic activities, population growth, characteristic architectural and land use features in our urban neighborhoods and rural communities. Detailed maps will be produced to show characteristics such as: age, land use, and architectural or historical significance. Every structure within the survey area will be photographed. Results of the survey will be published in a new edition of Cabins & Castles. Both the City and the County will share in the revenues derived from the sale of the book.

Funds have not been budgeted for this project. Therefore, a budget amendment, in the amount of \$30,000, will be required with an appropriation of \$10,000 for the City's participation in the cost, and also to recognize as revenue funds from the N. C. Dept. of Cultural Resources in the amount of \$10,000 and Buncombe County in the amount of \$10,000.

ORDINANCE BOOK NO. 16 - PAGE 220

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F. ORDINANCE NO. 2376 - BUDGET AMENDMENT FOR A MARKET ANALYSIS REGARDING THE FUTURE OF THE CIVIC CENTER

Summary: This budget amendment, in the amount of \$35,000, is for a market analysis regarding the future of the Civic Center.

ORDINANCE BOOK NO. 16 - PAGE 222

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they 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 was adopted on its first reading.

ITEM REMOVED FROM CONSENT AGENDA FOR DISCUSSION

RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 5 AT THE CORNER OF COURTLAND AND MONTFORD AVENUE IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT TO ROBERT EIDUS AND JEANETTE SYPRZAK

Summary: On April 22, 1997, the City Council directed the City Clerk to advertise for upset bids on Disposal Parcel 5. The advertisement ran in the Asheville Citizen-Times on April 25, 1997, as provided in N. C. Gen. Stat. sec. 160A-269. An upset bid was received and the sale was readvertised on May 9, 1997, and May 23, 1997, each time in response to an upset bid. No upset bid was received in response to the advertisement on May 23, 1997. Therefore, the offer to purchase from Robert Eidus and Jeanette Syprzak in the amount of \$53,000.00 was not upset and the sale to Robert Eidus and Jeanette Syprzak should be approved.

Approval of the resolution will authorize the sale of the property to Robert Eidus and Jeanette Syprzak for the amount of \$53,000.00.

Ms. Jacqueline Larsen, 7 Rosewood Avenue, said that Mr. Robert Eidus misrepresented himself and felt that Council should not award the bid to him. She is still interested in that parcel and felt it was in the City's best interest for the property to be bid again. She asked Council to delay this matter until she can discuss this further with the City Attorney and Mr. Vess, Coordinator of Field Services.

City Attorney Oast said that he has talked with both Mr. Vess and Ms. Larsen. The discussion centered on whether Ms. Larsen could take the place of one of the bidders in the entity that has submitted the bid. It was his opinion that the Council had to award the bid as submitted, if at all. The statute under which Council is proceeding does provide that Council may award the bid to the highest bidder but Council may reject all bids if it wishes. If Council wishes to review this item further, Council can delay action until the matter is resolved.

Vice-Mayor Field moved to continue this matter until July 8, 1997, until City staff can meet with Ms. Larsen to see if the matter can be resolved. This motion was seconded by Councilman Sellers and carried unanimously. -10-

III. PUBLIC HEARINGS:

A. PUBLIC HEARING ON THE FISCAL YEAR 1997-98 ANNUAL OPERATING BUDGET

Mayor Martin opened the public hearing at 5:20 p.m.

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

Audit/Budget Director Bob Wurst said that each year the City Council conducts a public hearing to receive public input on budget issues before the Annual

Operating Budget is adopted.

The Fiscal 1997/98 Annual Operating Budget was presented to City Council on May 15, 1997. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of this Public Hearing was published on May 31 and June 1, 1997. The adoption of the Budget Ordinance is scheduled on June 24, 1997 at the City Council meeting.

The Fiscal Year 1997/98 Annual Operating Budget is balanced with no increase in the ad valorem tax rate of \$0.57 per \$100 of assessed value and all essential City services are maintained or improved.

Since the Budget was presented to City Council on May 15, 1997, several changes have been requested by City Council. These changes will be incorporated into the Budget before adoption on June 24, 1997. The changes to date are summarized as follows:

- Rental for the West Asheville Resource Center is included.
- Funding to increase City Council compensation is included.
- Outside Agency funding has been revised in accordance with the Outside Agency Committee recommendations.
- Certain fees and charges will be revised in accordance with the Fees and Charges Committee recommendations.
- The General Capital Reserve Fund Budget has been revised to include grant funding for Stephens-Lee Center renovations.
- Funding totaling \$100,000 of City funds and \$40,000 of community funds is included in the Capital Improvement Plan for Haw Creek Park development is included.

A copy of the Budget is available for public inspection in the City Clerk's office. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption with the only exception being the ad valorem tax rate, which cannot be changed once adopted.

Upon inquiry of Councilman Worley, Mr. Wurst explained the aspect of the increases in Council compensation. He said that City Council will receive a 5% increase in accordance with the City's regular Pay Plan effective July 1. This will be an ongoing increase every year. Also, staff's recommendation which is based on a survey of 11 North Carolina cities, is that there will be a change in Council salaries to be effective with the new City Council after taking office in December. Those changes are:

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Current Average in State Recommended

Mayor \$9,000 \$11,033 \$11,000

Car Allowance \$150/month \$250/month

Vice-Mayor \$7,000 \$7,565 \$9,000

Car Allowance \$50/month \$150/month

Council \$6,000 \$7,565 \$7,500

Car Allowance \$50/month \$150/month

Vice-Mayor Field did a brief survey over two years and noted that City Council members receive an average of 300 invitations a year. Each invitation averaged out to approximately \$10 and sometimes they have to choose whether they can afford to go to those functions.

Councilman Cloninger felt it was a good idea to have the increase in effect for the new Council.

Councilman Hay felt the raise for new Council might be an incentive and thought it was important to do it at this time, before the filing period starts next month, so people will know what to expect.

Mr. Ron Holland, employee of the Western Office of the N.C. Div. of Archives & History in Asheville and President of the WNC Historical Association, stated that the Historical Association is the holder of the lease to the Smith-McDowell House on the campus of A-B Tech. He said that the Smith-McDowell House is one of the oldest landmarks, if not the oldest landmark, within the City limits. He said that over the last 15-20 years the State of N.C. has spent over \$300,000 for on-going preservation and restoration of the Smith-McDowell House, noting that historic preservation is a constant battle. He felt that anything the City could contribute to their efforts in preserving the Smith-McDowell House would look good in the eyes of the State and in other granting agencies when they go to them to ask for funds. Those agencies will see that the City is supporting them. Therefore, he asked Council to reconsider their request for \$12,000.

Upon inquiry of Vice-Mayor Field, Mr. Holland said that this is a one-time request, however, he could not say that in the future they would not need to come back to request additional funds.

Ms. Ruth Camblos urged Council to reconsider granting the Smith-McDowell House \$12,000 during this bicentennial year. She noted that they have not asked the City for funds since 1974 and since the House is owned, opened and maintained by the public, the City of Asheville should really consider helping with this restoration expense.

Councilman Worley, member of the Outside Agency Committee, explained that there was some sentiment on the Committee to recommend some funding for the Smith-McDowell House, but the majority of the Committee did not concur in that recommendation.

Upon inquiry of Councilman Hay, Ms. Camblos said the Smith-McDowell House is owned by A-B Tech but the Historical Association has a lease with the provision that the Historical Association will be responsible for the up-keep of the house.

When Mayor Martin asked if the State has been contributing any funds, Ms. Camblos said that the Association gets diminishing funds from Buncombe County and they have not asked for any funds from the State.

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Vice-Mayor Field was very impressed with what the Association has done with the Smith-McDowell House. She felt there was some concern that there are many organizations, museums, etc. that come to the City regularly for funds which some are funded through the Arts Alliance or other organizations.

Upon inquiry of Vice-Mayor Field, City Manager Westbrook said that if Council wished to fund this request, the money would have to be an additional appropriation from fund balance, which is just over \$900,000.

Councilman Hay said that he appreciated historic buildings, but all the requests which were funded essentially complement activities that the City is already doing in some way. He was concerned that if the City opens the door, it might be a signal to the community that the City is funding activities now that we have not funded in the past.

Councilman Cloninger agreed that the Smith-McDowell House is worthy and deserving of the funds, as are many other museums and other non-profits in the community, but it's just a matter of not being able to afford to fund all of them.

Vice-Mayor Field suggested, and Council concurred, to instruct staff to meet with the Smith-McDowell representatives to see if they can suggest any other avenues available for funding. Mayor Martin asked that staff be prepared to report back to the Council on June 24, 1997.

Mayor Martin closed the public hearing at 5:37 p.m.

Mayor Martin said that City Council will consider the comments made at this public hearing and consider adoption on June 24, 1997.

B. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE REGARDING GOVERNMENTAL SIGNS AND SIGNS LOCATED IN THE RIGHT-OF-WAY

ORDINANCE NO. 2377 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING GOVERNMENTAL SIGNS AND SIGNS LOCATED IN THE RIGHT-OF-WAY

Mayor Martin opened the public hearing at 5:38 p.m.

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

Ms. Julia Cogburn, Planning Director, said that the proposed wording amendment clarifies the exemption regarding governmental signs and provides for a limited exception for the placement of marquee signage in the right-of-way.

The Asheville Planning and Zoning Commission is recommending approval of an amendment to the Unified Development Ordinance regarding governmental signs and signs located in the right-of-way. A brief explanation of the reason for each amendment is provided below.

1) Wording amendment concerning governmental signs - This wording amendment basically clarifies that all governmental signs are exempt from regulation which is the way Sec. 30-9-3.C.2. has been interpreted since its adoption. Staff recently had it called to our attention that the sentence structure of the provision could be interpreted in different ways.

2) Wording amendment concerning signs in the right-of-way - This provision is added to facilitate the ability of Pack Place to -13-

utilize marquee signage allowed under our sign regulations for theaters, auditoriums, fairgrounds, etc. in multiple tenant developments. In working with the Pack Place Board and staff on this matter, we have found that the fact that the right-of-way in front of the Pack Place building comes all the way to the front door, prohibits them being able to use marquee signage available to other museums, theaters, auditoriums, etc. This wording amendment allows a very

limited ability for marquee signage to be permitted in the right-of-way.

The proposed ordinance amendment has been recommended for approval by the Asheville Planning & Zoning Commission with a 7-0 vote. The staff of the Planning & Development Department recommends approval of the amendment.

Councilman Cloninger supported this amendment and hoped that the City will set a good example by trying to comply with the sign ordinance wherever possible.

Councilman Hay, liaison to the Pack Place Board, said that they have been working hard with the City to get this marquee signage.

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

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. 2377. This motion was seconded by Councilman Hay.

On a roll call vote of 7-0, Ordinance No. 2377 was adopted on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 224

C. PUBLIC HEARING RELATIVE TO AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING TREES

ORDINANCE NO. 2378 - ORDINANCE AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING TREES

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

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

Mr. Mark Combs, Director of Public Works, said that the Tree and Greenway Commission has drafted changes to the current Code of Ordinances and unanimously requests adoption of the changes.

A subcommittee of the Tree and Greenway commission comprising members Henry Mitchell and Dennis Wilson, Council member Chuck Cloninger and support staff, drafted amendments to Chapter 20 (Trees) of the Code of Ordinances and request the formal adoption of the amendments. Major elements of the changes are as follows:

- (20-1) Purpose and Intent: Simplified and added "... to regulate the planting of new trees...encourage the protection of existing trees and shrubbery...to regulate the preservation, replacement and indiscriminate removal of trees..."
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- (20-3) Tree Commission: New section establishing organization and membership of the Tree Commission
- (20-4) Definitions: Expanded to include terms (incomplete list) caliper, diseased tree, historic tree, maintenance, regulated tree, replacement, unsafe tree.
- (20-5) Administration: Responsibilities for key staff defined.

- (20-6) Permits and Review Required: Permit required for any work on trees located on city-owned property to include "...the removal and replacement of regulated and historic trees."
- (ARTICLE II) CITY PROPERTY: Regulates and requires permit for removal, destruction, pruning of trees or shrubbery; regulates construction work around trees/shrubbery; requires planting plan (with 6 succinct requirements); responsibility of owners to trim trees, etc. if projecting onto city property.
- (ARTICLE III) PRIVATE PROPERTY: Controls removal of regulated or historic trees on private property with appeals process; City "...may cause or order to be removed any tree...which is unsafe"; City may spray or treat infected or infested trees; notification required.
- (ARTICLE IV) Inspection, Enforcement and Appeal: Authorization to "...inspect areas subject to the provisions of this chapter."; Enforcement authority with appeal to "...appeals board from among the membership of the Tree Commission" (subsequent appeal to Superior Court); civil penalty of \$100.00 established for each day with provision for appeals board to "...recommend that the amount of the civil penalty be modified as part of a negotiated settlement with the City."

In brief, the proposed amendments clearly define the authority and requirements of tree and shrubbery management on public lands, and regulate designated regulated and historic trees on private property (both the property owner and City Council must approve designation of such trees). It also clearly establishes the organizational make-up of the Commission and identifies the Commission as the appeals board for decisions rendered by staff.

In conjunction with the proposed changes, staff has developed an inspection report and permit system.

The draft as submitted represents a significant improvement to the current anachronistic code, and is consistent with other progressive municipalities with similar needs. Staff recommends the adoption of amendments to Chapter 20 (Trees) of the Code of Ordinances, and as amended by City Council.

Councilman Cloninger commended the volunteer efforts of Mr. Mitchell and Mr. Wilson in working to amend this very important ordinance.

Mayor Martin closed the public hearing at 5:44 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. 2378. This motion was seconded by Vice-Mayor Field. -15-

On a roll call vote of 7-0, Ordinance No. 2378 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 225

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. ORDINANCE AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO PROHIBIT DOGS IN RIVERSIDE CEMETERY

ORDINANCE AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO INCLUDE RIVERSIDE CEMETERY IN THE LIST OF AREAS WHICH PROHIBIT ANIMALS

Mr. Irby Brinson, Parks & Recreation Director, said that in April the Parks and Recreation Advisory Board recommended changing the City's animal control ordinance due to increasing problems in Riverside Cemetery and they also reaffirmed their position at their May meeting.

This recommendation is to change the City ordinance to make it illegal for dogs in Riverside Cemetery based upon the following reasons: the general safety of the staff and visitors (there have been a number of documented attacks and associated problems with dogs in the Cemetery); waste that is left behind by the animals (especially a problem for the crews for the maintenance of the Cemetery and those visiting the gravesites); it has been in some cases disruptive to funeral services; the urine stains on the monuments and headstones can't be removed with major expense and in some cases can't be removed at all; the walking areas for the dogs are not appropriate (not like other public parks) because many of the graves in Riverside are unmarked in the grass areas; there are dogs that are running free without supervision by the owners; no other major city in North Carolina allows animals in their cemeteries; the current ordinance is not being followed which states that animals should be on a leash or with voice control and the owners must clean up after the dogs; there is a possible loss of revenue from grave sales; and Riverside (or any other cemetery) is a place of reverence where families can visit their loved ones and gravesites, not in fear whether perceived or real, of being attacked or free from concerns about the damages to their gravesites and also to the waste left behind. In summary, the Parks & Recreation Department is very much aware of and respects the opinions of those dog owners currently using Riverside Cemetery. We feel there should be open spaces for owners to walk their dogs and to jog with their dogs, but that place is not Riverside Cemetery. This issue is also a problem in other park areas that will need to be addressed in the future. They are receiving constant complaints from patrons in other park areas about the number of dogs. However, they are willing to work with a compromise and find a location other than Riverside Cemetery to accommodate those individuals.

Therefore, they respectfully request Section 5-11 to read as follows:

"It shall be unlawful for an individual to allow, whether on a leash, running free, or under voice control, any animal on the grounds of Riverside Cemetery, whether in a car or on foot. This restriction should not apply to guide dogs in the possession of site impaired or hearing impaired persons."

In addition, we are recommending that "Riverside Cemetery" be added to the City Code of Ordinance 3-27, Subsection E. It should read: -16-

"It shall be unlawful for any person owning or having possession, charge, custody or control of an animal, wild animal or livestock, to take the animal, wild animal or livestock into picnic areas, pond areas, Riverside Cemetery, and the children's play areas"

Upon inquiry of Councilman Hay about other city-owned cemeteries in the State, Mr. Brinson said that Winston-Salem prohibits animals in their cemeteries; Hickory - no dogs are allowed in their cemeteries; Lexington - no dogs can run free in the City in general and it also specifically states the city's cemetery; Charlotte - no dogs are allowed; Durham - unlawful for individuals to allow dogs in the city's cemetery; and Greensboro has the same type of ordinance.

Councilman Sellers said that after talking with many property owners, he would

support staff to ban dogs from Riverside Cemetery.

Vice-Mayor Field felt this was an issue she could see both sides of. The majority of people who are sending Council letters are from women who are walking their dogs and feel unsafe walking their dogs in Montford Park or some of the other parks. She supposed that the Cemetery is more thoroughly patrolled than some of the other parks and she has a great empathy for that particular issue. She has tried to come up with some type of compromise that might work - possibly trying to get both sides of this issue together with some staff and see if they can come to some kind of compromise. She has received letters from people complaining that dogs urinating on monuments cause permanent stains, but what do you do about stray dogs or birds that fly over. She asked if there was anyway that some kind of compromise could come about given that the City doesn't have enough staff to patrol every park all the time and make them totally safe.

Councilman Cloninger agreed with trying to reach a compromise.

Vice-Mayor Field suggested a permit that the owner has to sign. In bold type it could read that they have to have their animal on a leash and that they must clean up after that animal. If they don't do that then they lose their permit and they can't come back in. She wasn't sure, however, how difficult that would be to monitor and enforce. Mr. Brinson said that a major concern would be enforcement. The Parks & Recreation Department has 4-5 people at peak season in Riverside and 2 people during the off-season. To monitor that would be very difficult.

Mayor Martin felt that if there was signage specifying what the rules were, perhaps people would be more inclined to accept those rules.

Mr. Brinson didn't think the problem was with those that would obey the rules. He felt the problems they are dealing with are those that no matter what changes are made, they will still have the enforcement problems associated with that. The issue they are dealing with is the volume of dogs coming into the Cemetery. The Riverside Cemetery Manager counted 35 dogs in one day before 4:30 p.m. - that doesn't even take into account the number of dogs in the evening. He said that he would be willing to try to come up with a compromise if Council wishes.

Mayor Martin suggested staff work with some of the community and try to come up with some compromise with the understanding that if it doesn't work, then Council will have to take more sterner measures.

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The following individuals spoke in support of allowing dogs in Riverside Cemetery, perhaps under certain restrictions. Some reasons to allow dogs are, but not limited to, dog walkers help keep the crime element out of the Cemetery; they help with the maintenance by picking up wind-blown flowers, etc.; women need to be able to walk their dogs in the Cemetery for protection; the Cemetery is an ideal place for people to walk and exercise because of the 87 acres, foot paths and no kids or sports activities taking place; the Cemetery is nearby to downtown; the Cemetery is a traffic-free place; other parks are not developed; Montford Park does not have any trails; dog walkers are great park watchers; dogs feel liberated and happy in Riverside Cemetery; and responsible dog owners would hate to lose the privilege of walking their dogs in Riverside Cemetery due to the inappropriate activities of a few:

Mr. Casey Carmichael

A responsible dog owner

Ms. Angie Scotchie

A responsible dog owner

Ms. Kathryn Cartledge, Montford resident and dog groomer

Mr. Andy Scotchie

Ms. Denise Mills & Tom Troszak (presented letter)

Mr. Lane Reid, customer of Riverside Cemetery, urged Council not to allow dogs in Riverside Cemetery. He noted that his children have been knocked over by dogs while visiting at the Cemetery.

Mr. Samuel Camp, Parks & Recreation Advisory Board member, stated that he had a problem with people who want to walk their dog in the Cemetery. He felt the Cemetery was sacred ground and the City has a guaranteed right and obligation to take care of that property.

Ms. Susan Roderick, Quality Forward employee, who works in a lot of the parks and suggested more park patrol. Quality Forward also has the problem of dog owners not picking up after the dogs at Grove Park and at the Rose Garden. She supported keeping the dogs away from the gravesites in that area. She felt that Montford is a wonderful place to walk.

Vice-Mayor Field moved to continue this matter until July 8, 1997, in order to allow staff time to organize at least one meeting between the parties that are involved to see if they can come back to Council with some kind of consensus. This motion was seconded by Councilman Cloninger.

Councilman Worley felt it was a good idea to see if a compromise could be worked out. He encouraged people who have been active in this problem, from both sides of the issue, to call in and volunteer to work with that group. He felt this problem points out the need to have more greenspaces and more areas where people can walk. He felt there are some opportunities, in the Montford area in particular, to achieve that. He would like to see the City work in that direction.

Councilman Skalski spoke in support of a compromise.

The motion made by Vice-Mayor Field and seconded by Councilman Hay carried on a 6-1 vote, with Councilman Sellers voting "no".

B. RESOLUTION NO. 97-90 - RESOLUTION INVOKING ADDITIONAL TIME TO REVIEW THE RATE SUBMISSION OF BRENMOR CABLE PARTNERS, L.P., D/B/A INTERMEDIA, AND ISSUANCE OF A TOLLING ORDER

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Ms. Patsy Meldrum, Assistant City Attorney, said that this resolution will notify InterMedia that the City of Asheville intends to review the rate increases for the rebuild of the cable television system.

By Resolution No. 93-152 the City Council of the City of Asheville authorized the City Manager to notify TCI Cablevision of Asheville, predecessor in interest to Brenmor Cable Partners, L.P., that the City of Asheville had become certified by the Federal Communications Commission as of October 6, 1993, to regulate Basic Service Rates and Charges, that the City of Asheville had

adopted the requisite rule regarding rate regulation, and that the City of Asheville intended to enforce the new Federal Communication Commission Customer Service Standards as contained in 47 C.F.R. sec. 76.309.

On October 13, 1993, the City Manager notified TCI Cablevision of Asheville by certified mail, return receipt requested, which letter was received by TCI Cablevision of Asheville on October 14, 1993, that the City of Asheville was then authorized to regulate the rates and charges of TCI Cablevision of Asheville for the basic service tier and all equipment, installation and other services used for the basic service tier and that the City of Asheville had adopted the requisite rule regarding rate regulation and filed its certification form with the Federal Communications Commission, with the certification becoming effective on October 6, 1993.

The City of Asheville has continued to regulate rates and charges of TCI Cablevision of Asheville and its successor in interest, Brenmor Cable Partners, L.P., from and after October 6, 1993.

On May 19, 1997, the City of Asheville received from InterMedia an FCC Form 1235 entitled "Abbreviated Cost of Service Filing for Cable Network Upgrades". The cover letter included with the form indicates that InterMedia proposes to increase its subscriber rates for the basic service tier by \$1.00 per month and its subscriber rates for the cable programming service tier by \$3.00 per month. Federal law authorizes the City of Asheville to review the rates proposed for the basic service tier and to file complaints with the Federal Communications Commission on behalf of complaining subscribers regarding the rates proposed for the cable programming service tier.

The City of Asheville needs additional time to review the FCC Form 1235 and accompanying data filed by InterMedia and, further, needs additional time to request clarification from InterMedia regarding the FCC Form 1235 and accompanying data. This resolution would provide the order required by Federal law to notify InterMedia of the City's intent to review the proposed rates.

The City Attorney's Office recommends adoption of this resolution.

It was noted by Councilman Worley that even though Council may take this action, it won't stop InterMedia from implementing the rate increase. Ms. Meldrum said that the cable company has two choices whenever the City serves them with this notice that we are going to review the rates. One is they can go ahead and implement the rates and then if our review of them determines that the rates are higher than authorized under Federal law, then they would have to refund or rebate to subscribers any amount that should be refunded. Their other choice is that they can wait until we have finished our review to implement those rates. She doesn't know what their position will be, but guessed that they would choose the first position. -19-

Ms. Meldrum also noted that staff does recommend using our consultant, Rice Williams Associates, to assist us in the review of this type of rate increase because it's different from the normal annual inflationary rate increase that is requested. They are sending us a proposal on that and staff may be back to Council shortly for a request to approve an amendment to their agreement and funding for that.

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

Councilman Sellers moved for the adoption of Resolution No. 97-90. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 92

C. RESOLUTION NO. 97-91 - RESOLUTION ENDORSING THE PROPOSAL BY THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL TO BECOME A DEFERRAL AGENCY FOR EMPLOYMENT DISCRIMINATION COMPLAINTS

City Attorney Oast said that this resolution doesn't endorse any specific legislation, but does endorse the proposal by the Asheville-Buncombe Community Relations Council ("CRC") to designation as an EEOC deferral agency. He reminded Council that Mr. Robert Smith, Executive Director of the CRC, was before City Council on May 20, 1997, basically to request Council support. He has been investigating what is necessary for this to take place. He said we are somewhat behind the curve, as far as getting things in for this legislative session, but Mr. Smith thinks that we may be able to prevail upon our legislative delegation to introduce it at next year's short session. A year, or about that amount of time, is about the amount of time that would be necessary for staff to get everything in place that we need to have in a package to go forward with this legislation, which would include a proposed ordinance, an anti-discrimination ordinance here in Asheville and in Buncombe County, and also for Mr. Smith and the CRC to have some information (such as a timetable for the implementation of this idea, where the sources of funding would come from, etc.) for the City Council. Our research has shown that there are several other local governments in North Carolina that do this - Orange County, Durham County and New Hanover County, being three that he could think of, and there may be others. This is a process that is contemplated within Title VII. Essentially the CRC would become what's called a "706 Agency", which means that they would act as the deferral agency and take initial complaints regarding matters of employment discrimination. He said that he would be happy to work with Mr. Smith, at Council's direction, to develop the package.

Mr. Smith responded to a question Councilman Worley raised on May 20 regarding if a person can take an action to federal court. Mr. Oast noted that, other than a delay to allow for initial consideration by the local agency, there is no legal impediment to bringing actions in federal court. Mr. Smith also noted that there is a lot of support for this request and urged Council to endorse their efforts.

Councilman Hay felt it was important to give our endorsement to this proposal so that the CRC can tell Buncombe County and others that the City is in support of this.

Upon inquiry of Vice-Mayor Field, City Manager Westbrook said that Buncombe County sent a letter to the CRC asking them to poll the top 10 businesses in the County to find out whether they supported this or not. The County hasn't received any information back on that and therefore -20-

they were not going to do anything further until they received that information. Mr. Westbrook noted that there is no City staff recommendation on this issue because Mr. Smith asked to bring the matter before City Council for their consideration.

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

Councilman Hay moved for the adoption of Resolution No. 97-91. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 94

D. RESOLUTION NO. 97-92 - RESOLUTION CONFIRMING APPOINTMENT TO THE CITY

BUSINESS AND DEVELOPMENT COMMISSION

Mayor Martin said that Ordinance No. 2309 established the City Business and Development Commission. Said ordinance authorized various agencies to appoint members to the Commission.

Mr. Ed Metz, the RiverLink representative, will not be able to continue to serve on the Commission, and RiverLink has requested that Mr. T. Douglas Wilson be appointed to replace Mr. Metz as the RiverLink representative.

Mr. Wilson will serve the unexpired term of Mr. Metz, said term to expire on October 1, 1997, or until his successor is appointed.

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. 97-92. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 95

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

On May 7, 1991, 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 June 4, 1997:

Dreamland Improvements at 91 South Tunnel Road

Mr. Mike Matteson, Urban Planner, said that this group development involves the construction of a 115,000 square foot Lowe's store at the corner of S. Tunnel Rd. and Swannanoa River Rd. (the former dreamland flea market site).

The existing Lowe's store on Tunnel Road will be converted to other uses upon the completion of the new structure. The development will involve the relocation of Haw Creek which runs through the property. The developers are working with FEMA on this relocation and on a revision to the FEMA flood maps.

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A revised landscape plan will need to be submitted to staff which shows the relocation of proposed trees within the MSD sewer easement (MSD does not allow trees to be planted within their easements).

Staff has received no public comment regarding this group development.

At their June 4, 1997, meeting the Commission voted to recommend approval of the group development with five (5) conditions: (1) Receipt of letters of approval for water and sewer availability and adequate water pressure for fire protection; (2) Compliance with the City's floodplain regulations and any other FEMA requirements; (3) Compliance with building separation requirements of the Department of Insurance; (4) Compliance with MSD requirement that trees be located outside of sewer easement; and (5) Recommendation to Public Works Department that they require that the existing median in Swannanoa River Road

be extended towards the northernmost curb cut on the site.

Council accepted the report of the Commission with the above condition, thereby approving the project by taking no action.

Asheville Towne Square Mall to be located on Patton Avenue

Mr. Carl Ownbey, Urban Planner, said that the proposed development is for a commercial mall located on 32 acres of land off Smoky Park Highway in West Asheville.

On March 3, 1997, the Planning Department received the site plan for the proposed commercial mall. The proposed project contains an 115,000 square foot anchor store and four additional commercial stores. The site plan was presented to the Technical Review Committee on March 10, 1997 for their comments. Since there were significant comments and concerns from TRC, the site plan review was delayed until all the comments and concerns could be addressed.

On May 12, 1997, the site plan was presented again to TRC for their review and comments.

On June 4, 1997, the Commission reviewed the site plan and opened the meeting for public comment. The one concern raised by the neighborhood was whether there would be access to the mall from Old Haywood Road.

The Commission voted unanimously to approve of the project with the following two conditions: 1) letter outlining fire protection coverage and 2) receipt of final approval of bridge construction from Norfolk-Southern Railway.

The Planning Staff and the Commission recommend the approval of the Asheville Towne Square Mall with the two conditions outlined above.

Council accepted the report of the Commission with the above condition, thereby approving the project by taking no action.

Volvo 1997 Plant Expansion at 2169 Hendersonville Road

Ms. Erin McLoughlin, Urban Planner, said that Volvo Construction Equipment has prepared a master plan for future plant improvements.

Volvo Construction Equipment has submitted plans for future plant expansion. The total site is 62 acres and is zoned HI (heavy industrial). Volvo plans for minor expansion include: a 22,500 sq. ft. -22-

receiving building, a 7,200 sq. ft. office, a 17,900 sq. ft. bead blast building, a 21,600 sq. ft. paint building, a 2,880 wash building, and a test track for their vehicles. They have met all city standards, including zoning, landscaping and parking.

Staff has received no comments in opposition to this group development.

The City Planning & Development staff recommends approval of the group development with one condition: (1) Receipt of letters of approval for water and sewer availability.

At their June 4, 1997, meeting, the Commission voted unanimously to recommend approval of the group development.

Council accepted the report of the Commission with the above condition, thereby approving the project by taking no action.

B. CANCELED MEETING

Due to the upcoming holiday and the Council's agenda being light, Councilman Cloninger moved to cancel City Council's July 1, 1997, worksession. This motion was seconded by Vice-Mayor Field and carried unanimously.

C. UDO COMMENTS

Councilman Skalski said that when he voted on the UDO on May 27, 1997, he passed out the attached Exhibit "A" as the reasons why he voted against the text and most of the issues regarding the mapping.

D. CLAIMS

The following claims were received by the City of Asheville during the week of May 23-June 4, 1997: Dion Eskew (Streets), Joe Dover (Water), Carol Smith (Streets), David L. Smith (Water), Tommy Lawrence (Streets) and Terry Fox (Water).

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

E. CLOSED SESSION

At 7:03 p.m., Councilman Worley 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 Council. The statutory authorization is G.S. 143-318.11 (a) (4). This motion was seconded by Councilman Sellers and carried unanimously.

At 7:33 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:33 p.m.

CITY CLERK MAYOR
