

Tuesday - September 9, 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 Skalski gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION OF ALL AMERICA CITY COMMUNITY GRANT FROM THE ALLSTATE FOUNDATION

Mayor Martin introduced Ms. Joyce Boyette, representative from a local Allstate agency here in Asheville, who presented the City of Asheville with a check from the Allstate Foundation in the amount of \$10,000 for the All America City community grant.

Mayor Martin said that the City of Asheville is pleased to accept this \$10,000 Community Grant from the Allstate Foundation for being one of the 10 All-America Cities chosen this year. Being a part of the delegation from Asheville that traveled to Kansas City, he saw first hand the dedication and support that Allstate has shown for the All-America City Program. It has certainly been a wonderful experience for Asheville and he knows that he speaks for the other 10 cities chosen when he says "thank you" for your continued interest in communities and civic renewal.

This check will be passed along by the City to the three projects featured in our application: HandMade In America, Asheville-Buncombe VISION, and the Minnie Jones Health Clinic, representing the Healthcare Industry. It is fitting to reward these organizations that are doing so much for our community.

B. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 21-27, 1997, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Martin read the proclamation proclaiming Friday, September 21-27, 1997, as "Minority Enterprise Development Week" in the City of Asheville. He presented the proclamation to Ms. Catherine Deaverux, First Vice-President of the Minority Business Alliance, who briefed the Council on the activities that will be taking place during that week.

II. CONSENT AGENDA:

-2-

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

Mr. H.K. Edgerton asked that Item C. be removed from the Consent Agenda for discussion.

A. APPROVAL OF THE MINUTES OF THE MID-YEAR RETREAT MEETING HELD ON AUGUST 22, 1997, AND THE FORMAL MEETING HELD ON AUGUST 26, 1997

This item was removed from the Consent Agenda for discussion.

B. RESOLUTION NO. 97-147 - RESOLUTION REGULATING CONSUMPTION AND POSSESSION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT MARTIN LUTHER KING JR. PARK FOR THE GREAT SMOKIES CRAFT BREWERS INVITATIONAL

Summary: The consideration of a resolution authorizing the possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine be allowed at the Great Smokies Craft Brewers Invitational at the Martin Luther King Jr. Park on September 20, 1997.

The Great Smokies Craft Brewers Invitational is a unique celebration of the art of brewing beer in the spirit of Oktoberfest with a smokey mountain twist. The Asheville Downtown Association in conjunction with Barley's Tap Room, the Radisson Hotel, Asheville Parks and Recreation and other local businesses have developed this festival to highlight the quality beers of the region. Over 30 brewers have been invited to present their high quality beers in a festival atmosphere at the Martin Luther King, Jr. Park on September 20, 1997. Local entertainment and food will be available from 1:00 p.m. - 6:00 p.m. Proceeds from the event will benefit the Asheville Urban Trail project. The Asheville Downtown Association has requested permission to allow possession and consumption of beer and wine during this event on City property.

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

RESOLUTION BOOK NO. 24 - PAGE 178

C. RESOLUTION AUTHORIZING EXCHANGE OF CITY-OWNED REAL PROPERTY ON KENTUCKY DRIVE FOR HOUSING AUTHORITY-OWNED REAL PROPERTY ON BARTLETT STREET

This item was removed from the Consent Agenda for discussion.

D. RESOLUTION NO. 97-145A - RESOLUTION RATIFYING MODIFICATION OF THE RESOLUTION REGULATING CONSUMPTION AND POSSESSION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1997 GOOMBAY FESTIVAL

-3-

Summary: The consideration of allowing alcoholic beverages at the 1997 Goombay! Festival within the area known as "City/County Plaza."

The N.C. Gen. Stat. sec. 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on property owned, occupied or controlled by the City. The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority. That ordinance, Section 11-11 in the Code of Ordinances, provides that the City Council may adopt a resolution making other provisions at a special event or community festival. The 1997 Goombay! Festival Board, YMI Cultural Center and the Parks and Recreation Department recommends that possession and consumption of malt beverages and/or unfortified wine be allowed at the 1997 Goombay! Festival.

On August 26, 1997, Council passed such a resolution for the Goombay Festival. However, at the time of the Council action, staff did not know of the desire of the YMI Cultural Center or the 1997 Goombay Festival Board to use City/County Plaza on Friday evening as part of the festival area.

Staff recommends that City Council adopt an addendum to the resolution allowing the possession and consumption of malt beverages and/or unfortified wine at the 1997 Goombay! Festival to include the area of City/County Plaza.

RESOLUTION BOOK NO. 24 - PAGE 180

E. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 23, 1997, TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE WITH REGARD TO CHANGEABLE COPY SIGNS, CHURCH SIGNS AND SIGNS IN THE RIGHT-OF-WAY

F. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 23, 1997, TO REZONE 11.68 ACRES OF PROPERTY OFF HENDERSONVILLE ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY TO INSTITUTIONAL

G. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 23, 1997, TO ZONE A PARCEL OF LAND WHICH WAS PREVIOUSLY IN THE TOWN OF BILTMORE FOREST ON HENDERSONVILLE ROAD TO INSTITUTIONAL

H. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 23, 1997, TO ADD A MANUFACTURED HOUSING OVERLAY TO PROPERTY ZONED RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY LOCATED AT THE END OF FOREST RIDGE DRIVE (OLD BEAR CREEK ROAD)

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Consent Agenda and they will not be read.

-4-

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION

APPROVAL OF THE MINUTES OF THE MID-YEAR RETREAT MEETING HELD ON AUGUST 22, 1997, AND THE FORMAL MEETING HELD ON AUGUST 26, 1997

Mr. Ralph Bishop, resident of the City of Asheville, spoke to Council about seeking redress relative to City Council's minutes and the meaning of full and accurate minutes.

Councilman Cloninger moved to approve the minutes of the mid-year retreat meeting held on August 22, 1997, and the formal meeting held on August 26, 1997. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION NO. 97-148 - RESOLUTION AUTHORIZING EXCHANGE OF CITY-OWNED REAL PROPERTY ON KENTUCKY DRIVE FOR HOUSING AUTHORITY-OWNED REAL PROPERTY ON BARTLETT STREET

Summary: The consideration of authorizing the Mayor to execute necessary documents to effect an exchange of property with the Housing Authority of the City of Asheville in order to facilitate several beneficial projects.

The City Council directed the City Clerk to publish a notice regarding its intent to exchange 4.9 acres of land on Kentucky Drive which the City owns for 7.4 acres of land on Bartlett Street which the Housing Authority owns. The notice was published on August 29, 1997. No public comments have been received.

The exchange will facilitate the following: (1) The construction of 48 units of affordable elderly housing via the sale of the Murray Hill site to the Douglas Company; (2) The construction of 17 units of affordable single family owner-occupied housing via collaboration with the Housing Authority to build a

subdivision on the Kentucky Drive site; and (3) The construction of a passive park by Parks and Recreation Department on the Bartlett Street site.

The City's property on Kentucky Drive is valued by the Buncombe County Tax Office at \$49,700 and the Authority's property on Bartlett Street is valued at \$124,800.

Approval of the resolution will authorize the Mayor to execute the necessary documents to effect the exchange of the properties as provided in N. C. G. S. 160A-271.

Community Development staff recommends adoption of the resolution. -5-

Mr. H.K. Edgerton hoped that the housing strategy for the City will include minority developers and all non-profits in the City.

Councilman Hay felt sure that the housing study will be responsive to the comments Mr. Edgerton voiced.

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 to approve Resolution No. 97-148. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 182

### III. PUBLIC HEARINGS:

#### A. PUBLIC HEARING RELATIVE TO REZONING FIVE PROPERTIES ON OR BEHIND EAST CHESTNUT STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY TO OFFICE

Mr. Mike Matteson, Urban Planner, said that the petition to rezone was received from four property owners, two of which have asked their properties be removed from consideration. In light of this request, staff is recommending this matter be continued until September 23, 1997.

Councilman Hay moved to continue this matter until September 23, 1997, without further advertisement, in contemplation of the possibility that the petition be withdrawn. This motion was seconded by Vice-Mayor Field and carried unanimously.

#### B. PUBLIC HEARING RELATIVE TO REZONING PROPERTY ON BOONE STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY TO INDUSTRIAL DISTRICT

#### ORDINANCE NO. 2405 - ORDINANCE TO REZONE PROPERTY ON BOONE STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY TO INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 5:25 p.m.

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

Mr. Carl Ownbey, Urban Planner, asked for consideration of an ordinance to rezone property on Boone Street from RM-8 Residential Multi-Family Medium Density to Industrial.

The subject property is located off Emma Road on Boone Street and is owned by Appalachian Stove. The 2010 Plan indicates this area to be low density residential; however, the adjacent property is currently zoned industrial and

also owned by Appalachian Stove. Access to this -6-

property would only be from within the existing industrial development due to the inadequate standards of Boone Street to handle industrial traffic and the noticeable terrain difference between the east and west areas of this lot. After Planning staff reviewed the rezoning request, they recommended approval of PIN No. 9639.19-62-4295, except for a 100 foot strip along Boone Street which should remain RM-8 to deny industrial access to Boone Street from this lot and provide for an opportunity for residential development.

At the August 6, 1997, Planning & Zoning Commission meeting, the Commissioners voted 6-1 to approve the rezoning request, except the 100-foot strip along Boone Street.

On August 25, 1997, the petitioner appealed to City Council that the entire lot, including the 100-foot strip along Boone Street, be rezoned to Industrial.

Mr. Barry Eavenson, President of Appalachian Stove and Fabricators Inc., explained that his company has been a part of the community for many years and they now need to expand. He noted that this lot was zoned industrial prior to Unified Development Ordinance zoning changes. He said that he would be willing to compromise with a 30-foot strip along Boone Street remaining RM-8 realizing that the 30-foot strip could not be used for residential purposes.

Vice-Mayor Field pointed out that if the buffer was reduced from a 100-foot strip to a 30-foot strip, we would be losing over an acre of land that could be used for low density housing.

Councilman Sellers felt that the area is industrial in nature and a 30-foot buffer strip would address the concerns of traffic on Boone Street, while still allowing Appalachian Stove to expand.

When Mr. Ralph Bishop asked that the ordinance be read pursuant to Rule 23 of the City Council Rules & Procedures, City Attorney Oast noted that the Rule states that "requests by members of the public for an ordinance or resolution to be read in its entirety in a council meeting shall only be complied with upon a vote of the majority of the council." City Attorney Oast said that a copy of the ordinance can be provided to him at no charge.

Mayor Martin closed the public hearing at 5:40 p.m.

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

Councilman Sellers moved for the adoption of Ordinance No. 2405, to rezone PIN No. 9639.19-62-4295 to Industrial, except for a 30-foot strip along Boone Street which shall remain zoned RM-8. This motion was seconded by Councilman Cloninger and carried unanimously.

ORDINANCE BOOK NO. 16 - PAGE 289

-7-

C. PUBLIC HEARING RELATIVE TO REZONING PROPERTY ON EMMA ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY TO CI COMMERCIAL INDUSTRIAL

Mr. Barry Eavenson, President of Appalachian Stove and Fabricators, Inc., asked that this public hearing be continued until October 14, 1997, in order to allow City Council time within which to visit the property being requested to be rezoned.

Councilman Sellers moved to continue the public hearing until October 14, 1997, without further advertisement. This motion was seconded by Councilman Worley and carried unanimously.

D. PUBLIC HEARING RELATIVE TO REZONING EIGHT PARCELS ON THE SOUTH SIDE OF BROAD STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY TO OFFICE

Councilman Worley said that he understands that there is a desire and willingness to continue this public hearing. However, due to the number of people at this meeting, he suggested the public hearing be opened, comments taken, and then continue the public hearing.

At the request of Councilman Cloninger, Councilman Sellers moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

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

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

City Attorney Oast said that a valid protest petition has been received, thus invoking the 3/4's vote requirement. Since Councilman Cloninger has been excused from voting, there would need to be a unanimous vote by City Council to adopt the ordinance.

Mr. Mike Matteson, Urban Planner, said that this is consideration of rezoning eight properties on the south side of Broad Street (between Madison Avenue and Charlotte Street) from RM-16 to Office.

When Council adopted the Unified Development Ordinance and the official zoning maps, it appears that their intention was to zone at least two of these properties as "Office". That intention, however, was not translated by staff onto the official zoning maps. Rather, these properties were designated as being zoned RM-16. Staff is presenting this rezoning as a way to correct this mapping error and has included the additional properties so as to create a more desirable zoning pattern in the area.

The RM-16 zoning district is a high-density multi-family district allowing up to 16 units per acre. The Office district allows a mixture -8-

of small scale office uses and residential uses at a density of up to 8 units per acre.

At their August 6, 1997, meeting, the Planning and Zoning Commission voted 4-3 to recommend denial of the rezoning. City Council then appealed the Planning & Zoning Commission's recommendation.

The following persons spoke against the rezoning for several reasons, some being: the neighborhood wants to keep the area residential; the increase in traffic will threaten the safety of the children in the area; a low income housing neighborhood will be destroyed; the office district will start of precedent of encroachment in the residential community; residents in the area like the convenience of living close to downtown and do not want to feel like they are being chased from their homes; Broad Street is too narrow at one end; there will be an increase in crime; residents want to keep affordable housing in their neighborhood; residents in the neighborhood are renovating their homes; and homeowners will be able to obtain federal tax credits because they are in a national historic district:

Ms. Angela Scotchie, 91 Broad Street

Mr. H.K. Edgerton

Ms. Janet Hart, 60 Baird Street

Ms. Jean Warner, 87 North Liberty Street

Mr. Arthur Davis, 12 Madison Avenue

Mr. Vincent Ramsuer, 111 Broad Street

Ms. Coleen Watkins, 87 Madison Avenue

Mr. Paul Conrad, 91 Broad Street

Mr. Winthrop Holcombe, 45 Madison Avenue

Ms. Roberta Greenspan, 48 Madison Avenue

Ms. Nelda Holder

Mr. Andy Scotchie, 303 Country Club Road

A resident from 19 Washington Road

Mr. Craig Justus, attorney representing Dennie Martin, owner of two lots in the area proposed to be rezoned, noted that throughout the whole Unified Development Ordinance process, Planning staff, the Planning & Zoning Commission and City Council expressed a willingness to rezone this area to office, and it is only because of a mapping error that this matter has been brought back up. He did, however, ask that this issue be tabled to give them an opportunity to meet with the community and see if a solution or at least a compromise can be achieved.

Mr. Ralph Bishop again asked that the ordinance be read pursuant to Rule 23 of the City Council Rules & Procedures. City Attorney Oast again noted that the Rule states that "requests by members of the public for an ordinance or resolution to be read in its entirety in a council meeting shall only be complied with upon a vote of the majority of the council." City Attorney Oast said that a copy of the ordinance can be provided to him at no charge.

-9-

Mr. Dennie Martin said that over 15 years ago his company made an investment in a risky neighborhood and they have now built their third facility in that area. He felt that the neighborhood is being revitalized because of some positive environment changes made by people who took chances and made investments in their area. They have made a substantial commitment to the community and feel they have been a positive influence. He said that his goal would be to arrive at a compromise that works for everyone.

Councilman Hay said that from the number and phone calls and letters he's received, he felt there is an opportunity to find some common ground and he would like to explore that before making a final decision.

Councilman Worley moved to continue the public hearing until October 14, 1997, without further advertisement. This motion was seconded by Councilman Sellers and carried unanimously.

E. PUBLIC HEARING RELATIVE TO ADOPTING THE "BLUE RIDGE PARKWAY, VIEWSHEDS OF SUPERIOR QUALITY" MAP REGARDING TELECOMMUNICATION TOWERS AND THEIR VISIBILITY FROM THE BLUE RIDGE PARKWAY

RESOLUTION NO. 97-149 - RESOLUTION ADOPTING A MAP ENTITLED "BLUE RIDGE PARKWAY, VIEWSHEDS OF SUPERIOR QUALITY"

Mayor Martin opened the public hearing at 6:33 p.m.

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

Ms. Julia Cogburn, Planning & Development Director, said that this is consideration of a resolution adopting a map entitled "Blue Ridge Parkway, Viewsheds of Superior Quality" as set forth in Section 7-16-2.D.3. of Chapter 7 of the Code of Ordinances of the City of Asheville, North Carolina.

In April of this year, City Council passed an ordinance amendment to provide for regulations established to protect the Blue Ridge Parkway's scenic quality. Included in these regulations was a provision that no telecommunications towers be erected in areas determined by The Asheville City Council to be "Blue Ridge Parkway, Viewsheds of Superior Quality." The ordinance references a map which will be adopted by Council to show the location of the "Viewsheds of Superior Quality." The United States Department of Interior Blue Ridge Parkway Offices have provided advice to the Planning and Development Department in the production of a map indicating proposed "Viewsheds of Superior Quality." The map is presented for City Council's review and adoption.

The Planning and Development staff recommends approval of the proposed map. At the August 6, 1997, meeting of the Planning and Zoning -10-

Commission, the Commissioners voted 4-3 to recommended that the proposed map not be adopted.

Ms. Cogburn briefed Council on the comments she has received.

Discussion surrounded how much of the area within the City limits is residential property.

Mr. John VanDyke, Legislative Chair of the Asheville Board of REALTORS, Inc., read a letter dated September 9, 1997, in which they ask that this matter be tabled to allow the Blue Ridge Parkway staff, the City Planning staff, those affected property owners and other interested parties to meet and discuss other alternatives to this overlay. The letter reads in part:

"It is our understanding that the proposed overlay map is designed to restrict telecommunication towers only. There are some serious concerns that, if this map is approved, additional restrictions on property owners may or can be forthcoming. Our points of understanding and concerns are as follows: (1) An ordinance is in place on telecommunications towers which 'does not allow towers in residential districts'; (2) All of the overlay map areas of Haw Creek are zoned residential and, therefore, telecommunications towers cannot locate there. Why is it necessary to have another form of regulation over private property owners by approving this map overlay? Are you not really setting the wheels in place that could lead to limiting other developments or land uses in the overlay area? (3) The proposed Hendersonville Road map overlay appears to affect commercial and residential areas, and therefore, concerns our organization, as again, the restriction of telecommunications towers could be expanded to other buildings, whether condos, offices, commercial, etc.; (4) It is our understanding your planning commission recommended denial of the map

overlays for some of the following reasons; (a) Only two or three people from the Blue Ridge Parkway staff solely picked the map area; (2) There is a concern the Department of Interior will dictate to the City what is 'suitable and unsuitable' and the City will have to pay for the cost of enforcement; (c) The question is asked: Should the federal government buy scenic easements from those property owners affected?; (d) And, finally, 'today it is telecommunications towers, tomorrow will it be buildings?'; and (5) It is also our understanding you are holding this public hearing to appeal the Planning Commission's position."

Mr. Steve Gravenstein, property owner in Haw Creek, spoke in support of Council moving forward with adoption of this map which is necessary to preserve the scenic beauty of our area.

Ms. Barber Melton, Vice-President of the Haw Creek Homeowners Association, urged Council to adopt the viewshed map.

Mr. Karl Koon, member of the Planning & Zoning Commission, reported to Council the reasons why he voted against adoption of the map. -11-

Mayor Martin, along with Councilman Cloninger, spoke in support of adoption of the map noting that we cannot afford to run the risk of having our viewing area littered with telecommunication towers. Both agreed that the map can be amended but in the meantime, we need to protect what we have.

Upon inquiry of Mr. Koon, Councilman Cloninger explained the difference between a telecommunication tower and the use of stealth technology with antennas.

Vice-Mayor Field totally supports protecting the viewshed, however, she had not had an opportunity to actually drive the area with the map to see what viewsheds the Blue Ridge Parkway is asking City Council protect. She said that she would like to see a process put in place for more of a community process in the identification of those areas.

Councilman Worley agreed with Vice-Mayor Field in that he agrees with the concept, but would like the opportunity to view the areas first-hand.

Mr. Mel Thomason urged City Council to postpone adoption of the map and let the interested parties meet to discuss other alternatives.

Mayor Martin closed the public hearing at 7:07 p.m.

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

Councilman Cloninger moved for the adoption of Resolution No. 97-149. This motion was seconded by Vice-Mayor Field and carried unanimously.

Councilman Worley requested a method within which to review this and do whatever fine-tuning is necessary.

Vice-Mayor Field moved to request staff to proceed with setting up a meeting with all the parties involved as soon as possible and report back to Council on what can be done for more community involvement and education (both for Council and the community). This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 183

F. PUBLIC HEARING RELATIVE TO ANNOUNCING THE COMPLETION OF THE PRELIMINARY

ASSESSMENT ROLL ON THE RHODODENDRON CIRCLE SPECIAL ASSESSMENT PROJECT

RESOLUTION NO. 97-150 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE RHODODENDRON CIRCLE SPECIAL ASSESSMENT PROJECT

-12-

Mayor Martin opened the public hearing at 7:11 p.m.

City Clerk Burleson 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 this is consideration of confirming the Preliminary Assessments made in the Rhododendron Circle Special Assessment Project.

The Public Works Department has assessed the total costs for the Rhododendron Circle project, completed in June 1997 and prepared a preliminary assessment roll.

The property owners residing on Rhododendron Circle (beginning at its intersection with Rhododendron Place and ending at its intersection with Old Haw Creek Road) petitioned the City of Asheville to accept Rhododendron Circle as a City System street. Improvements consisting of spot repairs and patching along, tie-ins to driveways, and total resurfacing were necessary for acceptance of the street. Property owners on Rhododendron Circle should be assessed for fifty percent (50%) of the costs as agreed to in the original petition.

In June 1997, the Rhododendron Circle project was completed. The cost of enhancements to Rhododendron Circle project is \$9,365.50 which amount includes the costs of labor, materials, equipment, and the costs of publication of notices and resolution.

A preliminary assessment role for benefited property owners has been prepared. The amount assessed to each benefited property owner is based upon fifty percent (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 made in the Rhododendron Circle Project. Staff further recommends acceptance of Rhododendron Circle as a City Street.

Mayor Martin closed the public hearing at 7:14 p.m.

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

Councilman Cloninger moved for the adoption of Resolution No. 97-150. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 184

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

-13-

A. RESOLUTION NO. 97-151 - RESOLUTION REAPPOINTING MEMBERS TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Vice-Mayor Field said that the terms of Carol Williams and Glenda McDowell expired on August 22, 1997. This resolution will reappoint Ms. Williams and Ms. McDowell to each serve a three year term, terms to expire August 22, 2000, or until their successors have been appointed.

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

Councilman Skalski moved for the adoption of Resolution No. 97-151. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 186

B. RESOLUTION NO. 97-152 - RESOLUTION APPOINTING SAM POWERS AS THE CHAMBER OF COMMERCE REPRESENTATIVE ON THE CITY BUSINESS AND DEVELOPMENT COMMISSION

Vice-Mayor Field said that Ord. 2309 established the City Business and Development Commission. Said ordinance authorized various agencies to appoint members to the Commission.

Mr. Jay Garner, the Chamber of Commerce representative, has resigned, and the Chamber of Commerce has requested that Mr. Sam Powers, Economic Developer for the Chamber of Commerce be appointed to replace Mr. Garner as the Chamber of Commerce representative.

Mr. Powers will serve the unexpired term of Mr. Garner, said term to expire on October 1, 2000, 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.

Councilman Worley moved for the adoption of Resolution No. 97-152. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 187

C. RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND BOARD OF TRUSTEES

Vice-Mayor Field said that a representative from Wachovia Bank, which holds the funds for this Board, will be submitting a name for consideration. Therefore, Vice-Mayor Field moved to table this matter until a recommendation is received. This motion was seconded by Councilman Skalski and carried unanimously.

D. RESOLUTION NO. 97-153 - RESOLUTION REAPPOINTING MEMBERS TO THE MINORITY BUSINESS COMMISSION

-14-

Vice-Mayor Field said that the terms of Robbie Williams, Bonnie Habel and Ronald Blythe expired on August 1, 1997. Since the City and Council have been working on a draft City-County Minority Business Plan, City Council felt it was in their best interest to reappoint these members until the new Plan is adopted.

This action will reappoint Ms. Williams (as representative of the YMI Cultural Center), Ms. Habel (as representative of the Asheville-Buncombe Community Relations Council), and Mr. Blythe (as representative of the Asheville Business Development Center), to each serve an additional two year terms, terms to expire August 1, 1999, or until their successors have been appointed.

Mr. H.K. Edgerton read a statement which informed City Council that the NAACP is appalled that the Council continues to deny the NAACP a seat on the Minority Business Commission as well as the Downtown Development Commission. He urged City Council pay attention to the poor attendance of the members currently on the Commission.

Mayor Martin explained that City Council did not feel it was necessary to make changes to the Commission membership since the Plan is in the process of being amended.

Vice-Mayor Field explained that the Minority Business Commission is made up of business organizations and the NAACP is seen as a civil rights organization. With regard to the City Business & Development Commission, that Commission have appointments from African American business organizations.

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. 97-153. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 188

E. RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE COMMISSION

Vice-Mayor Field moved that these appointments be considered again during the next quarterly appointment process. This motion was seconded by Councilman Sellers and carried unanimously.

F. RESOLUTION NO. 97-154 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING & ZONING COMMISSION

Mayor Martin said that the terms of Robert Swicegood and Rod Hudgins expired on August 14, 1997.

-15-

Each Council member voiced praise about all candidates for the Planning & Zoning Commission. It was the consensus of Council to nominate all candidates interviewed (Mac Swicegood, Arthur Anderson, Billie Buie, Lionel Williams, Anne Campbell, Jerry Bailey and Jan Davis) and to include Luke Carpenter in the nominations at the request of Councilman Skalski.

It was the consensus of Council that the two people who received four votes would be the two members on the Commission. Each Council member then voiced their support of their two choices.

Councilman Cloninger nominated Lionel Williams and Billie Buie.

Vice-Mayor Field nominated Billie Buie and Jan Davis.

Councilman Hay nominated Billie Buie and Jan Davis.

Councilman Sellers nominated Mac Swicegood and Jan Davis.

Councilman Skalski nominated Luke Carpenter and Jerry Bailey.

Councilman Worley nominated Mac Swicegood and Lionel Williams.

Mayor Martin nominated Mac Swicegood and Lionel Williams.

Since Mac Swicegood, Billie Buie, Lionel Williams and Jan Davis each received three votes, City Council again chose two of those four candidates.

Councilman Cloninger nominated Lionel Williams and Billie Buie.

Vice-Mayor Field nominated Billie Buie and Jan Davis.

Councilman Hay nominated Billie Buie and Jan Davis.

Councilman Sellers nominated Mac Swicegood and Jan Davis.

Councilman Skalski nominated Jan Davis and Billie Buie.

Councilman Worley nominated Jan Davis and Lionel Williams.

Mayor Martin nominated Mac Swicegood and Lionel Williams.

Jan Davis received 5 votes, Billie Buie received 4 votes, Lionel Williams received 3 votes and Mac Swicegood received 2 votes. Therefore, Councilman Hay moved to appoint Jan Davis and Billie Buie, to the Planning & Zoning Commission. Mr. Davis and Ms. Buie will each serve a three year term, terms to expire August 14, 2000, or until their successors have been appointed. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 189

-16-

G. RESOLUTION NO. 97-155 - RESOLUTION APPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Field said that the term of John Winkenwerder expires on August 30, 1997. This resolution will appoint Don Tomlinson, Quality Inn - Biltmore, (as owner or operator of a hotel, motel or other taxable tourist accommodation) to serve a three year term, term to expire August 30, 2000, 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. 97-155. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 190

## VI. OTHER BUSINESS:

### A. COMMENTS FROM RALPH BISHOP

Mr. Ralph Bishop spoke to Council relative to full and accurate minutes.

### B. CLAIMS

The following claims were received by the City of Asheville during the week of August 22-28, 1997: Fairway Villas (Water), Don G. Bryant (Traffic Engineering), PYPLLC (Streets), Louis J. Mongiovi (Water), Jimmie Deane Parris (Streets), Jody Lyda (Sanitation), W.G. Dixon (Water), James Thrasher (Streets) and James Keefer (Police).

These claims have been referred to Asheville Claims Corporation for

investigation.

C. CLOSED SESSION

At 8:00 p.m., Councilman Worley moved go into closed session for the following reasons: (1) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City - G.S. 143-318.11 (a) (4); and (2) to consult with an attorney employed by the City in order to preserve the attorney-client privilege between the attorney and the City. The parties in the lawsuit about which the City expects to received advise are CC&J Enterprises Inc. and the City of Asheville - G.S. 143-318.11 (a) (3). This motion was seconded by Councilman Sellers and carried unanimously.

At 8:35 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Cloninger and carried unanimously.

-17-

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:35 p.m.

---

CITY CLERK MAYOR

---