

Tuesday - May 9, 2000 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry M. Whitmire; 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

Mayor Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 00-78 - RESOLUTION IN SUPPORT OF PASSENGER TRAIN SERVICE TO ASHEVILLE

Ms. Judy Calvert, Human Resources Manager at Kunkle Industries in Black Mountain and Chair of the WNC Rail Corridor Committee, said that on March 4, 1997, City Council adopted Resolution No. 97-31 supporting the effort to bring passenger rail service to Asheville. City Council is being asked to support an updated version of the resolution by the WNC Rail Corridor Committee who is undertaking to have similar resolutions passed by local governments and other groups along the entire corridor.

The Committee's plan is to have all the resolutions in hand to deliver to State transportation officials as further demonstration of current unified support for the service from the communities to be served. The resolutions would be delivered to Transportation Secretary David McCoy and Pat Simmons of the N. C. Department of Transportation Rail Division by representatives of the Asheville Area Chamber of Commerce during the Chamber's annual legislative visit to Raleigh May 15-16, 2000. Bradley Hix, Vice President for Public Policy for the Asheville Chamber, is coordinating this effort.

The WNC Rail Committee organized a large showing of support at a March 27, 2000, meeting of a legislative study commission considering the issue. That meeting was held at the Grove Park Inn with about 300 people in attendance. This fall, the Committee is planning a public rally here in Asheville as another effort to maintain momentum for the project.

She recommended City Council adopt the resolution supporting passenger train service to Asheville. In addition, she requested City Council to bring immediate focus to finding a location for the Asheville station and the State will be looking at five different options.

Mayor Sitnick 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. 00-78. This motion was seconded by Councilman Hay and carried unanimously.

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B. COMMENTS BY FIRE CHIEF JOHN RUKAVINA

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Fire Chief John Rukavina said that his last day as Fire Chief of Asheville will be May 10, 2000. He publicly thanked City Council and the past Mayors and Councils with whom he worked with during his tenure and for the pleasure of working as Fire Chief in a well-governed community.

On behalf of City Council, Mayor Sitnick thanked Fire Chief Rukavina for his fine service to the citizens of Asheville and wished him well in the future.

C. PROCLAMATION PROCLAIMING THE WEEK OF MAY 15-19, 2000, AS "NATIONAL PEACE OFFICERS WEEK" AND MAY 15, 2000, AS "PEACE OFFICERS MEMORIAL DAY"

Mayor Sitnick read the proclamation proclaiming the week of May 15-19, 2000, as "National Peace Officers Week" and May 15, 2000, as "Peace Officers Memorial Day" in the City of Asheville. She presented the proclamation to Police Chief Will Annarino who outlined some activities taking place during the week.

II. CONSENT:

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 25, 2000, AND THE WORKSESSION HELD ON MAY 2, 2000**
- B. RESOLUTION NO. 00-79 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF A METAL STORAGE BUILDING AND BLEACHERS BY SEALED BID**

Summary: The consideration of a resolution authorizing the Purchasing Director to dispose of City-owned personal property by sealed bid.

Subject to Council's approval, the resolution authorizes the City's Purchasing Director to dispose of a metal storage building and seven sections of bleachers that have been declared surplus by the Parks and Recreation Department. The surplus is located in the old Asheville Motor Speedway and will be sold on an "as is, where is" basis pursuant to N. C. Gen. Stat. sec. 160A-266.

City staff requests City Council's approval of the resolution.

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- C. RESOLUTION NO. 00-80 - RESOLUTION ACCEPTING THE RECOMMENDATIONS OF THE REGIONAL WATER AUTHORITY TO CONTRACT WITH RAFTELIS FINANCIAL CONSULTANTS TO PERFORM A FINANCIAL FEASIBILITY STUDY**

Summary: The consideration of a resolution confirming a resolution of the Regional Water Authority to award a contract to Raftelis Financial Consulting (RFC) to perform a Financial Feasibility Study.

In 1995, RFC prepared a Financial Feasibility Report that was included in the Official Statement for the City of Asheville's Water System Revenue Bonds, Series 1996, which were issued to fund the Mills River Expansion Program. Since the issuance of the 1996 revenue bonds, over \$20 million of additional capital improvements have been identified and will become necessary over the next five years.

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In order to finance \$20 million in capital improvements, the Authority anticipates that the City of Asheville will need to issue revenue bonds in February or March of 2001. The bonds will be similar to those issued in 1996. As with the 1996 bond issue, a Financial Feasibility Report will be required that would include a five-year financial plan and an analysis of proposed rate increases. More significantly, the Report will demonstrate the ability of the Authority, through estimated debt service coverage, to pay off the bonds in the future. This report will be included in the Official Statement of the bond issue.

Development of a Financial Feasibility Report will involve the following tasks:

- Review of background information including financial, accounting, operations, legal, regulatory, and billing information.
- Development of the financial plan including projections of demand, revenues, operation and maintenance expenses, and capital costs. The plan will also detail the debt service schedule and coverage requirements for financing the proposed bond issue.
- Preparation of draft Financial Feasibility Report and presentation to the Authority, the City, the Authority's engineering consultants, investment bankers, bond counsel, and the Local Government Commission.
- Meeting with the LGC and other members of the financing team to discuss the Financial Feasibility Report. This will include three sets of modifications to the financial information and the report based on feedback.
- Revisions and finalization of the report, after obtaining input from the LGC and other members of the financing team. The final report will be included in the Official Statement of the bond issue.

Mr. Raftelis, of RFC, has served over 300 government utilities in his 25-year career. In particular, he has extensive experience in performing financial feasibility evaluations for various municipalities across the country. He has previously assisted the Authority in the water cost of service and rate study performed in 1995 and the financial feasibility analysis performed in 1996. He is very familiar with our organization and the political atmosphere of this community. Given RFC's prior work on the 1996 Bond Issue and his recent assistance to review the Authority's five-year financial plan, he was able to reduce fees substantially below the amount he billed for the 1996 feasibility study.

In order to meet the schedule to issue bonds in early 2001, it will be necessary to initiate the Financial Feasibility Study no later than June 1, 2000. The total cost is estimated not to exceed \$44,989. Funding has been identified and is available in the 35 Fund.

The Regional Water Authority approved the award of a contract with RFC to conduct a Financial Feasibility Study which is required in order to issue bonds in early 2001, and staff recommends City Council's concurrence with the Authority's action.

RESOLUTION BOOK NO. 26 – PAGE 26

A. ORDINANCE NO. 2693 - BUDGET AMENDMENT TO APPROPRIATE EXPENDITURES FOR NON-RESIDENT FEES WHICH HAVE BEEN COLLECTED FOR VARIOUS PARKS AND RECREATION PROGRAMS

Summary: The consideration of a budget amendment, in the amount of \$25,000, to appropriate expenditures for non-resident fees which have been collected for various Parks and Recreation programs.

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Several years ago, City Council approved collecting non-resident fees for various Parks and Recreation services. These fees include services for classes, adult and youth sports, and various clubs that use Parks and Recreation facilities. The Parks and Recreation Department wishes to establish expenditure line items and appropriation in order to spend funds which have been collected. The revenue that has been collected is intended to be used for various capital projects of the department. It is the intent of staff to use these funds in conjunction with various public/private endeavors and other activities or improvements that will benefit the community.

The Parks and Recreation Department requests City Council approve appropriating funding from revenue collected from non-resident fees totaling \$25,000.

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- B. MOTION SETTING A PUBLIC HEARING ON MAY 23, 2000, TO REZONE PROPERTY AT 6 MOUNT CLARE AVENUE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT AND COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS II DISTRICT**
- C. RESOLUTION NO. 00-81 - RESOLUTION MODIFYING THE SCHEDULED CITY COUNCIL MEETINGS TO INCLUDE (1) A BUDGET WORKSESSION ON MAY 18, 2000, AT 1:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM, CITY HALL BUILDING; (2) AFFORDABLE HOUSING WORKSESSION ON MAY 30, 2000, AT 4:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM, CITY HALL BUILDING; (3) COMMUNITY MEETING ON MAY 30, 2000, AT 7:00 P.M. AT THE MURPHY-OAKLEY COMMUNITY CENTER AT 749 FAIRVIEW ROAD, ASHEVILLE, N.C.; (4) REGULAR WORKSESSION ON JUNE 6, 2000, AT 3:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM; (5) PUBLIC HEARING ON THE 2000-01 ANNUAL OPERATING BUDGET AND CAPITAL IMPROVEMENTS PROGRAM ON JUNE 6, 2000, AT 5:00 P.M. IN THE SECOND FLOOR COUNCIL CHAMBER, CITY HALL BUILDING; AND (6) ADOPTION OF THE 2000-01 ANNUAL OPERATING BUDGET AND CAPITAL IMPROVEMENTS PROGRAM ON JUNE 13, 2000, AT 5:00 P.M. IN THE SECOND FLOOR COUNCIL CHAMBER, CITY HALL BUILDING**

RESOLUTION BOOK NO. 26 – PAGE 28

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolutions and ordinances and the Consent Agenda and they would not be read.

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

III. PUBLIC HEARINGS:

- A. PUBLIC HEARING RELATIVE TO APPLYING THE MANUFACTURED HOUSING OVERLAY DISTRICT TO FOUR LOTS ON GORMAN BRIDGE ROAD CURRENTLY ZONED RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT**

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ORDINANCE NO. 2694 - ORDINANCE TO APPLY THE MANUFACTURED HOUSING OVERLAY DISTRICT TO FOUR LOTS ON GORMAN BRIDGE ROAD CURRENTLY ZONED RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT

Mayor Sitnick opened the public hearing at 5:21 p.m.

Mr. Carl Ownbey, Urban Planner, said that this is the consideration of an ordinance to apply the Manufactured Housing Overlay (MHO) District to four lots on Gorman Bridge Road, currently zoned RM-6 Multi-Family Low Density District. This public hearing was legally advertised on April 28 and May 5, 2000.

The owners of these four lots are Robert Oliver, Marvin Hollifield, Dennis & Barbara Olander, and Bruce & Ruby Austin. These four lots on Gorman Bridge Road (PIN Nos. 9629.08-99-6120, 5660, 6323, and the portion of 2181 within the City's jurisdiction) are approximately 5 acres in size. These lots are adjacent to the existing MHO district along Gorman Bridge Road and Riverview Church Road. The 2010 Plan shows the majority of this area to be low density residential. Three of the lots currently have manufactured homes on them. These lots are at the end of the City's jurisdiction and surrounded by a number of manufactured homes both within and outside of the City's zoning jurisdiction. The 1998 Average Daily Traffic count at this intersection is 1100 vehicles. The petitioners have been made aware that there are development standards in the Unified Development Ordinance for the placement of manufactured homes on individual lots.

The Planning and Development Department reviewed this rezoning and recommended

approval to the Planning and Zoning Commission at their April 5, 2000, regular meeting.

After receiving public comment, the Commissioners voted unanimously to recommend the application of the Manufactured Housing Overlay District to the four lots on Gorman Bridge Road.

Mayor Sitnick closed the public hearing at 5:24 p.m.

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

Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2694. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE BOOK NO. 18 - PAGE

- A. PUBLIC HEARING TO CONSIDER THE REZONING OF ONE LOT AT 141 HILLSIDE STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)**

ORDINANCE NO. 2695 - ORDINANCE TO REZONE ONE LOT AT 141 HILLSIDE STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-16 CU RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 2696 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR 141 HILLSIDE STREET (CONDITIONAL USE ZONING)

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City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

Planning and Development Director Scott Shuford reviewed with Council the conditional use district zoning process by stating that this is a two part process. It requires rezoning, which is a legislative act, and the issuance of a conditional use permit, which is a quasi-judicial site specific act. Even though the public hearing on those two items will be combined, all the testimony needs to be sworn and two votes will need to be taken. The first vote will be to grant the rezoning to the conditional use district category and the second vote will be to issue the conditional use permit. If Council runs into a situation that it votes to rezone, Council doesn't have to vote to issue the conditional use permit on the same night.

After hearing no questions about the procedure, Mayor Sitnick opened the public hearing at 5:25 p.m.

Ms. Stacy Merten, Urban Planner, submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners), and City Exhibit 3 (Staff Report).

Ms. Merten said that this is the consideration of rezoning one lot at 141 Hillside Street from RS-8 Residential Single Family High Density District to RM-16 Residential Multi-Family High Density District, and issuance of a conditional use permit (conditional use zoning).

The Planning and Zoning Commission, at their April 5, 2000, meeting, reviewed and recommended approval to conditionally rezone a 1.43 acre tract located on Hillside Street (PIN No. 9649.14-34-2645). The subject property is located in the midst of an RS-8 zoning district. Currently there are three buildings on the site, consisting of two single-family houses located on either side of a large 12,000 square foot structure, formerly used as a nursing home (City Exhibit 4) . This building is now used for a non-violent drug treatment facility - Life on Life's Terms. The owner proposes to convert this facility into an apartment building. The parking would be located to the rear of the property and access would be one-way, entering on Woodrow Avenue and exiting on Hillside Street. This conditional use zoning would allow the existing structure to remain viable with a minimum of impact on the neighborhood.

The Planning and Zoning Commission voted unanimously to recommend approval of the conditional use rezoning with the following conditions:

- The parking area in front of the building should be eliminated. The pavement should be removed and landscaping installed.
- The apartment building should be restricted to 12 units.
- The project should undergo site plan review to determine specific parking and landscape requirements, prior to the issuance of a zoning permit.

The Planning and Development staff recommends approval of the conditional use

zoning.

Mr. George Meade, property owner, talked about the 12,000 square foot structure.

City Attorney explained that City Council can consider the appropriateness of Mr. Meade's use for this particular zone and then the actual conditional use approval will focus on details on the site plan.

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Upon inquiry of Councilwoman Field, Mr. Meade said that the rent really will depend upon how much it will cost him to renovate the building to apartments. He felt it would be in the range of \$650/month for two bedrooms.

Upon inquiry of Councilman Worley, City Attorney Oast said that it would be appropriate to add an additional condition to the conditional use permit which would require that the two single-family houses on the lot remain single-family residences.

Upon inquiry of Councilman Hay, Planning & Development Director Scott Shuford said that even though the RM-16 District will allow 22 units, the conditional use permit will limit the number of units to a lesser number. City Attorney Oast further explained that City Council should first consider whether multi-family zoning, with appropriate conditions, is acceptable for this property in the neighborhood where it exists. Secondly, on the conditional use permit issue, City Council should consider whether these particular conditions are the appropriate way to develop that property.

There being no request from the applicant for rebuttal, Mayor Sitnick closed the public hearing at 5:43 p.m.

Vice-Mayor Cloninger moved to adopt Ordinance No. 2695 to rezone 141 Hillside Street from RS-8 Residential Single-Family High Density District to RM-16 CU Residential Multi-Family High Density District (conditional use zoning). This motion was seconded by Councilwoman Field and carried unanimously.

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Vice-Mayor Cloninger moved to adopt Ordinance No. 2696 granting the conditional use permit for 141 Hillside Street (conditional use zoning), with the following conditions: (1) The parking area in front of the building should be eliminated. The pavement should be removed and landscaping installed; (2) The apartment building should be restricted to 12 units; (3) The project should

undergo site plan review to determine specific parking and landscape requirements, prior to the issuance of a zoning permit; and (4) That the two existing single-family houses on the property remain single-family. Said motion also instructs the City Attorney to prepare the Order for the Mayor's signature. This motion was seconded by Councilman Worley and carried unanimously.

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IV. UNFINISHED BUSINESS:

A. RESOLUTION NO. 00-82 - RESOLUTION APPROVING THE CONSOLIDATED HOUSING AND COMMUNITY DEVELOPMENT PLAN FOR 2000-2005 AND THE CONSOLIDATED ACTION PLAN FOR 2000-2001

Ms. Charlotte Caplan, Community Development Director, said that this is the consideration of a resolution approving the Consolidated Housing and Community Development Plan for 2000-2005 and the Consolidated Action Plan for 2000-2001.

The Consolidated Plan is the City's plan for using federal Community Development Block Grant (CDBG) and Home Partnerships Act (HOME) program funds. It is in two parts. The larger document is a Strategic Plan, prepared once every five years, which explores needs, priorities, strategies and objectives for the programs for 2000-2005. The smaller document is the

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Action Plan, prepared annually, which details the proposed use of a total of \$4,087,065 in CDBG

and HOME funds for specific projects in 2000-2001. These plans were presented to Council in draft form at the April 18, 2000, worksession.

Both Plans must be submitted to HUD no later than May 12, 2000.

The Strategic Plan was developed by a planning group of about 80 citizens who volunteered for the task after an initial public hearing in July 1999. Another five formal public hearings were held to receive input during the preparation of the Plan, and numerous informal meetings and discussion groups took place. Well over 200 people (excluding staff) participated in the process. Notices of the availability of the draft plans for public comment were published on April 7, 2000, and nearly 200 copies have been distributed. A final public hearing was held at the April 25, 2000, City Council meeting.

At the April 25 public hearing, twelve citizens commented on the plans. Comments included:

- Appreciation for the openness of the strategic planning process and for the quality of the resulting Strategic Plan;
- Support for the proposal for a local Housing Trust Fund to be

capitalized initially with the equivalent of a one cent property tax;

- Concern about proposals for addressing lead-based paint in the draft Strategic Plan and support for the modified proposals subsequently developed by staff;
- A request by the Affordable Housing Coalition for the proposed FY 2000 grants to the Coalition and to the Consumer Credit Counseling Service to be increased by a total of \$47,000, and the funding for down-payment assistance to be decreased by the same amount.

In addition, staff has received a number of written comments proposing minor changes to the narrative sections of the Strategic Plan.

The modified proposals for addressing lead-based paint hazards have been incorporated into the Strategic Plan, and other corrections and additions of a minor nature are being made. The public comment period remained open through May 7, 2000. On May 9, 2000, the Housing and Community Development Committee considered the Affordable Housing Coalition's request for changes to the Annual Action Plan.

Ms. Caplan said the only significant changes to the original drafts are as follows: (1) revising the lead-based paint strategies to take out references to the Minimum Housing Code and inserting references to using Code inspectors and permit staff to provide education and information about lead-based paint issues; (2) change on strategy in the public housing section that that merely suggests that Madison County consider the possibility of consolidating the four small Madison County housing authorities (3) increase the priority level for rental housing for elderly people of moderate income; and (4) a change recommended by the Housing and Community Development Committee that the proposed Fiscal year 2000 grants to the Affordable Housing Coalition and to the Consumer Credit Counseling Service be increased by a total of \$47,000 and the funding for down-payment assistance be decreased by the same amount.

Ms. Caplan emphasized that in approving the Strategic Plan, Council is not committing the City to implement every individual strategy – but merely setting a general course that the City intends to follow.

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Councilwoman Field said that the Affordable Housing Coalition and the Consumer Credit Counseling Service were well aware that City Council could not commit any future City Council or any future Housing and Community Development Committee to agree to continue the increased funding in subsequent years.

Councilman Worley said that he would like to see next year how successful the Affordable Housing Coalition was in raising the down-payment assistance money.

Councilman Hay stressed that he did not want to see the Housing and

Community Development Committee make hard choices on where to allocate the money and then have a last-minute request to change the funding. He felt that only prolongs the process.

Upon inquiry of Councilwoman Whitmire, Ms. Caplan explained how the down-payment assistance program is administered by the City and would report to Council if the process is successful.

Town of Black Mountain Alderman Will Kennedy spoke highly in favor of the Plans and staff's openness of the strategic planning process and the quality of the resulting Strategic Plan.

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

City Attorney Oast said that Councilwoman Whitmire does work for one of the sub-recipient agencies of CDBG and HOME funds, but the City of Asheville has obtained the appropriate permission for her to participate on City Council and her vote on this particular matter, both the Strategic Five Year Plan and the Action Plan, do not present a conflict of interest that disqualifies her from voting.

Councilwoman Field moved to amend the draft Action Plan to reduce CDBG funding for the City of Asheville Down-Payment Assistance Program by \$47,000 and increase the funding for Consumer Credit Counseling Service by \$13,000 and for Affordable Housing Coalition Homeowner Education by \$34,000. This motion was seconded by Councilman Worley and carried unanimously.

Councilwoman Field moved for the adoption of Resolution No. 00-82 authorizing the submission to the U.S. Dept. of Housing and Urban Development of the Consolidated Strategic Plan for Community Development Block Grant and HOME Investment Partnerships Program funds for 2000-2005, and the annual Action Plan for 2000-2001, as amended. This motion was seconded by Councilman Worley and carried unanimously.

Mayor Sitnick informed the community that this City Council does not appreciate anonymous faxes that use bully tactics to scare people based on non-facts and lies.

RESOLUTION BOOK NO. 25 – PAGE 29

V. NEW BUSINESS:

VI. OTHER BUSINESS:

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A. CLAIMS

The following claims were received by the City of Asheville during the period of April 20-May 4, 2000: Mabel Fletcher, Teijo Munnich (Traffic

Engineering) and Bruce A. Morehead (Water).

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

A. LAWSUIT

The City received the following Complaint on May 8, 2000, which is generally described as follows: Johnnie E. Harper v. City of Asheville and City of Asheville Civil Service Board. The nature of the proceeding is Petition for de novo review of Civil Service Board decision to reduce work hours and pay for refusal to take drug test.

This matter will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 6:19 p.m.

CITY CLERK MAYOR
