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Tuesday - June 16, 1987 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Mary Lloyd Frank, Presiding; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette (Death of Mother-in-Law)

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF THE MINUTES - JUNE 9, 1987 MEETING

Vice-Mayor Frank announced the approval of the minutes of the June 9, 1987, meeting with several noted corrections.

I. PROCLAMATION

II. PUBLIC HEARINGS

A. PUBLIC HEARING RELATIVE TO THE SITE PLAN OF THE PROPOSED

EXPANSION

OF STOWAWAY WAREHOUSES ON WILMINGTON ROAD

Vice-Mayor Frank said the Planning & Zoning Commission has recommended to the City Council that the site plan of the proposed expansion of Stowaway Warehouses located on Wilmington Road be approved subject to the following: (1) placement of fire hydrant near the entrance; (2) buffering; and (3) compliance with Erosion Control Ordinance. The site plan was prepared by J. Bertram King, Architect, for Burleson Construction Company, Johnson City, Tennessee, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance.

Vice-Mayor Frank opened the public hearing at 4:10 p.m.

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The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this project is an expansion of an existing development on Wilmington Road. He said six additional warehouses consisting of 2,000 sq. ft. each would be placed on the south end of the property toward Haywood Road. He indicated that members of Council had requested buffering along the property line adjacent to the T. C. Smith property on Haywood Road and tree plantings fronting the I-240 connector. He said they also requested plantings on the steep 1:1 slope. He said there would be no additional signage on the property.

Charles Allen, Developer, said his company would be willing to work with the City staff and members of Council for a satisfactory landscaping plan in order to deal with appearance, the steepness of the slope, and erosion control.

Vice-Mayor Frank closed the public hearing at 4:15 p.m.

Councilman Price moved to approve the site plan of the proposed expansion of the Stowaway Warehouses on

Wilmington Road subject to the conditions outlined by the Planning & Zoning Commission and, further, that the developer submit a landscaping plan acceptable to the City staff and reviewed by the Asheville City Council. This motion was seconded by Councilman Boland and carried unanimously.

B. PUBLIC HEARING RELATIVE TO THE SITE PLAN OF THE PROPOSED CHEROKEE

PLACE SHOPPING CENTER TO BE LOCATED ON U.S. 74 - FAIRVIEW ROAD

Vice-Mayor Frank said the Planning & Zoning Commission has recommended to the City Council that the site plan of the proposed Cherokee Place Shopping Center to be located on U.S. 74 - Fairview Road be approved subject to (1) resolving sewer line connection; (2) buffer to be located on Carolina Power and Light Co. property; and (3) compliance with the Erosion Control Ordinance. The site plan was prepared by Carroll Hughes, Spaceplan, for Mishu and Tatum Corporation, Knoxville, Tennessee, Developer, and submitted in accordance with the Asheville Zoning Ordinance.

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Vice-Mayor Frank opened the public hearing at 4:20 p.m.

Verl Emrick, Director of Planning, said he had conveyed Council's concerns to Mr. Hughes relative to continuing the public hearing for two weeks. He said Mr. Hughes has requested that Council continue with the public hearing today and requested approval of the project contingent upon the sewer problems being resolved.

Jim Gerard, with M & M Development Company from Knoxville, Tennessee, told members of Council that prior to obtaining an option to purchase the property, the Water and Sewer Department indicated that there was sufficient water and sewer available to service the proposed site. He said he had recently consummated the sale at \$1.2 million. He said it was only in the last couple of weeks that he was informed that the sewer facilities were not sufficient to service the project but in all likelihood some arrangement could be worked out due to possible future curtailments of developments in that area. He said he was also given an alternative to tie into an existing sewer at the golf course. He said his company would be willing to participate economically with the new sewer line even though this will place a financial burden on the project. He requested approval of the site plan due to a tight construction schedule. He said this proposed project would benefit the City of Asheville by providing 250 construction positions, 400 permanent positions, property taxes in the amount of \$45,000, water service fees in the amount of \$10,000 per year with a total development cost of over \$5,000,000. He said he was obligated, under leases, to open the shopping center in April. He requested that Council proceed with approval contingent upon the sewer problems being resolved in a satisfactory arrangement by the developer and the City.

Verl Emrick, Director of Planning, said the proposed project is located across the intersection from the existing River Ridge Shopping Center. He said the project would consist of 107,000 sq. ft. which would include a Roses, Bi-Lo, Revco, Burger King, and other retail stores.

Councilman Price requested that the developer participate financially and install sidewalks along thoroughfares in front of the development.

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Upon inquiry of members of Council, Mr. Gerard said his company would risk participating with the City in the new sewer line in the amount of \$50,000 to \$60,000 and would be receptive to working with the City in relation to sidewalks on the thoroughfares even though this was not planned for the development, not required by the ordinance, and no funds were budgeted for this expenditure.

Carroll Hughes, Architect for the project, answered questions from members of Council relative to the problems relating to sewer facilities.

Councilman Tisdale requested that the following letter be included in the minutes relative to the developer being

informed that the 27" sewer line was not completely full and could be used for this project:

May 13, 1987

Spaceplan

39 Patton Avenue

Asheville, NC 28801

Attention: G. Carroll Hughes, AIA

Project Architect

Re: Cherokee Place Shopping Center (Fairview Road)

M & M Development Corporation

Dear Mr. Hughes,

As per your letter of May 8, 1987 we are forwarding the following letter regarding the availability of water and sewer. It is our understanding that the project will generate approximately 19,800 GPD of water demand and wastewater flows.

WATER AVAILABILITY

Attached, please find a copy of our flow tests conducted on May 12, 1987, and an attached flow chart. It is our opinion that we have sufficient water supply to meet this domestic demand. Please be advised that the flow tests are for information purposes only and further analysis may be necessary regarding sprinkler demand.

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SEWER AVAILABILITY

As per previous discussions with yourself, George Jensen, and other representatives of the developer, we have concerns about a direct connection into the existing 12" sanitary sewer system that immediately serves the proposed project site on the south side of the Swannanoa River. This sewer is running in a surcharged condition on almost a continual basis. We are presently evaluating the condition of this sanitary sewer and what the costs would be of a relief sewer.

However, we have done some preliminary flow monitoring on the 27" sanitary interceptor that runs on the north side of U.S. 74 through the Buncombe County Golf Course. Based upon our monitoring there appears to be capacity in this line to accept the wastewater from the project.

As such if the problems in the 12" line cannot be resolved then we would recommend that a direct connection be made into the 27" interceptor.

This letter is only to advise of the availability of water service and

wastewater collection in the vicinity of the project site. The developer should be advised to follow the appropriate procedures of the Asheville-Buncombe Water Authority and the Metropolitan Sewer District, and the City of Asheville with respect to the project.

Very Truly Yours,

Paul R. Gilewicz, P.E.

Engineering Division Manager

PRG/mm

Enc.

xc: Harold Huff

Verl Emrick

Tom Tarrant

Lane Roberts

William Mull

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Paul Gilewicz, with the City Engineering Department, said after further investigation, the 27" line is no longer available for further sewer taps.

Upon inquiry of Councilman Michalove, Mr. Gilewicz said it would take approximately six to eight months to write specifications bid, and construct the proposed sewer line.

Upon motion of Councilman Michalove, seconded by Councilman Price, Council went into recess at 5:10 p.m.

Council reconvened at 5:45 p.m.

Vice-Mayor Frank closed the public hearing at 5:48 p.m.

Councilman Price moved to approve the site plan of the proposed Cherokee Place Shopping Center to be located on U.S. 74 - Fairview Road contingent upon the recommendations of the Planning and Zoning Commission, and further that the developer participate in an amount up to \$60,000 for sewer line improvements and \$6,000 for sidewalk installations. Further, that the sidewalk installation be contingent upon North Carolina Department of Transportation approval, and that a perpetual easement be obtained from Carolina Power & Light Company by the developer for the area to be buffered. This motion was seconded by Councilman Tisdale and carried unanimously.

**C. PUBLIC HEARING RELATIVE TO THE SITE PLAN OF THE PROPOSED EXPANSION
OF MILKCO, INC. AT 220 DEAVerview ROAD**

Vice-Mayor Frank said the Planning & Zoning Commission has recommended to the City Council that the site plan of the proposed expansion of Milkco, Inc. at 220 Deaverview Road be approved subject to: 1) that access to the lower gravel parking area be intercepted with a perpendicular driveway a minimum of 50' off adjacent property line; and 2) compliance with the Erosion Control Ordinance. The site plan was prepared by Hampton, Hintz and Associates for J. Cole Construction Company, as submitted in accordance with the Asheville Zoning Ordinance.

Vice-Mayor Frank opened the public hearing at 5:50 p.m.

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The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project is to be an expansion of an existing building in the amount of

14,000 square feet. He said Planning and Zoning had recommended approval of the project subject to several conditions outlined by the Vice-Mayor.

Upon inquiry of Councilman Tisdale, Mr. Emrick said there had been no opposition expressed relative to the expansion of the project.

Vice-Mayor Frank closed the public hearing at 5:52 p.m.

Councilman Boland moved to approve the site plan of the proposed expansion of Milkco, Inc. at 220 Deaverview Road subject to the recommendations outlined by the Planning & Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS

A. ORDINANCE NO. 1634 - AN ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1987-88

Vice-Mayor Frank said this ordinance would adopt the budget and fix the tax rate of the City of Asheville for Fiscal Year 1987-88 maintaining basic service levels and establishing a tax rate at 68 cents per 100 assessed valuation.

Vice-Mayor Frank said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Tisdale moved for adoption of Ordinance No. 1634. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1634 passed on first and final reading.

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Complete text of Ordinance No. 1634 will be found in Ordinance Book No. **11** at Page **135-138**.

B. RESOLUTION NO. 87-107 - RESOLUTION APPROVING THE EXECUTION OF MUNICIPAL FACILITIES LEASE AGREEMENT AND RELATED MATTERS FOR PROPERTIES FOR THE RANKIN AVENUE/WALL STREET PARKING GARAGES

Vice-Mayor Frank said this resolution will authorize the City Manager to execute the necessary documents for the leasing of properties to the Asheville-Buncombe Development Corporation for the construction of the Rankin Avenue and Wall Street Parking Garages.

Vice-Mayor Frank said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-107 was unanimously adopted.

Complete text of Resolution No. 87-107 will be found in Resolution Book No. **16** at Page **366-368**.

C. ORDINANCE NO. 1629 - THIRD READING OF ORDINANCE NO. 1629 - REZONING PROPERTY ON VANDERBILT ROAD FROM R-3 RESIDENTIAL DISTRICT TO

R-1 RESIDENTIAL DISTRICT

Vice-Mayor Frank said the Asheville Planning & Zoning Commission at a meeting held March 25, 1987, discussed the request of Asheville City Council that consideration be given to rezoning certain lots on Vanderbilt Road from R-3 Residential District to R-1 Residential District. After review and discussion, the Commission voted to recommend to City Council that Lots 58 1/2, 56 1/2, 56 1/4, and a portion of Lots 54 and 53 1/2, Sheet 4, Ward 7, be rezoned from R-3 Residential District to R-1 Residential District. She said this ordinance was previously read on first and second readings and would not be reread in its entirety.

Claude Smith, of 296 Vanderbilt Road and owner of Lot 56 1/2, again spoke in opposition to the rezoning and the manner in which the rezoning was handled. He also requested that a fence be erected between his property and the adjacent cabinet shop, and that the cabinet shop be made to come into compliance with all zoning regulations.

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Councilman Tisdale requested that the following letter be included as a part of the minutes:

June 10, 1987

The Honorable Louis Bisette

Mayor, City of Asheville

Asheville City Hall

Asheville, NC 28807

Dear Mayor Bisette:

In response to Councilwoman Price's question concerning prior contact with the property owners in question, I have enclosed a copy of a March 7, 1986 letter that was sent to the lot owners in question. In addition, I have made a further mailing to the neighborhood to bring them up to date on matters as they presently stand. Copies are enclosed.

Again, speaking for Mayor, Town Commission, and Biltmore Forest Residents, we appreciate your passage of the rezoning of this area on its second reading.

Sincerely,

Robert R. Musselwhite

Town Administrator

RRM/tmb

pc: Vice Mayor Frank

Councilman Boland

Councilman Tisdale

Councilwoman Bratton

Councilwoman Price

Councilman Michalove

Mayor Canie B. Smith

Commissioner Robbie W. Hambright

Commissioner E. Glenn Kelly

Commissioner Robert B. Armstrong

O. E. Starnes, Jr., Town Counsel

Douglas O. Bean, City Manager

William F. Wolcott, Jr., Associate City Manager

Charles Penny, Assistant City Manager

Verl R. Emrick, Jr., Director of Planning

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Charles Grimes, of 303 Vanderbilt Road, spoke in support of rezoning the property to R-1 Residential District.

Francis Gilman, of 305 Vanderbilt Road, spoke in support of rezoning the property to R-1 Residential District.

On a roll call vote of 6-0, Ordinance No. 1629 passed on third and final reading.

Complete text of Ordinance No. 1629 will be found in Ordinance Book No. **11** at Page **130**.

IV. NEW BUSINESS

A. ORDINANCE NO. 1635 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FUNDS FOR STORM DRAINAGE IMPROVEMENTS ON SOUTH GROVE AND BLANTON STREETS

Vice-Mayor Frank said this budget ordinance will provide funds to install a 24" drainage pipe and junction boxes in the South Grove and Blanton Street area due to the failure of an existing 18" drainage pipe which has created a health and safety hazard to the residents. She said the project cost will be \$40,000.00 which would be provided from land sale revenue received from the East Riverside Renewal Area.

Vice-Mayor Frank said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1635. This motion was seconded by Councilman Boland.

On a roll call vote of 5-1, Ordinance No. 1635 passed on first and final reading with Councilman Michalove voting "no".

Complete text of Ordinance No. 1635 will be found in Ordinance Book No. **11** at Page **139**.

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B. APPROVAL OF BIDS FOR DISPOSAL PARCELS IN THE EAST END/VALLEY STREET

COMMUNITY IMPROVEMENT PROJECT

Vice-Mayor Frank said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East End/Valley Street Community Improvement Project.

Parcel Reuse Price Bid Redeveloper

91 Residential \$7,500 \$8,000 Quick

92 Residential 6,600 6,900 Cruell

93 Residential 6,500 6,751 R & R Associates

95 Residential 4,100 4,351 R & R Associates

96 Residential 4,300 4,600 WNC Habitat

100 Residential 5,700 5,951 R & R Associates

Vice-Mayor Frank said Disposal Parcels 93, 95, 96 and 100 of the East End/Valley Street Area are to be developed with single family homes for resale. The eventual purchasers of the completed homes will be able to obtain the Incentive Housing Subsidy. She said Disposal Parcels 91 and 92 are located in the East End/Valley Street Area and are residential lot sales for single family structures under the Incentive Housing Program.

Councilman Tisdale moved to approve the sale of the disposal parcels as recommended by the Housing Authority. This motion was seconded by Councilman Price and carried unanimously.

C. RESOLUTION NO. 87-108 - RESOLUTION AUTHORIZING THE CITY MANAGER

TO

EXECUTE AN ENCROACHMENT AGREEMENT WITH ACE APPLIANCE COMPANY, INC. AND B & W ENTERPRISES

Vice-Mayor Frank said Ace Appliance Company utilized a warehouse located at 110 Riverside Drive for storage of appliances. The loading dock access on the rear of the building is across private property, and the property owner desires to use the property for building purposes which will eliminate Ace Appliance Company access across this property. Ace Appliance Company has requested permission to encroach upon the right-of-way of Riverside Drive in order to construct a new loading dock. Investigations of the site by City personnel have indicated that this encroachment will not interfere with traffic flow.

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Vice-Mayor Frank said members of Council were previously furnished copies of the resolution and the encroachment agreement and it would not be read in entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-108 was unanimously adopted.

Complete text of Resolution No. 87-108 will be found in Resolution Book No. **16** at Page **369**.

D. RESOLUTION NO. 87-109 - RESOLUTION ESTABLISHING POLICY REGARDING THE RATE TO BE CHARGED FOR SEWER MAINTENANCE SERVICE

Vice-Mayor Frank said this action would establish a sewer maintenance user fee as required by the Water Agreement. She said this action should generate revenue of approximately \$1,588,000.00 annually with an average cost of approximately \$4.20 per month to a residential customer.

Councilman Price noted that this action relative to the establishment of a sewer user fee is part of the Water Agreement. She said the amount of revenue that would be generated from the maintenance user fees would be equivalent to 9 1/2 cents on the tax rate.

Councilman Michalove noted that the maintenance charge would have been implemented one way or another, if not by the City, then the Metropolitan Sewerage District if the sewer lines had been turned over for maintenance to that agency. He also indicated that it is his understanding that the County is also establishing a new sewer user fee.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 87-109 was unanimously adopted.

Complete text of Resolution No. 87-109 will be found in Resolution Book No. **16** at Page **370**.

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E. REPORT BY COUNCILMAN TISDALE - INTERGOVERNMENTAL SERVICES COMMITTEE

Councilman Tisdale noted that the Intergovernmental Services Committee met today and discussed the upcoming tax rate for the City of Asheville and the County of Buncombe; the increase in tipping fees by the County in the amount of 44% which would be an increase of \$110,000.00 for the City totaling \$360,000.00; the forming of an Economic Development Commission with the County participating on a contractual basis and the Water Agreement, which he called a tax equity agreement.

Councilman Boland said during the Intergovernmental Services Committee meeting, a discussion was held relative to the County using 1 cent of their tax rate for economic development, and a discussion relative to school consolidation which would be a topic at their next meeting in July.

Councilman Tisdale and Councilman Boland said they felt the Intergovernmental Services Committee provides a relaxed, informal atmosphere for communication with the County of Buncombe and there were many advantages to keep the committee meeting on an ongoing basis.

REQUEST OF MONTFORD COMMUNITY CLUB RELATIVE TO ISSUANCE OF ABC PERMITS FOR TWO LOCATIONS IN THE MONTFORD AREA

Jim Cairnes, of 209 Cumberland Avenue and President of the Montford Community Club read the following petition.

June 8, 1987

Alcoholic Beverage Control Board

Raleigh, North Carolina

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We, the undersigned, residents of the Montford Historic District of Asheville, N.C., do hereby declare our total and unwavering opposition to the granting of a license/permit to sell alcoholic beverages at the Miller Cab Service/Miller Grocery, located at 102 Montford Ave., Asheville, N.C.

The Miller Cab Service/Grocery is located in a residential area of the Montford Historic District and is also located directly across the street

from the playground of the William Randolph Elementary School. This area

has been declared a blighted, redevelopment area by the City of Asheville, has an approved redevelopment plan in place, and is awaiting final release of HUD monies to implement this plan. We consider the approval of a permit for this location as a further blighting influence on the neighborhood and a contradiction to the purpose of the redevelopment plan.

The applicant has operated a cab service in this location but we consider that he has not and is not operating a legitimate grocery store. We further question the wisdom of granting an alcoholic beverage permit to an applicant engaged in public transportation services. We also feel that the close proximity to the school playground would create an undesirable atmosphere for the children using the school playground.

We petition the Alcoholic Beverage Control Board to deny any permit/license for sale of alcoholic beverages by the applicant, Miller Cab Service/Grocery, 102 Montford Avenue., Asheville, N.C.

Mr. Cairnes also requested that the City of Asheville investigate as to whether this particular business was grandfathered under the zoning ordinance and when a grocery permit was issued to this location. He said he felt a grocery business would constitute a change in zoning in this area and this would not be a bona fide neighborhood grocery store. He also said the owner of the Miller Cab Company has been given numerous violations relative to litter. He said it is his understanding that the State ABC Board would be holding a hearing relative to the issuance of the ABC permit within the next two to three weeks.

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A discussion was held relative to the requirement of the zoning ordinance that a location serving beer and wine license be 250' from any building. It was also noted that the State's requirement is that a location serving beer and wine be 50' from any school property.

Trudy Carey, 290 Montford Avenue, also requested Council's endorsement of the Montford Community Club's petition. She also requested that Council do anything in their power to deny a beer and wine license to a proposed grocery store at 235 Montford Avenue.

Dr. Gene Rainey, of 19 Reynolds Place, owner of property in the Montford Area and a member of the Montford Community Club, requested that Council pass a motion endorsing the Montford Community Club's petition in the denial of a permit for a beer and wine permit for 102 Montford and 235 Montford Avenue and that the City pursue any zoning violations.

Councilman Boland moved that the City Council of the City of Asheville hereby endorses and expresses its support for the petition of the Montford Community Club to the North Carolina Alcoholic Beverage Control Commission in opposition to applications pending before the Commission for issuance of ABC permits for locations 102 Montford Avenue and 235 Montford Avenue in the City of Asheville, and further that the City Manager is hereby directed to investigate the business operations at said locations to ensure compliance with applicable provisions of the Code of Ordinances of the City of Asheville, further that a copy of the motion be sent to the North Carolina Alcoholic Beverage Control Commission in Raleigh and to Mr. William D. Williams, Superintendent of District 10, the local State ABC Office. This motion was seconded by Councilman Price and carried unanimously.

Councilman Tisdale also requested that the Montford Community Club request the same action from the Asheville City School Board.

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CLAIMS - JOANN NESMITH (WATER) - FRED EGGERTON (SANITATION) - FRED WHITTEMORE (SANITATION) - LOIS GUILLEBEAUX (STREETS) - LEWIS GREEN (DOWNTOWN DEVELOPMENT) - KEVIN SHAW (PARKS)

The City Manager presented claims received from Joann Nesmith, Fred Eggerton, Fred Whittemore, Lois Huillebeaux,

Lewis Green and Kevin Shaw.

Vice-Mayor Frank referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Vice-Mayor Frank adjourned the meeting at 7:00 p.m.

MAYOR CITY CLERK
