

Tuesday - July 9, 1996 - 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 William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. BICENTENNIAL COMMITTEE PRESENTATION

Mr. Richard Nantelle, Co-Chair of the Bicentennial Committee, said that the Committee has received the first of a series of letters the City will be receiving that provides support and encouragement for Asheville's Bicentennial. He then read the following letter dated June 27, 1996, from the Honorable Charles H. Taylor, Member of Congress:

"It is my pleasure to honor the City of Asheville on their 200th birthday in 1997. I understand that there will be a variety of events scheduled throughout the year that will not only celebrate this Bicentennial year, but will also promote our region.

"Since Asheville is the hub of North Carolina's Eleventh Congressional District, I heartily support this effort. This Bicentennial Celebration offers a special opportunity to celebrate our heritage and build toward the future.

"As we look out over a mountain vista we see the natural beauty of forests, streams and lakes. This vista has been enhanced by the towns and cities that lie in the valleys. The City of Asheville has much to offer the mountain region historically, culturally and architecturally.

I join other civic leaders in recognizing the major contribution of the City of Asheville has made in the educational and economic environment of Western North Carolina. I wish Asheville another 200 years of continued success."

Ms. Leni Sitnick, Co-Chair of the Bicentennial Committee thanked Council for their support of the Committee and spoke about promoting and implementing a "Clean You Up Awareness Program" including the agencies already involved with clean-up in Asheville. She also asked for the City's participation in a "Yes You Can Come Home Again - Hometown Reunion".

B. SISTER CITY

Mr. Charlie Nesbitt introduced Mr. Eric Pacault, a visitor from our Sister City in Saumur, France.

II. PUBLIC HEARINGS:

III. UNFINISHED BUSINESS:

-2-

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-122 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RESTATED AND AMENDED SUPPLEMENTAL WATER AGREEMENT

Ms. Patsy Meldrum, Assistant City Attorney, said that

this resolution would authorize the Mayor to execute a Restated and Amended Supplemental Water Agreement.

The City of Asheville, County of Buncombe, County of Henderson and Asheville/Buncombe Water Authority have previously reached an agreement to cooperate in construction of a new regional water plant. Construction of the new plant, new transmission lines and other associated improvements to the water system require major capital expenditures. As the City of Asheville owns the assets of the water system, the parties have determined that the City of Asheville would be the entity to issue water revenue bonds for construction of the new plant, new transmission lines and other associated improvements.

Bond documents for those water revenue bonds require that certain covenants be made regarding water rates. The Asheville/Buncombe Water Authority sets those rates and the Asheville/Buncombe Water Authority, the County of Buncombe and the City of Asheville all approve the budget for the Asheville/Buncombe Water Authority. It is necessary, therefore, to amend the Supplemental Water Agreement to include the rate covenant requirements and other requirements of the bond documents.

The City of Asheville and the County of Buncombe have negotiated changes to the Supplemental Water Agreement to comply with the obligations of the bond documents. The Asheville/Buncombe Water Authority has been consulted about the changes. The County of Buncombe requested that the Supplemental Water Agreement be restated to incorporate these changes and previous amendments to it. That restatement and the changes negotiated for the bond documents are reflected in a document entitled "Restated and Amended Supplemental Water Agreement."

The City Manager and the City Attorney's Office recommend adoption of the resolution authorizing the Mayor to execute a Restated and Amended Supplemental Water Agreement.

Ms. Meldrum then outlined each of the changes.

Mr. Jerry Rice felt that this agreement should be a regional water agreement and the agreement should not include other matters, e.g., recreation, in an agreement that should strictly deal with water.

Mayor Martin and Council responded to questions raised by Mr. Rice noting that the agreement is actually a tax equalization agreement. They explained that the Asheville-Buncombe Water Authority's budget is financially separate from the recreation items noted in the agreement.

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

Councilman Worley moved for the adoption of Resolution No. 96-122, with Article IV (T) being amended to read that "Except as provided in Article XVI of this Agreement, the City may sell, mortgage, lease or otherwise dispose of property constituting the water system, in whole or in part, in accordance with the provisions of existing law, this Agreement and the Indenture, provided,

however, that the Authority shall have thirty (30) days after receipt of written notice from the City that

-3-

the City intends to sell, mortgage, lease or otherwise dispose of said property to comment or voice objections to such sale, mortgage, lease or other disposition. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 238

B. RESOLUTION NO. 96-123 - RESOLUTION REVISING THE PROVISIONS PREVIOUSLY MADE FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1996 BELE CHERE FESTIVAL

Mr. Irby Brinson, Parks & Recreation Director, said that the Bele Chere Board and the Parks and Recreation Department requests City Council approval in amending Resolution No. 96-74 for allowing alcohol during the Bele Chere Festival.

In May, 1996, Asheville City Council approved an ordinance prohibiting consumption and/or possession of open containers of malt beverages and unfortified wine on public streets and other property owned or occupied by the City of Asheville. In order to allow for the control of the sale and consumption of alcohol at Bele Chere, City Council approved Resolution No. 96-74. This resolution has been very controversial toward the downtown merchants who are within the Bele Chere Festival boundaries. Over the past month, numerous meetings have occurred with downtown merchants, Bele Chere Board representatives, the Legal Department, and Parks and Recreation staff in an effort to develop a compromise. Through the efforts of the above parties, the following compromise is proposed:

1. The Bele Chere Festival will sell wrist bands for \$1 per day which will verify age compliance for possession of open containers of malt beverages and unfortified wine.
2. No one will be allowed within the Festival boundaries carrying alcohol without wearing a proper wrist band.
3. No cans will be allowed within the Festival boundaries and alcohol will be sold only in cups.
4. The sale of alcohol will end at 10 p.m. on Friday and Saturday and at 5 p.m. on Sunday. Possession of alcohol within the Bele Chere Festival will be prohibited after 10:30 p.m. on Friday and Saturday and at 5:30 p.m. on Sunday.
5. There will be alcohol-free zones designated.
6. Voluntary compliance will be requested from the downtown merchants who will regulate their own sales of alcohol during the Bele Chere Festival. Representatives from the downtown merchants will present their regulations in regard to this matter to City Council.

The Bele Chere Board and Parks and Recreation Department recommends City Council approval of this resolution to allow alcohol during the Bele Chere Festival based upon the above information.

Upon inquiry of Vice-Mayor Field, Mr. Brinson explained that the Alcohol Law Enforcement Agency, the Asheville Police Department and the downtown merchants

will be enforcing the intent of this resolution. He responded to the \$1/day wristband issue by saying that the wristbands will cost approximately \$15,000 and that doesn't include the tents and tables that would go along with the stations to sell the bands. They

-4-

hope to use part of the \$1 wristband cost to help to defray the clean-up and added security to the Festival area. He said that 10% of the sales will hopefully go to the non-profit agency (perhaps MADD or SADD) that will staff the stations. Also, since they are trying to limit the sale of alcohol on the streets, perhaps the \$1 per day will be a deterrent for some people to drink on the street.

Upon inquiry of Councilman Skalski, Mr. Brinson said that there will be 11 portable locations selling alcohol manned by non-profits and there are 19 establishments in the Bele Chere area that are already licensed to sell alcohol.

Councilman Skalski said that the resolution adopted in May was to cut down on the amount of alcohol consumption. He felt that this resolution reversed that intent. He suggested that in the future it might be more advantageous to not have the 11 portable locations competing against the 19 merchants that are already licensed to sell alcohol in the festival area.

Councilman Sellers appreciated the work that has gone into this compromise resolution by Mr. Brinson, the Bele Chere Board and the downtown merchants. He said that the only way to guarantee no liability for the City is to eliminate the sale and consumption of alcohol totally on the sidewalks and streets and that it only be purchased and consumed on private property. He realized that the \$39,122 that would be generated from the sale of alcohol goes to entertainment and other items, but that amount would be distributed to the 19 private establishments already licensed and in business to sell alcohol. Crowd control would be left up to the Police Department. Consumption by minors was an issue for City liability and the City would be relieved from any liability. Some other options voiced to him by concerned residents have been to (1) give the elimination of alcohol sales on streets and sidewalks a one year trial and see what effect it has; and (2) eliminate alcohol consumption between 6:00 a.m. - 6:00 p.m. and allow it to be sold from 6:00 p.m. until 10:00 p.m. From the people that have called him, he feels the City of Asheville should remove itself from the alcohol business and leave it to private enterprise.

When Vice-Mayor Field asked about how the City could replace the loss of \$39,122, Councilman Sellers felt that if alcohol was not present at the festival, more people might be included to participate.

Mayor Martin said that Councilman Sellers had some good suggestions and even though we are too late in the process now to make changes with regard to the sale and consumption of alcohol during the 1996 Festival, they can be revisited for the 1997 Festival.

Mr. Brinson said that another issue dealing with alcohol sales is sponsorship. We do have beer sponsors and obviously if we stop alcohol sales, we would lose their sponsorship as well. That would be the loss of an additional \$10-15,000. He said that the issue of alcohol sales does need to be revisited in 1997 and evaluated to see if that's the business the City really wants to be in.

Councilman Hay felt that the wristband idea might work out okay, but he also thinks it's time to look at beer sales for the 1997 Bele Chere Festival. He noted that there are big cities with successful festivals that don't allow beer

sales on the streets or they limit the beer in other ways. He felt that it might be a good idea to direct the Bele Chere Board to take a long look at beer sales altogether.

-5-

Ms. Leni Sitnick agreed with Councilman Sellers' comments. She felt the downtown merchants should be the only ones selling beer if it's sold. She encouraged Council to not only discuss the possibility of eliminating beer sales on the streets for next Bele Chere, but to come up with some creative ideas to make up for those funds so that the City can pay for the wonderful entertainment that the Bele Chere Committee recruits.

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. 96-123. This motion was seconded by Vice-Mayor Field and carried on a 4-3 vote, with Councilmen Cloninger, Sellers and Skalski voting "no".

RESOLUTION BOOK NO. 23 - PAGE 239

C. ORDINANCE NO. 2303 - ORDINANCE AMENDING ARTICLE 5, SECTION 16-143 REGARDING SELLING AND ENTERTAINING ON CITY STREETS

Mr. Irby Brinson, Director of Parks & Recreation said that the purpose of this amendment is to change the ordinance to allow outdoor dining permits during community events and festivals.

In 1991, City Council passed an ordinance allowing for outdoor dining, pushcarts, and street entertainment on public streets and sidewalks. Section 16-143 states that permits issued under the provisions of this article shall be temporarily suspended so that the sale of food and other products from push carts or outdoor dining areas or street entertainment shall be allowed at locations designated for community events and festivals permitted under Section 16-97. After discussing this matter with various City departments and the Bele Chere Board, the Parks and Recreation Department recommends that outdoor dining areas be allowed during community events and festivals. This change would not effect push carts and street entertainment; therefore, these will not be allowed during these events.

The Parks and Recreation Department recommends that City Council approve an amendment to Section 16-143 to allow for outdoor dining areas to be permitted during community events and festivals.

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. 2303. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2303 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE

D. MOTION AUTHORIZING THE MAYOR TO SEND A LETTER TO BRANCH BANKING AND TRUST COMPANY AUTHORIZING THE RELEASE OF ACCRUED INTEREST FROM A DEPOSIT MADE BY THE PACK PLAZA PROJECT DEVELOPER AND HELD BY BRANCH AND TRUST COMPANY FOR THE BENEFIT OF THE OWNER OF THE PACK PLAZA PROJECT

City Attorney Slawter said that when the Pack Plaza Project was refinanced in 1988, the Bank of Scotland required the developer to provide a certain letter of credit to it. Part of the security for that

-6-

letter of credit was a deposit from the developer in the amount of \$200,000 with Southern National Bank (now merged with BB&T). All of the \$200,000 was previously drawn down by the Bank of Scotland when the developer failed to pay the interest due on the construction loan. There was some interest, however, which accrued on the \$200,000 deposit.

Under an agreement and assignment, the City of Asheville has sole and exclusive control over the accrued interest until the owner of the Pack Plaza Project provides the City of Asheville with a request for disbursement for the funds for finishing unleased spaces within the Pack Plaza Project. The Bank of Scotland is now the owner of the project and they have made a request to the City of Asheville that we authorize the release of that interest still being held by BB&T. BB&T will not release the interest until the City authorizes them to do so.

The City Attorney's Office has reviewed the documents executed in 1988. Based upon their review of the documents, they recommend that the City Council consider a motion authorizing the Mayor to send a letter to BB&T authorizing the release of that interest to the Bank of Scotland.

The City Attorney's Office recommends that the City Council consider a motion authorizing the Mayor to send a letter to BB&T authorizing the release of the interest described above to the Bank of Scotland.

Vice-Mayor Field moved to authorize the Mayor to send a letter to Branch Banking and Trust Company authorizing the release of accrued interest from a deposit made by the Pack Plaza project developer and held by Branch Banking and Trust Company for the benefit of the owner of the Pack Plaza Project. This motion was seconded by Councilman Worley and carried unanimously.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 25, 1996

B. RESOLUTION NO. 96-124 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 50A (AT THE INTERSECTION OF ASHELAND AND HILLIARD AVENUES) OF THE EAST RIVERSIDE REDEVELOPMENT PROJECT TO OAK VALLEY ASSOCIATES

Summary: Disposal Parcel 50A is a CS Commercial Service lot located approximately 300 feet south of the intersection of Asheland and Hilliard Avenues comprising 6,181 square feet. The lot is generally triangular in shape and mostly flat at street level. The bid from Oak Valley Associates for Disposal Parcel 50A includes the proposal to incorporate the lot into the property currently owned by Oak Valley Associates where the offices of Asheville Women's Medical Center are located. The development proposal consists of paving, landscaping and maintaining the lot consistent with the currently owned property. Oak Valley Associates is a partnership consisting of Craigan L. Gray, Catherine M. Wilson, Stephen T. Hill, William M. Callaghan and John P. Cuellar III.

The bid of Oak Valley Associates, in the amount of \$30,900, for the purchase of Disposal Parcel 50A in the East Riverside Redevelopment Project is not less than the established minimum price of \$30,900.

The upset bid process as provided in G.S. 160A-269 was conducted and no response was received.

-7-

This resolution will authorize the sale of the property to Oak Valley Associates for \$30,900.

RESOLUTION BOOK NO. 23 - PAGE 245

C. RESOLUTION NO. 96-125 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON JULY 23, 1996, ON QUESTION OF ANNEXATION OF PROPERTY LOCATED WEST OF OVERLOOK ROAD AND KNOWN AS GLEN OAKS, PHASE 3 (SECTION 7 OF BRAESIDE AT BILTMORE PARK)

RESOLUTION BOOK NO. 23 - PAGE 246

D. RESOLUTION NO. 96-126 - RESOLUTION OF RETENTION OF DISPOSAL PARCEL 21 (AT THE CORNER OF STARNES & CUMBERLAND AVENUES) OF THE HEAD OF MONTFORD REDEVELOPMENT PROJECT FOR PARK AND RECREATION PURPOSES

Summary: Disposal Parcel 21 is located at the corner of Starnes and Cumberland Avenues. Due to its location, size and topography, it is suitable for a small neighborhood passive park. The community residents have expressed a strong desire to have the parcel committed to use as a park. The Asheville Parks & Recreation Advisory Board endorsed the residents' request on March 11, 1996.

The Head of Montford Redevelopment Plan identified the property as a potential site for multi-family housing. The most likely use, if not dedicated to park purposes, would be the development of single family homes to be sold to owner occupants.

This resolution will commit the property to future use as a park, however, no funding is available to construct the park in the near future.

RESOLUTION BOOK NO. 23 - PAGE 248

E. RESOLUTION NO. 96-127 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE APPLICATIONS AND OTHER DOCUMENTS NECESSARY FOR FEDERAL REGISTRATION OF THE BELE CHERE SERVICE MARK AND TRADEMARK

Summary: This resolution would authorize the Mayor to execute applications and any other documents necessary for federal registration of the Bele Chere service mark and trademark with the United States Patent and Trademark Office.

Since 1979, the City of Asheville has used a certain name and identification for the Bele Chere Festival. It would be beneficial to protect the Bele Chere service mark and trademark by registering them with the United States Patent and Trademark Office.

RESOLUTION BOOK NO. 23 - PAGE 249

F. CERTIFICATION OF THE CIVIL SERVICE BOARD ELECTION HELD ON JUNE 27, 1996

Summary: The results of the Civil Service Board election held on June 27, 1996, are presented as follows: Jane A. Mervine-Knisely - 162 votes; Jesse Warren - 67 votes; Charles E. Webb - 24 votes; and Bob Welborn - 20 votes.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolutions and they will not be read.

- 8 -

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

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

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 July 3, 1996:

RESIDENCE INN - BILTMORE AVENUE

Councilman Worley moved to excuse Councilman Cloninger due to a conflict of interest. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Mike Matteson, Urban Planner, said that Taylor-Murphy Investments is proposing the construction of a 72 room Residence Inn on Biltmore Avenue at the intersection of Biltmore and Roebing Circle. The 1.8 acre site is zoned OI Office Institutional and hotels are a permitted use. The proposed project complies with the requirements established by the City's zoning ordinance. The City's Traffic Engineer required that the project's drive be aligned with Caledonia Drive, located on the opposite side of Biltmore Avenue. The Commission's approval of the project does not include the requirement that the drive be aligned with Caledonia. There were approximately 20 citizens at the Commission meeting who were opposed to the project. Surrounding property owners and residents of the Kenilworth neighborhood expressed concern about the existing traffic problems on this section of Biltmore Avenue and the impact of the development on the area street system.

The proposed development was reviewed by the Commission at their June 5 meeting, at which it was tabled until their July 3 meeting. At their July 3, 1996, meeting, the Commission voted 4-3 to recommend approval of the site plan with the following conditions: (1) the lot must be subdivided; and (2) the project must comply with the open space requirements set forth in the zoning ordinance.

Upon inquiry of Councilman Skalski, Mr. James Cheeks, Traffic Engineer, said that the City has requested from the N.C. Dept. of Transportation ("NC DOT") a study to see if a traffic light is warranted at the intersection of Caledonia and Biltmore Avenue. At this time we have received no response from them. However, the City has already performed the necessary analysis and have determined that the intersection of Caledonia, Roebing and Biltmore meets 80% of our traffic signal warrants for three of the necessary requirements. That is enough to dictate that there will eventually be a signal there, however, that does not guarantee that the signal will be put in by NC DOT quickly.

When Councilman Skalski inquired about the location of the driveway, Mr. Cheeks said that the location of the existing driveway would cause a safety hazard due to its location and the curvature of the roadway in that area. He said that, from a traffic standpoint, to realign Roebing and Caledonia would be the optimum thing to do, but due to our budgetary constraints, that has not been a consideration. It

-9-

would be very expensive due to the stream that runs along side of Caledonia.

Upon inquiry of Councilman Hay, Mr. Cheeks responded that there would be an increase of approximately 159 trips more a day if the Inn was built.

Mr. Starnes, attorney representing the owners and developers, said that they have been in contact with NC DOT and have been told that they have no plans to put up a traffic light at Caledonia - that there is no need for one. He also said the developer has already made an agreement with the people who are operating the child care center to widen that area to accommodate some of the problems that they have with getting in and out along Roebing and to the extent necessary, up Sterling.

Mr. Gary Davis, registered engineer with McGill Associates, agreed with Mr. Cheeks that the optimum situation is to have one road directly across from another road. He said that they would like to move the existing driveway up more into the curve so you can see both directions at the same time. He said that in talking with NC DOT, they have not seen that at the present time that the area warrants a light to be installed. The McDowell Street viaduct construction is being undertaken to relieve some of the traffic problems on Biltmore Avenue. He then talked about the peak periods relative to traffic counts.

Vice-Mayor Field felt that moving the driveway up Biltmore will create a safer situation.

Councilman Skalski felt that since the McDowell Street Viaduct Project would take approximately 3-4 years to complete, most of that traffic will go onto Biltmore Avenue, that already has over 22,000 cars per day traveling on it.

Upon inquiry of Councilman Skalski, Mr. Clay Mooney, registered landscape architect, said that to move the driveway almost to the center of Caledonia would cost approximately \$100,000 since there would be a considerable amount of grading to be done because of the 7 foot grade change. In addition there would be another cost incurred to dispose of the excess grading material.

Mr. Ellen Kocek, President of Gold's Gym, Vice-President of 711 Biltmore Corp. and Vice-President of Gym Park Corp., was not opposed to growth in Asheville if it's positive. She did, however, speak in opposition to construction of the Residence Inn, as it stands now, for the following reasons: (1) traffic and safety of pedestrians, drivers, residents of Kenilworth, parents of Mission Child Care and general public safety on Biltmore Avenue, Caledonia, Kenilwood, Roebing Circle, and Sterling; (2) inadequate parking; (3) drainage and sink hole problems in the area; and (4) possibility of construction damage to Gold's Gym. They urged the developer to align the driveway with Caledonia, as recommended by the City's Traffic Engineer. She said that Mr. Mooney stated at the Planning & Zoning Commission's June meeting that the developer would be responsible for any damage done to Gold's Gym. She then asked that if the project does pass, would the developer be willing to post bond in the event that she would incur any damages from or during construction. She said there are solutions and compromises that could be created and asked that a public hearing be held.

When Vice-Mayor Field asked about the problem with stormwater control, Mr. Mooney said that the City does have a stormwater control ordinance in effect and they are required to comply with that ordinance.

-10-

Vice-Mayor Field then asked about the underground sink hole mentioned by Ms. Kochek. Mayor Martin said that the sink hole was fixed a number of years ago. Mr. Mooney also said that the project could not be built on unsuitable soil.

Upon inquiry of Vice-Mayor Field, Mr. Cheeks said that all four lanes of traffic would not be closed at one time during the McDowell Street Viaduct Project construction.

Ms. Jan K. Howard, President of the Kenilworth Residents Association, said that this issue has not been before their Board - it's not necessary a Kenilworth resident issue. She felt that the St. Dunstan's neighborhood would be directly impacted by this project. She suggested that the developer build the driveway directly across from Caledonia. She questioned the developer's statement about widening Roebing.

Mr. Starnes responded to Ms. Howard's question stating that the developer has been in touch with the operators of the Child Care Center and a solution has been worked out.

Upon inquiry of Vice-Mayor Field about a statement in a letter received which said that "the developer of the site is known to have been involved in less than scrupulous endeavors", Mr. Ken Murphy said that he has not been in any less than scrupulous endeavor.

Mr. Bill Rowe, property owner on Roebing, spoke against the proposed project and urged Council to hold a public hearing on the matter. He cited problems such as traffic and unstable soil in the area.

Councilman Skalski moved to set a public hearing on this matter for July 23, 1996, at 5:00 p.m. in the Council Chamber of the City Hall Building. This motion was seconded by Councilman Hay. Said motion was defeated on a 2-4 vote, with Mayor Martin, Vice-Mayor Field, and Councilmen Sellers and Worley voting "no."

Since the motion to set a public hearing was defeated, the report of the Planning and Zoning Commission was accepted, subject to the conditions that (1) the lot must be subdivided, and (2) the project must comply with the open space requirements set forth in the zoning ordinance.

YMCA YOUTH WING ADDITION ON WOODFIN STREET

Mr. Matteson said that the YMCA is proposing an 8800 square foot addition to their facility located at 30 Woodfin Street. The proposed addition, which will be located at the southeast corner of the existing building, will house the youth wing. The 2.8 acre site is zoned Central Business District and the proposed addition complies with all requirements of the City's zoning ordinance. No additional landscaping or parking will be required as a result of the addition. With the proposed addition, the total square footage of the YMCA will be approximately 49,000. There have been no comments from the public regarding the proposed addition.

The Commission reviewed the site plan for the addition to the YMCA at their July 3, 1996, meeting and unanimously recommended approval with no conditions.

-11-

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. RESOLUTION NO. 96-128 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN

APPLICATION, ON BEHALF OF THE CITY OF ASHEVILLE, FOR THE GROVE ARCADE BUILDING TO BE DESIGNATED AS A NATIONAL MONUMENT

Councilman Worley moved to excuse Councilman Hay due to a conflict of interest. This motion was seconded by Councilman Sellers and carried unanimously.

City Attorney Slawter said that this resolution will authorize the Mayor to execute on behalf of the City of Asheville an application and any other necessary documents for acquiring the Grove Arcade Building for historic monument purposes. He said that this is another step in the process of having the building transferred from the federal government to the City and ultimately have the building rehabilitated by the Grove Arcade Public Market Foundation in conjunction with a private developer. This transfer under the Historic Monument Preservation Act will enable the City to retain ownership of the building and there will be a long term lease of the building to the Public Market Foundation and the developer that they are working with.

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 to adopt Resolution No. 96-128. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 250

C. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop felt the City Council should have allowed the public to speak during the group development issue earlier today.

D. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick suggested (1) that City Council consider how they feel about our School Board and whether or not this community would benefit from a different appointment process; (2) City Council consider in the Unified Development Ordinance deliberations the possibility of including an Open Space Zone; (3) City Council discuss going from a non-partisan election to a partisan election; and (4) City Council investigate what exactly the School Board is doing with the Jones School property, in particular with the trees.

E. COMMENTS BY MS. JANE MATHEWS

Ms. Jane Mathews, member on the Planning & Zoning Commission, expressed concern that City Council did not set a public hearing on the Residence Inn group development project. She felt that the City Council would have benefited from further discussion from the community. She also felt the minutes of the Planning & Zoning Commission might have been helpful to them.

-12-

F. COMMENTS BY AARON ZARETSKY

Mr. Aaron Zaretsky, Executive Director of the Grove Arcade Public Market Foundation, thanked City Council for their continued cooperation in this project active.

G. COMMENTS BY HARRIETTE WINNER

Ms. Harriette Winner, member of the Planning & Zoning Commission, echoed Ms. Mathews' earlier comments relative to the Residence Inn group development. She

felt that since there was a lot of input, the community would have expected a public hearing.

Vice-Mayor Field said that she did not vote for a public hearing because Council members have received many well written and specific letters from the public regarding their views on this issue. She didn't feel there was any additional information that could have been given to Council from the residents on this matter. As a result of the concerns raised by residents, she felt it was important to get the answers from the developers who were present.

Councilman Worley said that this is a situation Council has been faced with before where the project complies with the zoning ordinance. Where a project does comply with the zoning ordinance, Council has a real problem denying it as a result of a public hearing.

Ms. Jane Mathews said that in the Unified Development Ordinance process, there's talk about moving group developments to Technical Review Committee ("TRC") review. Under TRC review, this project would have been denied because of the road situation.

Ms. Leni Sitnick reminded Council that two of the Planning & Zoning Commission members are County appointees and wondered if they should be making decisions on City issues. She also said that City Council is given discretionary power to re-evaluate all of the recommendations brought before them.

H. CLAIMS

The following claims were received by the City of Asheville during the week of June 21-July 3, 1996: Frances Mannos (Water), Christy Baker (Water), Pierre Griffin (Parks & Recreation), Charles Cooke (Water), Bill Mebane (Water) and Darleen Williams (Streets).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

I. LAWSUIT

The following lawsuit was received by the City on July 1, 1996, which is generally described as follows: Biltmore Square Associates, et al v. City of Asheville, et al. The nature of the proceeding is refund of property taxes.

This lawsuit will be handled in-house.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:25 p.m.

CITY CLERK MAYOR
