

Tuesday - August 13, 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; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: City Manager James L. Westbrook Jr.

### INVOCATION

Councilman Worley gave the invocation.

### I. PROCLAMATIONS:

#### A. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD

Asst. City Manager Spell presented Finance Director Bill Schaefer with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. The City of Asheville is proud to have received this award for the 16th year.

He also presented R. Patricia Leckey, City Accountant, with the Award of Financial Reporting Achievement. Ms. Leckey was designated the individual primarily responsible for preparing the award-winning comprehensive annual financial report.

Mr. Joe Elkins, Ms. Dotty Lawing and Ms. Barbara Smith were also recognized for their work in achieving the awards.

### II. PUBLIC HEARINGS:

#### A. CONTINUATION OF PUBLIC HEARING TO REZONE 865 HAYWOOD ROAD AND 2 DYSART STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY

Mayor Martin said that this public hearing was opened on April 9, 1996, and continued until June 11, 1996. On June 11, 1996, the public hearing was again continued pursuant to a request of the petitioner's attorney Mr. Joseph Herrin.

Mr. Carl Ownbey, Urban Planner, said that the petition requests that 865 Haywood Road and 2 Dysart Street be rezoned from R-3 Medium Density Residential to CH Commercial Highway.

The subject properties are two tax lots. Both lots contain commercial structures. The 2010 Plan recommends that this area be low density residential; however, the current character of the area has changed with the development of commercial uses. The subject property is surrounded by R-3 Residential and abuts the CH District.

The Planning staff reviewed the request and recommended that PIN No. 9638.09-05-6710 be rezoned to CH and that PIN No. 9638.09-05-5728 remain zoned R-3. At their February 7, 1996, meeting, the Planning & Zoning Commission voted unanimously to recommend denial of both lots.

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On March 8, 1996, the petitioner filed an appeal to City Council.

Mr. Joseph Herrin, Attorney for the Petitioner, presented Council with pictures of the properties in question and briefed them on why the petitioner was requesting the properties to be rezoned. He stressed that

both lots are primarily asphalt with a commercial building on it. He felt that if the properties remained zoned residential, they would be worthless. He said that the properties are not suitable for residential development and they cannot be marketed as such. He felt that a buyer would have trouble financing this property with the nonconforming status. He presented Council with some affidavits from surrounding property owners that do support the rezoning request.

There was some discussion about the condition of the buildings on the properties.

When Vice-Mayor Field asked if there was any indication on what this area would be rezoned to after the UDO mapping was complete, Mr. Ownbey stated that the west area hasn't been looked at yet.

Upon inquiry of Councilman Skalski, Mr. Herrin stated that he did not, nor the owner Mr. Brackett, contact the neighborhood to see if there was any solution to the neighborhood concerns.

Discussion then surrounded the commercial building on the property and the repairs that can occur to the building subject to conditions outlined in Section 30-3-3 of the Code of Ordinances dealing with nonconforming uses.

Ms. Jane Mathews, Planning & Zoning Commission member, said that the major concerns expressed by the neighborhood at their public hearing were (1) the encroachment of commercial into single family residences on Cloyes Street and (2) the narrowness of Dysart Street. She said the Commission members considered all the other potential uses that would be permitted in the commercial district if the lots were rezoned, some of them having a high volume of traffic.

Ms. Christine Mashburn, resident on Cloyes Street, spoke against the rezoning for several reasons, some being (1) the narrowness of Dysart and Cloyes Streets, (2) Dysart and Cloyes Streets are both deadends, (3) the area cannot handle any additional traffic, (4) most families are retired in that area and if commercial continues to encroach in their neighborhood, they could not afford relocate; (5) there would be an increase in noise; (6) they feel their property values would decrease with commercial development; (7) there are many other uses that can be built in a commercial district; and (8) they are a quiet neighborhood and they want to stay that way.

Ms. Sylvia Robinson spoke against the proposed rezoning.

Mr. Dennis Campbell, President of the Falconhurst Residents Association, spoke against the proposed rezoning stating that this would be an encroachment into a quiet neighborhood.

Mr. Dennis Russell, speaking on behalf of the neighbors in the Dysart Street community, also spoke against the rezoning. He cited several reasons similar to Ms. Mashburn noting that the peace and tranquillity of the neighborhood should not be jeopardized.

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Mr. Miles Goforth spoke against the rezoning and felt that the asphalt could be removed and houses built. He said we need to have more neighborhoods.

Ms. Leni Sitnick stated that the uses in the R-3 district are multiple and the property can be used extensively. She spoke against the rezoning.

Mr. Richard Nantelle, President of the Coalition of Asheville Neighborhoods, felt that this property location might soon fall into the transition zone in the UDO mapping. He urged Council to not rezone the property until the mapping is complete. This would be for the protection of the neighborhoods and the people who live in them.

Vice-Mayor Field suggested that Mr. Brackett contact the Housing Authority because these properties might be suitable for their scattered sites if they remain zoned residential. She felt that since the UDO mapping is in process and will be done within months, she preferred to hold off rezoning any properties.

Mayor Martin closed the public hearing at 5:52 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 not to rezone 865 Haywood Road and 2 Dysart Street from R-3 Medium Density Residential to CH Commercial Highway. This motion was seconded by Councilman Skalski and carried unanimously.

B. PUBLIC HEARING RELATIVE TO THE DEMOLITION OF 20 GEORGIA AVENUE, ALSO KNOWN AS, 20 ATLANTA AVENUE

ORDINANCE NO. 2307 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 20 GEORGIA AVENUE, ALSO KNOWN AS 20 ATLANTA AVENUE

Mayor Martin opened the public hearing at 5:52 p.m.

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

Mr. Jeff Trantham, Electrical Inspector Supervisor, said that 20 Georgia Avenue. aka 20 Atlanta Avenue is a dilapidated structure. The owners Herman L. Horne and wife, Thelma D. Horne have not responded to the Order of the Assistant Director of the then Building Safety Division to repair or demolish this structure. 20 Georgia Avenue, aka 20 Atlanta Avenue was inspected by Building Safety Department staff on 4/22/94. Inspector Ray Pruitt found the following conditions, which have been documented by still photographs and video tape:

- The dwelling walls and floors are structurally unsound.
- The dwelling has insufficient sanitary facilities.
- The dwelling is abandoned and being occupied by vagrants.

Inspector Ray Pruitt sent a correction order to the property taxpayer of record on 4/11/94. There was no response. A formal hearing was then scheduled and held on 8/28/95 and no one attended. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owner

Herman L. Horne and wife, Thelma D. Horne to repair or demolish 20 Georgia Avenue aka 20 Atlanta Avenue within 30 days on 9/15/95. As of this date, no action has been taken by the owner of legal record.

N.C.G.S. 160.A-443(5) authorizes the City Council to direct by ordinance the demolition of 20 Georgia Avenue AKA 20 Atlanta Avenue subsequent to failure of the owner Herman L. Horne and wife, Thelma D. Horne to demolish or repair as described above, N.C.G.S. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

- Fair market value of house is \$5,900.
- Value to rebuild the house only is \$90,884.00.
- Land value without the house is \$2,000.00.
- Estimated cost to demolish this house is \$11,275.00.

The Building Safety Director recommends adoption of the resolution setting the public hearing regarding demolition of 20 Georgia Avenue, aka 20 Atlanta Avenue.

Mayor Martin closed the public hearing at 5:55 p.m.

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

Vice-Mayor Field moved for the adoption of Ordinance No. 2307. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2307 passed on its first and final reading.

## **ORDINANCE BOOK NO. 16 - PAGE**

### **III. UNFINISHED BUSINESS:**

#### **A. RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE TRACT 3 IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT**

Mayor Martin said that this matter was tabled from the June 23, 1996, meeting in order for Council to obtain additional information.

Mr. Ed Vess, Field Services Coordinator, briefed Council that Tract 3 is a residential lot on Short Street comprising 5,532 square feet. The bid from J. C. and Shirley Dozier for Tract 3 includes no plans to build on the lot but Tract 3 is to be assembled with property currently owned by the Doziers.

The bid of Mr. and Mrs. Dozier, in the amount of \$3,300.01, is not less than the established minimum price of \$3,300. This resolution will initiate the sale of the property through the upset bid process.

At the Council's worksession on July 23, 1996, Council asked that he meet with the Montford Advisory Committee to get their input.

Ms. Myra Fuller, member of the Montford Neighborhood Advisory Committee, said that the Head of Montford Redevelopment Plan is still viable today and the community stands by what is laid out in that Plan. She said the Plan states that the Advisory Committee is to assist the administration of the Plan and the Committee unanimously voted to recommend to City Council that they postpone consideration of the bid on

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Tract 3 in the Head of Montford Redevelopment Plan. The Committee felt that this is not the time to sell off pieces of publicly held property in the first block of Montford Avenue. The first steps are being taken now in the neighborhood commercial portion of the Plan, with the expansion of Hunter Banks property. Serious development interests are being expressed about the property north of Hunter Banks - development that is consistent with the Redevelopment Plan. All the property held by the City in the first block of Montford must be held for consideration in the development proposal which they feel confident will be forthcoming in the next 12 months.

Upon inquiry of Councilman Cloninger, City Attorney Slawter said that since the City has received an unsolicited offer, the Council should have a motion to reject the offer.

Ms. Mary Jo Brezny said that the Committee felt that if all property could be held for a minimum of 12 months, that the development interests hopefully would have taken a very positive action within that period of time. If not, then the Committee could look at it again.

Ms. Julia Cogburn, Planning Director, felt that Council might not want to put a 12 month restriction on offers because that might limit staff from bringing larger pieces of property to the Council for consideration.

Councilman Worley moved to reject the offer to purchase Tract 3 in the Head of Montford from J.C. and Shirley Dozier in the amount of \$3,300.01. This motion was seconded by Councilman Skalski and carried unanimously.

#### **IV. NEW BUSINESS:**

##### **A. RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH EAGLE/MARKET STREETS DEVELOPMENT CORPORATION TO FACILITATE REDEVELOPMENT OF SOUTH PACK SQUARE AREA**

Councilman Hay, Chairman of the Housing & Community Development Committee, reminded Council that last spring the Eagle/Market Street Development Corporation ("EMSDC") brought to Council a proposal for redevelopment on South Pack Square under the CDBG grant program. At that time Council indicated to them that they were interested in that as being one way to allocate the federal redevelopment funding. Council asked for them to come back with a more specific proposal and to iron some other problems that were outlined. However, Council did set aside that money in the allocation budget in anticipation of having a good application from them. We have received an application that came before Council at the August 6, 1996, worksession. There were some changes made and since Dr. Grant (Chairman of the EMSDC) was not present, it was referred to the Housing & CD Committee. That Committee has met and it is their recommendation that the allocation be approved in the amount of \$238,194. The specifics of their proposals have to do with taking the first steps toward redevelopment of South Pack Square. The Committee reviewed the scope of services and are satisfied with the application. There are, however, a couple of things that need to be worked on yet, one of which is a more specific proposal around the \$100,000 land acquisition. Again, the Committee did recommend (on a 2-1 vote) that the proposal was ready to go forward and they did recommend the allocation.

Vice-Mayor Field said that she wanted to "bring forward the conflict of interest situation that has come before us many times in terms of my relationship with the Eagle/Market CDC. I am a salaried

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employee of Spaceplan Architect Interiors and Planning, P.A., which is a

professional association. I do not participate in the profits or losses of the firm, and in fact I have not had a raise since I got on Council. I am not participating in any growth that has any affect on Spaceplan Architects. When we last voted on the Eagle/Market CDC, when we had the last Housing & Community Development Committee meeting, Mr. Skalski was very concerned about my conflict of interest. This was a meeting where we were going to be voting on all the CDBG applications and there were 10 or 15 different organizations there. Because he was very concerned about my apparent, because it was not a legal conflict of interest, I am not an employee of the firm that has had anything to

do with Eagle/Market. He had a problem with it and I said I would not vote on that particular project in the Housing & CD meeting. That discussion happened. It was decided on. I did vote on the rest of the CD applications. At that point in time, Carroll Hughes, who owns Spaceplan, had made a proposal through a separate firm that he owns, to be a consultant to the Eagle/Market CDC, although I had nothing to do with that organization. One thing I do need to let everyone know is that Spaceplan Architect has been doing the roof work on the church, the Mt. Zion Church, and was hired by Dr. Grant to do this work. Just so everybody knows that is true. I am not working on that project. I am not the project manager. I have had nothing to do with that project, although Spaceplan is indeed employed by the Mt. Zion Church and the Chairman of the Eagle/Market CDC is the Pastor of the Mt. Zion Church. Mr. Hughes was not selected to the consultant for the Eagle/Market CDC. Mr. Bill Farris, who was the Interim City Manager here, has been selected by Eagle/Market CDC. To make it a little more complicated, I was, at one point, hired by Mr. Farris to do some drawings for a project in Wilmington, N.C., which we have completed and have been paid for those drawings - not we, but me, at the rate of \$400. We are done with that. I do believe I would like some kind of direction from Mr. Slawter telling me whether I have a conflict of interest in this particular situation. At this point I'm not even sure where I am. But, at the meeting earlier today, Patsy said that I did not have a conflict of interest."

City Attorney Slawter responded that the bottom line under the General Statute is whether there is any personal financial gain that might arise by virtue of your vote on this situation. G.S. 160A-75 directs that Council members vote on all matters before the Council until their own financial gain or personal conduct is at issue. In his opinion, there is no conflict of interest.

Councilman Worley said that he, too, is convinced that Vice-Mayor Field has no conflict of interest, and it does concern her greatly that this issue has been raised. Because of her concern, he moved to excuse Vice-Mayor Field from voting. This motion was seconded by Councilman Cloninger.

When Mayor Martin inquired whether a member could be excused from a perceived conflict of interest, City Attorney Slawter said that he takes the motion to mean that if Council votes "yes" on the motion, I would take that motion to mean that Council is of the opinion that there is a conflict of interest - not just a perceived conflict of interest. City Attorney Slawter suggested, as an alternative, that, since Council members can be excused from the meeting, that Council table this issue until the last item of business on the agenda, excuse Vice-Mayor Field, and then vote on the matter.

Councilman Worley withdrew his motion to excuse Vice-Mayor Field from voting. Councilman Cloninger withdrew his second.

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Because Dr. Grant and other members of the EMSDC were present, Council felt that instead of making them wait until the end of the meeting, they would entertain their comments at this time.

Dr. John H. Grant, Chairman, President, and Chief Executive Officer for the EMSDC, thanked Council for their support of the EMSDC and was anxious to move forward with this public interest project.

Ms. Willie Mae Brown, member of the EMSDC, appreciated Council's attention to the Eagle/Market Street area and was also anxious to see the area developed in an orderly and decent fashion.

Councilman Worley moved to table this matter until the last item on Council's agenda. This motion was seconded by Councilman Sellers and carried unanimously.

**B. RESOLUTION NO. 96-139 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE DISPOSAL PARCELS 2A AND 3A IN THE EAST RIVERSIDE REDEVELOPMENT PROJECT**

Councilman Cloninger asked that he be excused from voting because his firm, of which he is a partner, represents the parties who have bid on this property. Therefore, 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.

Mr. Ed Vess, Field Services Coordinator, said that Disposal Parcels 2A and 3A are CS Commercial Service lots located approximately 200 feet south of the intersection of Asheland and Hilliard Avenues, comprising 10,347 square feet. The lots are irregular in shape and mostly flat at street level to a depth of about 150 feet then dropping sharply about 15 feet with the rear of the lot being on grade with South Grove Street. Dritta Enterprises is a N.C. partnership composed of Eugene L. Presley, Ralph P. Presley and Richard H. Presley and is the owner of adjacent property where Hayes & Lunsford Electrical Contractors Inc. is located. The bid from Dritta Enterprises includes the proposal to incorporate 2A and 3A into its existing property and to landscape the parcels to provide a green belt buffer for its existing property.

The bid of Dritta Enterprises, in the amount of \$22,250, is not less than the established minimum price of \$22,250.

This action will initiate the sale of the property through the upset bid process.

Upon inquiry of Vice-Mayor Field, Mr. Vess said that the income from the sale would go into the Community Development Program Income budget.

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. 96-139. This motion was seconded by Vice-Mayor Field and carried unanimously.

#### **RESOLUTION BOOK NO. 23 - PAGE 264**

#### **C. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A NON-WARRANTY DEED TO DAWN H. LANTZIUS**

Councilman Cloninger asked that he be excused from voting because his firm, of which he is a partner, represents Ms. Lantzius. Therefore,

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

City Attorney Slawter said that a wall adjacent to Tingle Alley collapsed earlier this year, making the alley no longer passable. Dawn H. Lantzius owns a substantial portion of the property surrounding the alley and adjacent open court, including the alley upon which the failed wall was located. Requests have been made to the City to repair the wall and alley, but it is the position of the City that the alley, the adjacent open court and the wall are all on private property and are not a City responsibility. Dawn H. Lantzius has requested that the City clarify that matter by granting a non-warranty deed to her so as to enable her to make repairs.

This resolution will authorize the Mayor to execute a non-warranty deed to Dawn H. Lantzius conveying any interest that the City might have in Tingle Alley and the adjacent open court.

As directed by the Council, notice of this intended action was given to the other property owners that surround the alley and adjacent open court. Those owners are, in addition to Ms. Dawn Lantzius, Sluder Furniture, Finkelsteins and the Paradise Restaurant.

Mr. Doug Wilson, attorney representing Ms. Dawn Lantzius, said that he has talked with Mr. Justice (attorney for Sluder Furniture) and they request that Council table this action for one month and give the other property owners a chance to see if they can work out a private resolution. The problem is that they have expended approximately \$20,000 already on this wall and there is more work to be done. However, they do recognize that the other property owners to have legitimate concerns and interests. He did request a chance to try and work these out.

Mr. Craig Justice, attorney representing Wayne Caldwell and Sluder Furniture, also asked Council to delay action on this matter in order to give them time to discuss this in a private fashion. His client only received notice yesterday and they have not had adequate time to review the matter.

Vice-Mayor Field moved to table this matter until September 24, 1996. This motion was seconded by Councilman Worley and carried unanimously.

#### **D. MOTION TO AUTHORIZE THE MAYOR TO EXECUTE THE RESTATED AND AMENDED SUPPLEMENTAL WATER AGREEMENT**

City Attorney Slawter said that on July 9, 1996, the City Council approved the adoption of Resolution No. 96-122 which authorized the Mayor to execute a Restated and Amended Supplemental Water Agreement, subject to certain revisions being made to Section T of Article IV of the Restated and Amended Supplemental Water Agreement. Section T of Article IV of the Restated and Amended Supplemental Water Agreement included provisions regarding disposition of property of the water system. After the approval of this language by City Council on July 9, Buncombe County requested that Section T be deleted and that a phrase regarding disposition of property in Section C of Article XI (which relates to termination of the Agreement) also be deleted.

The Restated and Amended Supplemental Water Agreement includes the changes to the Supplemental Water Agreement to comply with the obligations of the bond documents for the issuance of water revenue

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bonds for the construction of the new regional water plant, new transmission lines and other associated improvements to the water system. The changes requested by Buncombe County will not affect compliance with the obligations of the bond documents.

Councilman Worley moved to authorize the Mayor to execute the Restated and Amended Supplemental Water Agreement, with the deletion of Section T of Article IV and deletion of a phrase from Section C of Article XV of the Restated and Amended Supplemental Water Agreement. This motion was seconded by Vice-Mayor Field and carried unanimously.

#### **V. CONSENT:**

##### **Resolutions & Motions:**

#### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 23, 1996, THE COMMUNITY MEETING HELD ON JULY 30, 1996, AND THE WORKSESSION HELD ON AUGUST 6, 1996**

#### **B. RESOLUTION NO. 96-140 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE CONTRACT WITH DAP SECURITY INC. FOR SCHOOL CROSSING GUARDS**

Summary: The Asheville Police Department, through the use of a private contractor, provides school crossing guards at 22 sites in the City of Asheville. This service is during early morning hours and early afternoon hours, Monday through Friday.

Funds allocated in line item 10-420-35-462-01-4440, Professional Services, in the amount of \$73,200.00. The only bid received was DAP Security, and their bid was an increase from \$8.96 per hour in the school year 1995/96 to an increase of \$9.14 per hour in the school years 1996/97 and 1997/98.

The Asheville Police Department has contracted with DAP Security since 1989 and DAP Security continues to be the only bidder for this service.

Staff recommends adoption of the resolution authorizing the City Manager to



enter into an agreement with DAP Security to provide the services of School Crossing Guards for the budget years 1996/97 and 1997/98.

RESOLUTION BOOK NO. 23 - PAGE 265

C. RESOLUTION NO. 96-141 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CIVILWORKS INC. TO DESIGN AND CONSTRUCT A REPLACEMENT FOR THE EXISTING BRIDGE ON KEENAN DRIVE OVER HAW CREEK IN ASHEVILLE, N.C.

Summary: The City, through the Public Works Department, solicited bids to design and construct a new bridge to replace the existing bridge on Keenan Drive over Haw Creek. Two bid proposals were received, neither from a certified minority business. The bidders were qualified and are listed below:

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Firm Name and Location	Base Bid
Civilworks Inc. Hickory, N.C.	\$48,950 for Cast-in-Place Concrete Superstructure, Abutments and Wingwalls
Taylor & Murphy Construction Co. Inc. Asheville, N.C.	\$85,000 for Concrete Box Culvert \$92,000 for Concrete Deck Beam Bridge

After review of these bid proposals and the qualification process of the bidders, it was determined that Civilworks Inc. would be selected as the lowest qualified bidder and City Staff would seek Council approval to enter into a contract to design and construct the replacement bridge for the bid amount of \$48,950.

Funding, in the amount of \$55,000, is available in previously approved bridge program funding.

Staff recommends Council approval of the lowest qualified bidder, Civilworks Inc., and requests Council to direct the City Manager to enter into contract for \$48,950 for design and construction for the replacement of the existing bridge on Keenan Drive over Haw Creek.

RESOLUTION BOOK NO. 23 - PAGE 266

D. RESOLUTION NO. 96-142 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON SEPTEMBER 10, 1996, TO CLOSE AN UNNAMED ALLEY JOINING MILLER AVENUE AND POND AVENUE IN THE CITY OF ASHEVILLE

RESOLUTION BOOK NO. 23 - PAGE 267

E. RESOLUTION NO. 96-143 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION GRANT AGREEMENT

Summary: The Airport Authority has asked City Council to approve a grant from the FAA in the amount of \$170,094. This grant, in the amount of \$170,094, consists of the project to rehabilitate the air carrier apron.

RESOLUTION BOOK NO. 23 - PAGE 269

F. RESOLUTION NO. 96-144 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WILLIAM FLYNN WESCOTT, P.E., AND ELLEN PRATT HARRIS, AIA,

TO PROVIDE ARCHITECTURAL/ENGINEERING SERVICES TO PRESERVE AND REPAIR THE ROOF AND EXTERIOR WALLS OF THE CITY HALL BUILDING

Summary: In an effort to preserve and repair the roof and exterior walls of the City Hall building, a request for proposal process was implemented to solicit architectural/engineering firms to provide proposals to provide design services for repair of the above-stated elements.

Requests for proposal were submitted to 57 architectural/engineering firms, seven of which were from certified minority businesses. A committee comprised of four City staff was established to review the proposals received for this project. Group members were Dick Meehan, Superintendent of Parks and Public Facilities; Maggie O'Connor, Director of Historic Resources; Al Kopf, Landscape Architect; and Lyle Willis, Contract Administrator. This request for

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proposal committee received 16 proposal submittals, none of which were from certified minority businesses.

The request for proposal committee met to review all proposals. Criteria used in the review process were set up in a matrix system designed to evaluate each of the firms based on experience, quality of work, experience with and quality of projects of similar scope; and each firm's internal processes addressing procedures for: project analysis, cost control, materials testing, structural evaluation, and experience with repairs to terra cotta and brick. A numerical value was assigned to each of these areas and the three firms with the highest score were requested to come in for an in-depth interview covering issues ranging from restoration philosophy to extent of staff involvement with this project.

Upon the conclusion of the interview process, one firm was selected as the best choice for this project.

Staff recommends approval of the firm William Flynn Wescott, P.E. and Ellen Pratt Harris, AIA, for this project and requests Council approval to direct the City Manager to enter into an architectural/engineering contract for design services to preserve and repair the roof and exterior walls of the City Hall building.

RESOLUTION BOOK NO. 23 - PAGE 270

G. RESOLUTION NO. 96-145 - RESOLUTION APPOINTING A BOARD OF DIRECTOR TO VICTORIA OF ASHEVILLE INC.

Summary: On June 30, 1996, Larry A. Fisher resigned as a member of the Board of Directors of Victoria of Asheville, Inc. This resolution will appoint Mr. S. Douglas Spell to serve the unexpired term of Mr. Fisher. His term will expire on November 29, 1997, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 271

H. RESOLUTION NO. 96-146 - RESOLUTION APPROVING THE CITY OF ASHEVILLE ADOPT-A-STREET PROGRAM

Summary: This formalized program was modeled after a current Statewide (Adopt-A-Road) program which utilizes volunteer individuals and groups to keep public streets and walkways clean and free of debris and rubbish.

The original program draft dates from early 1991, and the current draft has

been revised several times in the past eight months. The drafting of a comprehensive document has been arduous in light of the many difficulties the State has had in the past with controversial volunteer groups and public reaction to them. Staff is now confident that the program as written provides sensible policies and procedures for participants and a minimum of potential problems for the City.

In tandem with formulating the written program, the Department has worked closely with Quality Forward to develop and print brochures for public distribution and to promote the program within the community. In addition, the Department has stocked plastic bags, safety supplies, and ordered sign blanks. A safety program (briefing), modeled after the State's program, is almost complete. The program is poised to be implemented with minimum additional preparation.

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The Public Works staff recommends that City Council adopt a Resolution for the implementation of the Adopt-A-Street Program. Such a program will provide the City and its citizens a means to work together in litter collection to enhance existing efforts and programs.

RESOLUTION BOOK NO. 23 - PAGE 272

I. RESOLUTION NO. 96-147 - RESOLUTION AUTHORIZING AN AGREEMENT WITH THE COMMUNITY FOUNDATION OF WNC FOR A GRANT TO DEVELOP AND IMPLEMENT THE "LEARN TO SKI" AND "HOOKED ON GOLF" ENRICHMENT ACTIVITIES IN THE AFTER SCHOOL INTERCESSION PROGRAM AT HALL FLETCHER ELEMENTARY SCHOOL

Summary: The Parks and Recreation After School Intercession Program at Hall Fletcher provides a supervised licensed child care and recreation program during the year-round school vacation for one week five times a year for approximately 125 children per session, ages 5 to 12 years old. Each Intercession offers a variety of recreation enrichment activities including games, arts and crafts, sports, music, drama, nature, clubs, homework assistance, and fieldtrips. Grant funds will be used in 1997 to implement the "Learn to Ski Program" during the Winter Intercession and "Hooked on Golf" during the Spring Intercession. The amount of the grant request is approximately \$5,000. Partners in the project are Asheville Parks and Recreation Department, Asheville City Schools, Buncombe County Child Development, and the French Broad Golf Center.

Funds are available through the Community Foundation of Western North Carolina to provide prevention and intervention programs that build self-confidence and life skills for children. The City of Asheville wishes to apply for funding for enrichment activities at the After School Intercession Program at Hall Fletcher Elementary School.

The Parks and Recreation Department recommends the City of Asheville apply for the grant funds through the Community Foundation of Western North Carolina.

RESOLUTION BOOK NO. 23 - PAGE 273

J. MOTION SETTING A PUBLIC HEARING ON AUGUST 27, 1996, TO CONSIDER REZONING 7 MOUNTAIN VIEW ROAD FROM R-2 LOW DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY

K. MOTION SETTING A PUBLIC HEARING ON AUGUST 27, 1996, TO REZONE ONE LOT ON MARTIN LUTHER KING JR. DRIVE FROM CG COMMERCIAL GENERAL TO R-3 MEDIUM DENSITY RESIDENTIAL

L. MOTION SETTING A PUBLIC HEARING ON AUGUST 27, 1996, TO CONFIRM THAT THE BOARD OF ADJUSTMENT DOES NOT HAVE THE POWER TO GRANT A VARIANCE TO GUIDELINES ADOPTED OR USED BY THE HISTORIC RESOURCES COMMISSION OF ASHEVILLE AND BUNCOMBE COUNTY IN REVIEWING APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS

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

Councilman Skalski moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

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Ordinances:

A. ORDINANCE NO. 2308 - BUDGET AMENDMENT RELATIVE TO THE PUBLIC NUISANCE ABATEMENT TEAM

Summary: This budget amendment, in the amount of \$77,781, is to appropriate funds for the Police Department's Public Nuisance Abatement Team project.

ORDINANCE BOOK NO. 16 - PAGE

B. ORDINANCE NO. 2309 - ORDINANCE ESTABLISHING A CITY BUSINESS AND DEVELOPMENT COMMISSION

Summary: The Business District Coalition has recommended a draft ordinance establishing a City Business and Development Commission for the City of Asheville.

Several months ago the City Council recommended that the operations of the current City Development Office be expanded to encompass a broader range of business and development issues. In making this resolution, City Council proposed that the existing Business District Coalition be formalized and its membership be broadened to become a body which makes recommendations to Council on business and development issues. The Business District Coalition, on May 16, 1996, voted to recommend this ordinance to Council which establishes a City Business and Development Commission.

ORDINANCE BOOK NO. 16 - PAGE

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

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

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and only reading.

VI. OTHER BUSINESS:

A. REZONING OF 28 LOTS IN THE BROADWAY AVENUE AREA

Ms. Julia Cogburn, Planning Director, said that on August 7, 1996, the Planning & Zoning Commission ("Commission") voted (4-3) to recommend to City Council that the rezoning of all or a portion of 13 lots on Broadway Avenue, Hillside Street and West Street be rezoned from CH Commercial Highway to R-3 Medium

Density Residential be denied.

Also, on that same date the Commission voted (4-3) to recommend that the rezoning of 15 lots on Broadway Avenue, West Chestnut Street and Magnolia Street from CH Commercial Highway to R-3 Medium Density Residential be denied.

She said that according to the ordinance, the petitioner (which in this case is City Council) receives notification of the recommendation of the denial. The petitioner has 30 days from receipt of that notice to appeal to City Council. She said that the notification has been hand delivered to the Mayor and Council members on August 13, 1996, and she is now reporting that if Council would like to hold a public hearing on this matter, a public hearing will need to be set.

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During the course of the meeting, information did come forward concerning one of the pieces of property in that area where the Planning staff had already received a site plan for Oliver Business Forms. They have issued a zoning permit, however, they have not received their building permit, which is one of the ways that they could receive vested rights. Mr. Oliver does not think he can submit the construction drawings necessary to receive a building permit prior to the time Council might consider the rezoning request. Another way that vested rights could be established in Mr. Oliver for his proposed interest in this property, would be to actually have City Council conduct a public hearing and grant him vested rights in terms of a site specific development plan, which he would bring forward to Council at that public hearing. That would vest that specific plan on that piece of property in Mr. Oliver for a two year period of time. If Council does choose to hold a public hearing on this matter, the issue of Mr. Oliver's vested rights could be considered at that same meeting. Mr. Oliver's matter would need to be addressed prior to the time Council actually rezones the property. Both of those public hearings could be scheduled today for August 27, 1996.

Ms. Cogburn said that the Planning Department has received a letter today from Mr. Oliver asking for the vested rights.

Upon inquiry of Vice-Mayor Field, Ms. Cogburn felt that the R-3 Medium Residential District will reserve options for the City Council in those areas.

Councilman Cloninger wanted to make sure Council had as much flexibility as possible for a greenway on Broadway Avenue.

City Attorney Slawter advised that under the Zoning Ordinance if an application for a vested right is received, it is the City Council's obligation to look at that application and make a determination on it.

Ms. Cogburn responded to questions from Vice-Mayor Field relating to Council's authority to place conditions on the site plan.

/ Councilman Cloninger moved to authorize the Mayor to file written notice with the City Clerk's Office appealing the decision of the Planning & Zoning Commission and scheduling a public hearing before the City Council regarding that rezoning of 28 lots in the Broadway Avenue area on August 27, 1996. This motion was seconded by Councilman Skalski and carried unanimously.

Councilman Cloninger moved to schedule a public hearing on August 27, 1996, to consider the approval of a site plan and the granting of a zoning vested right for Oliver Business Forms, to be located on Broadway Avenue, south of the intersection of Broadway Avenue and North Street, said public hearing to be held prior to the public hearing on the Broadway Avenue rezoning issue. This

motion was seconded by Councilman Skalski and carried unanimously.

City Attorney Slawter said that prior to any public hearing, City Council should keep an open mind as to the matters coming before the Council at that public hearing and take those matters that are brought up at that public hearing into consideration before making a final decision in the matter.

#### B. BOARD AND COMMISSION APPOINTMENTS

##### RESOLUTION NO. 96-148 - RESOLUTION APPOINTING A MEMBER TO THE ADA COMPLIANCE COMMITTEE

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Steven Blanco has resigned as a member of the ADA Compliance Committee, leaving an unexpired term. This resolution will appoint Carole G. Williams to serve the unexpired term of Mr. Blanco. Her term will expire August 22, 1997, or until her successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 274

##### RESOLUTION NO. 96-149 - APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION

Barbara Halton has resigned as a member of the Civic Center Commission leaving an unexpired term. This resolution will appoint LaVerne Laney to fill the unexpired term of Ms. Halton. Her term will expire June 30, 1998, or until her successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 275

##### RESOLUTION NO. 96-150 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

The term of Charles Worley expires on September 30, 1996. This resolution will reappoint Mr. Worley to serve a three year term, term to expire September 30, 1999, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 276

##### RESOLUTION NO. 96-151 - RESOLUTION REAPPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

The term of J. Randolph Fluharty expires on August 30, 1996. This resolution will reappoint Mr. Fluharty to serve an additional three year term, term to expire August 30, 1999, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 277

##### RESOLUTION NO. 96-152 - RESOLUTION APPOINTING MEMBERS TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

The terms of Doug Franklin, Michael Keleher and James Lewis expired on July 19 of this year. This resolution will reappoint Michael Keleher and James Lewis and will appoint Stephanie Cooper to serve two year terms, respectfully. All terms will expire on July 19, 1998, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 278

##### RESOLUTION NO. 96-153 - RESOLUTION APPOINTING MEMBERS TO THE TREE/GREENWAY

COMMISSION

The terms of Peter Loewer, Rick Crawford, Joey Moore and J. Lowell Orbison expired on August 1, 1996. This resolution will reappoint Peter Loewer and Joey Moore to each serve an additional three year term. This action will also appoint Ann Orr and Margaret Tinkler to each serve a three year term, respectfully. Dr. J. Lowell Orbison has agreed to be placed in an ex-officio capacity. All applicable terms will expire on July 1, 1999, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 279

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Councilman Cloninger moved to adopt Resolution Nos. 96-148, 96-149, 96-150, 96-151, 96-152 and 96-153. This motion was seconded by Councilman Sellers and carried unanimously.

C. TELECOMMUNICATIONS TOWERS ORDINANCE AMENDMENT

Councilman Cloninger said that the Blue Ridge Parkway, Park Service, is requesting that communities pass an ordinance that telecommunications towers not be erected within one mile radius on the Blue Ridge Parkway. He asked that this issue be placed on next week's Council worksession agenda.

Ms. Julia Cogburn, Planning Director, said that she would contact them to see what their specific request is - whether it is from their right-of-way or from the actual road.

At 6:55 p.m., Councilman Worley moved to excuse Vice-Mayor Field from the meeting. This motion was seconded by Councilman Sellers and carried unanimously.

D. RESOLUTION NO. 96-154- RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH EAGLE/MARKET STREETS DEVELOPMENT CORPORATION TO FACILITATE REDEVELOPMENT OF SOUTH PACK SQUARE AREA

Councilman Hay moved to take the issues of the Eagle/Market Street Development Corporation ("EMSDC") off the table to be discussed. This motion was seconded by Councilman Worley and carried unanimously.

Ms. Cogburn clarified that that at the Housing & Community Development Committee ("Committee") meeting today, they did recommend some changes be made to the scope of services that Council had last week. There was an additional proposal that came in that the Committee saw for the first time today. They did want to make some additional changes, basically better reflecting the budget that has an emphasis on land acquisition and that in approving this resolution, that the changes to the scope of services are considered as a part of what Council will be adopting.

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. 96-154, with the changes to the scope of services recommended by the Housing & Community Development Committee. This motion was seconded by Councilman Worley and carried on a 5-1 vote with Councilman Skalski voting "no".

RESOLUTION BOOK NO. 23 - PAGE 280

E. CLAIMS

The following claims were received by the City of Asheville during the week of July 19-25, 1996: Edward Hay (Finance), Ramiro Garcia (Streets), Gloria Shahan (Streets), Nancy Elgin (Sanitation), Scott Jenkins (Streets) and Angie T. McDonald (Water).

The following claims have been received during the week of August 2-8, 1996: Richard Conner (Streets), Best Western Central (Water), Jeff Link (Streets), Brian Johnson (Streets) and P.R. Standefer (Water).

The following claims have been received during the week of July 26-August 1, 1996: Grace Buchanan (Streets) and Stephen Doyle (Fire).

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

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:59 p.m.

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CITY CLERK MAYOR

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