

Tuesday - September 24, 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

Rev. Randy Johnson, Asheville Wesleyan Church in West Asheville gave the invocation.

DAVID E. REYNOLDS

Mayor Martin announced with sadness the death of David E. Reynolds, Executive Director of the North Carolina League of Municipalities.

I. PROCLAMATIONS:

A. RECOGNITION OF THE KOLESO THEATRE TROUPE FROM KIEV, UKRAINE

Mayor Martin welcomed the Koleso Theatre Troupe, which is made up of actors, technicians, directors from the Theatre Company, and three municipal deputies from the City of Kiev, Ukraine.

With the help of interpreters and Ms. Deborah Austin, an exchange of greetings and gifts took place.

B. PROCLAMATION PROCLAIMING OCTOBER, 1996, AS "ASHEVILLE SISTER CITIES MONTH"

Vice-Mayor Field, City Council liaison and member on the Asheville Sister Cities Board, read the proclamation proclaiming October, 1996, as "Asheville Sister Cities Month" in the City of Asheville. She presented the proclamation to Mr. Dennis Hodgson who thanked the Council for their support.

C. PROCLAMATION PROCLAIMING OCTOBER, 1996, AS "LET'S TALK MONTH"

Mayor Martin proclaimed October, 1996, as "Let's Talk Month" in the City of Asheville. He presented the proclamation to Ms. Cheri Britton who briefed the Council on some activities that would be taking place during the month.

D. PROCLAMATION PROCLAIMING SEPTEMBER 29-OCTOBER 5, 1996, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Councilman Worley read the proclamation proclaiming the week of September 29-October 5, 1996, as "Minority Enterprise Development Week" in the City of Asheville. He presented the proclamation to Ms. Roxanne Williams, President of the Minority Business Alliance, who briefed the Council on some activities that would be taking place during the week.

E. PROCLAMATION PROCLAIMING OCTOBER 6-12, 1996, AS "MENTAL ILLNESS AWARENESS WEEK"

Councilman Hay read the proclamation proclaiming the week of October 6-12, 1996, as "Mental Illness Awareness Week" in the City of Asheville. He presented the proclamation to Mr. Lane, President of the Western Carolina Alliance for the Mentally Ill, who thanked the Council for their support in educating people about mental illness.

F. PROCLAMATION PROCLAIMING SEPTEMBER 23-29, 1996, AS "LIONS EYE HEALTH WEEK"

Mayor Martin read the proclamation proclaiming the week of September 23-29, 1996, as "Lions Eye Health Week" in the City of Asheville. He presented the proclamation to Mr. Johnnie Clarke, representative of the Lions Club", who briefed the Council on the importance of eye health.

G. PROCLAMATION PROCLAIMING SEPTEMBER 29-OCTOBER 5, 1996, AS "GREEK HERITAGE WEEK"

Mayor Martin proclaimed the week of September 29-October 5, 1996, as "Greek Heritage Week" in the City of Asheville.

II. CONSENT:

At the request of Councilman Worley, Item J. below, was removed from the Consent Agenda in order to add a better description to the motion.

At the request of Councilman Sellers, Item C. below, was removed from the Consent Agenda for further discussion.

At the request of Mr. Ralph Bishop, Item A. below, was removed from the Consent Agenda for further discussion.

A. APPROVAL OF THE MINUTES OF THE MINI-RETREAT HELD ON SEPTEMBER 6, 1996, THE REGULAR MEETING HELD ON SEPTEMBER 10, 1996, AND THE WORKSESSION HELD ON SEPTEMBER 17, 1996

This item was removed to be discussed separately.

B. RESOLUTION NO. 96-173 - RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE N.C. DEPT. OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES FOR A GRANT TO DEVELOP A TRAIL AT SHILOH PARK

Summary: The consideration of applying for state grant funds to build a trail at Shiloh Park.

Funds are available through the State of North Carolina, Department of Environment, Health and Natural Resources in the Division of Parks and Recreation through the Adopt-A-Trail Program for construction of trails for public use. The City of Asheville wishes to apply for grant funds to build a trail at Shiloh Park.

The Shiloh Park Trail represents the City of Asheville's commitment to provide open space areas that will encourage urban passive park activities for all ages in neighborhood parks. The paved trail will be located around the perimeter of Shiloh Park. The first segment of the trail will be approximately 8' wide and 1,500' in length.

The cost of the project will be a maximum of \$7,000. The Parks and Recreation Department is requesting approximately \$5,000 in grant funds which would be partially matched by City staff's labor, equipment,

design, planning, and project supervision. Funds for this match are available in the operating budget of the Park Maintenance Division.

Parks and Recreation Department recommends Council authorize the City Manager to apply for and enter into this agreement.

RESOLUTION BOOK NO. 23 - PAGE 306

C. RESOLUTION APPROVING SUBMISSION OF A GRANT REQUEST TO THE PIGEON RIVER FUND FOR THE BROADWAY GREENWAY PROJECT

This item was removed to be discussed separately.

D. RESOLUTION NO. 96-174 - RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE N.C. ADOPT-A-TRAIL PROGRAM FOR 13 ADDITIONAL GRANITE THEMATIC MARKERS FOR THE URBAN TRAIL

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the North Carolina Adopt-a-Trail program in the amount of \$2,000. The grant would provide funding for approximately 13 granite markers placed in specific locations in downtown along the Urban Trail to assist walkers to follow the self-guided "trail" walk. The grant will provide covering the costs of the materials, installation and administration for 13 different sites.

The Urban Trail is an historical walking trail composed of 27 stations located throughout downtown with future plans of placing over 200 granite (thematic) markers in specifically designated areas as guided markers for the walkers. Over the past three years, funds have been received by private donors toward the Urban Trail and as of this time, approximately 72 granite markers have been donated and installed.

If the grant is funded, it will cover the cost of 13 granite markers. We are pursuing other funding sources for the balance of the markers.

The North Carolina Adopt-a-Trail grant requires no matching cash for the grant. However, extensive volunteer support has been and will be available from the Urban Trail Committee. City Development staff will also assist through the process.

The Urban Trail Committee and the City Development staff recommend submission of this grant to the North Carolina Adopt-a-Trail program.

RESOLUTION BOOK NO. 23 - PAGE 307

E. RESOLUTION NO. 96-175 - RESOLUTION AUTHORIZING PARTICIPATION WITH THE ASHEVILLE PARTNERS IN HOME OWNERSHIP

Summary: The City of Asheville will join with other public and private sector organizations to form a local partnership which is consistent with the National Home Ownership Strategy.

The U. S. Dept. of Housing & Urban Development is encouraging the formation of local home ownership partnerships to increase home ownership by eight million across the nation. Expanding home ownership will strengthen the nation's communities and expand the economy.

This resolution contains a goal to increase the percentage of home ownership in Asheville to 64% by the year 2000. This would be an increase of seven percentage points or 1,990 new home buyers. The resolution also contains a description of specific actions to be

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undertaken over the next four years. Additional funding resources will be identified, the development permit process will be streamlined for affordable home ownership and a task force of private lenders, home builders, non-profits, realtors, local government, etc., will be formed to recommend additional steps to increase home ownership opportunities.

Community Development staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 23 - PAGE 308

F. RESOLUTION NO. 96-176 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PADGETT & FREEMAN ARCHITECTS, P.A., TO PROVIDE ARCHITECTURAL/ENGINEERING DESIGN SERVICES TO RENOVATE THE OLD WATER MAINTENANCE BUILDING

Summary: The consideration of the selection of an architectural/engineering firm to provide design services to renovate the Old Water Maintenance Building in Asheville, North Carolina.

In an effort to renovate the Old Water Maintenance Building at 147 S. Charlotte St. for use by the Asheville City School System, whose existing offices are being displaced by renovations at the Municipal Building, a request for proposal process was implemented to solicit architectural/engineering firms to submit proposals for design services in regard to the renovation of the above-stated.

Requests for proposal were submitted to 16 architectural/ engineering firms, four 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; Mike Brookshire, Civil Engineer; Al Kopf, Landscape Architect; and Lyle Willis, Contract Administrator. This request for proposal committee received three 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: site analysis, cost control, project management, and structural evaluation. A numerical value was assigned to each of these areas and the two firms with the highest score were requested to come in for an in-depth interview covering issues ranging from design experience 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 Padgett & Freeman Architects PA, for this project and requests Council approval to direct the City Manager to enter into an architectural/engineering contract for design services to renovate the Old Water Maintenance Building.

RESOLUTION BOOK NO. 23 - PAGE 309

G. RESOLUTION NO. 96-177 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1996 GREEK

FESTIVAL

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Summary: The purpose of this resolution is allow alcoholic beverages at Asheville's 10th Annual Greek Festival.

The N.C. Gen. Stat. section 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on property owned, occupied or controlled by the City. The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority. That ordinance, Section 11-11 in the Code of Ordinances, provides that the City Council may adopt a resolution making other provisions at special event or community festival. Asheville's 10th Annual Greek Festival Board, Holy Trinity Greek Orthodox Church and the Parks and Recreation Department recommends that possession and consumption of malt beverages and/or unfortified wine be allowed at Asheville's 10th Annual Greek Festival.

The Parks and Recreation Department recommends that City Council adopt a resolution allowing the possession and consumption of malt beverages and/or unfortified wine at Asheville's 10th Annual Greek Festival.

RESOLUTION BOOK NO. 23 - PAGE 310

H. RESOLUTION NO. 96-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MATHEWS & GLAZER ARCHITECTS, P.A., TO PROVIDE ARCHITECTURAL/ENGINEERING DESIGN SERVICES FOR RENOVATIONS TO THE STEPHENS-LEE RECREATION CENTER

Summary: Consideration of the selection of a final candidate to provide architectural engineering design services for the renovation of the Stephens-Lee Recreation Center.

In January/February 1993, City staff, through a request for proposals process, selected from a pool of architectural firms the firm of Mathews & Glazer Architects P.A., to prepare a feasibility study determining the scope of renovations needed and relative construction budget costs for the Stephens-Lee Recreation Center. This firm worked closely with City Staff and community groups to establish a scope of work and resulting renovation plans for the building. The construction renovations costs were tabulated at that time and were used to determine the 1996-97 budget request. A total of \$1,250,000 has been recommended for renovations to the Stephens-Lee Recreation Center for the 1996-97 budget year.

Rather than open the project up for new design proposals, Staff reviewed and drew from the original proposals for the feasibility study phase of this project. Staff recommends the firm of Mathews & Glazer Architects P.A., who did the feasibility study for this project. If the selected architectural firm is awarded a contract, that contract will be based on a proposed design services fee of 9 percent of the total construction costs, or approximately \$112,500. (Mathews & Glazer have also conveyed in their proposal letter that they will credit the City \$9,000 for the work they have already performed in the development of this project.) In the past we have received design proposals ranging from 8 to 11 percent of the total construction costs, which covers a firm's involvement and operating expenses for their work on that project.

City staff is at a point in the project development process which requires Council approval of an architectural design team in order to enter into an AIA contract and proceed with construction bid documents.

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Staff recommends approval of the architectural design firm of Mathews & Glazer Architects P.A., and requests Council to direct the City Manager to enter into contract for that firm's services.

RESOLUTION BOOK NO. 23 - PAGE 312

I. RESOLUTION NO. 96-179 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN APPROPRIATE AGREEMENTS TO CONTINUE THE CITY OF ASHEVILLE'S ON-SITE PHYSICIAN PROGRAM, TO RE-EVALUATE THE PROGRAM IN SIX MONTHS, AND TO ASK THE LOCAL MEDICAL COMMUNITY TO RESPOND TO A REQUEST FOR PROPOSALS FOR CONTINUING THIS SERVICE

Summary: In February, 1996 Council approved the addition of a part-time physician for the treatment of employees and their families at an hourly rate. It was projected that this would save the City money if non-critical health needs were not paid for through the emergency rooms, and private offices. The physician was also to provide some services on worker's comp injuries.

An independent evaluation of this service for the past six months was done. Council had previously authorized the hiring of Mike McManus as an independent medical consultant for this process. His report indicates that conservatively allowing for the hourly cost of the physician, the City has realized savings of approximately \$19,270 in general medical, and comp expenses.

He then highlighted the Health Services Program.

The consultant's report concludes with 4 options for current consideration. They include:

1. Continue physician service as it currently is, and further evaluate savings in 6 months.
2. Terminate the current contract, and take the report under advisement.
3. Expand the physician's hours over the next 6 months to allow greater family participation, and re-evaluate the program at that time.
4. Continue the program as it currently is, and ask the local medical community to respond to an RFP for continuing this service.

Staff recommends a combination of numbers 3 and 4 above, to continue the current service for 6 more months; begin expanding services to families; and through an RFP ask the local medical community for proposals to expand the service to a Point of Service medical service for employees and dependents.

RESOLUTION BOOK NO. 23 - PAGE 313

J. MOTION DIRECTING THE PLANNING & ZONING COMMISSION TO CONSIDER APPROPRIATE ZONING OF THE OI PORTION OF AN APPROXIMATELY 10 ACRE TRACT NEAR HENDERSONVILLE ROAD

This item was removed to be discussed separately.

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

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Ordinances:

A. ORDINANCE NO. 2317 - BUDGET AMENDMENT REGARDING STRUCTURAL ANALYSIS OF HOPKINS CHAPEL

Summary: The National Trust for Historic Preservation will grant HRC \$2,084 for a structural analysis of Hopkins Chapel.

The Historic Resources Commission (HRC) and the Preservation Society of Asheville and Buncombe County are working with the members of Hopkins Chapel AME Zion Church to save the church from collapse. The National Trust for Historic Preservation will grant HRC \$2,084 for an in-depth structural analysis and to develop a permanent stabilization plan. Preservation North Carolina and The Covington Foundation have agreed to grant the Preservation Society of Asheville and Buncombe County an additional \$8,500 for the structural analysis. Both HRC and

the Preservation Society believe that Ellen Harris, William Westcott and Dave Fischetti should conduct the analysis and develop a stabilization plan. Mr. Fischetti is known throughout the nation for his work with historic wooden framed structures.

In January 1995, a structural engineer evaluated the condition of the church and recommended the building not be occupied unless temporary shoring was installed. At that time, the congregation elected to move its worship services to another location. Since then the roof has shifted, the floor has dropped, and the walls have thrust outward. The wood pilasters supporting the scissor trusses are rotted and water logged. In some locations the floor girders (which pocket into the masonry walls) ends have rotted off and the floor is unsupported.

During the past month the church has undergone emergency stabilization, pigeon waste removal, ceiling boards have been removed to allow for a complete investigation of the roof trusses, the pews and stained glass windows have also been removed.

Only a few structures of historic significance to the African-American community remain. Changes in the social, political, and economic areas resulted in the destruction of some area landmarks. If this continues to happen, future generations may suffer from a lack of identity that comes from not seeing evidence of one's roots. "Every child needs a sense of place, a way to identify personally with man-made structures, neighborhoods and communities of yesterday, as well as with the feelings and lifestyles of their inhabitants." Richard C. Balaban and Alison Igo St. Clair.

Hopkins Chapel's rich history and central position in the African-American community is essential to understanding and keeping alive the heritage of African-Americans.

ORDINANCE BOOK NO. 16 - PAGE 90

B. ORDINANCE NO. 2318 - BUDGET AMENDMENT TO REFLECT THE TRANSFER OF COMPLETED CAPITAL PROJECTS TO THE FIXED ASSET LEDGER, TO INCREASE THE APPROPRIATIONS FOR PIPELINE REPLACEMENT, TO INCREASE THE APPROPRIATION FOR AM/FM MAPPING, AND TO DELETE THE BEAUCATCHER RESERVOIR PROJECT

Summary: This budget amendment is in the amount of \$46,299,100. By Resolution No. 92-17 dated May 19, 1992, the Authority authorized and budgeted for various

capital projects to be funded by City Water Bond proceeds in the 29 Fund.

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This revision is a housekeeping amendment to reflect the transfer of completed projects to the City's Fixed Asset Ledger. It also reprograms funds from savings on projects into the following projects:

- Pipeline Replacement Program Phase I - The Policies/Priorities Committee approved the final Change Order to this contract which will increase the budget \$31,544. Attached are the minutes from the Committee's meeting.
- Pipeline Replacement Program Phase III - This project is expected to be bid shortly. In order to balance the ordinance it is recommended that the appropriation for Pipeline Replacement III be increased \$171,405.
- AM/FM System - The system is operational and negotiations are beginning for the Final Change Order. Scope changes have occurred since project initiation. Staff is recommending that the budget be increased \$100,000 and adjusted downward after the final change order is approved.

Staff recommends approval of a Budget Ordinance amending and restating Capital Project Ordinance 92-17.

ORDINANCE BOOK NO. 16 - PAGE 92

C. ORDINANCE NO. 2319 - BUDGET AMENDMENT TO REFLECT THE TRANSFER OF COMPLETED CAPITAL PROJECTS TO THE FIXED ASSET LEDGER, TO APPROPRIATE FUNDING FOR THE SOUTH BOOK WATER LINE EXTENSION, AND TO REDUCE CONTINGENCY

Summary: This budget amendment is in the amount of \$4,682,604. By Resolution 82-25 dated October 5, 1982, the Authority authorized and budgeted for various capital projects to be funded by Investment Earnings, Contributions From Other Funds, and Appropriated Fund Balance.

This revision is a housekeeping amendment to reflect the transfer of completed projects to the City's Fixed Asset Ledger. It also budgets the Southbrook Master Plan extension project on Mills Gap Road as approved by the Asheville-Buncombe Water Authority on August 20, 1996. This project is included in the Authority's Water Distribution Master Plan and is required to supply water to the South Brook Subdivision off Mills Gap Road in South Buncombe. The Authority agreed to contribute \$27,700 for the cost of extending an 8-inch waterline, as proposed in the Master Plan.

Staff recommends approval of a Budget Ordinance amending and restating Capital Project Ordinance 82-25.

ORDINANCE BOOK NO. 16 - PAGE 94

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 Vice-Mayor Field.

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

ITEMS REMOVED FROM THE CONSENT AGENDA FOR FURTHER DISCUSSION

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APPROVAL OF THE MINUTES OF THE MINI-RETREAT HELD ON SEPTEMBER 6, 1996, THE REGULAR MEETING HELD ON SEPTEMBER 10, 1996, AND THE WORKSESSION HELD ON SEPTEMBER 17, 1996

Mr. Mayor and other members of Council, my name is Ralph Bishop and I'm a resident of the City of Asheville and I'd like to make a few comments on the minutes. It says here, summary statement: The minutes of the City Council mini-retreat held on September 6, 1996, the formal meeting held on September 10, 1996, and the worksession held on September 17, 1996, need to be reviewed and approved. Has anybody on the City Council read those minutes? Were they kept in verbatim as set forth in 160A-72 of the State law?

Mayor Martin - It's not required verbatim.

Bishop - I'm not asking him, I'm asking the City Council.

Mayor - Well I'm telling you.

Bishop - If I wanted some flapdoodle, I'd ask him.

Mayor - Okay, that's enough.

Bishop - I want to read those, wait a minute.

Mayor - You're about to be.

Bishop - I want to read the minutes. If it's not by State law I want them because G.S. 132.

Mayor - The State law does not require. Mr. Bishop.

Bishop - Wait a minute. Let me talk. I'm talking.

Mayor - I'm answering your question. Mr. Bishop, the State law does not require verbatim minutes. They do require full and accurate minutes and that's exactly what we keep in this City Council. Now, do you have anything of substance, please say so.

Bishop - Do you know what the word "accurate" means?

Mayor - Mr. Bishop, this is not a.

Bishop - It says free from error. That means in verbatim. If you don't know what you're talking about, why don't you keep your mouth shut.

Mayor - All right, you're finished.

Bishop - Am I entitled to a copy of those records to read them as set forth in State law 132.6?

Mayor - You may have a copy of the minutes.

Bishop - In verbatim?

Mayor - As they are stated, as they were recorded.

Bishop - You're still going along with that Nazi Germany stuff. Making your own laws as you go along, is that right?

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Mayor - Mr. Bishop, if you don't cease and desist now, I'll have you escorted from the room.

Bishop - You won't have me escorted. You might have me arrested.

Mayor - I'll have you escorted from the room.

Bishop - No, you won't have me escorted.

Mayor - Don't test me.

Bishop - If they lay a hand on me, I'll get them for assault and battery. If I'm under arrest, I'll go with them. If not, don't threaten me.

Mayor - Will you escort Mr. Bishop?

Bishop - Don't threaten me.

Mayor - Take him from the room.

Bishop - I'm not going. Am I under arrest?

Officer J.D. Summey - You are under arrest.

Bishop - That's good, let's go. Let's go then. As long as I'm arrested.

Mayor - I'm sorry, this occurs occasionally. Mr. Bishop gets off on a tangent. It's regrettable, but sometimes we have to take steps to maintain decorum in the room. Okay, we need to move forward with the resolutions & motions minutes - approval of the minutes - Item A. May I have a motion to accept those?

Councilman Cloninger - I move adoption of the minutes.

Councilman Worley - I second the motion.

Mayor - All those in favor say aye.

Mayor Martin - aye

Vice-Mayor Field - aye

Councilman Cloninger - aye

Councilman Hay - aye

Councilman Sellers - aye

Councilman Skalski - aye

Councilman Worley - aye

Mayor Martin - Opposed, like sign.

RESOLUTION NO. 96-180 - RESOLUTION APPROVING SUBMISSION OF A GRANT REQUEST TO THE PIGEON RIVER FUND FOR THE BROADWAY GREENWAY PROJECT

The Planning and Development Department has applied for a grant to be used for the Broadway Greenway.

Planning staff has applied for The Pigeon River Fund Grant. The deadline for this grant was August 15, 1996. Staff did not request Council's permission beforehand due to a quick deadline. The Pigeon River Fund exists to improve the streams and rivers of Haywood, Buncombe and Madison Counties. One area of funding is for the creation of greenways along creeks and streams. The Broadway Greenway proposal met

all the criteria necessary for this grant. Staff requested funds (up to \$20,000) to hire a professional land conservation organization (such as The Trust for Public Land or The Conservation Fund) to help secure the right of way along the greenway. There is no monetary commitment necessary from the City if we were to receive these funds. The Planning and Development requests Council's approval of this grant request.

Staff recommends the concurrence of City Council in the application for this grant for this grant for the Broadway Greenway.

Mr. Richard Nantelle asked if the funding up to \$20,000 was specifically earmarked for land acquisition or if a portion of these funds could be used for the overall long range plan of the greenway. Ms. Maggie O'Connor, HRC Director, responded that this money is for education and also to hire a professional land conservation organization to help secure the right of way along the greenway. This organization will not be doing any long range planning.

Mr. Nantelle said that there are various members of our community who would like to participate in a committee to help prepare and implement this greenway. He offered the names of John and Renee Lantzius, Mary Webber and Luther Smith. He felt that Asheville had many valuable resources in our community that would be willing to come forward and lend their efforts toward the overall program.

Vice-Mayor Field felt that all three individuals would be valuable resources on the committee. She said that the City Council Greenway Committee will be expanding and Council will open it up to all members of the community.

Councilman Hay agreed with Vice-Mayor Field saying that this grant is just a piece in the process. He did affirm that the Council Committee wants to get the community together and help define that greenway.

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

Councilman Cloninger moved for the adoption of Resolution No. 96-180. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 314

MOTION DIRECTING THE PLANNING & ZONING COMMISSION TO CONSIDER APPROPRIATE ZONING OF THE OI PORTION OF AN APPROXIMATELY 10 ACRE TRACT NEAR HENDERSONVILLE ROAD

Councilman Worley moved to request the Planning & Zoning Commission to consider the appropriate zoning for the OI portion of an approximately 10 acre tract identified as PIN No. 9655.09-15-2013 on Hendersonville Highway. This motion was seconded by Councilman Sellers and carried unanimously.

Ms. Laurel Eide said it was her understanding that Council would be voting on rezoning the both portions of two tracts that had OI zoning on them - the northern portion (approximately 5 acres) which currently has a business on it and also the approximate 5 acres on the tract that is tri-zoned.

By use of a map, Mr. Gerald Green, Senior Planner, showed Council the area in question.

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Councilman Hay said that he was not in favor of rezoning the northern portion of the 10 acre tract that had OI zoning on it because it currently has a business on it.

Ms. Trisha Noel, resident of Oak Forest, stated that OI abutting R-2 property is not in compliance with the 2010 Plan and they were told there was going to be a consideration of rezoning both OI tracts. She wondered if leaving the northern portion zoned OI would be setting a precedent for an adjacent property owner to request their property be rezoned to OI.

Vice-Mayor Field didn't think that Council could rezone the northern 10 acre tract which had OI zoning on it because the OI portion does have a business on it and rezoning it would make that business a non-conforming use.

Councilman Worley said that the threat comes from the tri-zoned 10 acre tract. He said that there is no current development threat, or anticipated or foreseen development threat from the one that has an OI use on it. But, whatever Council does right now will be changed and reviewed as a part of the UDO which is only approximately six months off. He also stated that he felt there was no precedent being set for other OI rezoning requests because he strongly suspected that no member of Council would vote to rezone an adjoining piece to OI. Once again, he said the UDO will result in a total rezoning, hopefully bringing that whole area much more in compliance with the 2010 Plan.

Ms. Eide urged Council to rezone both tracts because the OI tracts don't belong in this low density area. She reminded Council that the neighborhood originally wanted the entire 155 acres rezoned but Council reduced that request to 10 acres. She now feels that Council has reduced their request even further to just 5 acres because they are not asking that the 10 acre northern portion which also has OI zoning on it be studied.

Mayor Martin said that Council is trying to address the problem which is the tri-zoned 10 acre tract which has a portion of it zoned OI, since the neighborhood does not have a problem with the existing business on the northern portion of the OI tract.

Councilman Cloninger said that when he and other members of Council met with area residents it was expressly told to them that there was not a concern about the northern part of the property zoned OI that currently has a business on it.

An Oak Forest resident mentioned that she has given Council some mean-spirited letters that the residents of Oak Forest received earlier in the year. Because it was such a scare tactic letter, people did sign the petition. Even though she did not sign the petition, she is aware of people who did sign that wish they had not. She felt the petitioners just do not want low income there and she feels that Asheville does need low income housing.

Mayor Martin felt that rezoning properties from R-1 to R-1A would be down-zoning.

Councilman Hay said that what Council did today was what the South Asheville residents needed Council to do and that was to get a review of that portion of the 10 acre tri-zoned tract which has OI zoning on it.

Councilman Worley again said that he thought it was very regrettable and unfortunate the way that this petition was presented

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because he felt some people were mislead and it actually called for the down-zoning from R-1 to R-1A of all of Oak Forest. He said this Council recognized the need to look at the particular tract that was causing the problem and driving the controversy and Council has done that.

Councilman Skalski said that he wanted to make it clear that his position is that he was in favor of a small area plan for the 155 acres. He moved that instead of just calling for a study of a portion of the 10 acre tri-zoned tract which has OI zoning on it, that a zoning study of the whole area take place. He felt that the area needs it and he thinks that everyone on Council agrees that it needs it - the only difference is that he thinks we should not postpone it. He felt that it should be done now. This motion was seconded by Councilman Sellers.

Councilman Worley raised a point of order. He felt it was correct and proper to have the minutes reflect Councilman Skalski's position, but wasn't sure if the motion was appropriate.

City Attorney Slawter said that the original portion related to the OI portion of one particular lot did not reference the rest of the 155 acres at all. If Councilman Skalski wants to make a motion with regard to the entire 155 acres, he felt that would be appropriate.

Councilman Hay felt that Council was faced with a choice of studying the entire 155 acres or proceeding with the

UDO. He felt that with the earlier motion, Council is addressing the primary concerns of the neighborhood and also staying on tract with the UDO. Councilman Cloninger agreed.

Councilman Worley said that it has been Council's clear statement that the UDO is a very high priority and to stop staff from working on the UDO and put them on the study of a massive tract at this point in time, when we are so close to finishing the UDO, is entirely inconsistent with one of Council's number one priorities.

Councilman Skalski reminded Council that several months ago, this property was rezoned from residential to OI in direct violation of the 2010 Plan. The people who bought property in the area bought it with the understanding of what was out there and then someone came along and got it rezoned to OI. The Council has agreed that it was not in compliance with the 2010 Plan and now there is a threat of up to 300 apartments being built on this OI property.

Councilman Cloninger said that this is the very area that City Council is addressing with their rezoning request. He believed in protecting the integrity of our neighborhoods and he believed if we granted the request to rezone the 155 acres, we would be doing a disservice to neighborhoods. He felt Council would be down-zoning a substantial area in which property is currently zoned R-1 to R-1A. He did not feel that would be taking a step to protect the integrity of the neighborhood.

Upon inquiry of Vice-Mayor Field, City Attorney Slawter explained what spot zoning is and it was his opinion that when that portion of the tri-zoned 10 acre tract was zoned OI, it was not spot zoning.

Councilman Worley said that a small area plan has not been requested. The only thing before the Council has been a rezoning petition. He said a small area plan is very different but would also take a good deal of resources from the staff. Again, this area will be dealt with in the UDO and we hope that is just a few months away.

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Vice-Mayor Field said that she would support a small area plan for that part of the community. However, it needs to take its place in line behind the several other small area plans already in the works. We would first have to finish the Factory Hill Plan and the Charlotte Street Plan. Then Council has promised that the West Asheville Census Tract 10 area would be next. She had no problem with doing a small area plan for this area when the time comes. There may very well need to be some transitional overlay there, but we need to have the UDO in place in order to do it.

Mayor Martin then asked for a vote on Councilman Skalski's motion. The motion failed on a 2-5 vote, with Mayor Martin, Vice-Mayor Field, Councilmen Cloninger, Hay and Worley voting "no".

Comments by Mr. H.K. Edgerton

When Mr. H.K. Edgerton asked to discuss an item on the Consent Agenda (resolution authorizing participation with the Asheville Partners in home ownership), Mayor Martin informed him that the Consent Agenda had already been passed and he would need to contact the City Manager to discuss any concerns he may have.

Mr. Edgerton stressed that he has tried to bring a concern from the NAACP to the attention of Council last week and was put off. He now has a statement from them concerning that item and the Council should have had this information prior to taking action on this issue.

Councilman Hay said that it was unfortunate that Mr. Edgerton missed the opportunity to address this issue at the meeting today. However, if he is suggesting that Council is deliberately moving ahead with this despite what the NAACP wants to tell them, then he's mistaken. Council is interested in hearing what the NAACP has to say about this issue and other issues. Councilman Hay did note that Mr. Edgerton was told last week that if he had a concern, he could address that concern to the City Manager. Also, he, personally, stopped Mr. Edgerton and asked what the concern was about and Mr. Edgerton replied that he would get back to him about it, that there's an issue they needed to discuss. That was the only conversation they had about it.

Mr. Edgerton said that if Council decides to move forward with this item, don't complain to him that Council had

something thrown in their face and they didn't have an opportunity to look at it. He suggested that someone contact him about this.

(Note from City Clerk: Mr. Edgerton did come back into the Council meeting and handed the Clerk a letter, copies of which were given to Council after the meeting.)

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO DESIGNATING THE STEPHENS-LEE COMMUNITY CENTER AS A LOCAL HISTORIC LANDMARK

ORDINANCE NO. 2320 - ORDINANCE DESIGNATING THE STEPHENS-LEE COMMUNITY CENTER AS A LOCAL HISTORIC LANDMARK

Mayor Martin opened the public hearing at 6:20 p.m.

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

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Ms. Maggie O'Connor, Historic Resources Commission Director, said that the Stephens-Lee Alumni Association, the Historic Resources Commission of Asheville & Buncombe County ("HRC"), and the Parks & Recreation Department are seeking the Stephens-Lee Community Center to become a local historic landmark.

On July 10, 1996, HRC held a public hearing regarding the designation of the Stephens-Lee gymnasium and former high school site. Notice was published in the paper and property owners within 150 feet of the subject property were notified on June 28, 1996. At the public hearing, all comments received in writing and orally were in support of the landmark designation.

When a property is designated historic, restrictions are placed on the property and to any exterior improvements. Any modification to the structures or land must receive a Certificate of Appropriateness from the HRC and all improvements must follow the Secretary of the Interior's Standards for Rehabilitation.

The HRC, by unanimous vote, recommends adoption of the ordinance.

Since Asheville is a Certified Local Government, the N.C. Dept. of Cultural Resources, State Historic Preservation Office ("SHPO"), has the right to comment on any nomination for local landmark designation. The SHPO concurs with HRC's recommendation.

Mayor Martin closed the public hearing at 6:23 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. 2320. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2320 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 96

B. PUBLIC HEARING RELATIVE TO CLOSING ELLIOT STREET AND A PORTION OF GARFIELD STREET BETWEEN THOMPSON STREET AND DECATUR STREET

RESOLUTION NO. 96-181 - RESOLUTION CLOSING ELLIOT STREET AND A PORTION OF GARFIELD STREET BETWEEN THOMPSON STREET AND DECATUR STREET

Mayor Martin opened the public hearing at 6:24 p.m.

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

Ms. Suzanne Molloy, Assistant Director of Public Works, said that a petition was received from Biltmore Business Center requesting that Elliot Street and a portion of Garfield Street be permanently closed to public use.

The petition received includes the signature of Biltmore Business Center. Biltmore Business Center owns all of the property with frontage on Elliot Street and the portion of Garfield Street that have been petitioned to be closed. Property owners to be affected by the closing

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of the street have been notified by Mr. E. Benson Slosman, owner of Biltmore Business Center.

There will be a retention of easements for the City of Asheville, the Metropolitan Sewerage District and Carolina Power & Light Company for the full length and width of Elliot Street and Garfield Street to be closed for maintenance of existing public utilities.

Mayor Martin closed the public hearing at 6:26 p.m.

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

Councilman Sellers moved for the adoption of Resolution No. 96-181. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 315

C. PUBLIC HEARING TO REZONE 112 LOTS IN THE WILSHIRE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Due to an error in notifying the public, Vice-Mayor Field moved to reschedule this public hearing until October 8, 1996. This motion was seconded by Councilman Worley and carried unanimously.

D. PUBLIC HEARING TO REZONE 14 LOTS IN THE BURTON STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE

Due to an error in notifying the public, Vice-Mayor Field moved to reschedule this public hearing until October 8, 1996. This motion was seconded by Councilman Worley and carried unanimously.

E. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO CLARIFY THE OPEN SPACE REQUIREMENTS IN THE OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2321 - ORDINANCE TO AMENDMENT THE ZONING ORDINANCE TO CLARIFY THE OPEN SPACE REQUIREMENTS IN THE OI OFFICE INSTITUTIONAL DISTRICT

Mayor Martin opened the public hearing at 6:27 p.m.

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

Mr. Gerald Green, Senior Planner, said that at the Planning & Zoning Commission ("Commission") meeting on September 4, 1996, the Commission reviewed and recommended approval of a wording amendment to the City's Zoning Ordinance which better defines open space requirements in the OI Office Institutional District.

Currently open space must be reserved in the OI District when any new building is constructed. The amount of open

space required is based upon a percentage of the floor area of all buildings proposed for the site. There is no distinction between habitable floor area and non-habitable floor area, meaning that the floor area of storage areas, equipment rooms, and parking decks are included in the calculation of open space required. This method of calculating open space requirements penalizes developers for incorporating parking into their buildings

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(parking garages, underground parking, etc.) and seems to promote surface parking. The open space standards for residential uses found in the Zoning Ordinance state that the open space is for residents of the development, and the open space required is based upon the number of residential units. The State Building Code defines gross floor area as habitable space and excludes parking, storage, and equipment areas.

The proposed ordinance amendment would require the amount of open space reserved to be based upon habitable floor space. Parking decks and garages, storage areas, and equipment areas would be excluded from the calculations used to determine the open space required. The amendment would make the open space requirements in the OI District more compatible with the standards for residential uses. Defining floor area as habitable floor area would make this definition similar to the building code definition of floor area. The revised standards would help promote the use of parking decks and the incorporated of parking into buildings.

The Commission unanimously recommended approval of the wording amendment. The Planning & Development Department also recommended approval of the amendment.

Mayor Martin closed the public hearing at 6:30 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 2321. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2321 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 99

F. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL AND VARIANCE REQUEST TO THE STREET TREE REQUIREMENTS FOR RENOVATIONS AND ADDITIONAL TO JOHNSTON ELEMENTARY SCHOOL

Mayor Martin opened the public hearing at 6:31 p.m.

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

Mr. Carl Ownbey, Urban Planner, said that this proposed project is for renovations to classrooms, administrative offices, and the library for the existing elementary school located at 230 Johnston Boulevard in West Asheville. He said that on August 5, 1996, the Planning Department received the site plan for the renovations to the existing elementary school. The proposed new construction will be 22,600 square feet of classrooms, administrative offices, and library. The site plan was presented to the Technical Review Committee on August 12, 1996, for their comments.

On September 4, 1996, the Commission reviewed the site plan. The only concern addressed came from the Commission with regards to bus traffic flow and visibility around the required street trees. After a discussion, the Commission requested that City Council grant a variance to the street tree requirement and allow the architect to propose a landscaping alternative that meets the intent of the ordinance and provides adequate site visibility for the buses.

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The Commission voted unanimously to approve the project with the request for the variance of the street tree requirements.

Mr. Ownbey said that he and the architect have visited the site and agreed that it would be beneficial for the fence to be lowered to three feet and bushes be planted in place of the three street trees.

By use of the site plan, Mr. Ownbey showed an adjoining property owner how he would be affected by the group development.

Mayor Martin closed the public hearing at 6:35 p.m.

Councilman Skalski moved to approve the site plan and grant the variance request to the street tree requirements for renovations and additions to Johnston Elementary School. This motion was seconded by Councilman Worley and carried unanimously.

IV. UNFINISHED BUSINESS:

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

Mayor Martin said that this matter has previously come before the Council on August 13, 1996, and postponed to give the property owners in the area time within which to discuss this issue.

Councilman Cloninger asked that he be excused from voting because his firm, of which he is a partner, represents Ms. Lantzius. Therefore, 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 he has been contacted by the attorneys who are negotiating these transactions between the property owners adjacent to the alley and they have requested this matter be postponed until October 22, 1996.

Councilman Worley moved to postpone this matter until October 22, 1996. This motion was seconded by Vice-Mayor Field and carried unanimously.

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. COMMENTS BY MR. JERRY RICE

Mr. Jerry Rice addressed Council with several concerns and suggestions relating to a regional water source.

B. CLAIMS

The following claims were received by the City of Asheville during the week of September 6-12, 1996: Advanced Auto (Water), Frances Mosseller (Streets), Mary Miller (Civic Center), Bell South (Water) and Tommy Atkins (Streets).

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

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VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:03 p.m.

CITY CLERK MAYOR
