

Tuesday - May 20, 1997 - 3:00 p.m.

Worksession

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 Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Provisions for Possession & Consumption of Malt Beverages and/or Unfortified Wine at Asheville Downtown Association's 1997 Events

Summary: The Parks and Recreation Department recommends that the possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine be allowed for the 1997 events of the Asheville Downtown Association at the locations and times specified.

For many years, the Asheville Downtown Association has co-sponsored with the City of Asheville events to bring both the public and visitors to the Downtown area. During these years, the events were facilitated by the City Development Office. Beginning in 1997, these events will be facilitated by the Parks and Recreation Department. These events include: Moonlight Over Downtown, Honda Hoot Public Rally, and four Downtown After Five activities. The Asheville Downtown Association has requested permission to allow possession and consumption of beer and wine during these events as they have been allowed in the past.

The Asheville Parks and Recreation Department recommends approval of this request.

Budget Amendment re: Fuel Cost Increases

Summary: Consideration of an amendment to the Fleet Management Fiscal Year 96-97 budget increasing motor vehicle fuel expenditures.

The Fleet Management Fiscal Year 96-97 fuels budget was developed in January 1996 based on an assumed fuel purchase price of \$0.90 per gallon throughout the entire year. Prices have significantly increased since that time. Actual prices paid during the year have never dropped as low as the budgetary assumption and have been as high as \$1.1495 for unleaded, \$1.045 for kerosene and \$0.979 for diesel.

The budget amendment adds \$130,000 to the motor vehicle fuels expenditure line item to enable continued bulk fuel purchases for the remainder of the Fiscal Year. The offsetting revenue is from fuel prices charged to the various City departments each time they refuel their vehicles at the City's service station. The prices charged the departments have been adjusted throughout the year to parallel the actual costs of each bulk fuel purchase by the City.

Budget Amendment re: Funding for Rescue Squad

Summary: The Asheville Area Rescue Squad has requested \$ 5,625 from the City of Asheville as the remainder of funding approved for the agency for fiscal year 1995/96.

-2-

The City Council Outside Agency Committee met to discuss the funding request of \$ 5,625 from the Asheville Area Rescue Squad. The Asheville Area Rescue Squad had been approved by the City Council for a total of \$11,250 in outside agency funding for fiscal year 1995/96. The Rescue Squad had complied with the terms of the contract on a timely basis for the first two quarterly payments and received payments totaling \$ 5,625 but failed to submit required reports for the final two quarters of the fiscal year in a timely manner. The Rescue Squad has since submitted such required reports and is requesting payment for the two last quarters of the 1995/96 fiscal year. As those funds are not appropriated in the current year, an appropriation of General Fund Contingency is required to meet the funding request.

The City Council Outside Agency Committee recommends the City Council approve the \$ 5,625 funding request from the Asheville Area Rescue Squad for the fiscal year 1995/96. This appropriation will leave a General Fund Contingency uncommitted balance of \$46,653.

CERTIFICATION OF LITTLE LEAGUE COACHES

Summary: The Parks and Recreation Department requests City Council's approval of coaches in the six Little League programs co-sponsored by the City of Asheville to be covered under the City's general liability and workers' compensation program.

During the month of March, all six Little League associations co-sponsored by the Parks and Recreation Department conducted a series of clinics in conjunction with Parks and Recreation staff. During these clinics, each coach was given instruction in regard to proper conduct for dealing with youth, emergency first aid instruction, general philosophy of the Parks and Recreation Department, as well as on-the-field skills training. A list of coaches from the various organizations who completed the training is available. The Parks and Recreation staff is recommending that City Council approve this list of coaches so they can be covered under the City's general liability and workers' compensation program as volunteers for the City.

The Parks and Recreation Department requests City Council's approval of the list of Little League coaches to be covered under the City's general liability and workers' compensation program.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

FIRE SAFETY TEAM LX PRESENTATION

Fire Chief John Rukavina introduced the Asheville Fire Department's Legacy of Excellence ("LX") quality improvement Safety Team who presented a summary of the team's work on a critical firefighter safety issue.

Just over one year ago, the Asheville Fire Department's Safety Team made a presentation to City Council on its work to improve use of "personal alert safety system" ("PASS") devices. Upon completion of that project, the Safety Team moved on to study and develop a firefighter accountability system for the Asheville Fire Department.

Almost by definition, an emergency scene is chaotic. Because of the combination

of chaos and danger, emergency incident commanders must know the whereabouts and status of all firefighters at an emergency scene. If a new emergency suddenly occurs--collapse of a structure in -3-

which firefighters were fighting fire, for example--the incident commander must have some means of accounting for personnel so if a firefighter is in trouble, a rescue action plan can be developed and implemented.

The Safety Team has developed a "fireground passport" system in response to this accountability need.

The "passport" system concept is simple: Each firefighter carries a nametag with a Velcro surface on the back. As each firefighter enters an emergency operations area, that firefighter gives the nametag to the incident commander, who then attaches it to a "status board" that indicates the firefighter's work assignment and general location. At "routine" emergencies, the incident commander uses the status board to periodically check on the status of firefighters in each operation area. If an unexpected emergency occurs--a structural collapse, for example--the incident commander uses the status board to structure a "last-known location" system, and, if a firefighter can't be accounted for, to organize a search-and-rescue effort.

Implementation of the team's work will be completed by July 1, 1997.

Mayor Martin thanked the Committee members for a job well done.

COMMUNITY RELATIONS COUNCIL REQUEST FOR DESIGNATION OF EEOC REFERRAL AGENCY

Mr. Robert Smith, Executive Director of the Asheville-Buncombe Community Relations Council ("CRC"), said that they are seeking to become an EEOC referral agency. This would allow the CRC to investigate and resolve unlawful employment discrimination complaints in Asheville and Buncombe County in the same manner in which the federal employment agency in Charlotte does.

The advantage to both the employees and employers will be that they were a local agency and are therefore easier to locate and more responsive to their concerns. The CRC will save them both time and money in the processing of their individual cases. The CRC also has a reputation of fairness and impartiality to all parties which is another advantage to local control.

There has been a number of informational meetings with both large and small employers to solicit their input and respond to their concerns. As of April 23, there has been support for the CRC in this endeavor.

On Wednesday, May 19, 1997, the CRC held a public hearing to both inform and solicit comments. At the public hearing, all of the comments which were made were positive.

There is a \$50,000 start-up grant available. In beginning a designated EEOC agency, the CRC will be compensated \$500 per case for the cases they investigate. They felt this compensation would enable them to stabilize their funding. The CRC would exempt the City and County administrations from this since they both have a process in place.

The CRC is requesting that the City Council and the Buncombe County Commissioners request that our local delegation to the General Assembly request enabling legislation for a local employment bill for Asheville and Buncombe County and that the CRC become the designated -4-

agency to enforce equal employment in Asheville and Buncombe County. He then

referenced a draft copy of the Durham Bill.

He noted that even though he has not heard back from Buncombe County on this request, he hoped that Asheville would take the lead and ask for this designation and hopefully the County will see the CRC has the City's support and join in.

Upon inquiry of Mayor Martin, City Attorney Oast said that the deadline for introduction of local legislation, March 27, has passed for this session.

Councilman Cloninger suggested the CRC obtain written endorsements of this concept from Western Carolina Industry, Chamber of Commerce, etc. He felt the legislature might take more of an interest with formal endorsements.

Mayor Martin asked the City Attorney to investigate if a conflict of interest exists since the City does appropriate funds to the CRC. Councilman Worley also questioned how this relates to the federal legislation.

Councilman Hay spoke in support the request of the CRC.

Mayor Martin asked that the record show that City Council has

received this information, has given instructions to the City Attorney, and instructed the City Manager to place this item on the June 10, 1997, City Council agenda.

PROHIBITION OF ANIMALS IN RIVERSIDE CEMETERY

Mr. Irby Brinson, Parks & Recreation Director, said that the Parks and Recreation Advisory Board is recommending changing the City Code of Ordinances to prohibit animals at Riverside Cemetery.

Mr. David Olsen, Riverside Cemetery Manager, explained that over the past few years, a number of problems have occurred with animals coming into Riverside Cemetery. Problems range from dogs interrupting services to owners not cleaning up after their dogs. Because Riverside Cemetery needs to remain a reverent and respectful place for family and friends to honor the deceased, the Parks and Recreation Advisory Board recommends that animals be prohibited in the Cemetery. In addition, a number of people have been attacked by dogs while on the Cemetery grounds. He felt there were other convenient locations, other than the cemetery, where people could walk their dogs. The revision to the Code of Ordinances should be added to the section dealing with cemeteries, specifically adding Section 5-11 to read as follows.

"It shall be unlawful for an individual to allow, whether on a leash, running free, or under voice control, any animal on the grounds of Riverside Cemetery, whether in a car or on foot. This restriction should not apply to guide dogs in the possession of site impaired or hearing impaired persons."

In addition, we are recommending that "Riverside Cemetery" be added to the City Code of Ordinance 3-27, Subsection E. It should read:

"It shall be unlawful for any person owning or having possession, charge, custody or control of an animal, wild animal or livestock, to take the animal, wild animal or -5-

livestock into picnic areas, pond areas, Riverside Cemetery, and the children's play areas"

The Parks and Recreation Advisory Board recommends that City Council adopt the

revisions to the City's Code of Ordinances to prohibit animals in Riverside Cemetery.

A responsible pet owner said that she has been walking her dog in the cemetery in the evenings when there are no funerals. She felt that most people who do walk their dogs are responsible pet owners. As she walks, she picks up trash and she felt that perhaps the presence of people walking their dogs might be deter drugs. She suggested a compromise of perhaps restricting the hours and places people may walk their dogs in the cemetery, with the demand that owners pick up excrement and keep their dogs on a leash.

Mayor Martin asked that the record show that City Council has

received this information and instructed the City Manager to place this item on the June 10, 1997, City Council agenda.

COMPREHENSIVE PARKING STUDY

Mr. James Cheeks, Traffic Engineer, said that staff is requesting City Council to consider the selection a consulting firm to perform a Comprehensive Parking Study for Downtown, Biltmore Village and West Asheville.

The City of Asheville has requested proposals for a detailed analytical and comprehensive parking study reviewing existing and future parking needs of three areas of the City (Downtown, Biltmore Village, West Asheville). The study will provide an action plan that will address and include the following:

- (1) the projected demand for parking;
- (2) identification of and proposed locations for various parking improvements;
- (3) feasibility analysis of the various parking improvements including financial plans utilizing various financial options;
- (4) plans for mitigating impacts on traffic flow and surrounding neighborhoods;
- (5) parking enforcement options;
- (6) equipment needed; and
- (7) overall implementation plans

Partial funding for this project will come from the Unified Planning Work Program of the Asheville Urban Area Metropolitan Planning Organization, City of Asheville, Buncombe County and private donations. The "Request for Proposal" (RFP) solicited by the City included input and data from City Staff, The Downtown Commission and the Asheville Downtown Association's Parking Task Force, the City of Asheville's 2010 Plan, South Pack Square Redevelopment Plan, the Asheville Area Transportation Improvement Plan, Biltmore Village Development Plan and the West Asheville Priority Setting Findings.

This process began in December 1996 as per direction from the City Council. A total of 55 RFP's were sent out across the country. Fourteen firms responded and seven firms submitted proposals. The following is a summary of the proposals received:

Rich \$39,500

Law \$45-90,000

McLaurin \$93,800

Wilbur Smith \$147,000

RBA \$62,000

Ramp Assoc. \$55,500

Carl Walker \$92,400

The proposals were reviewed by City Staff consisting of the Assistant City Manager, the Director of Public Works, the Planning and Development Director, the Finance Director, the City Traffic Engineer, the Parking Services Manager, and the Downtown Development Manager and members of the Parking Task Force and ranked to determine the three finalists to be interviewed. Carl Walker, Inc., Wilbur Smith Engineering and the RBA Group were the finalists shortlisted by staff.

Interviews were conducted with each of the three firms. It was determined, almost unanimously, that the Carl Walker, Inc. Team (consisting of Day Wilburn Engineering, Springsted Financial Advisors, A-1 Staffing and Personnel and Purcell and Associates Realty) was the most qualified firm that met the requirements of the RFP.

Carl Walker, Inc. has proposed to complete the study within 180 days for a fee of \$92,400.00. This includes some modification to the base proposal amount concerning additional community meetings and a land-use survey of all commercial districts.

CARL WALKER PROPOSAL:

If separated: Combined:

Downtown Asheville \$ 62,300

Biltmore Village \$ 22,000

West Asheville \$ 22,000

\$106,300 \$ 91,200

Add'l meeting \$ 1,200 \$ 1,200

Downtown \$107,500 \$ 92,400

Based upon funding available from the Asheville Metropolitan Planning Organization in conjunction with funds from the City, the County as well as from private donations, adequate funds exist to perform the entire scope of the project in all three study areas.

Funding for this project is calculated as follows:

Carl Walker Proposal \$92,400.00

MPO - Work Program (80% State) -73,920.00

(20% Local) 18,480.00

Solicit 50% Participation - 9,240.00

Buncombe County

9,240.00

City of Asheville - 9,240.00

\$ - 0 -

City staff recommends that the City Manager be authorized to enter into a contract with Carl Walker, Inc. for the amount not to exceed \$92,400.00 to provide a comprehensive parking study for Downtown, Biltmore Village and West Asheville.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place this item on the next formal City Council agenda. -7-

RESOLUTION NO. 97-68- RESOLUTION ADOPTING THE ASHEVILLE STANDARD SPECIFICATIONS AND DETAILS MANUAL

Assistant City Manager S. Douglas Spell said that the Unified Development Ordinance (UDO) makes reference to a document containing design guidelines and technical specifications. This reflects staff's desire to prepare a formal document that would provide a resource to designers, developers and contractors involved in new construction or expansion of existing infrastructure.

He said that the Asheville Standard Specifications and Details manual has been prepared by City Staff. The preparation of this document has been coordinated by the Engineering Department and has been reviewed by various departments including Building Safety, Finance, Fire, Parks and Recreation, Planning and Development, Public Works and Water Resources. Staff comments were incorporated into a draft manual that was made available to the development community on April 15, 1997. Approximately 260 letters were mailed to businesses, developers, designers and contractors that had applied for related type permits or submitted plans to the City in the past three (3) years. In his letter, he requested these parties/individuals review the draft manual and forward written comments to his attention no later than April 25, 1997. These comments were reviewed by staff with concurring comments incorporated into the final draft for City Council review and consideration. Also, a public meeting was held on May 1, 1997, to review the document and receive comments. Staff will provide City Council a summary of the information received from the public comments.

The Asheville Standard Specifications and Details manual consists of design guidelines and technical specifications for construction related to streets, sidewalks, water systems, storm drainage, parking lots, and pavement structure. The City standards outline the minimum construction standards which would be allowed in the City limits and extraterritorial zoning jurisdiction. The standard specifications would be applicable on both public and private property. For example, private streets and parking lots would be required to meet minimum pavement structure requirements. The rationale for this is due to the safety to the public, as well as to meet a standard to accommodate delivery vehicles or fire trucks. As a second example storm drainage on private property would be required to meet City standards due to the adverse impact improperly sized or installed pipe could have on public right of way or upstream properties.

The Engineering Department would be the primary department responsible for enforcement of the City standards through the Construction Inspectors. The City Engineer would be responsible for any requested variance or deviation from the City standards, except where otherwise noted. In some cases such as waiving the requirement for sidewalks, the City Council would be the only authority that could grant any non-conformance to the City standards. Additionally, the City Engineer could make minor revisions to the City standards and would publish annual updates to the manual.

City staff recommends that the Asheville Standard Specifications and Details manual become effective on May 27, 1997, consistent with the effective date of the UDO. Following adoption of the Asheville Standard Specifications and Details manual, the Engineering Department would be responsible for the distribution of the manual. Copies will be available upon request for individuals/businesses to obtain a copy at a one time cost of \$25.00. The manual will be in a three (3) ring binder and all updates will be available to individuals/businesses at no cost.

-8-

City staff recommends the adoption of the Asheville Standard Specifications and Details manual with implementation in accordance with the items reviewed in this staff report.

Mr. Spell noted that he did meet with Mr. Bob Selby, President of the Council of Independent Business Owners, earlier that day to discuss comments from the Homebuilders and Board of Realtors on the Manual. They were pleased that the City will review the Manual within the next 12 months.

Councilman Worley moved to waive the rules and take formal action on this item at this time. This motion was seconded by Councilman Skalski and carried unanimously.

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

Vice-Mayor Field moved for the adoption of Resolution No. 97-68 with the last sentence reading "Said manual shall become effective on May 27, 1997, which is consistent with the scheduled adoption of the Unified Development Ordinance, and will be reviewed within 13 months from the date of adoption". This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 69

TREE ORDINANCE AMENDMENT

Mr. Mark Combs, Public Works Director, said that the Tree and Greenway Commission has drafted changes to the current Code of Ordinances and unanimously requests adoption of the changes.

A subcommittee of the Tree and Greenway commission comprising members Henry Mitchell and Dennis Wilson, Council member Chuck Cloninger and support staff, drafted amendments to Chapter 20 (Trees) of the Code of Ordinances and request the formal adoption of the amendments. Mr. Wilson and Mr. Wilson outlined the major elements of the changes, which are as follows:

- (20-1) Purpose and Intent: Simplified and added "... to regulate the planting of new trees...encourage the protection of existing trees and shrubbery...to regulate the preservation, replacement and indiscriminate removal of trees..."

- (20-3) Tree Commission: New section establishing organization and membership of the Tree Commission
- (20-4) Definitions: Expanded to include terms (incomplete list) caliper, diseased tree, historic tree, maintenance, regulated tree, replacement, unsafe tree.
- (20-5) Administration: Responsibilities for key staff defined.
- (20-6) Permits and Review Required: Permit required for any work on trees located on city-owned property to include "...the removal and replacement of regulated and historic trees."
- (ARTICLE II) CITY PROPERTY: Regulates and requires permit for removal, destruction, pruning of trees or shrubbery; regulates construction work around trees/shrubbery; requires planting plan (with 6 succinct requirements); responsibility of owners to trim trees, etc. if projecting onto city property.
-9-
- (ARTICLE III) PRIVATE PROPERTY: Controls removal of regulated or historic trees on private property with appeals process; City "...may cause or order to be removed any tree...which is unsafe"; City may spray or treat infected or infested trees; notification required.
- (ARTICLE IV) Inspection, Enforcement and Appeal: Authorization to "...inspect areas subject to the provisions of this chapter."; Enforcement authority with appeal to "...appeals board from among the membership of the Tree Commission" (subsequent appeal to Superior Court); civil penalty of \$100.00 established for each day with provision for appeals board to "...recommend that the amount of the civil penalty be modified as part of a negotiated settlement with the City."

In brief, the proposed amendments clearly define the authority and requirements of tree and shrubbery management on public lands, and regulate designated regulated and historic trees on private property (both the property owner and City Council must approve designation of such trees). It also clearly establishes the organizational make-up of the Commission and identifies the Commission as the appeals board for decisions rendered by staff.

In conjunction with the proposed changes, staff has developed an inspection report and permit system.

The draft as submitted represents a significant improvement to the current anachronistic code, and is consistent with other progressive municipalities with similar needs. Staff recommends the adoption of amendments to Chapter 20 (Trees) of the Code of Ordinances, and as amended by City Council.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place this item on the next formal City Council agenda to set a public hearing for June 10, 1997.

BILTMORE VILLAGE HISTORIC DISTRICT STREET LIGHTS

Mr. James Cheeks, Traffic Engineer, said that staff is asking City Council to consider a contract with W. P. Law for the manufacturing 42 decorative street lights for the Biltmore Village Historic District.

The Asheville City Council has entered into an agreement with Biltmore Village Historic Museum Commission, Inc. as representatives of the Biltmore Village

property owners concerning the purchase of decorative street lighting for 42 locations within the Biltmore Village Historic District in the scope of Phase 1 of this project.

The City has solicited bids for the manufacture of the decorative street lighting and has received 6 bids.

The lowest most reasonable bids that meet the City's and Museum's requirement was received from W. P. Law, Inc. from Greer, S.C. for a bid price as follows:

- 42 Cast Aluminum Decorative Street Light Poles,
Lanterns and Lantern Brackets \$50,963.64
- 22 Cast Aluminum Sign Brackets and Frames 2,487.84

Total: \$53,451.48

The City of Asheville has received \$20,000 from Biltmore Village Museum toward the purchase and installation of these 42 decorative -10-

street lights and associated equipment and supplies as part of the Street Light Agreement. The Traffic Engineering Division has budgeted \$70,000 for this project. Therefore, sufficient funds are in-hand for completion of Phase 1 of this project.

Staff recommends that the City Manager be authorized to enter into a contract with W. P. Law, Inc. to provide decorative street lighting for Biltmore Village Historic District as per the Street Light Agreement.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

OUTSIDE AGENCY COMMITTEE

Ms. Cindy Miller, Internal Auditor, reviewed the City Council Committee recommendations for the 1997-98 Outside Agency Requests as follows:

Committee

Approved Requested Recommendation

Agency 1996-97 1997-98 1997-98

Arts Alliance 27,000 30,000 30,000

Autism Society 0 2,000 0

Chamber of Commerce 90,000 100,000 100,000

Community Relations Council 60,000 63,000 63,000

Crime Stoppers 18,000 21,666 21,666

Drug Commission 30,000 45,000 30,000

Asheville Area Rescue Squad 11,250 25,000 12,000

RiverLink 15,250 18,000 18,000

Sister Cities Inc. 2,000 2,000 2,000

Smith McDowell House 0 12,000 0

Vision 15,000 20,000 15,000*

YMI 0 30,000 0

Totals 268,500 368,666 291,666

*In addition to in-kind use of space in City Development Building (approximately \$7,500)

Council Committee members Cloninger, Sellers and Worley responded to questions regarding their recommendations as they related to the additional \$3,000 for the Arts Alliance, the need for an increase in the arts community in the future, the Chamber of Commerce funding, the Drug Commission allocation, the request by Smith McDowell House, other ways to help the Autism Society and the continued City staff work with the YMI.

City Manager Westbrook indicated that these figures would be included in the budget which public hearing will be on June 10, 1997.

FEES AND CHARGES COMMITTEE

Ms. Cindy Miller, Internal Auditor, reviewed the City Council Fees and Charges Committee recommendations for 1997-98 which include the following departments: Police, Civic Center, Building Safety, Public Works and Fire Inspections. The Committee also recommended the Community Development staff prepare a staff report and appropriate guidelines regarding the waiving of permitting fees for Affordable Housing projects in which the City participates. They also recommended the Civic Center Director evaluate current rates at the Civic Center and present a staff report with any recommendations of fee changes as soon as possible. -11-

City Manager Westbrook indicated that these figures would be included in the budget which public hearing will be on June 10, 1997.

MID-YEAR RETREAT REPORT

It was the consensus of City Council to hold their mid-year retreat on a Friday in August.

FOUR YEAR STAGGERED TERMS

At the request of Mayor Martin, it was the consensus of City Council to research the question of four-year staggered terms for City Council.

BOARDS AND COMMISSIONS

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to appoint Mr. Tim Fierle to the Asheville Downtown Commission and Mr. Michael Haney to the Buncombe County Drug Commission.

HAW CREEK

Councilman Cloninger was pleased to report that the Haw Creek community raised \$18,000 in one day by selling First Aid Kits for the Haw Creek Park. He presented each Council member with a kit he purchased for them.

BICENTENNIAL BANNERS

Co-Chair Leni Sitnick of the Bicentennial Committee announced bicentennial banners are available for \$375.00 each.

CLOSED SESSION

At 4:50 p.m., Councilman Worley moved to go into closed session to prevent disclosure of information that is privileged or confidential pursuant to the law of this State, or the United States, or not considered a public record

under G.S. Chapter 132. The law that renders the information to be discussed is G.S. 160A-168, the Personnel Privacy Act - the statutory authority is G.S. 143-318.11 (a) (1). This motion was seconded by Councilman Sellers and carried unanimously.

At 5:00 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

Mayor Martin announced that City Council will continue their worksession on the UDO at 5:30 p.m. in the Council Chamber on the second floor of the City Hall Building.

CONTINUATION OF UDO WORKSESSION WHICH BEGAN ON MAY 13, 1997

Upon inquiry of Mayor Martin, City Attorney Oast said that the City Council and the Planning & Zoning Commission held a joint public hearing in April, 1997, and now the Planning & Zoning Commission and the City Council are separately processing the information that came up at that public hearing. Since the Planning & Zoning Commission's recommendations are before Council at this time, it would not be appropriate for one Planning & Zoning Commission member to speak for the entire Commission, any more than one Council member would be able to testify as to the intent of the entire Council.

-12-

Mr. Oast emphasized that Council actions, at last week's worksession and tonight, are non-binding and information; that Council was only trying to determine which of the suggested changes merit further discussion.

Attached as Exhibit "A" is a three-page spreadsheet which City Council had before them as the worksession proceeded. This spreadsheet differs from the spreadsheet reviewed at Council's May 13, 1997, worksession by (1) this spreadsheet has the addition of a new section entitled "UDO Map Revision Requests, changes recommended by staff with consensus from P&Z;" (2) it has the City Council votes recorded from the May 13, 1997, meeting; and (3) the last page of the spreadsheet starts with No. 65 so that there is only one number assigned to each item.

Ms. Julia Cogburn, Planning & Development Director, said that with respect to Nos. 1-23 it is staff's understanding, as we move forward, that all the items will be included on the suggested list of map revisions, either because Council chose to not deal with that item, or because Council took a vote to actually suggest that those changes be made.

Councilman Sellers said that No. 24 under the heading "UDO Map Revisions, changes recommended by staff and P&Z" was an issue that he wished to discuss. It was the consensus of Council to review that issue. Councilman Sellers noted that Mr. Alan Moss has asked that his property (No. 24) be zoned from RM-6 to Office Business (not Office as listed on the spreadsheet). Also Mr. Moss has asked that his property (No. 33) be zoned from RM-6 to Office.

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to Item No. 24 and the following items listed on the first and second page of the spreadsheet (Item Nos. 25-36) which contain "UDO Map revision requests - changes recommended by staff with Consensus from P&Z". She explained that there was a consensus recommendation from the Planning & Zoning Commission out of their worksession - not their formal session. City Council determined that items not discussed in that category would be included in the draft list of map amendments proposed by City Council which will be presented to the Council on May 27. The following numbers

were discussed with the final City Council vote after each (noting that all votes were taken after public comment):

No. 24 Motion by Sellers - Seconded by Hay (change from RM-6 to OB)

4-3 (Martin, Cloninger and Skalski voting "no")

No. 26 Consensus

No. 33 Motion by Sellers - Died for lack of second

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items listed on the second page of the spreadsheet (Item Nos. 37-64) which contain "requested changes where no change is recommended by the staff or P&Z". It was determined that items not discussed in that category would not be included in the draft list of map amendments which will be presented to the Council on May 27. The following numbers were discussed with the final City Council vote after each (noting that all votes were taken after public comment):

No. 37 Motion by Skalski - Seconded by Sellers (change from RS-8 to RS-4) 4-3 (Cloninger, Field, and Worley voting "no")

No. 38 Motion by Worley - Seconded by Field (change from CI and I to RM-8) 7-0

No. 39 (See No. 38) -13-

No. 41 Motion by Skalski - Died for lack of second

No. 43 Motion by Cloninger - Seconded by Skalski (change from CBI to NB contingent upon it not creating a nonconformity) 7-0

No. 45 Consensus for Mr. Zorn to work with Planning staff to try to reach a consensus

No. 48 Motion by Sellers - Seconded by Cloninger (change from RS-2 to I) 7-0

No. 51 Motion by Sellers - Seconded by Worley (change from RM-16 to CI) 3-4 (Martin, Cloninger, Hay and Skalski voting "no")

No. 53 Motion by Field - Seconded by Hay (change back to original zoning as proposed at North Community Meeting) 7-0

No. 55 Motion by Cloninger to zone the current Commercial General property on the west side of Charlotte Street from Broad Street north to and including Intermedia Cable property to CBII - Seconded by Worley. 2-5 (Martin, Field, Hay, Sellers and Skalski voting "no"). This Council is committed to work

on an overlay district immediately and have it instituted within the 2-3 months.

Motion by Field - Seconded by Worley (leave Charlotte Street CBI north of Chestnut Street and CBII south of Chestnut Street with the exception of the changes made at the May 13, 1997, meeting) 6-1 (Skalski voting "no")

No. 60 Consensus

No. 61 Consensus

No. 64 Consensus

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items listed on the third page of the spreadsheet (Item Nos. 65-79) which contain "UDO Map Revision requests, staff and P&Z recommendations differ." It was determined that if an item is not discussed in this category, staff will consider the Planning & Zoning Commission recommendation to be included in the draft list of map amendments which will be presented to the Council on May 27. The following numbers were discussed with the final City Council vote after each (noting that all votes were taken after public comment):

No. 65 Motion by Skalski - Died for lack of second

No. 66 Motion by Field - Seconded by Skalski. (piece of property that fronts on Beaucatcher Road be zoned RM-6 and the piece of property that fronts on Mineral Springs Road be zoned to OB) 6-1 (Sellers voting "no")

No. 67 Motion by Cloninger - Seconded by Skalski (change frontage to HB, rear to RM-16) 3-4 (Mayor, Field, Hay and Worley voting "no")

No. 68 Consensus

No. 73 Motion by Worley - Seconded by Field (zone RM-6) 7-0

No. 74 Motion by Cloninger - Seconded by Skalski (zone RS-2) 5-2 (Field and Hay voting "no")

No. 76 Consensus

At 7:10 p.m., Mayor Martin announced a 30 minute break.

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items listed on the third page of the spreadsheet (Item Nos. 80-81) which contain "UDO Map Revision requests recommended by staff not reviewed by P&Z". City Council determined that items not discussed in that category would be included in the draft list of map amendments proposed by City Council which will be presented to the Council on May 27. City Council did not wish to discuss either item.

-14-

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items introduced by City Council at this time. City Council determined that the votes taken on these items will determine whether they will be included in the draft list of map amendments proposed by City Council which will be presented to the Council on May 27. The following items were discussed with the final City Council vote after each (noting that all votes were taken after public comment):

No. 82

Location: Sweeten Creek Road, I-40 and Caribou Road

PIN No. 9657-10-25-5042

Received From: Skyland Oldsmobile (Mayor Martin)

Requested Change: Industrial to CI

Vote: Motion by Sellers - Seconded by Worley 7-0

No. 83

Location: Section in southern part of Kenilworth

Received From: Jan Howard (Councilman Skalski)

Requested Change: RM-6 to RS-8

Vote: Motion by Skalski - Seconded by Hay 7-0

No. 84

Location: Property back behind the French Broad River Park

PIN No. 9638.20-82-7087

Requested From: Gus Barlas (Councilman Cloninger)

Requested Change: RS-2 to RS-4

Vote: Motion by Cloninger - Seconded by Hay 7-0

No. 85

Location: Property adjoining North Merrimon Avenue

PIN No. 9730.12-85-8726

Requested From: The Mascari family (Councilman Cloninger)

Requested Change: RS-4 to CBI

Vote: Motion by Worley - Seconded by Sellers 7-0

Mayor Martin noted that this is not a public hearing, however, comments up to three minutes would be taken.

Mr. Dan Zorn (Item No. 45) requested his property on Arco Road be zoned from

RM-6 to RS-4. He felt that he could work with Planning staff on a compromise that might be acceptable.

Mr. Dick Gilbert (Item Nos. 38 and 39) recommend that the land along Roberts Street that is not currently being used be rezoned from CI to some appropriate residential use. Also that the land occupied by Pioneer Welding be zoned residential.

Mr. Tom Roberts, attorney representing the Mascari family (Item No. 85), asked that the property adjoining North Merrimon Avenue be zoned CBI, not RS-4.

The following individuals urged Council to zone the property on Hill Street (Item No. 53) residentially, not Office, In particular they requested the zoning which was on the original maps as presented at the North Asheville Library - which was basically a strip of office about one lot deep along Hillside, leaving residential RM-6 between the office and the schools):

Ms. Betsy Simpson, Montford resident

Ms. Mary Jo Brezny, Montford resident -15-

Ms. Fairfax Arnold

Ms. Myra Fuller, Montford resident

The following individuals voiced strong opposition to zoning the Charlotte Street area (Item Nos. 55 and 18) CBII. They asked, among other things, to zone the area CBI and wait until the Charlotte Street Area Small Area Plan is completed:

An area resident

Mr. Richard Kerber

Mr. Rick Eckerd, Charlotte Street resident

Mr. Bob Zimmerman

Ms. Nora Bradshaw, Charlotte Street area resident (handed out

a "Comparison of Existing and Proposed Zoning Districts

by Size and Percentage of Total Jurisdiction" on

Charlotte Street)

Ms. Leni Sitnick

An area resident

Ms. Janet Hart

Mr. Doug Michaels, resident on Howland Road

An unidentified man requested City Council asked Council to zone the Beaucatcher Mountain area (Item No. 74) RS-2, not RM-6.

Ms. Susan Andrew requested that a section in Kenilworth (roughly Beaucatcher Road to the east and north, Aurora to the west and south, and Kenilworth Road completes the circle) (Item No. 65) be changed from the proposed RM-6 to RS-4.

Mr. Ed Shoff (Item No. 82) requested his 32.70 acres of property on Sweeten Creek Road, I-40 and Caribou Road be zoned Commercial Industrial, not Industrial.

Ms. Jan Howard (Item No. 83) requested the rezoning of all the RM-6 areas of Kenilworth to RS-8.

Mr. Craig Justus requested Council zone the Hildebrand properties off of Tunnel Road (Item No. 66) to Office Business, not RM-16. Mr. Justus also requested the property back behind the French Broad River Park (Item No. 84) be zoned RS-4, not RS-2.

Ms. Leni Sitnick suggested another designation for a park instead of RS-4 so that we can guarantee that our parks are not inappropriately zoned residential.

Ms. Jane Hildebrand requested her property off of Tunnel Road (Item No. 66) be zoned Office Business, not RM-16.

At 9:15 p.m., Mayor Martin announced a ten minute break.

City Attorney Oast summarized the process that the Council has been through so far, the purpose of these worksessions and what's going to happen on May 27 which is when Council anticipates taking a final vote on the UDO text and maps. On May 27, the voting process, at least for the maps, will be that Council will consider adoption of the maps as they currently are. In other words, what the audience sees on the board at this meeting is what Council will be voting on. They will then consider any exceptions or changes to that map and those can be done in two ways. There are certain exceptions or changes that are contained on this list (Exhibit "A") that most people have a copy of, and with respect to which there has been no significant discussion or controversy and in effect there is no disagreement about it. But then there are -16-

items with respect to which there is controversy, discussion has been generated, or there may be disagreement about it. What we have been trying to do in these last couple of worksessions is to identify where in each one of those particular categories the various properties fall. The City Council and the Planning & Zoning Commission held a joint worksession last month on the maps. They received a lot of information and a lot of suggestions that some of the zoning classifications of certain properties may be inappropriate. The Council and the Planning & Zoning Commission have been reviewing and processing that information to see whether any changes to the proposed maps are in fact appropriate. The staff and Council through these last several worksessions have been trying to determine which properties Council wishes to give further consideration to as far as placement on a list of exceptions or changes to the proposed UDO maps. Tonight and last week the Council had indicated, or will indicate, either by silence, consensus or a vote, in some cases, which properties it wishes to give further consideration to. With respect to those items on this list (Exhibit "A") that Council took no discussion on last week or tonight, the assumption is that Council is comfortable with the Planning & Zoning Commission recommendation and those items will be put on a "Consent Agenda" of exceptions or changes to the proposed UDO maps. With respect to any item that has been discussed, either last week or tonight, the proposal for tonight is to name each item by number and a brief description of its location and ask if the Council is comfortable with the Planning & Zoning Commission recommendation, which is indicated in the last column on the right hand side of the page. If Council is comfortable with that recommendation, then he suggested Council remain silent. If any Council member is uncomfortable with that recommendation, he suggested that the Council member call for a vote. If the vote that's taken, which vote is an informal, non-binding vote, is unanimous either way, he suggested that the property or tract be placed on the "Consent

Agenda" for exceptions or Changes to the proposed UDO maps. If the vote is not unanimous, either way, he suggested it also be placed on the "Consent Agenda" for exceptions or changes to the proposed UDO maps" reflecting Council's vote on it. But, if any Council member objects to a property or tract being placed on that particular list, the Council member should indicate so tonight and it will be pulled off the list for further discussion next Tuesday night on May 27. He emphasized again that any direction given by Council tonight, whether indicated by silence, consensus or a vote, is informal and not binding. Nothing that Council does tonight will preclude any Council member from later requesting that further consideration be given to any particular tract or property. He emphasized that individual Council members may have heard property owners or others making certain promises or representations about what may or may not be done with certain property if the zoning is changed to a certain classification or it remains in a certain classification. Any such representation or indication should not enter into Council's consideration either tonight or next week. Any property zoned to a particular classification may be used for any purpose consistent with that zoning classification, and the persons who make those representations today may not own the property tomorrow or a year from now.

At this time, direction was given by City Council to staff on the item numbers above, as indicated on Exhibit "A".

ADJOURNMENT:

Mayor Martin adjourned the meeting at 10:15 p.m.

CITY CLERK MAYOR
