

Tuesday - June 24, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger (arrived at 5:17 p.m.); 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

INVOCATION

Councilman Skalski gave the invocation.

I. PROCLAMATIONS:

BOND RATING

Mayor Martin was pleased that the City of Asheville's and Buncombe County's bond rating increased to AA. He felt that was a result of good management on the part of the City and County.

II. CONSENT:

Mr. Ralph Bishop asked that Item A be removed from the Consent Agenda to be discussed individually.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 10, 1997, AND THE WORKSESSION HELD ON JUNE 17, 1997

This item was removed from the Consent Agenda for further discussion.

B. RESOLUTION NO. 97-93 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH R.E. BURNS AND SONS CO., INC. TO CONSTRUCT A REPLACEMENT FOR THE EXISTING BRIDGE ON GLENDALE AVENUE OVER THE SWANNANOA RIVER IN ASHEVILLE, N.C., AFTER FINAL CONCURRENCE FROM THE N.C. DEPT. OF TRANSPORTATION

Summary: The City, through the Public Works Department, solicited bids for this project. These bids were in response to a readvertisement and rebid of the projects after insufficient bids were initially received at the time of the first bid opening. Two bid proposals were received. The bidders were qualified and are listed below:

MB Participation Bid Base

R.E. Burns and Sons (Statesville, N.C.) 9% \$743,825.85

Taylor and Murphy Construction

Co. (Asheville, N.C.) 11% \$794,892.85

After review of these bid proposals and the qualification process of the bidders, it was determined that R.E. Burns and Sons, Co., Inc. of -2-

Statesville, North Carolina should be selected as the lowest qualified bidder and City staff would seek City Council approval to authorize the City Manager to enter into a contract to construct the replacement bridge in the amount of \$743,825.85 upon concurrence by the N. C. Dept. of Transportation.

The Glendale Avenue Bridge is included in the Federal Aid of System Bridge Replacement Programs. The N. C. Dept. of Transportation will reimburse the City of Asheville for 80% of all associated costs. The requested budget amount for the total project, including preliminary assessment, design, right-of-way acquisition, utility relocation, construction, contract administration, and contingencies is estimated to be \$1,107,125 of which the N. C. Dept. of Transportation will reimburse the City \$885,700. The City of Asheville will expend an estimated \$221,425 after final reimbursements from the N. C. Dept. of Transportation. Currently, funds in the amount of \$103,000 are budgeted for this project. Therefore, a budget ordinance amendment and appropriation is required in the amount of \$1,004,125 for the total project.

The Public Works Department staff recommends City Council adopt a resolution authorizing the City Manager to enter into contract with R.E. Burns and Sons, Co., Inc. to construct a replacement for the existing bridge on Glendale Avenue over Swannanoa River in Asheville, N.C., after final concurrence from the N. C. Dept. of Transportation. Staff further recommends City Council adopt a budget ordinance amendment in the total amount of \$1,107,125 for the entire project.

RESOLUTION BOOK NO. 24 - PAGE 96

C. RESOLUTION NO. 97-94 - RESOLUTION AWARDDING CONTRACT FOR ASPHALT MATERIALS TO APAC-CAROLINA INC.

Summary: Pursuant to N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish the City's estimated annual requirement of asphalt materials to be purchased as needed for force account re-surfacing and street repair. One bid was received as follows: APAC-Carolina Inc. - \$26.00 per ton.

Since only one bid was received, a survey was conducted to identify other governmental agencies cost for asphalt. By comparison, the price bid to the City of Asheville appears to be consistent with current markets. This bid has been reviewed with Mark Combs and his concurrence received in this recommendation.

Subject to Council's approval, it is recommended the City enter into a contract with Asheville Division, APAC-Carolina, Inc., Asheville, North Carolina, for the purchase, on an as needed basis only, approximately 16,550 tons of assorted asphalt materials for a grand total of \$430,300.00. The contract to become effective from the date of approval through May 30, 1998 with no guarantee of minimum purchase quantity.

RESOLUTION BOOK NO. 24 - PAGE 99

D. RESOLUTION NO. 97-95 - RESOLUTION AWARDDING BIDS TO SOUTHEASTERN SAFETY

SUPPLIES INC. FOR VIDEO TRACKING AND DETECTION SYSTEM FOR TRAFFIC ENGINEERING -
3-

Summary: Pursuant to N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish a video vehicle tracking and detection system including on-site training and technical support during installation. One bid was received as follows: Southeastern Safety Supplies, Inc. (Columbia, S.C.) in the amount of \$35,480.

This piece of equipment will enable the Traffic Engineering Division of the Public Works Department to optimize the existing street system operations and traffic controls in an effort to provide a more efficient flow of traffic. The overall project will include video detection/tracking, loop detection, microwave detection and microloop detection. This system will be compatible with the four Traconex Closed Loop Traffic Signal Systems already located in Asheville.

In addition to evaluating the proposed equipment to determine compliance with bid specifications, an analysis of the sole bidder's price was conducted. From the analysis it was determined that the price bid the City reflects a discount of \$1880.00 off the manufacturer's list price and when compared to other municipalities' cost for comparable equipment, our price is considered to be competitive, fair and reasonable.

This bid has been reviewed with James Cheeks, Traffic Engineer, and Mark Combs, Public Works Director, and their concurrence received in this recommendation.

Funds for the entire purchase are to be from the Public Works Department, Traffic Engineering Division appropriations, Account Code 20-430-15-425-00-5741.

Subject to Council's approval, it is recommended that this bid be awarded to the sole bidder, Southeastern Safety Supplies, Inc., Columbia, S. C., in the amount of \$35,480 for the purchase of a 'Peek Traffic Inc.' Model VT-900A-2 video vehicle tracking and detection system complete with cameras, interface panels, cables, mounting hardware and 2 days of on-site training and field support.

RESOLUTION BOOK NO. 24 - PAGE 101

E. RESOLUTION NO. 97-96 - RESOLUTION AWARDING CONTRACT TO STEPPE CONSTRUCTION COMPANY INC. FOR BREVARD ROAD ANNEXATION AREA PHASE III SANITARY SEWER SYSTEMS IMPROVEMENTS CONTRACT 1

Summary: The City Council approved 3.2 million dollars for sewer improvements. This project is known as Brevard Road Area Annexation Sanitary Sewer Improvements, Phase III - Contract One. These funds were to be used for priority sewer improvements.

The City Engineering Department and William Lapsley & Associates has developed construction plans for the Brevard Road Area Annexation Sanitary Sewer Improvements, Phase III - Contract One. The engineer's estimate for this project is in the amount of \$162,875.

The project was advertised for one month. On Thursday, June 12, 1997, at 2:00 p.m., the Engineering Department received three bids for the project. A tabulation of bids received is as follows: -4-

Steppe Construction Inc. \$141,723.50
Hobson Construction Co. \$145,149.00 Wheeler Construction Co. \$163,509.00

The construction time for this project is identified as 120 calendar days in the contract documents.

Staff recommends that City Council accept a resolution awarding the bid for Brevard Road Area Annexation Sanitary Sewer Improvements, Phase III - Contract One to the responsible low bidder, Steppe Construction Company in the amount of \$141,723.50, and authorize the City Manager to execute all necessary agreements and contracts.

RESOLUTION BOOK NO. 24 - PAGE 103

F. RESOLUTION NO. 97-97 - RESOLUTION FINDING THE RIGHT OF WAY KNOWN AS ORCHARD ROAD IS NOT PART OF AN ADOPTED STREET PLAN

Summary: A right-of-way off Azalea Drive, as shown in Plat Book 24, Page 53, is not part of an adopted street plan in accordance with N. C. Gen. Stat. sec. 136-66.2. According to N. C. Gen. Stat. sec. 136-96, a right-of-way not utilized within 15 years of dedication can be abandoned through a recording of a Declaration of Withdrawal.

To proceed with this process, Gary and Gail Hammond of 35 Azalea Drive have requested that the City of Asheville verify if the specific right-of-way is or is not part of the City's adopted street plan. The statute requires the City to adopt a resolution stating the right-of-way to be abandoned is or is not part of a proposed street plan. The unused alley right-of-way off of Azalea Drive, named Orchard Road, is not part of any such plan and is not a City maintained right-of-way; therefore, the City has determined that all necessary requirements of the statute will have been met by adopting the resolution.

The Public Works Department staff finds that the right-of-way known as Orchard Road, from the intersection with the Southwest corner of PIN # 9668-09-16-7043 and Southeast corner of PIN # 9668-09-16-8082, in its entirety, as shown in Plat Book 24, Page 53 is not part of an adopted street plan and recommends the adoption of this resolution.

RESOLUTION BOOK NO. 24 - PAGE 105

G. RESOLUTION NO. 97-98 - RESOLUTION DESIGNATING SIGN KNOWN AS THE T.S. MORRISON GOLDFLEAF SIGN LOCATED AT 39 NORTH LEXINGTON AS A LANDMARK SIGN

Summary: Consideration of the T.S. Morrison goldleaf sign located at 39 North Lexington Avenue to be designated as a landmark sign.

The owner of T.S. Morrison's is requesting landmark designation of one 3" x 30" goldleaf T. S. Morrison sign. Installed in 1932, the T. S. Morrison sign is 3 inches by 30 inches goldleaf reverse on glass. Goldleaf or gilding is both elegant and durable. These properties made it among the most popular sign materials in the late 19th and early 20th centuries.

The sign meets criteria A & C for landmark designation for the following reasons: -5-

- T. S. Morrison's has been an Asheville retail store since 1891, the goldleaf sign represents and identifies one of Asheville's oldest stores.

- Goldleaf or gilding is both elegant and durable. These properties made it among the most popular sign materials in the late 19th and early 20th centuries. Reverse on glass goldleaf signs use goldleaf ranging from 12 to 23 karats. The gold is alloyed with copper and silver in varying amounts for differences in color.

At their regularly scheduled May meeting, HRC by a unanimous vote recommended to City Council that the T. S. Morrison goldleaf sign located at 39 North Lexington Avenue be designated a landmark sign.

RESOLUTION BOOK NO. 24 - PAGE 106

H. RESOLUTION NO. 97-99 - RESOLUTION DESIGNATING FOUR SIGNS KNOWN AS THE SLUDER FURNITURE COMPANY GOLD PAINTED DISPLAY WINDOW LOCATED AT 25 BROADWAY AS LANDMARK SIGNS

Summary: Consideration of the Sluder Furniture Company's four signs that are painted on the interior of the display windows at 25 Broadway be designated as landmark signs.

The owner of Sluder Furniture Company is requesting landmark designation of four signs that are painted on the interior of the display windows.

The Sluder signs are similar to the original goldleaf signs that were destroyed in the 1987 Globe fire. The two signs on the front windows are 1.23 square feet each and the two signs on the interior faces are 1.25 square feet each.

The signs meet criteria A for landmark designation for the following reasons:

- The signs represent a retail business that contributes to the character and history of the city. Sluders is the fifth oldest business in downtown Asheville.
- The Sluder signs are similar to the original goldleaf signs that were destroyed in the 1987 Globe fire. Remnants of the plate glass with the original signs were saved and duplicated with paint on the new display windows.

At their regularly scheduled May meeting HRC by a unanimous vote recommended to City Council that the four painted Sluder Furniture Company signs located at 25 Broadway be designated as landmark signs.

RESOLUTION BOOK NO. 24 - PAGE 108

I. RESOLUTION NO. 97-100 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR STREAM RESTORATION AT WEAVER PARK

Summary: The consideration of entering into a municipal agreement with the N. C. Dept. of Transportation for a stream restoration project located in Weaver Park. -6-

The Parks and Recreation Department, the North Carolina Department of Transportation, and the Department of Environment, Health, and Natural Resources have been working on a stream restoration project for Reed Creek located at Weaver Park. This stream restoration project has evolved from DOT's requirement to mitigate environmental impact concerns to Gashes Creek as part of the widening of US 74. This project will include repairing the stream bed at Reed Creek, stream bank stabilization, landscaping, bridge replacement, and walking trail construction. This municipal agreement will allow DOT to meet the requirements placed upon them by the Department of Health, Environment, and Natural Resources and will allow them to proceed with the widening of US 74.

The Parks and Recreation Department and the Legal Division requests approval for the City Manager to enter into a municipal agreement with the N. C. Dept. of Transportation.

RESOLUTION BOOK NO. 24 - PAGE 110

J. RESOLUTION NO. 97-101 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSERVATION EASEMENT WITH THE N.C. DEPT. OF ENVIRONMENT, HEALTH & NATURAL RESOURCES FOR STREAM RESTORATION AT WEAVER PARK

Summary: The consideration of entering into a conservation easement with the Department of Environment, Health and Natural Resources for a stream restoration project located in Weaver Park.

The Parks and Recreation Department, the N. C. Dept. of Transportation, and the Department of Environment, Health, and Natural Resources have been working on a stream restoration project for Reed Creek located at Weaver Park. This stream restoration project has evolved from DOT's requirement to mitigate environmental impact concerns to Gashes Creek as part of the widening of US 74. This project will include repairing the stream bed at Reed Creek, stream bank stabilization, landscaping, bridge replacement, and walking trail construction. This conservation easement is required in order to allow for the above work to occur and to ensure that the stream restoration project meets the requirements established by the North Carolina Department of Environment, Health and Natural Resources.

The Parks and Recreation Department and the Legal Division requests approval for the City Manager to enter into a conservation easement with the Department of Environment, Health and Natural Resources.

RESOLUTION BOOK NO. 24 - PAGE 111

K. RESOLUTION NO. 97-102 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WOOLPERT, L.L.P., TO DEVELOP A COMPREHENSIVE MASTER PLAN FOR PARKS & RECREATION

Summary: Over the past several months, the Parks and Recreation Advisory Board and staff have gone through an extensive evaluation process to solicit the services of a consulting firm to do a Comprehensive Master Plan for Parks and Recreation for the next 20 years.

This Plan will provide an evaluation of existing recreational facilities and programs and will also provide projections for future -7-

recreation programs and facilities. The Plan will assist the City by developing a comprehensive action plan for future funding and priority needs. The purpose of this Plan is to get a good comprehensive picture of our current recreation services and project what the community wants in the future. The benefit of the Plan will be that citizens will have input on the recreational needs in the future and it will also give City Council an indication on what those needs are so they can plan for those financially.

Proposals were solicited from firms throughout the southeast to provide this service with seven firms submitting proposals. Each of the firms were evaluated based upon a matrix developed by staff to help determine the best qualified consulting firm. Through this extensive evaluation, it was determined that Woolpert, LLP, met all of the qualifications that we required in order to develop a comprehensive plan that was based upon an extensive process of community involvement. The cost for providing this service by Woolpert, LLP, is \$78,120. Funds for payment for this service are currently available within the Parks and Recreation's Capital Improvement Project allocation. The Parks and Recreation Advisory Board and staff feel that this comprehensive plan is necessary in order to adequately address the future recreation needs for the City of Asheville.

Parks and Recreation recommends authorizing the City Manager to enter into a contract with Woolpert, LLP, to develop a Comprehensive Master Plan.

RESOLUTION BOOK NO. 24 - PAGE 112

L. RESOLUTION NO. 97-103 - RESOLUTION AUTHORIZING THE CITY MANAGER TO DISPOSE OF CITY-OWNED PERSONAL PROPERTY BY PRIVATE SALE TO ELIADA HOMES INC.

Summary: Several months ago, the Parks and Recreation Department replaced the ballfield lights at Livingston Street Ballfield. The department was approached by Eliada Home regarding the possibility of conveying the used lights to their facility. Under the North Carolina General Statute, Section 160A-279, the City can convey by private sale any real or personal property belonging to the City to any public or private entity which carries out a public purpose. Eliada Home is a non-profit, private entity; therefore, it is possible to convey the lights to them. In exchange, the Parks and Recreation Department will request use of Eliada Home Ballfield for two evenings per week from mid April through late October for use in the adult softball program.

The Parks and Recreation Department recommends approval of the resolution and agreement to convey ballfields lights between the City of Asheville and Eliada Home, Inc.

RESOLUTION BOOK NO. 24 - PAGE 113

M. RESOLUTION NO. 97-104 - RESOLUTION APPROVING THE BUNCOMBE COUNTY SOLID WASTE MANAGEMENT PLAN

Summary: In accordance with N. C. Gen. Stat. sec. 130A-309.09A(b), the City of Asheville must develop a ten-year solid waste management plan or participate in a joint plan with other local governments. -8-

The Buncombe County Solid Waste Division has developed a plan to comply with N. C. Gen. Stat. sec. 130A-309.09A(b). The County Commissioners will address approval of the plan at their June 17 session. The City must either approve the county plan or develop its own by July 1, 1997.

Development of a City plan was considered but rejected due to the fact that solid waste collection and disposal in the City is directly tied to County operations. The City currently transports its waste to the Buncombe County Transfer Station and pays the County for disposal at its landfill. Illegal dumping problems in the City are often handled jointly with County staff.

The Buncombe County plan establishes two goals for the planning period: (1) a 40% waste diversion from its Subtitle D lined landfill, based on FY 88-89 waste disposal figures (the County contends it has already achieved a 20% diversion rate; and (2) a 10% per capita waste reduction based on FY 1995-96 waste generation rates.

The goals are non-binding and can be modified during plan updates and revisions. The plan does not require the City to undertake any specific actions or alter its current programs in any way. With adoption of this plan, the City agrees only to make a good faith effort in assisting the County in achieving its goals.

In the plan, the County expresses its intent to: (1) undertake a full cost accounting of solid waste operations in Buncombe County to increase efficiency and waste awareness; (2) develop means to encourage cooperation among governmental agencies, non profit organizations, and the commercial/industrial sector; (3) promote effective use of available funding; and (4) increase waste

education efforts.

The County also intends to develop a task force comprised of representatives from each participating municipality to coordinate implementation of the plan. All other municipalities in Buncombe County have expressed their intention to approve the County plan. By participating in the County plan, the City will show its support for intergovernmental cooperation and ensure itself a voice in future County-wide solid waste planning.

Staff recommends adoption of the resolution approving the Buncombe County Solid Waste Management Plan.

RESOLUTION BOOK NO. 24 - PAGE 104

N. RESOLUTION NO. 97-105 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT THROUGH THE CLEAN WATER MANAGEMENT TRUST FUND TO ASSIST IN THE DEVELOPMENT OF GREENWAY MASTER PLAN AND LAND ACQUISITION

Summary: The Clean Water Management Trust Fund was established by the N.C. General Assembly to provide money to help finance projects that specifically address water pollution problems as well as funding to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. Currently, \$39 million has been allocated in this trust fund for the period ending July 1, 1997. The City of Asheville is interested in applying for a grant to partially fund the greenway master plan and land acquisition along the French Broad and Swannanoa Rivers. The total funding requested for this project has not officially been determined; however, due to the total -9-

money available, it is estimated that this grant may be in excess of \$1 million.

The Parks and Recreation Department recommends the City Manager be authorized to apply for or enter into an agreement for funding through the Clean Water Management Trust Fund.

RESOLUTION BOOK NO. 24 - PAGE 115

O. MOTION ACCEPTING THE CONSULTANT'S REPORT ON DEVELOPMENT PERMITTING POLICIES, PROCESSES AND PROCEDURES AND FUNCTIONAL ANALYSIS OF THE FINANCE DEPARTMENT

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 Worley and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2379 - BUDGET AMENDMENT TO ESTABLISH AN APPROPRIATION FOR THE GLENDALE AVENUE BRIDGE PROJECT

Summary: This budget amendment, in the amount of \$1,107,125, is to establish an appropriation for the Glendale Avenue Bridge Project.

ORDINANCE BOOK NO. 16 - PAGE 236

B. ORDINANCE NO. 2380 - BUDGET AMENDMENT TO ESTABLISH BUDGET FOR GRANT FUNDS RECEIVED FROM THE COMMUNITY FOUNDATION OF WNC FOR THE SUMMERTIME KIDS 1997 PROGRAM

Summary: This budget amendment is to appropriate \$1,000 received from the Community Foundation of Western North Carolina for the Summertime Kids 1997 Program.

ORDINANCE BOOK NO. 16 - PAGE 238

C. ORDINANCE NO. 2381 - ORDINANCE ADJUSTING THE BOUNDARIES OF FIRE DISTRICT NO. 3 (BILTMORE)

Summary: The consideration of adjusting the boundaries of Fire District No. 3 (Biltmore) to accommodate renovation/rehabilitation of existing buildings within that fire district.

State law provides for (and in some cases requires) the establishment of "fire districts"--defined areas where construction materials and occupancy types are limited to prevent major fires. Asheville has three such districts. Fire District No. 3 encompasses the old warehouse district in an area roughly bounded by Hendersonville Road, Thompson Street, Decatur Street and the Norfolk Southern right-of-way.

Over the past three years, major renovation and rehabilitation of buildings in Fire District No. 3 have been undertaken to a point where no significant fire protection purpose is served by leaving those -10-

structures in Fire District No. 3. This ordinance redefines the boundaries of Fire District No. 3, so that the rehabilitated/renovated buildings are no longer included in that district.

The boundary proposed is generally defined by Sweeten Creek, Thompson Street, Decatur Street and the Norfolk Southern right-of-way, with provision for exclusion of 38 Garfield Street (which is undergoing renovation at this time) from the revised Fire District No. 3.

The Fire Chief recommends adoption of the ordinance that would amend the description of Fire District No. 3 in the Asheville Fire Prevention Code.

ORDINANCE BOOK NO. 16 - PAGE 240

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

On a roll call vote of 6-0, the Ordinance Consent Agenda was adopted on its first reading.

ITEM PULLED OFF THE CONSENT AGENDA FOR FURTHER DISCUSSION

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 10, 1997, AND THE WORKSESSION HELD ON JUNE 17, 1997

Mr. Ralph Bishop, resident of the City of Asheville, asked why he was not able to get a full and accurate copy of the minutes as required in G.S. 160A-72. Mayor Martin responded that State law does not require the minutes of Council meetings to be verbatim.

Councilman Sellers moved to approve the minutes of the June 10 and June 17, 1997, meetings as submitted. This motion was seconded by Councilman Worley and

carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER DEMOLITION OF 116 CLINGMAN AVENUE

ORDINANCE NO. 2382 - ORDINANCE DIRECTING THE BUILDING SAFETY DIRECTOR TO DEMOLISH 116 CLINGMAN AVENUE

Mayor Martin opened the public hearing at 5:13 p.m.

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

Mr. Bob Vickery, Chief Code Enforcement Officer, said that 116 Clingman Avenue is a dilapidated structure located in the West End Clingman neighborhood. The owner Duckett C. Bell has not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. Housing Code Coordinator Natalie J. Berry found the following conditions, which have been documented by still photographs and videotape: (1) The structure's walls and roof are structurally unsound; (2) The structure has no electricity or potable -11-

water service; and (3) The structure is abandoned and is being occupied by vagrants.

Housing Code Coordinator Natalie J. Berry sent a correction order to the property taxpayer of record on May 1, 1995. There was no response. A formal hearing was then scheduled and held on September 11, 1995, and no one responded. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owner Duckett C. Bell to repair and demolish 116 Clingman Avenue within 30 days on November 30, 1995. As of this date, no action has been taken by the owner of legal record.

N.C. Gen. Stat. sec. 160A-443(5) authorizes the City Council to direct by ordinance the demolition of a dilapidated structure such as 116 Clingman Avenue subsequent to failure of the owner to comply with an order to demolish or repair. N.C. Gen. Stat. sec. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

The following is an overview of some general information regarding this property: (1) Fair market value of house is \$6,900.00; (2) Value to rebuild the house only is \$49,996.00; (3) Land value without the house is \$4,300.00; (4) Estimated cost to demolish is \$10,500.00; and (5) The Affordable Housing Agencies were notified.

Mayor Martin closed the public hearing at 5:13 p.m.

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

Councilman Skalski moved for the adoption of Ordinance No. 2382. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2382 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 241

B. PUBLIC HEARING TO CONSIDER DEMOLITION OF 20 GALAX AVENUE

ORDINANCE NO. 2383 - ORDINANCE DIRECTING THE BUILDING SAFETY DIRECTOR TO DEMOLISH 20 GALAX AVENUE

Mayor Martin opened the public hearing at 5:13 p.m.

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

Mr. Bob Vickery, Chief Code Enforcement Officer, said that 20 Galax Avenue is a dilapidated structure located in a West Asheville neighborhood. The owners James F. Hyatt Jr. and Betty Jean Hyatt have not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. Housing Code Coordinator Natalie J. Berry found the following conditions, which have been documented by still photographs and videotape: (1) Structure foundation walls are structurally unsound; (2) The structure's roof and walls are structurally unsound; (3) The structure has no electricity or potable water service; and (4) The structure is abandoned and is being occupied by vagrants. -12-

Code Enforcement Officer David J. Souther sent a correction order to the property taxpayer of record on July 27, 1994. There was no response. A formal hearing was then scheduled and held on April 24, 1996, and the owners appeared and agreed the structure was in bad need of demolition. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owners James F. Hyatt Jr. and Betty Jean Hyatt to demolish or repair 20 Galax Avenue within 90 days on April 26, 1996. As of this date, no action has been taken by the owner of legal record.

N.C. Gen. Stat. sec. 160A-443(5) authorizes the City Council to direct by ordinance the demolition of a dilapidated structure such as 20 Galax Avenue subsequent to failure of the owner to demolish or repair. N.C. Gen. Stat. sec. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

The following is an overview of some general information regarding this property: (1) Fair market value of house is \$7,100.00; (2) Value to rebuild the house only is \$54,872.00; (3) Land value without the house is \$5,000.00; (4) Estimated cost to demolish is \$9,000.00; and (5) The Affordable Housing Agencies were notified.

Mr. Spivey, owner of a rental house next to 20 Galax Avenue, said that he had a petition containing 21 signatures asking that the City demolish 20 Galax Avenue, since the house was condemned in February of 1992.

At this time, Councilman Cloninger arrived at the meeting.

Mayor Martin closed the public hearing at 5:17 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. 2383. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, Ordinance No. 2383 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 243

C. PUBLIC HEARING TO CONSIDER DEMOLITION OF 72 CLINGMAN AVENUE

ORDINANCE NO. 2384 - ORDINANCE DIRECTING THE BUILDING SAFETY DIRECTOR TO DEMOLISH 72 CLINGMAN AVENUE

Mayor Martin opened the public hearing at 5:19 p.m.

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

Mr. Bob Vickery, Chief Code Enforcement Officer, said that 20 Galax 72 Clingman Avenue is a dilapidated structure located in the West End Clingman neighborhood. The owner Duckett C. Bell has not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. Housing Code Coordinator Natalie J. Berry found the following conditions, which have been documented by still photographs and videotape: (1) Structure is in danger of -13-

collapse; (2) The structure was extensively damaged by fire in 1991; (3) The structure has no electricity or potable water service; and (4) The structure is abandoned and is being occupied by vagrants.

Housing Code Coordinator Natalie J. Berry sent a correction order to the property taxpayer of record on December 9, 1996. There was no response. A formal hearing was then scheduled and held on March 11, 1997, and no one responded. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owner Duckett C. Bell to repair and demolish 72 Clingman Avenue within 30 days on March 17, 1997. As of this date, no action has been taken by the owner of legal record.

N.C. Gen. Stat. sec. 160A-443(5) authorizes the City Council to direct by ordinance the demolition of a dilapidated structure such as 72 Clingman Avenue subsequent to failure of the owner to demolish or repair. N.C. Gen. Stat. sec. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

The following is an overview of some general information regarding this property: (1) Fair market value of house is \$23,400.00; (2) Value to rebuild the house only is \$124,258.00; (3) Land value without the house is \$5,200.00; (4) Estimated cost to demolish is \$13,500.00; and (5) The Affordable Housing Agencies were notified.

Mayor Martin closed the public hearing at 5:19 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. 2384. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2384 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 245

D. PUBLIC HEARING TO CONSIDER MODIFICATION REQUESTS FOR WALDEN RIDGE PROFESSIONAL PARK TO BE LOCATED OFF HENDERSONVILLE ROAD: REDUCTION IN THE STREET RIGHT-OF-WAY FROM 50 FEET TO 40 FEET AND REDUCTION IN THE CUL-DE-SAC RIGHT-OF-WAY RADIUS FROM 50 FEET TO 45 FEET

Mayor Martin opened the public hearing at 5:20 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 the developers of Walden Ridge subdivision, located on Hendersonville Road, are requesting modifications of the city's subdivision regulations to permit a reduction in the street right-of-way from 50 feet to 40 feet and a reduction in the cul-de-sac right-of-way radius from 50 feet to 45 feet.

A professional office subdivision is proposed for development on Hendersonville Road. The developer has presented a preliminary plat and is requesting modification of the city's standards for street design. -14-

The Asheville Planning and Zoning Commission is recommending approval of the requested modifications of the city's subdivision regulations to permit a reduction in the street right-of-way width from 50 feet to 40 feet and a reduction in the cul-de-sac right-of-way radius from 50 feet to 45 feet. The Walden Ridge Professional Park Subdivision is located on Hendersonville Road. The subdivision will consist of four lots on approximately 7 acres. The lots will be accessed by a new street which will be approximately 760 feet in length. The developer proposes to dedicate the new street to the city for ownership and maintenance. The city's subdivision regulations require a minimum street right-of-way width of 50 feet and a minimum cul-de-sac right-of-way radius of 50 feet. The first 234 feet of the proposed street has previously been granted a modification by the city to permit a reduction in the right-of-way to 40 feet. City Council approval of the requested modifications is necessary in order for the preliminary plat to be accepted as presented.

The Fire Department and the Public Works Department have reviewed the request since their vehicles would be impacted by the reduced cul-de-sac radius. These departments expressed no concern of the standards being revised.

The requested modifications of the city's street design standards have been recommended for approval by the Asheville Planning and Zoning Commission by a 5-2 vote.

Upon inquiry of Councilman Skalski on why two members of the Planning & Zoning Commission voted against this matter, Mr. Green said that their negative vote was on the subdivision as a whole, not on the specific modification requests. City Attorney Oast reminded Council that it would not be appropriate for a member on the Planning & Zoning Commission who voted negatively to comment at this time. A recommendation of the Planning & Zoning Commission is effective whether it's unanimous or not.

Upon inquiry of Councilman Hay, Mr. Green said that the major reason the City would be concerned about the cul-de-sac right-of-way radius is not so much with the right-of-way, but with the pavement radius in order to assure that there is adequate room for emergency and service vehicles. The developers have worked out with the Fire, Public Works and Engineering Departments in order to meet the requirements for turn-around of large trucks. Even though the pavement radius in the cul-de-sac does not meet City standards, they do meet N.C. Dept. of Transportation ("NC DOT") standards.

When Vice-Mayor Field asked why our standards are not contiguous with NC DOT's standards, Mr. Green said the quick answer is that NC DOT standards appear to be more for rural areas and residential developments whereas the City's standards are for urban areas, mixed use, commercial development, etc.

When Vice-Mayor Field asked if she had a conflict of interest since Mr. Pulliam is a client of the office that she is an employee of, City Attorney Oast said that unless she has been directly involved in this project, she cannot be excused from voting. Vice-Mayor Field said that she was not directly involved in the project, therefore, it was Mr. Oast's opinion that she did not have a conflict of interest.

Mayor Martin closed the public hearing at 5:27 p.m. -15-

Councilman Worley moved to approve the reduction in the street right-of-way from 50 feet to 40 feet for Walden Ridge Professional Park. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Worley moved to approve the reduction in the cul-de-sac right-of-way radius from 50 feet to 45 feet for Walden Ridge Professional Park. This motion was seconded by Councilman Sellers and carried unanimously.

IV. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2385 - ORDINANCE AMENDING THE CITY CHARTER AND RELATED LAWS OF THE CITY OF ASHEVILLE TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR THE MAYOR AND MEMBERS OF THE CITY COUNCIL

Mayor Martin said that the public hearing on this matter was held on June 17, 1997.

City Attorney Oast said that amending the City's Charter to modify the form of government is a process consisting of several sequential steps: (1) Adoption of a Resolution of Intent; (2) Publication of Notice; (3) Public Hearing; (4) Council Vote; (5) Vote of the people (not required, but subject to a referendum upon petition if vote not provided for); and (6) Publication of Notice and filing with State offices.

A Resolution of Intent to consider an ordinance changing the terms of Council and the Mayor from two to four years and staggering them, was adopted on June 3, and a public hearing was set for June 17. Notice of the public hearing was published on June 6, 1997, more than 10 days before the public hearing. The public hearing was held on June 17.

He reviewed the details regarding how the terms are to be staggered and the various options available to Council. One option would allow for City Council and the Mayor to have four year staggered terms; the other would allow for City Council other than the Mayor to have four year staggered terms (Mayor remaining at a two year term); and those two options have each been prepared in two versions: one that makes the change effective upon adoption of the ordinance, and one that makes the ordinance (and the change) effective only upon a vote of the people. The method for calling for a vote of the people is set out in the statute, but is not a required procedure.

He explained that in order to insure as far as possible that the changes proposed in the ordinance are effective for the 1997 election, the ordinance should be adopted at this June 24 formal session, if at all. If the Council elects to make the ordinance effective only upon a vote of the people, or if there is a successful petition for a referendum, both of which are provided for but not required by the law, then the proposed change could not be effective before the 1999 election. If Council decides to make its action subject to a vote of the people, it is recommended that adoption of the ordinance be delayed in order to allow for coordination with the Fall elections. A separate resolution calling for a special election will need to be adopted in that event.

Since Council has previously considered and voted on the subject matter of this ordinance, it is possible that the two-thirds vote requirement contained in G.S. 160A-75 would not apply to a vote on the -16-

proposed ordinance itself. Nevertheless, if the vote for adoption of the ordinance is less than 5-2, it is recommended that a second vote be taken at a later meeting. This could occur on July 8, Council's next scheduled meeting, but it is recommended that it occur before then in order to allow time for completion of publication and filing requirements; a special meeting would have to be called for this purpose.

Finally, though the statute does not require that an ordinance changing the form of municipal government be put to a vote of the people, a referendum petition may be filed by which such a vote would be required. Such a petition must be filed within 30 days of the publication of notice of adoption of the ordinance, and must contain the signatures and addresses of at least 10% or 5,000, whichever is less, of the qualified voters of the City of Asheville.

If Council decides to make the ordinance effective upon a vote of the people, a resolution should be adopted at the same time calling for a special election, which must be held not later than 90 days after the ordinance is adopted. Notwithstanding obvious practical and logistical difficulties, legal notice requirements for special elections preclude a special election being called on this question in time to be effective for the 1997 election. Accordingly, if Council decides to employ this option, consideration should be given to coordinating the special election with the 1997 primary or general election, which the statute, G.S. sec. 163-287, permits, and adoption of the ordinance should be delayed so as to occur within 90 days of the primary or general election.

He said the way the staggered terms would be decided among the Council members would be that the three members that get the highest vote totals in the 1997 election would serve four year terms, with the other three members serving two year terms. The Mayor would begin to serve four year terms with the 1997 election.

Vice-Mayor Field noted that 10% of the registered voters would be 3,500 people.

Upon inquiry of Councilman Hay, City Attorney Oast said that if City Council opted for a public referendum then the change could not go into effect until the 1999 election due to time restraints in calling for a special election.

Councilman Skalski supported the ordinance requiring a vote of the people.

Mayor Martin said that members of Council have previously received a copy of the proposed ordinances and they would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2385 to amend the Charter and Related Laws to provide for four-year staggered terms for the Mayor and the City Council, to begin with the 1997 election, and that the amendment be effective upon adoption of the ordinance, without being subject to approval by a vote of the people. She noted that the ordinance could be subject to a referendum by petition as provided by law. This motion was seconded by Councilman Worley.

Councilman Hay said that only Mr. Bishop has expressed a preference for two years over four year terms. Everyone else he has -17-

talked to has favored four year terms and personally he felt it was a good

idea as well. He was interested in the referendum in order to give people a chance to express themselves, however, he didn't think it was worth delaying it for two years because he felt it is pretty clear on what the right choice is.

Councilman Worley also supported four-year terms as well. He also felt that at first the referendum was the right way to proceed and his comments have invited people to express their desire about a referendum. Out of all the people he has spoken with, only Mr. Bishop has expressed an interest for a referendum.

Mr. Johnny Lloyd said that he has talked to some people who are opposed to the four-year staggered term for the Mayor and City Council. He suggested another option changing the Mayor's position to four years and keeping City Council at two years.

Councilman Skalski said that he was voting against this ordinance because when he ran for public office, he talked to 800 voters and none of them felt the Council should change their form of government. In effect he felt that a working person could not afford to run for City Council for four-years on a \$7,000 salary. He also felt that in changing our form of government most of the people would be left out of the process. He expressed interest in district elections and felt that there are sections of Asheville that have, historically over the years, been un-represented on City Council.

On a roll call vote of 6-1, (with Councilman Skalski voting "no") Ordinance No. 2385 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 247

V. NEW BUSINESS:

A. ORDINANCE NO. 2386 - ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR FISCAL YEAR 1997-78

City Manager Westbrook said that the Fiscal 1997/98 Annual Operating Budget is balanced with no increase in the Ad Valorem tax rate of \$.57 per \$100 of assessed value and all essential City services are maintained or improved.

Audit/Budget Director Bob Wurst said that the Fiscal 1997/98 Annual Operating Budget was presented to City Council on May 15, 1997. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of the Public Hearing was published on May 31 and June 1, 1997. The City Council conducted a public hearing on the budget at the June 10, 1997 meeting. The adoption of the Budget Ordinance is scheduled for action at this meeting.

Since the Budget was presented to City Council on May 15, 1997, several changes have been requested by City Council. These changes will be incorporated into the Budget before adoption on June 24, 1997. The changes to date are summarized as follows: (1) Rental for the West Asheville Resource Center is included; (2) Funding to increase City Council compensation is included; (3) Outside Agency funding has been revised in accordance with the Outside Agency Committee recommendations; (4) Certain fees and charges will be revised in accordance with the Fees -18-

and Charges Committee recommendations; (5) The General Capital Reserve Fund Budget has been revised to include grant funding for Stephens-Lee Center renovations; and (6) Funding totaling \$100,000 of City funds and \$40,000 of community funds is included in the Capital Improvement Project for Haw Creek park development is included.

A copy of the Budget is available for public inspection in the City Clerk's office. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption, with the only exception being the Ad Valorem Tax rate, which cannot be changed once adopted.

Ms. Diane Weaver, Chairman of the Smith-McDowell Associates, urged Council to appropriate funding for the Smith-McDowell House. She said the House is an artifact from Asheville's past that shows where we have been and how far we have come. She said the volunteers and staff have labored for many years fighting to keep the museum open and to keep it available for historical presentations and also for education from school children through senior citizens. She understood City Council was concerned about setting a precedence in granting their funding request. They feel that their constituents respect City Council's ability to take each issue and judge it fairly on its particular merit without giving a rubber-stamp approval. She also pointed out that in recent years citizens have been vocal and concerned about perceived rampant development in this area. Possibly helping the community with its historic preservation gives an ability to present a balanced community - balancing the old with the new.

Vice-Mayor Field said that the Smith-McDowell House is a wonderful facility within our community. Last week she suggested that the Smith-McDowell representatives meet with the City's HRC staff to see if they could come up with some kind of assistance for funding. She understands that the request is for on-going operating expenses, and not for any particular project. She thought there were some structural problems that needed to be repaired and that this money would be going towards that, however, she's been told that is not the case.

Mr. Lee Creech, Smith-McDowell Curator and Museum Administrator, said the grant application was for operating expenses and included in that was the on-going maintenance of the facility. They would be more than happy to work with the Historic Resources Commission ("HRC") and the Council to use this money toward those issues.

Vice-Mayor Field wondered if Council might set aside some money in the budget (or make another appropriation as needed in the future) and see if they could come up with some kind of leveraging of the money to allow them to match some money coming from another agency. Maggie O'Connor, HRC Director, has indicated that there were several options available. She didn't feel the Council is closed on this idea, but just that they need to look at more options.

Councilman Worley said the Outside Agency Committee looked at whether this was a one-time grant that was being applied for or would be something that would be continuing year after year. There was a concern if it's operational expenses that it would be a continual request for funding each and every year. He did, however, agree with Vice-Mayor Field about if there is a way Council could set aside some funds and maybe match or leverage them with other grants, or segregate them for a -19-

specific maintenance project or something of that nature, Council would feel a lot more comfortable with that.

Councilman Skalski said that the City is strapped for money and the budget has gotten tighter every year. City Council is trying to come up with creative ways to finance just about everything because there are literally hundreds of agencies that need money. He did say, however, the door is always open for possible funding for the Smith-McDowell House as the budget evolves over the

year.

Councilman Skalski said that last year he presented City Council with a few motions at the beginning of their deliberations on the budget and basically he had the same presentation made last year. Last year he voted against the budget and he feels that it is appropriate to tell Council why he will be voting against it this year as well. Basically his position is that the budget last year and the budget this year does not move towards getting our fund balance closer to the state average of about 24% - we are right around 15% now. He passed out the following memo to Mayor and Members of City Council dated June 10, 1997, and briefly summarized it:

"The budget that we have before us could have many elements and policies attached to it that would greatly enhance the standard of living of the citizens of Asheville - the working families that live in the neighborhoods that elected this city council. We can help them - all of us - you-all must surely recognize the fact that all national and state politics are local. By recognizing that we can help them.

During the past several months while we have been deliberating the issues in and around the \$72,000,000 million dollar budget we have before us, I have heard it repeated over and over again by Council members and echoed by staff that it can't be done because Raleigh won't allow it, or, they'll never consider it. Yes they will consider it! We must be proactive. I repeat, all national and state politics are local. And, it's a historic fact, that all policy changes begin at the local level. We must do so in order to help our local families. It's local families that pay the taxes.

1. The budget is approximately \$.5 to 1 million short of meeting our fund balance goal of 15 percent of general fund operations. (This goal is far below the state average of 24 percent.) This is unacceptable.
2. How shall we replace the \$200 thousand cut in federal grants for the Transit Authority? We, as a group, could have worked much harder with our state legislators about adjusting where our transportation dollars are spent. I was the only one who even asked. It should be City policy to pursue every avenue, we have no choice. Do our citizens want us to sit here and do nothing but raise unfair local taxes ad infinitum? I say no.
3. The "General Fund Contingency" should be at \$500 thousand. This money is set aside for unplanned or unexpected expenses. Last year it was \$150 thousand. We used up the entire \$150 thousand last year. This year we have set aside \$300 thousand. This is not prudent management, because we are going to have even more cuts at the federal and state level in the next year. We need more, not less.
4. Citizens' property tax money should not continue to be spent for sidewalks or streets. These are "transportation" dollars that -20- should come from the state Department of Transportation and revenue sharing through the existing Powell Bill money. Grandiose four lane highways are too expensive to build and there is no money for maintenance. For example, all the new sidewalk work currently underway on state maintained Biltmore Avenue and partially state maintained Weaver Boulevard was and is being taken from the City treasury. This should come from the state. This policy must be changed. Our working families in Asheville deserve better. Local policy must be enacted and moved toward Raleigh by working more with Raleigh.
5. Our water bills are among the highest in the country and our sewer rates among the highest in the state. We have had no policies to control costs nor

guidelines for development. We must start implementing comprehensive planning now. The recently passed UDO eliminated all comprehensive planning. That's one of the reasons I voted against it. We cannot give away the store in the name of progress. The triangle area, Wake County, North Carolina, which is in the top five in the country in bringing in new jobs, now has 400 trailers for school students. Where did all the money go? With all the new taxes being raised with record growth, there should be money for infrastructure to spare. There isn't. Are we on the same path? Yes, we are. We must change this path by implementing comprehensive planning now. Our budget policies should reflect restraint. Speculative investing should be by private business not underwritten by the taxpayers. Private failure should be borne by private investors, not taxpayers. Working families' property taxes should not be used for sewer and water line extensions.

These are just a few examples of important issues for the hard working families of Asheville. This Council was elected by the neighborhoods where all these hard working families live. Shouldn't we begin to right the wrongs of the past 20 years in this City? Shouldn't we start reassessing our priorities? This budget doesn't address our priorities. I can't vote for it."

Councilman Worley noted that the City's fund balance is 18% - well over the fiscal policy reserve.

Vice-Mayor Field said that when she went to Washington, she spent quite a bit of time talking to our legislators about what we could do to get additional funds for transportation. Several of them, along with one of our Senators, have agreed that Asheville should get more money and has put forth a bill to allow us to get 85-cents on the dollar on transit money, not 47-cents on the dollar.

Mayor Martin noted several inaccurate statements to Councilman's Skalski's statement. He said Council has looked at the general fund contingency and it may be Councilman Skalski's opinion that we have \$500,000, however, after discussions with staff, Council has determined that what we have is adequate. He said that the City does receive Powell Bill money (which comes directly from gasoline tax) and they try to use it efficiently. He felt Council is being quite prudent in the way we spend this money and they are trying to come up with more money for streets and sidewalks. He noted that while our water bills are high, they are high in part because we have a very expensive water system due to our terrain and we don't have the luxury, as do other communities in the state, of charging more for people who live outside the City. Our sewer rates are controlled by the Metropolitan Sewer District ("MSD") and we don't have the input that we would like to have. However, we have a lot of repair and maintenance to the sewer system. The policies that govern that were set in place ten years ago and while -21-

we may differ with MSD, we are not in complete control of that. As far as comprehensive planning - we do plan. That's why we have a Planning and Development Department. The recently passed UDO did not eliminate comprehensive planning, it facilitates comprehensive planning.

Councilman Cloninger felt Councilman Skalski had every right to raise motions to the budget, but at the same time he has a responsibility to be accurate in the assertions that he makes. He felt the statement passed out by Councilman Skalski was riddled with inaccuracies. He felt it was a disservice to the City Council, but more importantly to the citizens of the City of Asheville, to further this kind of inaccurate information.

Councilman Skalski moved "to eliminate the \$74 thousand "Community Oriented Government" position at City Hall and create in its place a full time Director for the Coalition of Asheville Neighborhoods at the initial cost of \$25

thousand with the neighborhoods providing matching funds. This would enable the 50 or more neighborhoods to participate from the "bottom up" the way government works best." This motion died for a lack of a second.

Councilman Skalski moved to (1) "add a \$40 thousand 'Senior Planner' to the Planning Department staff. We have implemented the UDO which changes every zone designation in the city and have only one senior planner; (2) reduce the legal departments allocation by \$40 thousand to deal with challenges to the UDO. The government should not be defending poorly written legislation. It should include the citizens in the process, so 'self-defense' will not be necessary; (3) reduce 'City Development' allocation from \$246 thousand to at least \$70 thousand. We don't need another layer of bureaucracy.; and (4) remove the entire \$.5 million/fiscal year for 'RECYCLING' from the general fund and place it entirely in 'tipping fees.' The citizens were surveyed and are willing to pay for program. This will also be an incentive for them to work to make it more efficient." This motion died for a lack of a second.

Councilman Skalski moved "to endorse the Metropolitan Sewerage District (MSD) of Buncombe County, North Carolina's current 'line extension policy' as adopted at their June 15, 1996, board meeting, and, ask that the Asheville Water Authority adopt a similar policy. The resolution adopted by MSD calls for the implementation of .. 'a comprehensive, county-wide land use plan to provide a rational basis for engineering and financial projections,...' City Council endorses this and will work to have the Asheville Water Authority adopt similar guidelines. Comprehensive planning calls for an 'economic/social, balance sheet' which includes the coordination of all infrastructure needs in the area, including roads, sewers, water, and schools. This will help our area grow wisely, by employing impact statements and studies in our planning. Finally, comprehensive planning, conservation districts, accompanied by impact statements and studies should also be included in the new Unified Development ordinance (UDO)." This motion died for lack of a second.

Councilman Skalski moved "to change these 'Outside Agencies' allocations: Most of all the 19 outside agencies service both the county and the city equally, therefore these allocations are a form of 'double' taxation and should be phased out over time. The items listed below are those that we could begin phasing out now: (1) eliminate the \$100 thousand for 'The Chamber of Commerce.' It already gets a room tax subsidy for promotion of tourism member companies; (2) leave Buncombe County Drug Commission at \$15 thousand, 1995/96 level. No one has shown -22-

their effectiveness. Let's give them another year to try; (3) the 'Sister Cities' program is tourism oriented and not be funded by city, and the \$2 thousand should be eliminated from the budget; and (4) eliminate the \$15 thousand for the 'VISION'. The 'in kind' office space the City gives them would remain in place. Do we really need to set up a whole function of government for this?" This motion died for lack of a second.

Councilman Worley was puzzled why Councilman Skalski did not give this information to the rest of City Council on June 10 (since the public hearing was held on that date). He felt that might have given Council time to digest the information being presented. Councilman Skalski said that most of the issues have been in front of City Council all year and the budget is an on-going yearly project. Councilman Worley responded that none of these issues had been raised at all during the budget deliberations.

Vice-Mayor Field said that she has received today a copy of a consultant proposal from the Tourism Development Authority ("TDA"), of which she is the City Council liaison. The TDA has asked that Council provide \$10,000 to them to help pay for their consultant. She realized that this request is late in the

process and the only thing she could suggest to them, because it was so late, was that perhaps Council could earmark \$10,000 of the money the City is giving to the Chamber of Commerce to be for this particular project.

Councilman Worley agreed that it is too late to be brought up at this time. However, if Council would have had time to listen and study the proposal to see exactly what it entailed and whether they wanted to appropriate the \$10,000, the choices would be the same today as down the road - out of contingency or out of fund balance. He felt that could be decided in the future after Council decides whether it is appropriate or not.

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

Councilman Cloninger moved for the adoption of Ordinance No. 2386. This motion was seconded by Councilman Worley.

On a roll call vote of 6-1 (with Councilman Skalski voting "no"), Ordinance No. 2386 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 249

B. RESOLUTION NO. 97-106 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH TENNOCA CONSTRUCTION CO. INC. FOR THE PROJECT KNOWN AS WEST AREA ANNEXATION SEWER IMPROVEMENTS PHASE III - CONTRACT A

Assistant City Manager Doug Spell said that this project consists of approximately 3200 linear feet of gravity sanitary sewer which is being put in as part of the West Area annexation service. The location of this phase of the project is in the vicinity of Captain's Drive. The project was designed in-house by the Engineering Department at an estimate of approximately \$191,000 for the project construction. The construction time advertised was 45 days. The following four bids were received on June 24, 1997:

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Tennoca Construction Co. (Candler, N.C.) \$177,756

Steppe Construction Co. (Mill Spring, N.C.) \$219,389

Precision Contracting (Asheville, N.C.) \$220,405

Wheeler Construction (Weaverville, N.C.) \$220,696

After evaluating the bids, staff recommends Council award the bid to the apparent low bidder - Tennoca Construction Co., Candler, N.C., in the amount of \$176,756. Funds have been budgeted in the Capital Improvements Budget for the sanitary sewer improvements as a part of the West Area Annexation.

Councilman Skalski reminded Council that when the City annexes it comes with a price.

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

Councilman Worley moved for the adoption of Resolution No. 97-106. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 116

C. RESOLUTION NO. 97-107 - RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE REGIONAL WATER AUTHORITY FOR ASHEVILLE, BUNCOMBE AND HENDERSON AND AWARDED THE BID FOR THE CONSTRUCTION OF WEST AREA ANNEXATION WATER LINE IMPROVEMENTS, WOODSIDE HILLS SECTION - PHASE II PROJECT

Assistant City Manager Doug Spell said that this project scope consists of the replacement of a 2-inch water line with 6-inch water line and fire hydrants to enhance fire protection in this area. The project consists of approximately 4250 linear feet of water line to be installed. The project was designed in-house by the Engineering Department at \$232,739. The construction time for the project is 60 days. The following five bids were received on June 12, 1997:

Ronnie Ledford Utilities (Barnardsville, N.C.) \$199,726.50

Cooper Const. Co. (Hendersonville, N.C.) \$209,083.00

Steppe Construction Co. (Mill Spring, N.C.) \$223,767.00

Hobson Const. Co. (Arden, N.C.) \$225,494.00

Buckeye Const. Co. (Canton, N.C.) \$285,981.00

After evaluating the bids, staff recommends Council award the bid to the apparent low bidder - Ronnie Ledford Utilities, Barnardsville, N.C. in the amount of \$199,726.50. Sufficient funds for this project are budgeted in the Pipeline Replacement Project account in the Water Capital Projects.

Mr. Spell noted that this project and the recommendation of award was presented to the Regional Water Authority and received favorable approval.

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

Councilman Worley moved for the adoption of Resolution No. 97-107. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 121 -24-

D. ALL AMERICA CITY CELEBRATION

Upon concurrence of City Council, Mr. Irby Brinson, Director of Parks & Recreation, announced the All America City celebration would be held on Friday, August 15, 1997, in conjunction with Downtown after Five.

VI. OTHER BUSINESS:

A. CITY COUNCIL/STAFF RETREAT

Upon request of City Manager Westbrook, it was the consensus of Council that the City Council/Staff Retreat be held on Friday, August 22, 1997, beginning at 1:00 p.m. and ending at approximately 6:00 p.m. at the North Fork Clubhouse. The City Manager was instructed to work with City Council, through the Mayor, on the agenda for the retreat.

B. DISTRICT ELECTIONS

Councilman Skalski asked if any Council member was interested in discussing district elections as a possible addition to our change in form of government in order to get better representation throughout the City. He pointed out that in Greensboro and Charlotte they do have district elections.

Upon inquiry of Councilman Hay, City Attorney Oast said that there is insufficient time for district elections to be effective for the 1997 election.

Councilman Cloninger agreed with Mayor Martin in thinking that district elections are not in the best interest of Asheville. He said they may work well in larger cities, but not the size of Asheville. He felt that there is enough divisiveness in our community and district elections would only foster it.

Councilman Skalski said that he would propose that the issue be voted on by the public - not enacted by City Council.

Councilman Worley also felt it would be more divisive to the City than solve any problems. He felt that in cities the size of Asheville, district elections would end up pitting one area of the City against another and pitting one member of Council representing one district against another member of Council. He has not detected, in the slightest, any bias whatsoever on the part of any member of this Council in favor of or against any area of the City. He felt each Council member approached their jobs with the best interest of the entire City in mind. He believed that going to district elections, substantially, would weaken that type of approach.

Councilman Skalski moved, if it's physically and legally possible, to put on the November election ballot a proposal for district elections in Asheville. This motion died for a lack of a second.

C. NO MEETING OF CITY COUNCIL

Mayor Martin announced that City Council will not be meeting on Tuesday, July 1, 1997. The next meeting will be a formal meeting beginning at 5:00 p.m. on Tuesday, July 8, 1997, in the Council Chamber on the second floor of the City Hall Building. -25-

D. CLAIMS

The following claims were received by the City of Asheville during the week of June 6-12, 1997: Zeynad Mohammed (Traffic Engineering), Alice Fontanez (Streets), Bell South (Water), Jackie West (Streets), Kathy Burd (Streets), Jane Tuttle (Inspections), Ricky Morgan (Sanitation) and Bell South (Water).

The following claims were received during the week of June 13-19, 1997: Gregg Moore (Water), Cheryl Swann (Water), Melissa Waldrop (Streets), Janice Wilson (Water), Randy Mehaffey (Parks & Recreation) and Sam Carver (Parks & Recreation).

These claims have been referred to Asheville Claims Corporation for investigation.

E. CLOSED SESSION

At 6:35 p.m., Vice-Mayor Field moved to go into closed session in order to (1) consult with an attorney employed or retained by the City in order to preserve the attorney-client privilege between the attorney and the City - statutory authorization is G.S. 143-318.11 (a) (3); (2) to prevent the disclosure of information that is privileged or confidential pursuant to North Carolina law. That law is G.S. 160A-168, the Personnel Privacy Act - statutory authorization is G.S. 143-318.11 (a) (1); and (3) to discuss matters relating to the location or expansion of industries or other businesses within the area served by the City of Asheville - statutory authorization is G.S. 143-318.11 (a) (4). This motion was seconded by Councilman Sellers and carried unanimously.

At 7:30 p.m., Councilman Skalski moved to go come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:30 p.m.

CITY CLERK MAYOR
