

Tuesday - July 8, 1997 - 5:00 p.m.

Regular Meeting

Present: Vice-Mayor Barbara Field, Presiding; 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: Mayor Russell Martin

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. ASHEVILLE SISTER CITIES

Mr. George Yates, President of Asheville Sister Cities, read a letter from Jean-Paul Hugot, Mayor of our Sister City in Saumur, France. He then proudly announced that Asheville Sister Cities has been selected by Sister Cities International as having the best program in the United States for 1996 for cities under 100,000 in population and under. He also thanked City Council for their \$2,000 grant for the coming year. He emphasized that that type of financial support is what made possible such an active and successful program in 1996.

Councilman Worley said that the Sister Cities program not only fosters friendship and understanding, but can also foster some very viable economic ties as well.

B. RESOLUTION NO. 97-108 - RESOLUTION RENAMING THE MONTFORD AMPHITHEATER IN HONOR OF HAZEL ROBINSON

Several members of the Montford Park Players (in costume) invited City Council to their special anniversary celebration on Friday, July 18, 1997, at 7:30 p.m., at the Montford Amphitheater.

Vice-Mayor Field presented Mr. Ernest Thurston, Secretary of the Montford Park Players (MPP), with a proclamation in honor of their 25th Anniversary.

Vice-Mayor Field then read a resolution renaming the Montford Amphitheater in honor of Hazel Robinson. Ms. Robinson founded the MPP in 1973 and has been the group's president, director, and guiding spirit ever since. She has volunteered nearly 25,000 hours and has directed and inspired over 1,000 local actors and actresses in presenting over 600 performances of plays by Shakespeare, Dickens, and other playwrights before audiences totaling around 30,000.

The Parks and Recreation Advisory Board recommends renaming the Montford Amphitheater in honor of Hazel Robinson.

Councilman Worley moved for the adoption of Resolution No. 97-108. This motion was seconded by Councilman Skalski and carried unanimously.

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C. PROCLAMATION PROCLAIMING JULY, 1997, AS "RECREATION AND PARKS MONTH"

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Vice-Mayor Field read a proclamation proclaiming the month of July, 1997, as "Recreation and Parks Month" in the City of Asheville. She presented the proclamation to Parks & Recreation Director Irby Brinson who praised his staff and briefed the Council on some activities taking place during the month.

D. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD

City Manager Westbrook presented Finance Director Bill Schaefer with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. The City of Asheville is proud to have received this award for the 17th year.

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

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

E. PRESENTATION OF DISTINGUISHED BUDGET PRESENTATION AWARD

City Manager Westbrook presented Audit/Budget Director Bob Wurst with the Distinguished Budget Presentation Award for the budget prepared for Fiscal Year beginning July 1, 1996. The Award represents a commitment of the governing body and staff to meeting the highest principles of governmental budgeting.

II. CONSENT:

III. PUBLIC HEARINGS:

IV. UNFINISHED BUSINESS:

A. RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 5 AT THE CORNER OF COURTLAND AND MONTFORD AVENUE IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT TO ROBERT EIDUS AND JEANETTE SYPRZAK

Mr. Ed Vess, Field Services Coordinator, said that June 10, 1997, City Council tabled until July 8, 1997, consideration of approval of the sale to Mr. Eidus and Ms. Syprzak after hearing a complaint from Jacqueline Larsen that Mr. Eidus had reneged on an agreement with her regarding the purchase and development of the property. Ms. Larsen requested a meeting with City staff to discuss her complaint and on June 19, 1997, City Attorney Bob Oast and he met with Ms. Larsen and then with Mr. Eidus, Ms. Syprzak and Mr. Randolph Horner, a business associate of Mr. Eidus. They are prepared to make a recommendation to City Council, however, in the meantime they have been in the process of removal of an Underground Storage Tank (UST) on the site.

Work has begun but has not been completed on the removal of a UST on Disposal Parcel 5. Part of the City's commitment in connection with this conveyance was to remove the UST suspected to be on the property, formerly used as a service station. In order to allow time for completion of the removal of the tank, consideration of approval of the authorization of conveyance of -3-

the property should be continued for two weeks until July 22, 1997.

The proposed developers Robert Eidus and Jeanette Syprzak have been contacted and concur in the request that the subject be tabled for two weeks.

Community Development staff recommends that consideration of the subject resolution be continued for two weeks.

Ms. Jacqueline Larsen said that she will present Council with a narrative in response to the City's staff report. She said that she would be requesting City Council to reopen the bidding process.

Councilman Skalski moved to table this matter until July 22, 1997. This motion was seconded by Councilman Sellers and carried unanimously.

B. ORDINANCE NO. 2387 - ORDINANCE AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO RESTRICT DOGS IN RIVERSIDE CEMETERY

Mr. Irby Brinson, Parks & Recreation Director, reviewed a compromise the Parks and Recreation Department and concerned dog owners arrived at concerning dogs at Riverside Cemetery.

At the June 10 City Council meeting, the Parks and Recreation Department was asked to meet with concerned dog owners to explore the possibility of developing a compromise concerning dogs at Riverside Cemetery. Through the facilitation of Kevin Wilson, Training and Quality Coordinator for the City of Asheville, two meetings were conducted over the past two weeks to determine the feasibility of a compromise. The consensus of those present at these meetings is as follows:

Appropriate signage should be posted at the front gate which would outline the following:

- a. Dogs must be leashed and remain on paved roads.
- b. Owners must clean up after the dogs.
- c. Dogs are prohibited during funeral services.
- d. Dogs should have canine "good citizen" training.

Violators of the above regulations will be reported to the Park Warden or the Cemetery staff with as much information as possible. Those individuals who can be identified could face possible banishment from the Cemetery. In addition, an Adopt-A-Cemetery Program will be established which will allow for clean-up of the Cemetery area and beautification projects.

Furthermore, this compromise will be assessed after a six-month period of time to collect data and measure the effectiveness to determine if further additions or changes need to be made.

The Parks and Recreation Department recognizes the need for the future development of dog parks which will allow dogs to run free in open spaces without concern for damaged property.

The Parks and Recreation Department recommends approval of the revision to the Code of Ordinances pertaining to Riverside Cemetery and approval of the compromise.

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Upon inquiry of Councilman Sellers, Riverside Cemetery Manager David Olson said

that he did not send out a formal letter to all the lot owners regarding this issue because there were thousands of them. He did, however, send out a notice to the property owners who had contacted him regarding this issue. Councilman Sellers felt it would have been only be fair for notification to all property owners since he has received a number of phone calls from those who were not notified.

Councilman Sellers then read a letter from Ms. Ledford who asked that all dogs be banned from the cemetery unless they stay in a vehicle. She felt that Riverside Cemetery (1) is not a recreational facility for dogs, joggers and loiterers; (2) should only be used for the original plan for the use of the cemetery burials and visitations by the loved ones; and (3) should not allow men in the Cemetery half-dressed or lying on the graves sunning. She said many of the monuments are leaning and asked that be addressed. She also said that steps are desperately needed in at least two areas.

Councilman Sellers pointed out that, after visiting Riverside Cemetery, the word "Park" was not in any signage anywhere.

Councilman Sellers, referring to a study entitled "An Assessment of Headstone Damage at Riverside Cemetery: Possible Causes and Solutions" prepared by Kathryn R. Gubista, Ph.D. in the Biology Department at UNC-Asheville, said that there is more to a grave than just headstones. He noted that there would be additional work involved for the Cemetery Manager and his staff in order to police the area and notify the Animal Control Officer when violations occur. He said that he would have to vote against the compromise because of the enforcement issue.

When Councilman Worley asked if there were any representatives of the lot owners at the two compromise meetings held, Mr. Brinson said that maybe three or four attended both meetings and of those present, they felt the compromise was "doable". He did reiterate that his direction from City Council was to work out a compromise with the dog owners and they tried to proceed in that manner.

Councilman Sellers noted that in the survey conducted it stated that it may be possible to rid headstones of urine stains caused by the dogs and that the Adopt-A-Cemetery volunteer group is willing to help clean up the urine stains on the headstones. He had a letter from Rufus Whitmire, Whitmire Monuments on Patton Avenue, which read, in part, that "dog urine permanently stains marble memorials. Riverside Cemetery contains a high percentage of marble memorials. Older marble memorials were generally more ornate than today's memorials and therefore are extremely expensive to duplicate or reproduce. Dog urine will also permanently stain granite monuments if allowed to sit and soak in for a period of time."

Councilman Skalski agreed with Councilman Sellers in that it doesn't appear that the City will be able to monitor the Cemetery to the extent it would have to be done, especially since the City has only one animal control officer. He was concerned about enforcement since we already have an ordinance that requires dogs to be on leashes and it's hard to enforce.

Ms. Frances Robinson urged Council to ban dogs from Riverside Cemetery entirely because she didn't think a cemetery is a place for dogs.

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An unidentified lady who was part of the compromise committee reminded Council that dogs will have to be kept on the paved road on leashes and will not be running over the graves or urinating on headstones. She felt that the dog owners are sincere about being park watchers to deter crime in the Cemetery.

She urged Council to adopt the compromise for at least a six month period.

Ms. Ruby Leonard spoke in support of the compromise.

Ms. Kathryn R. Gubista, author of the study mentioned above by Councilman Sellers, supported her objective study noting that out of a total of 551 headstones she examined, the most damage was fresh bird droppings found on 48% of the headstones. The least damage was dog urine, found on only 1.1% of the headstones. She felt sure that there was new technology for removal of urine stain and urged Council to adopt the compromise.

Councilman Cloninger moved to amend Chapter 5 of the Code of Ordinances to allow dogs in Riverside Cemetery if said dog is leashed at all times and said leash is held by the person responsible for the dog. Dogs subject to this provision shall be kept on the paved roads within the cemetery and not allowed to defecate or urinate on any grave site, headstone or monument. Any fecal matter deposited by a dog shall be removed from the cemetery by the person responsible for the dog. The main cemetery gate may be posted any time a funeral or other service is in progress and no dogs shall be permitted in the cemetery during such times. This provision shall not apply to dogs assisting persons with sight disabilities, or other disabled persons who require the assistance of a dog. This motion was seconded by Councilman Hay.

Councilman Cloninger respected the concern of property owners, but felt the compromise should be tried for six months. He noted that after the six-month period if the compromise is not working, Council can then consider banning dogs entirely from the Cemetery.

Councilman Worley said that his grandparents were buried in Riverside Cemetery. He felt that the compromise was acceptable on a trial basis.

Vice-Mayor Field 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. 2387. This motion was seconded by Councilman Hay.

On a roll call vote of 4-2 (with Councilmen Skalski and Sellers voting "no"), Ordinance No. 2387 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 255

Vice-Mayor Field asked for an update on this compromise in six month at which time she also asked staff to address the issue of stray dogs.

C. ORDINANCE NO. 2388 - ORDINANCE AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO RESTRICT DOGS IN RIVERSIDE CEMETERY

See Item "B" under Unfinished Business. -6-

Vice-Mayor Field 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. 2388 amending Chapter 3 of the Code of Ordinances to include Riverside Cemetery as an area dogs are permitted, subject to the provisions outlined above in the earlier motion (Item B) concerning a similar issue. This motion was seconded by Councilman Worley.

On a roll call vote of 4-2 (with Councilmen Skalski and Sellers voting "no"),

Ordinance No. 2388 passed on its first and final reading.

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D. RESOLUTION NO. 97-109 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BUNCOMBE CONSTRUCTION COMPANY INC. FOR CONSTRUCTION OF THE ASHEVILLE TRANSIT CENTER

ORDINANCE NO. 2389 - BUDGET AMENDMENT FOR INSTALLATION OF TWO TRAFFIC SIGNALS

Mr. Carl Ownbey, Urban Planners, aid that the City of Asheville and the Asheville Transit Authority received bids on June 2, 1997, for the proposed transit center to be constructed on Aston Street between Asheland Avenue and Coxe Avenue. After staff reviewed the four submitted construction bids, it was determined that all bids were responsive but higher than the funds available. Therefore, negotiations with the lowest bidder, Buncombe Construction at \$706,700, were authorized by City Council.

Taking into consideration the base bid, alternates M-1, E-2, and GC-2, the negotiations outlined changes to several of the amenities and included the addition of landscaping. The results decreased the construction bid to \$700,000, which is within the available funding. Funds in the amount of \$705,000 are appropriated for this project. Funding for this project has been approved through a Federal Transit Grant with state and local participation.

As indicated at the worksession last month, funding for the traffic signals at the intersection of Asheland and Aston and also at the intersection of Aston and Coxe, which is at each end of this project, was not included. Significant aspects of this portion of the project (reverse flow lanes for the buses, phasing of the signals to accommodate different turning movements, and the use of upgraded computer equipment) was not initially budgeted for in the grant.

Staff requests that the City Council appropriate funds in the amount of \$70,000 to install the two traffic signals for this project. Staff has requested funds from NCDOT for these signals but have not received a response to this request.

The Asheville Transit Authority and the Planning staff recommend that the contract for construction of the new transit center be awarded to Buncombe Construction in the amount of \$700,000 and that funds be appropriated in the amount of \$70,000 for the installation of the two traffic signals.

Upon inquiry of Vice-Mayor Field, Mr. Ownbey said that landscaping is now in the contract price, slightly modified but acceptable.

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When Councilman Cloninger asked why the 30 cubic yards of rock item was being deleted, Mr. Ownbey said that during negotiations the contractor felt that there was no indication that there would have to be rock removal.

Councilman Cloninger felt it was important that we make the transit center as attractive as possible because that building may serve as a catalyst for further redevelopment all the way down Coxe Avenue.

Upon inquiry of Vice-Mayor Field about a bus stop in Pritchard Park, Mr. Ownbey said that the current design is a stop in-bound and out-bound at Pritchard Park.

Vice-Mayor Field asked about a possible conflict of interest since Buncombe Construction is a company her firm does business with, though neither she nor

her firm are involved with this project. City Attorney Oast said that, in his opinion, Vice-Mayor Field would not have a direct financial interest and thus, she would be required to vote.

Councilman Cloninger asked if the deletion of a bench in the negotiations would cause inadequate seating. Mr. Ownbey said that there are five sets of double benches, 8-feet long, which will accommodate up to 60 people and eliminating one bench will not cause much problem. The bench on the very end was deleted due to the design of the island having to be reduced and also because of a safety factor in not wanting a congregation of people right on the end of the island. He did note, however, that the contractor would be installing anchors when they poured the concrete and a bench could be installed later if needed.

Upon inquiry of Councilman Cloninger, Mr. Ownbey said that the construction time is 180 days.

Vice-Mayor Field 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. 97-109. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 129

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

Councilman Worley moved for the adoption of Ordinance No. 2389. This motion was seconded by Councilman Sellers.

On a roll call vote of 6-0, Ordinance No. 2389 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 259

V. NEW BUSINESS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 24, 1997

Mr. Ralph Bishop, resident of the City of Asheville, objected to the minutes being summarized. He asked what authority does the City Clerk have to summarize the minutes noting that G.S. sec. 160A-72 says full and accurate minutes of the Council proceedings must be kept.

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City Attorney Oast said that in a fairly recent opinion by the North Carolina Supreme Court, Maready v. City of Winston-Salem in Forsyth County, the Supreme Court spent some time in addressing the very question Mr. Bishop raised. They cited, with approval, provisions of Roberts Rules of Order. He read an excerpt from Roberts Rules as follows: "the record of proceedings of a deliberative assembly is usually called the minutes, or sometimes particularly in legislative bodies, the journal. In an ordinary society, unless the minutes are to be published, they should contain mainly a record of what was done at the meeting, not what was said by the members." At the request of Mr. Bishop, City Attorney Oast said he would be glad to give a copy of that provision.

Vice-Mayor Field noted that over the past few years, Council's minutes have been more and more complete text of what has gone on as well as what has been said. She felt they are much closer to what Mr. Bishop's definition of "full

and accurate" means than what we are required to do.

When Mr. Bishop asked if G.S. sec. 160A-72 was still a valid law in the State of North Carolina or has it been declared unconstitutional, City Attorney Oast responded that in its current form it is still the law in the state.

Councilman Sellers moved for the adoption of the minutes of the regular meeting held on June 24, 1997. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. STEPHENS-LEE FINANCING

Councilman Worley asked if it was possible to expedite the renovation of the Stephens-Lee Community Center (without impairing our financial plan) by combining funds from some of the partially funded projects until the Certificates of Participation are sold in the fall. City Manager Westbrook said that could be a real possibility but he would need to investigate the question and report back to City Council at their meeting next week.

B. CONTRIBUTION TOWARDS PURCHASE OF DOWNTOWN STREET CLOCK

Mr. Mark Combs, Director of Public Works, said that Mr. Charles Cunningham has generously offered to donate \$6,000 towards the purchase of a street clock for the City which he would like to have installed in celebration of the bicentennial and hopefully in a place that is pedestrian-oriented in downtown.

The Streetscape Committee has been meeting to review the style and design of the clock, the location of the clock and the financial issues associated with the purchase of the clock. The \$6,000 donation is about \$2,000 lower than the cheapest clock with the style they are looking at to complement the overall streetscape design for downtown. After meeting again with Mr. Cunningham, he committed up to \$8,000 at that point to buy the lowest cost clock, however, he was not receptive to the potential location of the clock at the new transit center. Mr. Cunningham said he would be willing to give a donation to Quality Forward to expedite the acquisition of the clock. Since then the Streetscape Committee has agreed to re-look at some locations, based on the financial issues, for possibly a smaller clock in a more pedestrian area. The Committee also asked him to seek guidance from City Council -9-

as to whether there should be public fund participation in paying the difference from the donation with streetscape money.

Vice-Mayor Field said that the Downtown Commission has enthusiastically endorsed accepting the gift.

Councilman Cloninger said that it was very generous of Mr. Cunningham to offer this and hoped we could work something out.

When Councilman Cloninger inquired about the clock, Mr. Combs said that the particular model they are looking at (11 feet tall) is approximately \$10,500 and the difference would be about \$4,500. The Streetscape Committee has asked him to seek guidance from City Council on if it is appropriate policy for them to match Mr. Cunningham's gift with streetscape funds which are available.

Councilman Cloninger wondered if the Streetscape Committee has any feelings about whether allowing that amount to go towards the clock will deter them from meeting other goals they may have for this fiscal year. He felt that if something like this clock is consistent with what they ordinarily do, he would

be in favor of taking the funds out of their budget.

Councilman Worley didn't think it was a good policy to look to the streetscape funds for any differential, but that it should be left to the City Council to determine where those funds should come from. He did think it is a wonderful gift Mr. Cunningham has offered and we should do everything we can to accept the gift and do so as a part of the bicentennial celebration.

City Manager Westbrook said probably the only reservation staff had about recommending the difference come out of the streetscape funds would be the appearance of setting a precedent because the next gift the City Council may not like as much as they do Mr. Cunningham's. In order not to give that appearance, an appropriation from the general fund would clearly show it's not a precedent.

Vice-Mayor Field said that Mr. Cunningham had been told, and rightly so, that there is going to be a celebration on November 11 for the chimes and he wanted to be able to have the clock celebration at the same time. It was therefore important that Council make a decision fairly soon so that they can order the clock and have it installed by that time. She noted that the bicentennial season doesn't close until January 27, 1998, so it is possible that there can be a very special celebration for this particular gift if the timeframe doesn't work out.

Mr. Combs said that there is a 90-day construction date that the clock company has to set aside for the building of the clock with a 30 day contingency. He said Public Works staff would construct the pedestal base and the conduit for the electricity and it would take a matter of hours to actually install it when it arrives. He felt that the clock could be ordered before August 15 or earlier to have the celebration on November 11.

Upon inquiry of Councilman Skalski, Mr. Combs said that there is roughly \$200,000 in the streetscape fund and about \$50,000 is totally unencumbered.

Vice-Mayor Field felt that what the Streetscape Committee is looking for is to find out whether or not the Council wishes to accept the gift and they will work forward from there.

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It was the consensus of City Council to accept the generous gift of Mr. Cunningham.

Mr. Combs said that he would come back to Council at their next meeting with a recommendation for funding and the potential source.

Mr. Charles Cunningham said that some of the members of the Committee felt that a larger clock with a larger clock face would be the more logical type of clock to be installed at the corner of Spruce and College Streets. He urged Council to resolve where the additional appropriation of \$4,500 needed would come from so the clock could be ordered by August 1. He said that on August 1, Quality Forward should have the money in hand and they can sign the contract for the larger clock. That will give them plenty of time to have the clock installed by November 11. He wanted all money in place by August 1 because he needed some time to get the money out of his foundation which is in the Community Foundation of WNC and they write checks on the 15th and the 1st. He also noted that the clock company requires a 50% down payment when the order for the clock is placed.

When Councilman Cloninger asked if Mr. Cunningham's donation could be used as

the down payment for ordering the clock, Mr. Cunningham did not feel it would be safe until all the money was committed.

Councilman Cloninger moved that City Council accept the generous gift from Mr. Cunningham subject to meeting Mr. Cunningham's conditions subject to budgetary approval. This motion was seconded by Councilman Sellers.

Mr. Cunningham said that he and his wife would like the donation to be anonymous.

Ms. Leni Sitnick, Co-Chair of the Bicentennial Committee, said that she would be willing to ask the Bicentennial Committee if there would be a possibility of finding some sponsorship for the additional monies needed, or at least half of those monies. And, if for some reason the timeframe is delayed, there is a plan to celebrate the last day of the bicentennial, which was the first day that the city council sat 200 years ago on January 27, with the possible burying of a time capsule. And perhaps if the clock celebration doesn't occur on November 11, we could coordinate the time clock with the time capsule. She thought Council might want to dress in costume for that day, go down to the site, have the capsule buried and celebrate the standing of the clock.

Vice-Mayor Field thanked Ms. Sitnick for her generous offer to solicit sponsorships said that City Council will find a way to celebrate Mr. Cunningham's gift with as much grandeur as we do any other bicentennial celebration. She also suggested a special bicentennial Christmas gift might be another way to celebrate the clock.

City Manager Westbrook said that Mr. Combs will be meeting with the Streetscape Committee and as a result of that meeting he would bring back an appropriation and a recommendation for source at the next Council meeting.

C. CITY COUNCIL TRIATHLON TEAM

Councilman Hay proudly announced and congratulated the City Council Triathlon Team on winning its division in the RiverLink triathlon. Their outstanding and courageous athletic performance brought them in 9th out of 19 teams, with a very credible time. -11-

D. COMMENTS BY MR. RALPH BISHOP RELATIVE TO THE MINUTES

Mr. Ralph Bishop, resident of the City of Asheville, questioned how the Supreme Court could circumvent State law (when it says you don't have to keep full and accurate minutes) without declaring State law invalid.

City Attorney Oast said that the North Carolina Supreme Court, which is the legal authority in this state, has approved the keeping of the minutes in the manner that Asheville keeps them, as specified by the highest and most widely recognized parliamentary authority which is Roberts Rules of Order. He would be happy to furnish Mr. Bishop of that opinion, this rule and or any case he wishes if he will come to his office.

Upon inquiry of Mr. Bishop, City Attorney Oast explained that the Supreme Court interprets State laws.

Vice-Mayor Field suggested Mr. Bishop meet with City Attorney Oast and perhaps Mr. Oast can address his concerns.

E. COMMENTS BY MR. BRIAN PETERSON RELATIVE TO THE UDO

Mr. Brian Peterson brought to Council's attention four possible errors in the

labeling of the UDO maps.

Mr. Peterson was especially concerned about the zoning in the Brevard Road area not being changed to RS-8 as was his understanding after adoption of the UDO, and as outlined in a petition presented to City Council. After talking with the Planning staff, he said their view was that the list of roads was a recommendation to staff to look at those areas to see if some of those should be changed from RM-8 to RS-8 and was not directing them to change all of Brevard Road in that area from RM-8 to RS-8. He said that in the Planning & Zoning Commission meeting he set out very clearly that they wanted rezoned was both sides of Brevard Road, all the property along Brevard Road from the Laurelwood Condominiums to the Masonic Lodge, and then he listed the side streets coming off of that area. He was concerned that since those changes have not been made, they would need to go through the entire rezoning process which could take several months.

Planning & Development Director Julia Cogburn said that Planning staff is in the process of investigating the possible error concerning the Vance Crescent area, noting that this is the first time the other three possible errors have been brought to their attention. She said that if there is an error in the maps that was not included in the listing of the PIN Nos. that she read into the minutes on May 27, then to correct that would require going through the rezoning process, because the map that was the point of departure was the map that was advertised in the paper. She explained that all of the PIN Nos. that were read into the record at the May 27 meeting were the changes from that original advertised map and anything that wasn't taken care of through one of those two means would have to go through the formal rezoning process. So, if in fact Planning staff made an error, they will correct it as quickly as possible through that process with the explanation that this was something that in the description of the area and the translation of it through to staff, an error was made. Once again, she is in the process of checking on this possible error.

With respect to the other three areas Mr. Peterson mentioned, they would need to be re-checked as well and if the PIN Nos. were read into the record on May 27 and the map is in error - that can be taken care of -12-

without a rezoning. She would need to check Mr. Peterson's map (which is a computer representation of what Planning staff has on record right now) with the larger official UDO zoning maps. She said that she would check all of the final Council votes to make absolutely sure all of those changes were made.

Councilmen Hay and Sellers recollected that what City Council wanted to do was what the Brevard Road neighborhood group requested. Ms. Cogburn understood that as well. She felt it could have been an implementation problem or vague information from the neighborhood to staff.

Upon inquiry of Councilman Hay, Ms. Cogburn said that if an error was made it could go to the Planning & Zoning Commission at their August meeting and then it would come to City Council at the end of August.

Councilman Cloninger stated that as something as complicated and complex as the UDO was, there may have been made honest mistakes made and certainly if that is true the City will correct it as expeditiously as possible. He felt that City Council, City staff and the neighborhoods acted in good faith throughout the process.

F. CLAIMS

The following claims were received by the City of Asheville during the week of June 20-26, 1997: Jeffrey Dameron (Streets), Bill Carter (Water) and Deborah

Morris (Police).

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

G. CLOSED SESSION

At 7:08 p.m., Councilman Sellers moved to go into closed session for the following reasons: (1) to discuss matters relating to the location or expansion of industries of other businesses in the area served by the City Council - the statutory authority is G.S. sec. 143-318.11 (a) (4); (2) to establish in order to instruct the public body's negotiating agents or staff concerning the position to be taken by or on behalf of the public body negotiating the price and other material terms of a proposed contract for the acquisition of real property by purchase, option, exchange or lease - the statutory authority is G.S. sec. 143-318.11 (a) (5); and (3) to consult with an attorney employed by the City Council in order to preserve the attorney-client privilege between the attorney and the Council - the statutory authority is G.S. 143-318.11 (a) (2). This motion was seconded by Councilman Worley and carried unanimously.

At 8:25 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

H. COMPUTERS

There followed a brief discussion with City Manager Westbrook and the Council about getting laptop computers for Council members.

There was consensus that the City Manager should work with staff to obtain the computers. They may be available under the terms of the lease that the City has just negotiated.

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VII. ADJOURNMENT:

Vice-Mayor Field adjourned the meeting at 8:40 p.m.

CITY CLERK MAYOR
