

Tuesday - July 22, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and Deputy City Clerk Phyllis Corns

Absent: City Clerk Magdalen Burleson

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION OF JOHN J. GUNTHER BLUE RIBBON BEST PRACTICES IN COMMUNITY DEVELOPMENT AWARD

City Manager Westbrook presented Community Development Director Marvin Vierra with the first John J. Gunther Blue Ribbon Best Practices in Community Development Award. This award is a testament to what communities can accomplish when they work in partnership with government, private organizations, local agencies - and most important - with citizens.

B. RESOLUTION NO. 97-110 - RESOLUTION OF APPRECIATION TO HERVE H. CABLE, PUMPS & RESERVOIRS SUPERVISOR

City Manager Westbrook read the resolution stating that Herve Cable has been employed by the City of Asheville for 23 years and has requested retirement from his position as Pumps & Reservoirs Supervisor in the Water Production Division of the Water Resources Department. Mayor Martin expressed City Council's appreciation to Herve for his service to the City of Asheville and its citizens.

Councilman Worley moved for the adoption of Resolution No. 97-110. This motion was seconded by Councilman Sellers and carried unanimously.

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II. CONSENT:

At the request of Councilman Skalski, Item D. was removed from the Resolutions & Motions Consent Agenda to be discussed individually.

At the request of Mr. Ralph Bishop, Item A. was removed from the Resolutions & Motions Consent Agenda to be discussed individually.

RESOLUTIONS & MOTIONS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 8, 1997, AND THE WORKSESSION HELD ON JULY 15, 1997

This item was removed from the Consent Agenda to be discussed individually.

B. RESOLUTION NO. 97-111 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH PCN FOR MENTAL HEALTH MANAGED CARE UNDER THE CITY'S EMPLOYEE

HEALTH BENEFIT PLAN

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Summary: The consideration to extend an agreement approved in February 1996 to provide mental health managed care to the employee benefits program.

Last year the City decided to put together a HMO look-alike feature for mental health, drug, and alcohol treatment under its employee benefit program. No such programs were commercially available in the community at that time, and a program was put together for the City by Provider's Care Network (PCN (of Asheville) to meet this need.

The success of the program, and the dollar savings to the benefit plan have been exceptional. The proposed agreement will continue that service for two more years.

The cost for this agreement is estimated at \$15,450 and sufficient funds are currently budgeted in the 46 fund for fringe benefit costs.

Staff recommends approval of the resolution authorizing the City Manager to execute the proposed agreement with PCN.

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C. RESOLUTION NO. 97-112 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH VOLUNTEER FLOOR COMPANY INC. TO REPAIR THE CIVIC CENTER PARKING GARAGE STRUCTURE

Summary: The consideration of the selection of a contractor to perform repairs on the Civic Center Parking Garage structure.

City staff prepared bid specifications and cost estimates for repairs and maintenance for the Civic Center Parking Garage. The scope of work was outlined as follows:

The proposal includes the items listed below:

- Repair concrete;
- Seal all cracks in concrete;
- Pressure clean and seal all deck surfaces;
- Install vertical and horizontal expansion joints;
- Clean and caulk joint between concrete floor and vertical barrier panels; and
- Repair concrete curbs.

* Bid specifications call for additional work described as painting of parking deck ceilings, surface coatings on columns and walls, and parking lot striping. (See bid results chart below.)

In April 1996, a total of 32 advertisement for bid letters were sent out, including 13 to certified minority businesses registered with the City. Advertisement letters were also sent to the City's Minority Business Office, the Asheville Business Development Center, and other similar business resource organizations. Six bid proposals were received, none from certified minority businesses. The results are listed below:

Firm Name Base Bid

Chamberlain Co. Inc.	\$ 164,434.00
Salem Contracting & Waterproofing	146,003.00
Construction Adhesives Bonding Inc.	219,358.75
Sigma Construction Co. Inc.	186,971.21
Carolina Preservation & Restoration Co. Inc.	142,317.00
* G.E.M. Constructors Inc.	1,033,161.00

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After review of these bid proposals with the Finance Department, who has daily operational management authority for the City's parking structures, it was determined that Carolina Preservation & Restoration Co., Inc., of Asheville, the only bidder with a current City privilege license, would be selected as the lowest responsible bidder. It was then determined that City Staff would seek Council approval to enter into a contract to perform work listed in its proposal for \$142,857.00.

Shortly thereafter, City staff determined that other funding options could be available for the parking deck repairs and put the contract processes on hold until March 17, 1997.

The project was immediately readvertised for bids. A total of 39 advertisement for bid letters were sent out, including 13 to certified minority businesses registered with the City. Advertisement letters were also sent to the City's Minority Business Office, the Asheville Business Development Center, and other similar business resource organizations. Five bid proposals were received, none from certified minority businesses. The results are listed below:

Firm Name	Base Bid
Volunteer Floor Company Inc.	\$ 129,727.17
Carolina Preservation & Restoration Co. Inc.	150,013.85
Chamberlain Co. Inc.	167,745.40
Salem Contracting & Waterproofing Inc.	199,113.00
Construction Adhesives Bonding Inc.	260,340.00

Staff recommends Council approval of the lowest responsible bidder, Volunteer Floor Company Inc. of Knoxville, Tennessee, and requests Council direct the City Manager to enter into a contract for \$129,727.17 for repair of the Civic Center Parking Garage.

RESOLUTION BOOK NO. 24 - PAGE 133

D. RESOLUTION AUTHORIZING THE METROPOLITAN SEWERAGE DISTRICT TO INCREASE THE BILLING COSTS PAID TO MUNICIPALITIES FOR SANITARY SEWER CUSTOMERS TO ASSIST IN RECOVERY OF ACTUAL COSTS

This item was removed from the Consent Agenda to be discussed individually.

E. RESOLUTION NO. 97-113 - RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE

REGIONAL WATER AUTHORITY TO AWARD THE BID FOR CONSTRUCTION OF PIPELINE REPLACEMENT PROGRAM PHASE II - CONTRACT B, EAST ASHEVILLE/EAST BUNCOMBE WATER LINE PROJECT TO COOPER CONSTRUCTION CO. INC.

Summary: The consideration of adopting a resolution awarding the contract to the lowest responsible bidder, Cooper Construction Company Inc. for \$694,797.00.

The Engineering Department has developed construction plans for the Pipeline Replacement Program Phase II - Contract B, East Asheville/East Buncombe Water Line Project. The engineer's estimate for this project is in the amount \$804,541.00.

The project was advertised for one month. On Tuesday, May 27, 1997, the Engineering Department received 4 bids for the project. The construction time for this project is identified as 150 calendar days in -4-

the contract documents. Funds in the amount of \$788,000.00 are budgeted in the Regional Water Authority's Capital Projects Ordinance No. 92-17 (29 Fund).

This project was presented before the Regional Water Authority of Asheville, Buncombe and Henderson on June 24, 1997, at which time they recommended awarding the bid.

Staff recommendations that City Council accept a resolution awarding the bid for Pipeline Replacement Program Phase II - Contract B, East Asheville/East Buncombe Water Line Project - Contract E-422 to the responsible low bidder, Cooper Construction Company Inc. and authorize the City Manager to execute all necessary agreements and contracts.

RESOLUTION BOOK NO. 24 - PAGE 134

F. RESOLUTION NO. 97-114 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. STATE GAMES FOR A GRANT TO DEVELOP AND IMPLEMENT PROMOTIONAL ACTIVITIES TO PROMOTE THE ASHEVILLE-BUNCOMBE SENIOR GAMES

Summary: The consideration of applying for a grant, in the amount of \$500, to assist local programs to serve more participants and obtain more visibility for the local Senior Games Program.

Funds are available through the North Carolina Senior Games to provide a year-round health promotion and education program for adults age 55 and older. The City of Asheville wishes to apply for funding to develop a rack card and a speaker's bureau for the Asheville-Buncombe Senior Games.

The Asheville-Buncombe Senior Games are designed to provide athletic and cultural arts activities for adults ages 55 and older. In 1997, 822 people participated in the program. The program included 55 athletic events and 33 artistic events in the categories of Literary, Visual, Heritage, and Performing Arts. Grant funds will be used to implement a rack card and speaker's bureau to promote the Asheville-Buncombe Senior Games. The amount of the grant request is \$500.

The Parks and Recreation Department recommends approval of the application for grants funds through the North Carolina Senior Games.

RESOLUTION BOOK NO. 24 - PAGE 135

G. RESOLUTION NO. 97-115 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN

AGREEMENT WITH N.C. DEPT. OF TRANSPORTATION FOR THE SWEETEN CREEK/I-40
SIDEWALKS PROJECT

Summary: On September, 10, 1996 City Council authorized the City Manger to send a letter to the NC DOT outlining the City's agreement to participate in sidewalks on I-40/Sweeten Creek Roadway Interchange. The NC DOT's preliminary estimate was \$37,000 for the sidewalk. The City's portion of the original cost of the sidewalk was 40% or \$14,800. The final estimate for the construction of the sidewalk is \$38,900, based upon a final design prepared by NC DOT, with the City's portion being \$15,560.

The sidewalk would extend from Roberts Road to approximately 200 feet north of I-40. This includes 1,290 square yards of sidewalks. Construction is scheduled to begin fall of 1997.

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Staff recommends that City Council authorize the City Manager to sign the Municipal Agreement for improvements at the interchange of Sweeten Creek and I-40.

RESOLUTION BOOK NO. 24 - PAGE 136

H. MOTION AUTHORIZING THE CITY MANAGER TO INCREASE THE TOTAL CONTRACT PRICE FOR THE WEST AREA ANNEXATION SANITARY SEWER IMPROVEMENTS - PHASE I PROJECT

Summary: There are seven hundred and eighty-one (781) linear feet of existing 8" sewer line adjacent to this project location that belongs to MSD. Due to the condition of the existing sewer line, MSD would like the City to add this section for replacement to the existing contract with Buckeye Construction Company for West Area Annexation Sewer Improvements - Phase I. This additional work is estimated at \$46,453.

City staff requested that MSD provide a check in the amount of \$46,453 to us for the cost of this construction. A letter from MSD indicates that they would like for us to proceed with adding this work to our existing contract with Buckeye Construction Company but cannot provide the money until it is approved by the MSD Board. The MSD Board will meet on July 16, 1997, and MSD staff is recommending approval. In the event that the funds are not approved by MSD, City staff will withdraw the recommendation to increase this contract to City Council at the July 22, 1997, Council meeting.

The additional work by Buckeye Construction Company will not be performed until the work in the original contract is completed. Therefore, the additional work requested by MSD will not delay the completion of the original scope of the project.

Staff recommends that City Council authorize the City Manager to increase the total contract price for the West Area Annexation Sewer Improvements - Phase I project by \$46,453, which will be reimbursed by MSD.

I. RESOLUTION NO. 97-116 - RESOLUTION PERMITTING CAPITAL IMPROVEMENTS AT ASHEVILLE REGIONAL AIRPORT AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR RELOCATION OF DRIVEWAY ACCESS ON A STATE ROAD

Summary: The Asheville Airport is situated on land owned by the City of Asheville and leased to the Airport Authority pursuant to a Lease Agreement dated July 1, 1980. The Authority is undertaking improvements to the driveway and access road at the airport consisting of lengthening the outbound driveway, relocating its intersection with State Road 280 approximately a quarter mile

southwest to the signalized intersection with Fanning Bridge Road, and creating a circular drive with in the airport compound. The present location of the exit is on a curve on a high speed fourlane road and left turns are difficult to negotiate. Requests to the NCDOT to signalize the current exit location have been denied, but the State has indicated that it will make appropriate changes to the Fanning Bridge Road signal if the exit is relocated.

Because the intersection will be on State Road 280, the State requires as part of the access permit application that an agreement be entered into whereby construction will be carried out in a certain manner, and the completed driveway will comply and be maintained in accordance with certain standards. The agreement also holds the DOT harmless from damages arising by reason of the construction. -6-

The Lease Agreement provides that the Airport Authority may make capital improvements "for aeronautical purposes and purposes incidental thereto... provided that authority first obtain written approval thereafter by the City."

The Agreement establishing the Airport Authority provides that the Authority may enter into contracts providing for improvements at the Airport, so it appears that the Authority may enter into the Agreement with the DOT. The DOT apparently requires that the property owner also execute the Agreement.

This resolution accomplishes two things: (1) gives the City's written approval to the proposed access improvements as required by the Lease; and (2) authorizes the City Manager to execute the Agreement with DOT.

To the extent that the DOT agreement shifts to or creates any legal responsibility for the City as the owner or the Authority as the lessee/applicant, this responsibility would be the Airport Authority's, as the Lease provides specifically that the Authority is responsible for management, operation, regulation and maintenance of the Airport. I have suggested that the Agreement be modified to indicate that the Authority is the lessee and that the City is the lessor of the property.

Approval of the resolution is recommended.

RESOLUTION BOOK NO. 24 - PAGE 137

J. RESOLUTION NO. 97-117 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT, HEALTH & NATURAL RESOURCES FOR A GRANT TO DEVELOP A GREENWAY TO CONNECT THE AMBOY ROAD AND FRENCH BROAD RIVER PARKS

Summary: Funds are available through the State of North Carolina, Department of Environment, Health and Natural Resources in the National Recreational Trails Fund Program (NRTFP) from the Federal Highway Administration to provide trails for public use in North Carolina.

The Amboy Road Greenway represents the City of Asheville's next phase of a major greenway system being developed along the French Broad and Swannanoa Rivers. Phase I was completed in 1994 with the completion of French Broad River Park. Phase II was completed in 1996 with the completion of the second half mile loop of trail in the park. French Broad River Park was funded through a partnership between the City, RiverLink, and CP&L.

Phase III, Amboy Road Park, is in the early stage of development and will provide a river front park featuring a boat launch, fishing areas, and support areas for the growing activities in the region. The City of Asheville has been awarded a grant for \$20,000 from the North Carolina Fish and Wildlife Resources

Commission to assist in the design of the park and has committed another \$100,000 for the construction. RiverLink has received a grant for \$30,000 through the Pigeon River Fund to build boardwalks over the wetlands of the greenway.

Phase IV, Amboy Road Greenway, is part of the overall plan to complete another section of greenway on the French Broad and Swannanoa Rivers. The cost of the project is approximately \$65,000. The Parks and Recreation Department is requesting \$30,000 in grant funds which would be matched by 50% of the cost by our crew's labor, equipment, and project supervision. -7-

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

RESOLUTION BOOK NO. 24 - PAGE 138

K. RESOLUTION NO. 97-118 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT ND MEMORANDUM OF UNDERSTANDING WITH BUNCOMBE COUNTY PERTAINING TO JOINT COOPERATIVE EFFORTS IN THE AREA OF FACILITY MAINTENANCE

Summary: Over the past several months, City staff has met and coordinated with staff from Buncombe County discussing the area of facility maintenance. This is an area where there is the ability for mutual benefits due to the different staffing and services provided by each respective governmental agency. Buncombe County has a facility maintenance staff that consists of individuals that are licensed and perform construction and maintenance functions in the areas of electrical, plumbing and mechanical systems. In turn, the City of Asheville has necessary equipment to apply sand and salt and perform snow removal and also has other specialized pieces of equipment in our fleet inventory. During the discussions between County staff and City staff it was agreed that this was an area in which cooperation would be mutually beneficial.

The areas which the City would assist the County in pertain to the spreading of sand and salt in the parking lot travel aisles serving the Health Department, Emergency Services access alley, area on east side of Court House, area on north side of County Jail, and Social Services. Snow removal would consist of City staff assisting County staff in the clearing of walk areas around the Health Department and Court House. The other area which the City would be able to provide assistance to the County would be regarding access to various equipment which the City has in our fleet inventory, such as a backhoe or bucket truck based upon availability of equipment and equipment operator. In turn, the County would assist the City in efforts related to evaluation, repair or replacement of various systems serving City facilities with the City paying for all material and equipment costs associated with such projects.

An "Interlocal Agreement and Memorandum of Understanding" was prepared in order to undertake the cooperative efforts in the area of facility maintenance. This agreement was executed on April 21, 1997 for a "pilot project" which would allow the City and the County an initial review of these efforts through June 30, 1997. Following this, on June 17, 1997 City staff met with County Manager Wanda Greene and discussed this initial review. It was agreed that both parties liked the arrangement and it was decided that this area of mutual cooperation should continue. City staff requests City Council endorsement of a "Interlocal Agreement and Memorandum of Understanding" in the area of cooperation for facility maintenance and authorization for the City Manager to execute the Memorandum dated July 22, 1997 extending the agreement for one year until June 30, 1998 with automatic renewal for one year periods for subsequent years subject to termination by written notification of either jurisdiction.

City staff recommends adoption of the resolution authorizing the City Manager to execute a Memorandum extending the Interlocal Agreement and Memorandum of Understanding through June 30, 1998 with automatic renewals for one year for subsequent years.

RESOLUTION BOOK NO. 24 - PAGE 139

L. RESOLUTION NO. 97-119 - RESOLUTION SETTING A PUBLIC HEARING FOR AUGUST 12, 1997, ON ECONOMIC DEVELOPMENT APPROPRIATION

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Summary: It is necessary for City Council to set a public hearing to consider the City's participation in site development improvements requested by J.L. de Ball-Girmes of America, Inc.

J.L. de Ball-Girmes of America, Inc. is looking to locate a supplementary production unit at its existing site on Old Charlotte Highway. Plans call for renovation of 45,000 sq. ft. of the existing 178,000 sq. ft. building in order to begin manufacturing. The company is looking to significantly expand within two years, and plans to accommodate 12 -16 employees by July 1, 1998; up to 50 by January 1, 2000. Wages will average \$9 -12.00 per hour.

The firm plans to invest a total of \$7 million within two years in the renovation and equipment upgrades for this operation; \$2 million by July 1, 1998. Included will be repairs and upgrades to the roof, HVAC capacity, and plumbing and electrical improvements, as well as major machinery and equipment purchases. Staff has prepared an agreement outlining the terms and conditions of the City's participation.

The agreement consists of the City entering into a contract whereby the City would contribute \$51,300 provided the terms of the contract are complied with by J.L. de Ball-Girmes of America Inc. The conditions include: the requirement of the corporation creating a minimum of 12 new jobs by July 1, 1998, with wages at \$9-12 per hour; investment of \$2,000,000 by July 1, 1998; and expansion to accommodate 50 employees. The guarantee for the City is through a Letter of Credit. The payback period for the City based on this financial assistance will be 4.5 years.

Staff recommends setting a public hearing to consider the City's participation in site development improvements requested by J.L. de Ball-Girmes of America, Inc.

RESOLUTION BOOK NO. 24 - PAGE 142

M. RESOLUTION NO. 97-120 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE INSTRUMENTS FOR THE PURCHASE OF 12.23 ACRES ON BROADVIEW DRIVE FOR THE PURPOSE OF DEVELOPMENT OF SINGLE-FAMILY, OWNER OCCUPIED HOMES

Summary: The consideration of a resolution authorizing the City Manager to execute instruments for the purchase of 12.23 acres and a budget ordinance to appropriate funds to purchase vacant property on Broadview Drive for the development of single-family, owner-occupied homes.

On February 14, 1997, the City of Asheville closed on the sale of 17.282 acres of vacant land adjacent to the Meadows Apartments. The City had planned to develop this tract into a subdivision of single-family, owner-occupied affordable housing units. Since there were access problems, the City decided to sell and look elsewhere for an alternate site. The proceeds of \$200,000 will be used to purchase 12.23 acres of unimproved land on Broadview Drive in Oakley.

In May 1997, the City executed an Offer to Purchase and Contract, subject to Council's approval, for the Broadview Drive property. The total price of the contract was \$190,000. The property has been appraised at \$183,500 and the sellers have agreed to sell at this price. The City proposes to develop the Broadview Drive site into a subdivision of single-family, owner-occupied affordable housing units. This -9-

property is zoned RS-8 under the UDO. The above \$200,000 will be used for the Broadview Drive property as follows:

- a. Capital Outlay Land Acquisition \$188,000
(to cover property purchase and closing costs)
- b. Professional Services \$ 12,000

Community Development staff recommends adoption of the resolution and budget ordinance amendment.

RESOLUTION BOOK NO. 24 - PAGE 143

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:

At the request of Councilman Skalski, Item D. was removed from the Ordinance Consent Agenda to be discussed individually.

At the request of Councilman Cloninger, Item H. was removed from the Ordinance Consent Agenda due to his conflict of interest. This item will be considered under New Business.

A. ORDINANCE NO. 2390 - ORDINANCE CHANGING THE SPEED LIMITS IN PARK AVENUE SUBDIVISION

Summary: The City Traffic Engineer has performed the necessary traffic analyses associated with the following locations and is seeking authorization from the City Council to change these speed limits.

Add to 20 MPH

- (1) Parkridge Court (entirety) (4) Thistle Knoll Court (entirety)
- (2) Clubhouse Court (entirety) (5) Briar Knoll Court (entirety)
- (3) Creekside Court (entirety) (6) Gatehouse Court (entirety)

Add to 25 MPH

- (1) Park Avenue (entirety)

These locations were reviewed over a period of time and the appropriate speed analyses were conducted.

1. Parkridge Court, Clubhouse Court, Creekside Court, Thistle Knoll Court,

Briar Knoll Court and Gatehouse Court

A Speed Study was conducted along these streets in the Park Avenue Subdivision per the request of the citizens of this area. The existing speed limit is 27 MPH. The residential nature of these roadways as well as their widths indicate that the speed limit should be reduced to 20 MPH. The Asheville Police Department concurs with our recommendations.

2. Park Avenue

A Speed Study was conducted along Park Avenue per the request of the citizens of this area and the City of Asheville Police Department. -10-

The existing speed limit is 27 MPH. The Speed Study indicates that the 85th percentile speed is 33 MPH and the pace speed range is 21-35 MPH. The residential nature of this roadway and its width suggest that the speed limit be reduced to 25 MPH. The Asheville Police Department concurs with our recommendation.

The Public Works Department recommends the approval of these additions to the speed limit ordinances.

ORDINANCE BOOK NO. 16 - PAGE 261

B. ORDINANCE NO. 2391 - BUDGET AMENDMENT TO PURCHASE 12.23 ACRES OF UNIMPROVED LAND ON BROADVIEW DRIVE IN OAKLEY

Summary: This budget amendment, in the amount of \$200,000, is to purchase 12.23 acres of unimproved land on Broadview Drive in Oakley.

ORDINANCE BOOK NO. 16 - PAGE 262

C. ORDINANCE NO. 2392 - BUDGET AMENDMENT FOR THE CITY'S PARTICIPATION IN THE SWEETEN CREEK/I-40 SIDEWALK PROJECT

Summary: This budget amendment, in the amount of \$15,560, is the City's portion of the sidewalk improvements at the Sweeten Creek Road/I-40 intersection project.

ORDINANCE BOOK NO. 16 - PAGE 264

D. BUDGET AMENDMENT FOR THE CITY'S SHARE IN A STUDY RELATIVE TO THE BOOST TRANSPORTATION SYSTEM

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

E. ORDINANCE NO. 2393 - BUDGET AMENDMENT TO PURCHASE A DOWNTOWN STREET CLOCK

Summary: Mr. Charles Cunningham desires to donate \$6,000 toward the purchase of a street clock for the City.

Per instructions from City Council at its July 8, 1997, meeting, a subcommittee of the Streetscape Committee met for the purpose of determining the following:

- The best clock design that will complement the overall streetscape design for downtown;
- The optimal location for such a clock; and
- A definitive cost for equipment and installation.

Based upon these goals, the subcommittee recommends a design consistent with downtown architecture and amenities to be located in the grassy island at the intersection of College, Patton and Spruce Street (across from Max's Deli). The estimated cost of the "Georgetown" clock is \$10,500 and installation is estimated at \$500. Public Works staff intends to construct the pedestal base and coordinate electrical service to the unit. It will subsequently be maintained by public works.

Since the construction time for the clock is 90 days, and it is the donor's desire to dedicate the clock in conjunction with a planned Bicentennial ceremony, it will be necessary to place an order not later than August 1, 1997, to meet this request.

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Staff recommends that City Council appropriate \$5,000 for the remaining balance necessary to purchase the clock. Mr. Cunningham's donation will be utilized as the down payment (company must have 50%) to place the order. Community groups will make every effort to acquire private funding for the remaining balance over and above the gift amount.

ORDINANCE BOOK NO. 16 - PAGE 266

F. ORDINANCE NO. 2394 - BUDGET AMENDMENT TO REAPPROPRIATE \$1.4 MILLION FROM THE CITY HALL ROOF REPAIRS AND THE MUNICIPAL BUILDING RENOVATIONS INTO THE STEPHENS-LEE RENOVATION PROJECT

Summary: Based upon Council's directive at the July 8, 1997, City Council meeting to expedite the renovation project for the Stephens-Lee Community Center, staff recommends the following steps in order to expedite the letting of contracts for the renovation of the Stephens-Lee Community Center. Current cash is available from the City Hall roof and Municipal Building renovation projects to adequately fund the anticipated contract costs for Stephens-Lee renovations. This contract could be let as early as August and construction could begin as early as September 15. This will allow for this project to begin prior to the other three major projects that are currently anticipated. The certificates of participation will be sold to fund the Municipal Building renovation, the City Hall roof, and the Old Water Maintenance Building. According to the Finance Director, these three projects would make a competitive package for the sale of COP's.

The Parks and Recreation Department recommends City Council approval of a budget amendment to reappropriate a total of \$1.4 million from the City Hall roof repairs and the Municipal Building renovations into the Stephens-Lee renovation project.

ORDINANCE BOOK NO. 16 - PAGE 268

G. ORDINANCE NO. 2395 - BUDGET AMENDMENT AMENDING AND RESTATING THE REGIONAL WATER AUTHORITY'S CAPITAL PROJECTS ORDINANCE TO APPROPRIATE FUNDING FOR WOODSIDE HILLS PROJECT

Summary: The consideration of a budget amendment amending Capital Project Ordinance 82-25 to provide funding in West Area Annexation for Woodside Hills in the amount of \$240,000.

By Resolution 82-25 dated October 5, 1982, the Authority authorized and budgeted for various capital projects to be funded by investment earnings, contributions from other funds and appropriated fund balance.

According to the Water Agreement, the Authority is required to fund annexation water improvements. Woodside Hills Subdivision is located off Asbury Road in the recently annexed West Area. The Authority appropriated approximately \$850,000 for water system improvements for this area in accordance with the 1988 Plan of Service prepared by Black and Veatch. Subsequent construction contracts and engineering services for these water system improvements totaled approximately \$624,000. This resulted in a surplus of approximately \$226,000, which has subsequently been transferred to other capital projects.

A part of Black and Veatch's plan of service included the installation of fire hydrants at key locations in Woodside Hills. -12-

During the construction contract, existing 2-inch waterlines were discovered at these locations. These 2-inch waterlines will not support a fire hydrant and additional 6-inch waterlines must now be installed to improve fire protection at an estimated cost of \$240,000. Approval of this budget amendment will provide the funding required for this additional construction contract and the engineering services associated with it.

Regional Water Authority approved the Woodside Hills Project on June 24, 1997.

Approve amending and restating Capital Project Ordinance 82-25 in order to provide funding in West Area Annexation for Woodside Hills.

ORDINANCE BOOK NO. 16 - PAGE 270

H. BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR THE CITY'S CONTRIBUTION TO THE GROVE ARCADE PUBLIC MARKET FOUNDATION FOR THE RESTORATION OF THE GROVE ARCADE BUILDING

This item was removed from the Consent Agenda due to a conflict of interest by Councilman Cloninger. This item will be considered under New Business.

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.

Vice-Mayor Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, the Ordinance Consent Agenda was adopted on its first reading.

Vice-Mayor Field asked that staff notify the Police Chief in Biltmore Forest who lives on Park Avenue that City Council has indeed reduced the speed limit as he has requested.

ITEMS REMOVED FROM THE CONSENT AGENDA TO BE DISCUSSED INDIVIDUALLY

RESOLUTION NO. 97-121 - RESOLUTION AUTHORIZING THE METROPOLITAN SEWERAGE DISTRICT TO INCREASE THE BILLING COSTS PAID TO MUNICIPALITIES FOR SANITARY SEWER CUSTOMERS TO ASSIST IN RECOVERY OF ACTUAL COSTS

Summary: For the past year, City staff has been working with representatives of other municipalities and MSD regarding the current per bill amount paid by MSD to local governments for billing and collection of sanitary sewer accounts in their jurisdiction. During this time, I have served on a subcommittee which also included Mike Morgan, Town Manager of the Town of Weaverville and Larry Turner, Deputy Manager for Operations with MSD.

The initial task which we undertook was to survey area municipalities which perform billing services for MSD. He reviewed a copy of the "Direct Billing Cost Summary" which shows the estimated cost per bill ranging from \$1.55 to \$3.53 for the cities of Montreat, Black Mountain, Weaverville and Asheville. I would point out that much of the diversity in the range of direct billing costs is based upon the size and complexity of functions performed by the organization, as well as the number of customers served.

For background, the billing charge paid by MSD has remained at an amount of \$1.30 per bill since 1990. The concern of local governments performing the -13-

billing costs for MSD is our awareness of the increased costs which our municipalities have faced as a result of various increases such as salaries, material costs, operation and maintenance, and postage. In trying to address what a reasonable rate increase would be, staff considered two options. One option would be to hire a consultant to conduct a formal study in order to determine the rates based on specific data. However, the smaller municipalities do not feel that the cost participation in a study on a pro rata basis is beneficial. A second approach which seems reasonable is to base the increased costs on the Consumer Price Index (CPI). Since 1990, the CPI has ranged from 2.5 percent to 3.3 percent each of those years. Based upon this information, the current billing costs would be \$1.54 per bill projected from 1990.

In discussing the increase, the information based on the CPI is very close to the lowest billing cost for any of the municipalities participating in the survey. Therefore, staff feels that it is reasonable to request that the increase be in the amount of \$0.25 per bill taking the total to \$1.55 per bill.

Staff recommends the adoption of a resolution requesting the MSD Board increase the per bill cost by \$0.25 based upon survey data from municipalities and the Consumer Price Index for a total amount of \$1.55 per bill to assist in the recovery of actual costs.

Councilman Skalski submitted a letter dated May 8, 1990, to Mayor Kenneth M. Michalove from Chairman of the Asheville-Buncombe Water Authority Ralph Morris outlining how the \$1.26 (rounded to \$1.30) per customer per month reimbursement from MSD was arrived at as the MSD share. He stated that the number of water customers is approximately 42,000 and the number of sewer customers is approximately 28,000.

Councilman Worley noted that the City's actual cost is \$3.53 and requesting MSD to go up to \$1.55 is still well below our actual cost in preparing those bills.

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

Councilman Skalski moved to adopt Resolution No. 97-121. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 144

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 8, 1997, AND THE WORKSESSION HELD ON JULY 15, 1997

Mr. Ralph Bishop said that at the request of Vice-Mayor Field he met with City Attorney Oast. In the information City Attorney Oast gave him, it did not state that City Council could circumvent State law - noting that it did not even cite sec. 160A-72. He said the information related to closed meetings. He said that

all he cares about is what happens in open meetings as set forth by State law in G.S. 160A-72.

City Attorney Oast said that he did give Mr. Bishop a copy of Maready vs. City of Winston Salem in Forsyth County which he believed is the legal opinion which is the controlling authority on the Open Meetings Law in North Carolina and the only judicial interpretation of the law that he is aware of. That opinion addresses the issue of keeping full and accurate minutes.

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Councilman Worley moved to approve the minutes of the formal meeting held on July 8, 1997, and the worksession held on July 15, 1997. This motion was seconded by Councilman Sellers and carried unanimously.

ORDINANCE NO. 2396 - BUDGET AMENDMENT FOR THE CITY'S SHARE IN A STUDY RELATIVE TO THE BOOST TRANSPORTATION SYSTEM

Summary: During the budget work session in May, 1997, with City Council, Council gave approval to continue the study regarding the Parks and Recreation proposal relating to the BOOST Transportation System. Over the past month, staff has met on several occasions with representatives from Buncombe County and the State of North Carolina to investigate this proposal. In the meantime, the Asheville Transit Authority has renewed the Paratransit contract with Laidlaw Transit Service through June 30, 1998. During a meeting with the Transportation Project Consultant through the Division of Public Transportation for the Department of Transportation, discussion centered around a possible study of the entire transportation system throughout the City and the County. This study would include a review the proposal presented by Parks and Recreation as well as a review of the current system being used County-wide. Ninety percent of the funding for this project would be paid for by the State of North Carolina with the remainder being paid by the City and the County. It is anticipated that the City's cost associated with this study would be between \$3,000 - \$5,000.

The Parks and Recreation Department recommends working with the State of North Carolina and Buncombe County to solicit a consultant to study the transportation system within the City and the County. Staff also recommends City Council consider a budget amendment, in the amount of \$5,000, for the City's cost associated with this study.

Upon inquiry of Councilman Skalski, Parks & Recreation Director Irby Brinson said that State would pay for 90% of the study which would be approximately \$45-50,000.

Councilman Skalski then thanked Vice Mayor Field, Gordon Myers and Todd Allen for working to secure money to do a comprehensive transportation study, which will include van-pooling and other options.

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

Vice-Mayor Field moved for the adoption of Ordinance No. 2396. This motion was seconded by Councilman Skalski.

On a roll call vote of 7-0, Ordinance No. 2396 was adopted on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 272

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

At the request of Mr. Ed Vess, Field Services Coordinator, Councilman Worley moved to tabled this matter until August 12, 1997. This motion was seconded by Councilman Sellers and carried unanimously. -15-

Mayor Martin noted that Ms. Jacqueline Anne Larsen presented City Council with a letter dated July 22, 1997, asking that the bidding process on the Head of Montford Disposal Parcel No. 5 be re-opened. In her letter she wrote that "staff's paraphrasing of Mr. Eides interpretation of his and my agreement are not what I perceived transpired between Mr. Eides and myself regarding his interest in the subject property."

V. NEW BUSINESS:

A. REPORT ON REDESIGN OF FIRE STATION 4/POLICE RESOURCE CENTER IN SKYLAND

Fire Chief Rukavina said that subsequent to City Council's discussion on July 15, 1997, staff met with Barney Woodard, the Station 4/Resource Center architect, who is now researching staff's recommendations and suggestions made at the City Council's worksession of July 15, 1997.

At the City Council's worksession of July 15, 1997, staff and City Council reviewed the status of the new Fire Station 4/Police Resource Center slated for construction in Skyland. During that review, Council members raised questions about negotiating with the low bidder, rebidding the project as originally proposed, and rebidding the project on a smaller scale (staff's recommendation was to rebid on a smaller scale, with provision for expansion in the future).

On July 16, 1997, staff met with Barney Woodard, architect for City proposed building, and shared with him the proposals and questions raised at the July 15 meeting. (Woodard noted, for example, that the building was designed as a block-wall building, rather than steel with block veneer.) Based on that meeting, Barney Woodard will undertake research on those proposals, and is scheduled to meet with staff on July 23, 1997, to present the preliminary results of his research. Based upon this information, staff recommends that the Council defer action on this item until additional information is received and presented at the August 5 Council worksession. The low bidder has agreed to extend their bid until August 6, 1997. A report will be presented to City Council at its August 5, 1997, meeting in connection with final consideration of the resolution authorizing rejection of bids and redesign of the project.

It was the consensus of City Council to have staff work with the architect to assemble the additional information and present that information to Council at their August 5, 1997, worksession.

B. RESOLUTION NO. 97- 122 - RESOLUTION AUTHORIZING THE DISPOSITION OF THE GROVE ARCADE BUILDING TO THE GROVE ARCADE PUBLIC MARKET FOUNDATION

ORDINANCE NO. 2397 - BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR THE CITY'S CONTRIBUTION TO THE GROVE ARCADE PUBLIC MARKET FOUNDATION FOR THE RESTORATION OF THE GROVE ARCADE BUILDING

Councilman Cloninger said that his law firm is acting as legal counsel for the

Grove Arcade Public Market Foundation. Therefore, Councilman Worley moved to excuse Councilman Cloninger due to a conflict of interest. This motion was seconded by Councilman Sellers and carried unanimously.

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City Attorney Oast asked City Council to consider a resolution authorizing the disposition by lease of the Grove Arcade Building to the Grove Arcade Public Market Foundation, and a budget ordinance amendment appropriating money toward the rehabilitation of the structure.

The Grove Arcade Building was constructed at the beginning of this century as a shopping arcade and was actually used as one until taken over by the Federal Government during World War II. The Federal Government used it as an office building for about 50 years, and the building has been vacant since 1995.

Since the building became vacant, the City and other organizations and entities in the City have been exploring ways to preserve, restore and reuse the Building. For at least the last year, the City has been working with Public Interest Projects and the Grove Arcade Public Market Foundation (GAPMF), and most recently with GAPMF only, to rehabilitate and use the Arcade as a public market, with a mixture of commercial/ office/residential uses on the upper floors.

The first step in this process was for the City to acquire the building. Initially, the City explored the possibility of an outright conveyance to an entity that would operate the Arcade, but this was not legally possible without paying the government for the property. Under the National Monument Act, the City was able to acquire the Arcade essentially at no cost, but had to agree to rehabilitate the structure and to use it in accordance with certain laws and regulations. The City and GAPMF have been working with the General Services Administration to make sure that the proposed use meets all legal requirements.

Since January, the City and GAPMF have been working on the terms of a Lease Agreement and a Preservation and Operation Agreement by which GAPMF would lease the building from the City, and would assume responsibility for all operational aspects of it, and for compliance with federal laws and regulations. The City and GAPMF have agreed on the substantive terms of these instruments. Those terms are outlined in the Exhibit.

In order to give effect to the Agreement between the City and GAPMF, Council needs to adopt an authorizing resolution. The law provides that leases for longer than 10 years shall be treated as sales of real property, and further provides that historically or architecturally significant properties may be disposed of to nonprofit corporations by private negotiation and sale. Accordingly the resolution authorizes the disposition of the Arcade to GAPMF, and outlines the general terms of the proposed transaction. A notice of this Resolution must be published at least 10 days prior to the date of the transaction. The law further requires that Council adopt a resolution authorizing a lease, and requires for 10 days advance notice of Council's intent to adopt the resolution.

Accordingly, a resolution is attached that authorizes the disposition of the Arcade, which because of the length of the lease term is required to be treated as a sale, and directs the Clerk to publish a notice of (1) the intended disposition, and (2) of Council's intent to give specific authorization for the lease at a regular meeting.

Part of the agreement with GAPMF is that Council will follow up on its commitment in an earlier resolution to appropriate \$100,000.00 toward the

improvements to the Arcade. An ordinance amending the budget in accordance with the previous resolution is also necessary.

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If Council intends to authorize and proceed with the proposed transaction with GAPMF, adoption of the resolution and budget ordinance amendment is recommended.

Vice-Mayor Field stated that in Resolution No. 94-114 entitled "Resolution encouraging the appropriate reuse of the Grove Arcade" adopted on June 7, 1994, it states in part that "the Public Market proposed by the Grove Arcade Foundation is an appropriate use for the building" She said that she would not vote against the resolution because a lot of work has gone into it and she feels like the whole community really wants it, however, she was not sure that a public market is an appropriate use for that kind of historic building. She said she's mentioned it several times before, but typically public markets go into large somewhat warehouse kind of buildings, not into a historic property with marble floors that can receive smells and stains from some of the kinds of things that people normally think of as happening in a public market. Another concern of hers is that the elevator core is right in the middle of the view-path from one end to the other and that the floors are sloped. As an architect, she wasn't absolutely sure she could agree that a public market is an appropriate use for the building. But on the other hand, she certainly supports the public market and the building being put back into use for this community. Given that, she will vote in favor the resolution.

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

Councilman Hay moved for the adoption of Resolution No. 97-122. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 145

Part of the agreement with Grove Arcade Public Market Foundation is that Council will follow up on its commitment in an earlier resolution to appropriate \$100,000.00 toward the improvements to the Arcade. This budget amendment will honor that commitment.

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

Councilman Hay moved for the adoption of Ordinance No. 2397. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2397 was adopted on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 274

C. RESOLUTION NO. 97-123 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH EFFECTIVE CLIENT PROMOTIONAL SERVICES TO PROVIDE VIDEO TAPING OF FORMAL CITY COUNCIL MEETINGS

Ms. Robin Westbrook, Community & Public Information Coordinator, asked for Council's consideration of the taping formal City Council meetings to be broadcast on InterMedia Cable channel 10 every other Saturday.

The Asheville City Council asked staff to explore the possibility of televising

formal City Council meetings. After discussions held with Hometown TV, Asheville City Schools, and Buncombe County, it was determined that taping the formal City Council meetings every other week -18-

to be aired on Saturday would best meet the needs of all interested parties.

Effective Client Promotional Services (ECPS) submitted a bid to tape the meetings every other week for a fee of \$600 per meeting. They will provide three employees (2 cameramen and 1 engineer), equipment, and lighting for an average annual cost which should not exceed \$15,600. Asheville City Schools has indicated that they could not provide the same service for the cost. This also eliminates the concern about finding someone to tape during the summer months.

Asheville City Schools has given the City and Buncombe County the use of channel 10 on Saturday mornings at 8:00 a.m. Asheville City Council meetings will be aired one week and Buncombe County Commission meetings will be aired the next week.

The taping of the City Council meetings can begin on a trial basis on August 12, 1997. This session will be used to adjust lighting and test equipment. The first taping to air will take place on August 26, 1997. This session will air on Saturday, August 30.

If City Council wishes to broadcast formal meetings, it is the recommendation of staff the City Council adopt a resolution authorizing the City Manager to contract with ECPS in the amount not to exceed \$15,600 for one year to tape formal City Council meetings beginning on August 12, 1997.

Upon inquiry of Councilman Skalski, Ms. Westbrook said that she checked with the same places Buncombe County checked with regarding taping of meetings and we found out that the industry standard is \$600/hour and what Effective Client Promotional Services came back to us with was \$600/meeting.

Upon inquiry of Vice-Mayor Field, Ms. Westbrook said that Asheville High School students tape Buncombe County's meetings but there is intensive staff time that is involved in scheduling the students. The High School is also getting ready to lose all their senior students and will have to retrain. Buncombe County also paid \$65,000 upfront for the video equipment and accessories, noting that the video equipment gets outdated very quickly.

Councilman Worley said that this was something he encouraged City Council to do for sometime and it was one of Council's goals established in January. He felt this is a natural extension of our Community Oriented Government by making our Council meetings more accessible for those people who either can't or don't want to give up their Tuesday evenings. He does feel that this is a great service to tape the Council meetings for all of the citizens to see.

Councilman Cloninger agreed with Councilman Worley and strongly supported televising the Council meetings, however, he felt that the taping should begin when the new City Council takes office in December. Therefore, he would be voting against this resolution and the following budget amendment.

Upon inquiry of Councilman Hay, Ms. Westbrook said that we could have an individual tape made of each meeting for the City Clerk's records.

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. 97-123. This motion was seconded by Councilman Skalski and carried on a 6-1 vote, with Councilman Cloninger voting "no".

RESOLUTION BOOK NO. 24 - PAGE 148

D. ORDINANCE NO. 2398 - BUDGET AMENDMENT TO TAPE FORMAL CITY COUNCIL MEETINGS TO BE AIRED ON CHANNEL 10 ON SATURDAY MORNINGS AT 8:00 A.M. BEGINNING AUGUST 30, 1997

Ms. Robin Westbrook, Community & Public Information Coordinator, said that this budget amendment, in the amount of \$15,000, is to appropriate funds necessary to contract with ECPS for one year to tape formal City Council meetings beginning on August 12, 1997.

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

Councilman Skalski moved for the adoption of Ordinance No. 2398. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 6-1 (with Councilman Cloninger voting "no" - see explanation above on Resolution No. 97-123), Ordinance No. 2398 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 276

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the week of June 27-July 10, 1997: Hilda K. DeBruhl (Streets), Johnny Butler (Water), Asheville Transit (Water), Herbert Hyde (Sanitation), Pat Hair (Water), Anna Zillgitt (Traffic Engineering) and Thomas H. Hopkins (Water).

The following claims were received during the week of July 11-17, 1997: Joseph B. Colvard (Water), Lisa Murphey (Streets), Dorcas Black (Streets) and Alana L. Edmonds (Police).

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

B. LAWSUIT

The City was served with the following lawsuit on July 14, 1997: Steve Sarant v. City of Asheville - Magistrate Summons and Complaint for Money Owed.

This lawsuit will be handled in-house.

C. CLOSED SESSION

At 5:45 p.m., Councilman Cloninger moved to go into closed session for the following reasons: (1) to consult with an attorney employed 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); and (2) to establish or to instruct the City staff concerning the position to be taken by the City in negotiating the price or other material terms of a proposed contract for the acquisition of real property by purchase, option, exchange or lease - statutory

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authorization is G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Sellers and carried unanimously.

At 6:40 p.m., Councilman Cloninger moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:40 p.m.

CITY CLERK MAYOR
