

Tuesday - November 23, 1999 - 5:00 p.m.

## Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr.; Councilman M. Charles Cloninger; Councilman Earl Cobb; Councilwoman Barbara Field; Councilman Thomas G. Sellers; and Councilman O.T. Tomes; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

## **INVOCATION**

Vice-Mayor Hay gave the invocation.

## **I. PROCLAMATIONS:**

## **II. CONSENT:**

### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 9, 1999, AND THE WORKSESSION HELD ON NOVEMBER 16, 1999**

### **B. RESOLUTION NO. 99-170 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR INSPECTION OF BRIDGES**

Summary: The consideration of a resolution authorizing the Mayor to enter into a municipal agreement with the N.C. Department of Transportation (NC DOT) on a bi-annual basis for the reinspection of bridges on the Municipal Street System.

In 1983 the Federal Highway Administration developed the Federal Off-System Bridge Replacement Program. Since the establishment of the program, the City has replaced 17 bridges through the program. The program is funded 80% through federal funds and 20% through City funds and administered by the NC DOT. To remain eligible for replacement funds and avoid penalties, it is required that all public bridges are inspected every two years. The NC DOT offers three options for meeting the bi-annual inspection requirements. One is to do the inspection with City forces; two is for the City to hire a consultant to do the inspections; three is for the City to allow the Department of Transportation to do the inspections through a qualified private engineering firm.

Since 1983, the City has elected to execute an agreement with NC DOT to accomplish the required inspection through their personnel or engineering consultants. This process allows high numbers of bridges to be inspected under one contract or operation, and therefore, results in minimum inspection cost per bridge. NC DOT representatives anticipate the inspection costs to be \$2,000 per bridge for the upcoming inspection. The City has 25 bridges in need of inspection this year which would bring the cost to \$50,000. The City's share of 20% is \$10,000. Funds for the City's share are budgeted in the Public Work's Bridge Maintenance line item.

The Public Works Department staff recommends adoption of the resolution authorizing the Mayor to execute a municipal agreement with the NC DOT for inspection of bridges on the Municipal Street System.

## **RESOLUTION BOOK NO. 25 - PAGE 339 -2-**

### **C. RESOLUTION NO. 99-171 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR A GRANT**

**FROM THE N.C. DEPT. OF HEALTH AND HUMAN SERVICES TO PURCHASE A VAN TO ASSIST WITH TRANSPORTING OLDER ADULTS, ADULTS WITH DISABILITIES, AT-RISK YOUTH AND FAMILIES TO PARTICIPATE IN PARKS & RECREATION PROGRAMS**

Summary: The consideration of a resolution authorizing the City Manager to apply for and enter into an agreement with the N. C. Department of Health and Human Services to fund the purchase of a 15 passenger van.

Funds are available through the N. C. Department of Health and Human Services in the Human Services Grant Program to benefit older adults, adults with disabilities, at-risk children, and youth and families. The City of Asheville wishes to apply for funding to purchase a 15 passenger van to assist in transporting participants in all four categories to and from recreation program sites.

The lack of transportation is one of the primary barriers that prevent most people in the category groups from benefiting from the services of Asheville Parks and Recreation. The van will be used in conjunction with existing vans and other transportation services to assist in providing transportation to approximately 1180 participants per week from all four categories, a 64% increase over the current level of service. Existing staff holding a current North Carolina license will operate the vehicle.

The grant will provide 100% of the project costs, with no match required by the City of Asheville.

The Parks and Recreation Department recommends the City of Asheville to apply for the grant funds through the N. C. Department of Health and Human Services in the Human Services Grant Program to purchase a 15 passenger van.

**RESOLUTION BOOK NO. 25 - PAGE 340**

**D. RESOLUTION NO. 99-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED AGREEMENT WITH THE HAW CREEK VOLUNTEER FIRE DEPARTMENT INC. FOR A ONE-YEAR PERIOD**

Summary: the consideration of a resolution authorizing the City Manager to enter into an amended agreement with the Haw Creek Volunteer Fire Department, Inc. for a one-year period.

In 1988, the City of Asheville and the Haw Creek Volunteer Fire Department, Inc. entered into a five-year fire protection agreement in connection with the City's annexation of part of the Haw Creek Fire Department's fire district, pursuant to N.C.G.S. 160A-49.1. In 1991, that contract was amended (again, in connection with an annexation). In December of 1997, the contract was extended for a two-year period; this extension was not required by N.C.G.S. 160A-49.1, but the City Council and Haw Creek's Board of Directors agreed that there were benefits to extending the contract, and providing limited continuing direct payments.

City staff and Haw Creek representatives have been working to negotiate a continuing agreement, because the Haw Creek Volunteer Fire Department depends on continuing City response to the Chunn's Cove area for fire insurance rating (and, thus, fire tax) credits. The recommended contract amendments include this continuing service, but end direct payments to Haw Creek. -3-

The Fire Chief recommends City Council adoption of a resolution authorizing the City Manager to enter into the amended agreement with the Haw Creek Volunteer Fire Department, Inc. for a one-year period.

**RESOLUTION BOOK NO. 25 - PAGE 341**

**E. ORDINANCE NO. 2639 - ORDINANCE TO DEMOLISH 119 SPRINGSIDE ROAD**

Summary: This is the consideration of an ordinance directing the Director of the Building Safety Department to demolish and remove the structure located at 119 Springside Road.

This structure is located in Central Asheville with an address of 119 Springside Road. Over the years, the Building Safety Department has received numerous complaints from neighboring property owners. The structure is a one-story wooden frame house that has been extensively neglected over the years resulting in substantial deterioration and dilapidation. The Code Enforcement Officer's efforts to eliminate this nuisance has been frustrated by the inability to locate the current owner and a lack of knowledge of the whereabouts of the record owner. After requesting assistance from the Legal staff in the fall of 1999 and receiving same in October of 1999, notice to the Owner was published and a hearing was conducted before the Director Designee on October 21, 1999.

Subsequent to the October 21, 1999, hearing, the Housing Code Coordinator was contacted by the Owner, Nancy E. M. Harmon. Ms. Harmon informed the Housing Code Coordinator that she was in complete agreement that the structure located at 119 Springside Road should be demolished. Ms. Harmon came to the Complaint Notice of Hearing and signed the consent to demolish and waiver of notice. Ms. Harmon stated that she was not financially able to cause the structure to be demolished and removed. Ms. Harmon stated that she had no problem with the City immediately proceeding with the demolition of the structure. Ms. Harmon, who is a widow, has executed appropriate forms to allow the City to dispense with all further procedures required by law to protect the interest of the property owners. Ms. Harmon desires for the City to immediately proceed with the demolition and removal of the structure and to place a lien against the property for the cost of the demolition.

**General information:**

- Fair market value of house is \$55,300.00 (disputed).
- Value to rebuild the house only is \$87,594.00.
- Land value without the house is \$13,100.00.
- Estimated cost to demolish is \$4,000.00.

Funds to demolish and remove the structure are available in the Building Safety Department.

The Building Safety Director recommends adoption of an ordinance directing the demolition of 119 Springside Road.

**ORDINANCE BOOK NO. 18 - PAGE 52**

**F. RESOLUTION NO. 99-173 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON DECEMBER 7, 1999, ON THE QUESTION OF THE VOLUNTARY ANNEXATION OF CONTIGUOUS PROPERTY LOCATED WEST OF OVERLOOK ROAD AND IDENTIFIED AS BURNSIDE PHASE III AT BILTMORE PARK -4-**

**RESOLUTION BOOK NO. 25 - PAGE 342**

**G. RESOLUTION NO. 99-174 - RESOLUTION AUTHORIZING AN INSTALLMENT PURCHASE CONTRACT BETWEEN CRESTAR LEASING CORPORATION AND THE CITY OF ASHEVILLE TO FINANCE THE ACQUISITION OF A FIRE TRUCK AND 4,000 TRASH CANS**

Summary: The consideration of a resolution authorizing the installment financing of one fire truck and 4,000 trash cans and the associated budget revisions.

The City of Asheville Capital Improvement Budget includes authorization in FY 99/00 for the lease purchase of a pumper fire truck (\$195,574.00) and 4,000 trash cans (\$163,656.25) which are to be used in conjunction with two specialized auto-reach sanitation trucks in a pilot program.

The Finance Department sought proposals from 31 firms to finance the purchase of the pumper and trash cans. Proposals were received from twelve firms, the best of which was submitted by Crestar Leasing Corporation - - 4.951% interest for ten years (amortization of the trash cans portion will extend over a five-year period while the pumper will extend to ten years).

The proposed resolution authorizes an installment purchase contract between the City of Asheville and Crestar Leasing Corporation for the purchase of the pumper and trash cans and authorizes the City Manager to execute and deliver any and all necessary documents.

Financing for the two auto-reach sanitation trucks in the pilot program, along with a Fire Department severe service vehicle, in the amount of \$495,000.00, was awarded to Wachovia Leasing Corp. in December 1998. Proceeds from that financing have been held in escrow pending delivery of the vehicles. Since payment for the vehicles is not made until delivery to and acceptance by the City, the \$495,000 remained in fund balance as of the end of FY '99. Due to the delay in delivery, it is now necessary to adopt a FY 1999-2000 budget amendment which appropriates lease purchase proceeds currently held in fund balance in order to complete the purchase of the auto-reach sanitation trucks and the severe service vehicle. Delivery of the vehicles is expected within the next forty-five days.

City staff recommends City Council adopt the resolution authorizing the installment financing of one fire truck and 4,000 trash cans and the associated budget revisions.

**RESOLUTION BOOK NO. 25 - PAGE 344**

**H. ORDINANCE NO. 2640 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE FINANCING PURCHASE OF A PUMPER FIRE TRUCK**

Summary: See Consent Agenda Item "G" above.

**ORDINANCE BOOK NO. 18 - PAGE 57**

**I. ORDINANCE NO. 2641 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE FINANCING PURCHASE OF 4,000 TRASH CANS WHICH ARE TO BE USED IN CONJUNCTION WITH THE TWO SPECIALIZED AUTO-REACH SANITATION TRUCKS**

Summary: See Consent Agenda Item "G" above.

-5-

**ORDINANCE BOOK NO. 18 - PAGE 59**

**J. ORDINANCE NO. 2642 - BUDGET AMENDMENT TO AUTHORIZE DISBURSEMENT OF PROCEEDS OF DECEMBER 29, 1998, INSTALLMENT PURCHASE CONTRACT**

Summary: See Consent Agenda Item "G" above.

**ORDINANCE BOOK NO. 18 - PAGE 61**

**K. ORDINANCE NO. 2643 - BUDGET AMENDMENT TO COVER OUTSIDE LEGAL COUNSEL EXPENSES INCLUDING THE BILLBOARD DEFENSE LAWSUIT**

Summary: The consideration of a budget amendment to increase appropriated fund balance by \$45,000 to cover outside legal counsel expenses including the billboard defense lawsuit.

For Fiscal Year 1999-2000, the Legal Services Division budget for general outside legal counsel was \$24,000. There was no separate appropriation established for the billboard lawsuit defense.

During the current fiscal year, the Legal Services Division paid approximately \$16,500 to the Charlotte law firm of Horack, Talley, Pharr & Lowndes for billboard lawsuit expenses using funds from its general outside legal counsel budget. In addition, Legal Services has paid approximately \$4,031 in general outside legal counsel expenses. Approximately \$3,468 remains in the outside legal counsel budget.

Currently there is a payment due in the amount of \$19,500 for the billboard defense. The Charlotte law firm anticipates an additional \$6,000 in billboard expenses for the remainder of the year. To cover the remaining billboard expenses, Legal Services is requesting an appropriation in the amount of \$45,000 from fund balance. The balance left from this appropriation will be used to replenish the general outside counsel budget for the remainder of the year.

City staff recommends City Council appropriate \$45,000 from fund balance to cover remaining billboard expenses and the replenish the general outside legal counsel budget.

### **ORDINANCE BOOK NO. 18 - PAGE 63**

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolutions and ordinances and the Consent Agenda and they would not be read.

Councilman Tomes moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

### **III. PUBLIC HEARINGS:**

#### **A. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR A TELECOMMUNICATIONS TOWER AT 200 TUNNEL ROAD**

Mayor Sitnick said that this public hearing was opened on September 28, 1999, and continued until this date.  
-6-

On September 28, 1999, City Council considered the request for a Conditional Use Permit for a new telecommunications tower at 200 Tunnel Road (Kenilworth Knoll Drive behind Asheville Assisted Housing), and the matter was continued until November 23, 1999, in order to provide additional time for City Council to review the information.

Since the date of the first hearing, staff engaged a consultant to aid in the review of the application. The consultant is Paul Rosa of Digital Landscapes. The consultant's fees will be paid by the applicant, American Tower Corporation, as provided in the Unified Development Ordinance (UDO).

The consultant recommended that City staff require the applicant to conduct a crane or balloon test at the site to simulate the height of the tower as provided in the UDO. Planning staff concurred and sent a letter to American Tower requesting the balloon test.

The balloon test requires advance notice of property owners and could not be conducted prior to the November 23<sup>rd</sup> public hearing on this matter. For this reason, American Tower has requested a one-month continuance of the public hearing.

As requested by American Tower, a continuance will allow American Tower to conduct the balloon test, and further investigate the possibility of co-locating on the existing BellSouth tower located at the Sports Club of Asheville. A continuance will also allow the City's consultant, Paul Rosa, additional time to review the application.

City staff recommends that City Council continue the public hearing on this matter until December 21, 1999.

Councilwoman Field moved to continue the public hearing until December 21, 1999. This motion was seconded by Councilman Tomes and carried unanimously.

#### **IV. UNFINISHED BUSINESS:**

##### **A. REPORT REGARDING PURCHASE OF LAND AT BROTHERTON AND VIRGINIA AVENUES**

##### **RESOLUTION NO. 99-175 - RESOLUTION AUTHORIZING THE CITY MANAGER TO PROCEED WITH THE PURCHASE OF THE 7.3 ACRE TRACK OF LAND AT THE INTERSECTION OF BROTHERTON AND VIRGINIA AVENUES FROM THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE**

Planning & Development Director Scott Shuford said this is additional information on the issues raised at the November 9, 1999, public hearing regarding City Council's consideration of the purchase of land at Brotherton and Virginia Avenues.

At the November 9 meeting, City Council requested follow-up on four questions in advance of authorizing purchase of a 7.3 acre site from the Housing Authority for the appraised value of \$120,000. Planning staff has notified surrounding property owners regarding Council's continued consideration of this matter on November 23, as well as all those who have spoken or participated in public meetings on this proposal. On November 22, the Planning staff met with representatives of the neighborhood to share these findings with them in advance of the Council meeting.

##### **1. What size water main serves the site and does it provide adequate water pressure and fire flow for future site development?**

**-7-**

City staff exposed the water main on Brotherton Avenue at both ends of the street; at both locations it measured six inches in diameter. Additionally, a pressure check and flow test were performed on November 15 at 8:04 p.m. indicating water pressure in this line at 160 psi and fire flow at 520 gallons per minute with a residual pressure of 20 psi or greater. This is consistent with the previous tests. The water pressure is high enough that residential plumbing should be equipped with a pressure reducing valve; both the water pressure and the fire flow are sufficient for the proposed single family or town house construction.

If a community center or common house is included in the site design, it would require either a fire flow of 1000 gallons per minute or a supplementary fire suppression system for that building alone, e.g. sprinklers.

##### **2. Is sewer service adequate for future site development?**

MSD has responded orally that allocation of wastewater service would be conditional on the replacement of 600-700 feet of six-inch clay piping by a larger plastic pipe, starting from the manhole in the ravine on the east side of the property. The cost would be \$30,000-40,000 to be shared between MSD and the site developer.

##### **3. What effect will the proposed I-240 widening have on this property?**

Under the most invasive scenario, a small corner of the property (which is proposed to remain undeveloped under any conceptual development plan) would be taken (with appropriate compensation) to accommodate a free-flow interchange with Amboy Road. Over a month ago, City staff asked the N. C. Dept. of Transportation (NC DOT) to examine another, less expensive and less land-intensive alternative design that will allow the site to remain untouched. The NC DOT has asked its design consultant to study this alternative.

By use of a map, Mr. Shuford illustrated the options. He noted that in neither case will development of the property, as we have proposed, be precluded.

#### **4. What is the traffic impact of the proposed development and will it significantly impact service levels on Virginia Avenue and surrounding roadways?**

Traffic counts performed on November 12-15, 1999, show that Virginia Avenue carries up to 1700 vehicles a day near the intersection with Haywood Road, at an average speed of about 26 mph. Single family development generates around ten one-way trips (or five round-trips) per day per unit. If developed to its maximum zoned density of 58 single family units, roughly 600 additional one-way trips per day would be generated from the property. Under development concepts being entertained by the City, no more than 30 units would be constructed, accounting for not more than 300 one-way trips per day. Both the existing and likely future traffic levels are within the physical capacity of the street, although any traffic increase would have an impact on the "livability" of the street.

Additionally, Virginia is a candidate for traffic calming analysis, although its traffic volume, speeds, and other characteristics would likely not put it as a high priority for the list of traffic calming projects to be undertaken by the City.

In addition to the above four questions posed by Council, staff felt it appropriate to address two more issues that have been raised by the public. -8-

#### **5. Why have other providers of affordable housing not shown an interest in this site?**

First, the site was not offered to other providers: The Housing Authority approached the City first. Second, the site is not ideally situated for low income rental housing - a primary focus of many of the local providers - due to its distance from public transportation and other services used by low income persons (please note: our proposal is for housing primarily for moderate income home-buyers). Third, the site's limited street frontage requires infrastructure improvements or alternative site design that differs from the standard product offered by providers of single family housing. Fourth, each provider has its own priorities and work program; they are not easily able to acquire and "bank" sites for future development. Fifth, there have been technical development questions about this property that have not been answered until now.

#### **6. What are the plans for developing this site?**

Our plans are for a moderate income, single-family, ownership development. We have suggested a co-housing type development as it offers an opportunity to minimize infrastructure costs, preserve more of the existing tree canopy, and create a site design pattern that promotes community involvement, but a more traditional development pattern can be considered as well. By use of a map, Mr. Shuford illustrated how the site could be built under a traditional subdivision pattern as well as how a co-housing project could fit on the site. He noted that these are only conceptual sketches, not proposed site plans. He said that the City intends to develop the site in partnership with a non-profit or for-profit developer and an association of prospective homebuyers.

In summary, Planning and Development staff feels the Brotherton site offers an excellent opportunity to address an affordable housing need in a neighborhood that has expressed a willingness to accept such a

project if technical concerns were met. The Planning staff does believe those technical issues have been addressed in this report.

Staff recommends that the City Manager be authorized to proceed with the purchase of the site at the price of \$120,000.

Upon inquiry of Mayor Sitnick, Mr. Shuford confirmed that City Council is only voting on the purchase of the property at this time. He said that City Council will have future opportunities to have input, as will the community, in the ultimate development pattern of the property.

Upon inquiry of Vice-Mayor Hay, Community Development Director Charlotte Caplan said that once the City purchases the land, then the City can go out and seek a development partner and start recruiting potential homeowners. She noted that this is consistent with the Housing Action Plan.

Upon inquiry of Councilman Cobb, Ms. Caplan said that if the City partners with a for-profit, the City would require that the value of the road, sewer, etc. improvements be passed onto the home-buyer, probably in the form of a no-cost or low-cost second mortgage. The developer would take a profit solely on the construction of the houses.

Mr. Richard Nantelle hoped that City Council would take the initiative to alleviate the speeding problems on Virginia Avenue.

Mr. William Cogburn, retired firefighter and area resident, noted that it doesn't matter what size the waterline is in the area, but how much water can get through the line. He felt that co-housing is not a good use for the area. He hoped that the Council would not authorize a big -9-

building on the property with the water supply being what it is. He said that he would welcome some individual homes, but the area will require some improvements.

Ms. Beth Maczka, representing the Affordable Housing Coalition, encouraged City Council to vote in favor of the purchase of this land and asked that as Council is faced with this challenge in the future to continue to not let the infrastructure be a problem. She hoped Council would do all that they can to encourage the Water Authority and MSD to make the infrastructure work so that these concerns can be addressed.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities, spoke to the issue of the appropriateness of the site for residential development and for moderate income housing.

Ms. Charlotte Caplan responded to a concern from Ms. Lila Rentis, 32 Virginia Avenue, about the affordability of the houses. She explained that there are many ways to structure such a development so as to ensure affordability. The price that a low or moderate income person pays for a home in terms of what they have to get a mortgage for and the value of the home can be different.

At the request of Councilwoman Field, Ms. Caplan explained the HUD definition of low and moderate income.

Vice-Mayor Hay was encouraged on how the neighborhood and City staff worked together on the issues raised.

Councilwoman Field felt that it was important that the City proceed with this project, but more important that the City work together with the community to come up with a plan acceptable to that community.

Councilman Cobb noted that he voted against the purchase of the land at the November 9 meeting because of the unanswered questions. However, after hearing the responses by Mr. Shuford, he felt it would be a



good chance for home-owners to purchase affordable housing.

Councilwoman Field moved to adopt Resolution No. 99-175 which authorizes the City Manager to proceed with the purchase of the 7.3 acre tract of land at the intersection of Brotherton and Virginia Avenues from the Housing Authority of the City of Asheville and to execute any documents necessary to effectuate this purchase, subject to budgetary limitations. This motion was seconded by Councilman Tomes and carried unanimously.

## **RESOLUTION BOOK NO. 25 - PAGE 346**

### **V. NEW BUSINESS:**

#### **A. RESOLUTION REQUESTING THE NORTH CAROLINA ABC COMMISSION TO AUDIT THE ALCOHOL SALES PERCENTAGE OF JONES CONVENIENCE STORE AT 55 SOUTH MARKET STREET**

City Attorney Oast said that this is the consideration of a resolution requesting the N.C. Alcoholic Beverage Control Commission to investigate alcohol sales at 55 South Market Street, known as Jones Convenience Store.

In July of this year, the North Carolina General Assembly adopted Session Law 1999-312, amending G.S. 18B-309 of the ABC law. The new law was effective on October 1. The -10-

amendment provides that certain types of businesses that hold ABC permits and are located in designated urban redevelopment areas may not have alcoholic beverages sales in excess of 50% of the total annual sales of the business. The types of businesses covered by this provision include retail businesses as defined in G.S. 18B-1000(7), which includes the convenience store at 55 South Market. The new law further provides that the ABC Commission "shall suspend or revoke a permit issued by it if the permittee is in violation of [the new law]."

In order to invoke this investigation or audit by the ABC Commission, the law requires that the City Council of the affected municipality request it.

If Council wishes request an audit of Jones Convenience Store at 55 South Market Street, adoption of the resolution is recommended.

At the request of Councilwoman Field, City Attorney Oast gave a brief history of the concerns associated with this property.

Mr. John Hayes felt that since the City has a commitment for economic empowerment, then City staff should meet with Mr. Jones, along with others, and find a way to let him continue his business and do what is necessary so that he can be a part of the economic growth in this area.

Mr. Samuel Camp felt that the City is singling out Mr. Jones for the audit. He agreed with Mr. Hayes in that the City should sit down and talk with Mr. Jones and perhaps see if the City can purchase his property.

City Attorney Oast said that the requirement applies whether the City asks for an audit or not. If the business is in a redevelopment area and it is an ABC permitted convenience store, then you have to have non-alcoholic sales volume of at least 50%. We are only asking for that to be audited. He said that the City is not trying to put anyone out of business, we are only asking for the ABC Commission, which is the governmental body charged with administering the ABC laws, to make sure they are complied with. He did note that it can result in revocation of the permit.

Councilman Tomes said that since he is a firm believer of collaborative partnerships, and since there seems

to be a willingness to try to create that kind of positive dialogue with Mr. Hayes, Mr. Camp, Mr. Jones and City staff, then he would be amenable to letting that dialogue take place with hopefully some positive results.

City Attorney Oast noted that there is no deadline for asking for the audit and that City Council can ask for the audit anytime. He did note that there is a pending contested case proceeding initiated by the ABC Commission to suspend or revoke the ABC permits of the convenience store and that will be heard by the ABC Commission on December 3.

Councilman Tomes asked how would the December 3 hearing by the ABC Commission impact the recommendation before City Council. City Attorney Oast responded that the December 3 hearing could also result in the suspension or revocation of the ABC permits. He said that it is for a different type of alleged violation, having to do with the suitability of the neighborhood.

When Councilman Cloninger suggested that City Council wait to see what happens at the December 3 hearing, City Attorney Oast said that we would know the outcome of that hearing by the first of the year.

-11-

City Attorney Oast said that his office and the Community Development office are willing to work with Mr. Jones or anyone who wants to be part of the recovery in the area.

Vice-Mayor Hay said that the City has been struggling with this for several years with the urging of the police and the urging of the other stakeholders down in the Eagle/Market Street area. He said that if Mr. Hayes and Mr. Camp think there is an opportunity to resolve some issues, then he suggests they sit down and get working with Mr. Jones and the City Attorney. He said now is the time to make something happen because the City hasn't been able to.

Councilwoman Field noted that there has been several attempts to work with members of the community, other non-profits and other organizations to purchase the property. However, if the City is involved, they cannot pay more than the appraised value and it is her understanding that the amount of money that has been asked for by Mr. Jones is considerably higher than the appraised value.

Councilman Tomes moved to table this matter pending the outcome of the December 3 ruling. This motion was seconded by Councilman Cobb and carried unanimously.

## **B. RESOLUTION NO. 99-176 - RESOLUTION APPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD**

Vice-Mayor Morris said that the term of Ralph Morris, as a member on the ABC Board, expired on November 13, 1999. This resolution will reappoint Mr. Morris to serve an additional three year term, term to expire November 13, 2002, or until his successor has been appointed.

Councilman Cloninger moved for the adoption of Resolution No. 99-176. This motion was seconded by Councilman Tomes and carried unanimously.

## **RESOLUTION BOOK NO. 25 - PAGE 347**

## **C. RESOLUTION NO. 99-177 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT**

Vice-Mayor Hay said that the terms of Darryl Hart (Regular), David Young (Regular), Chris Goodwin (Alternate) and Burt Stanford (Alternate) on the Board of Adjustment expire on January 21, 2000. Also, Rose Rose has resigned as an Alternate, thus leaving an unexpired term until January 21, 2001.

On November 3, 1999, it was City Council's intent to reappoint Mr. Hart as a Regular member to serve an additional three year term, term to expire on January 21, 2003.

On November 4, 1999, David Young contacted the City Clerk and advised her that he is interested in reappointment to the Regular position if City Council wished him to continue serving.

On November 9, 1998, City Council interviewed Chris Goodwin (current City Alternate) for a position as a Regular member. Patricia Grant and Joe Brady (current City Alternates) and Anne Campbell were all interested in appointment to a Regular position; however, they were unable to come in for an interview. Richard Fort (current County Alternate) has also expressed interest in appointment to a Regular position.

All new appointments will begin their term on January 22, 2000, and end their term on January 21, 2003, or until their successor have been appointed. -12-

Councilman Cloninger moved to reappoint Darryl Hart as a Regular member to serve an additional three year term, term to expire January 21, 2003. This motion was seconded by Councilwoman Field and carried unanimously.

Councilwoman Field nominated David Young for reappointment as a Regular member.

Councilman Cloninger nominated Chris Goodwin as a Regular member.

After Vice-Mayor Hay asked if anyone in the audience would like to comment on this matter and hearing none, each Council member voted: David Young received 5 votes and Chris Goodwin received 2 votes. Therefore, David Young was reappointed as a Regular member to serve an additional three year term, term to expire January 21, 2003.

Councilman Cloninger moved to reappoint Chris Goodwin as an Alternate member to serve an additional three year term, term to expire January 21, 2003. This motion was seconded by Councilman Tomes and carried unanimously.

The City Clerk was instructed to re-advertise for the two Alternate positions in the next quarterly appointment process.

#### **RESOLUTION BOOK NO. 25 - PAGE 348**

#### **D. RESOLUTION NO. 99-178 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL**

Vice-Mayor Hay said that the terms of Kathryn Liss and Cynthia Janes expire on December 31, 1999. This resolution will reappoint Ms. Liss and Dr. Janes to each serve an additional three year term, terms to expire December 31, 2002, or until their successors have been appointed.

Mayor Sitnick moved for the adoption of Resolution No. 99-178. This motion was seconded by Councilwoman Field and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 349**

#### **E. RESOLUTION NO. 99-179 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION**

Vice-Mayor Hay said that the terms of Brenda Sconyers, Jim Samsel and Garry Moffitt, as members on the Asheville Downtown Commission, expire on December 31, 1999.

On November 3, 1999, Vice-Mayor Hay was asked to contact Ms. Sconyers to verify that she was still interested in serving. If Ms. Sconyers' was interested in remaining on the Commission, the City Clerk was to arrange for interviews for Chuck Pickering, William Byrne and Kim MacQueen.

Councilwoman Field noted that Vice-Mayor Hay was unable to contact Ms. Sconyers to confirm her interest in reappointment. However, Ms. Sconyers no longer lives, works or owns property in the downtown area.

Councilwoman Field moved to appoint Chuck Pickering, William Byrne and Kim MacQueen to each serve a three year term. Their terms will begin on January 1, 2000, and -13-

expire on December 31, 2002, or until their successors have been appointed. This motion was seconded by Councilman Tomes and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 350**

#### **F. RESOLUTION NO. 99-180 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND**

Vice-Mayor Hay said that the term of Bill Schaefer, as a member of the Firemen's Relief Fund, expires on January 1, 2000. This resolution will reappoint Mr. Schaefer to serve an additional two year term, term to expire January 1, 2002, or until his successor has been appointed.

Councilman Cloninger moved for the adoption of Resolution No. 99-180. This motion was seconded by Councilman Tomes and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 351**

#### **G. RESOLUTION NO. 99-181 - RESOLUTION APPOINTING MEMBERS TO THE GREENWAY COMMISSION**

Vice-Mayor Hay said that on September 28, 1999, Ordinance No. 2621 was adopted separating the Tree/Greenway Commission into the Tree Commission and the Greenway Commission and defining their individual powers and duties.

Pursuant to City Council's request on November 3, 1999, this resolution will appoint Gerry Hardesty, Bruce Mulkey, John R. Tate and Casey Carmichael to the Greenway Commission.

On November 9, 1999, City Council interviewed Philip Cusick and Pauline Kaltsunis.

It was the consensus of City Council to (1) appoint Gerry Hardesty, Bruce Mulkey, and John R. Tate to each serve a three year term respectively, terms to expire December 31, 2002; (2) appoint Casey Carmichael and Pauline Kaltsunis to each serve a two year term respectively, terms to expire December 31, 2001; and (3) appoint Philip Cusick to serve a one year term, term to expire December 31, 2000. All terms will be until their successors have been appointed.

The City Clerk was instructed to re-advertise in the next quarterly appointment process the one additional vacancy on the Greenway Commission.

#### **RESOLUTION BOOK NO. 25 - PAGE 352**

#### **H. RESOLUTION NO. 99-182 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD OF DIRECTORS**

Vice-Mayor Hay said that the term of S. Douglas Spell expires on January 19, 2000. This resolution will reappoint Mr. Spell to serve a three year term, term to expire January 19, 2003, or until his successor has been appointed.

Mayor Sitnick moved for the adoption of Resolution No. 99-182. This motion was seconded by Councilwoman Field and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 353 -14-**

**I. RESOLUTION NO. 99-186 - RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART BOARD**

Vice-Mayor Hay said that on September 14, 1999, Ordinance No. 2609 established a Public Art Board to consist of seven members appointed by City Council.

On November 3, 1999, City Council instructed the City Clerk to prepare the proper paperwork to appoint Carol Pennell, S. Tucker Cooke, Judith Barber, Ellen Rickman Judy Swan, Pamela Myers and Caroline Mason to the Public Art Board.

It was the consensus of City Council to appoint Carol Pennell, S. Tucker Cooke, Judith Barber and Ellen Rickman to each serve a four year term, terms to begin immediately and expire on December 31, 2003, or until their successors have been appointed; and (2) appoint Judy Swan, Pamela Myers and Caroline Mason to each serve a two year term, terms to begin immediately and expire on December 31, 2001, or until their successors have been appointed.

**RESOLUTION BOOK NO. 25 - PAGE 357**

**J. RESOLUTION NO. 99-187 - RESOLUTION APPOINTING MEMBERS TO THE TRANSIT COMMISSION**

Vice-Mayor Hay said that the term of Jim McCulley expires on December 31, 1999. Tom Tomlin's term expires after the new Transit Facility becomes operational and when City Council appoints his replacement.

On November 3, 1999, the City Clerk was instructed to prepare the proper paperwork to reappoint Mr. McCulley, subject to Vice-Mayor Hay confirming with Mr. McCulley that he is interested in serving. However, Vice-Mayor Hay was unable to reach Mr. McCulley and therefore, suggested that the City Clerk contact Mr. McCulley and advise him that when his health improves that he contact her and let her know which Board he would be interested in serving on.

On November 9, 1999, City Council interviewed Claudia Nix and Pauline Kaltsunis.

It was the consensus of City Council to appoint Claudia Nix, as a member of the Transit Commission, to serve a two year term, term to expire December 31, 2001, or until her successor has been appointed.

Councilman Sellers moved to retain Mr. Tomlin on the Transit Commission until his term expires on December 31, 2000. This motion was seconded by Councilman Cloninger and carried unanimously.

**RESOLUTION BOOK NO. 25 - PAGE 358**

**K. RESOLUTION NO. 99-188 - RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION**

Vice-Mayor Hay said that on September 28, 1999, Ordinance No. 2621 was adopted separating the Tree/Greenway Commission into the Tree Commission and the Greenway Commission and defining their individual powers and duties.

On November 3, 1999, City Council instructed the City Clerk to prepare the proper paperwork to appoint Kasty Latven, Peter Gentling, Sofia Mannos and Margaret Tinkler to the -15-

Tree Commission. Said term dates will be determined after the seven member board has been appointed, with board members being notified of term dates by the City Clerk.

On November 9, 1999, City Council interviewed Philip Cusick, Pauline Kaltsunis and Monty Wooten.

It was the consensus of City Council to (1) appoint Kasty Latven, Peter Gentling and Sofia Mannos to each serve a three year term respectively, terms to expire December 31, 2002; (2) appoint Margaret Tinkler and Ginger Mahler to each serve a two year term respectively, terms to expire December 31, 2001; and (3) appoint Monty Wooten to serve a one year term, term to expire December 31, 2000. All terms will be until their successors have been appointed.

The City Clerk was instructed to re-advertise in the next quarterly appointment process the one additional vacancy on the Tree Commission.

## **RESOLUTION BOOK NO. 25 - PAGE 359**

### **VI. OTHER BUSINESS:**

#### **A. CLAIMS**

The following claims were received by the City of Asheville during the period of November 5-18, 1999: Ricky Reeves (Water), Keith Gretzy (Civic Center), Phyllis Whitlow (Streets), Amy Young (Police) and Tim Moore (Water).

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

#### **B. LAWSUIT**

The City received a Petition for Writ of Certiorari on November 1, 1999, which is generally described as follows: Budget Motel, Inc., v. Zoning Board of Adjustment of the City of Asheville. The nature of the proceeding is seeking reversal of decision to deny sign variance requests.

This matter will be handled in-house. Further investigation may result in a referral outside the office.

#### **C. PRIMARY ELECTION RESULTS - CITY OF ASHEVILLE - OCTOBER 5, 1999**

#### **GENERAL ELECTION RESULTS - CITY OF ASHEVILLE, NOVEMBER 2, 1999**

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes cast in the Primary Election, City of Asheville, held on October 5, 1999. Also attached as Exhibit "B" is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 2, 1999.

### **VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

-16-

### **VIII. ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 6:32 p.m.

---

## CITY CLERK MAYOR

---