

Tuesday - August 17, 1993 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Eugene W. Ellison, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove (out of town)

INVOCATION

Councilman Moore gave the invocation.

I. PROCLAMATIONS: None

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING ON VARIANCE REQUEST FOR APPALACHIAN WAY IN HOMEWAY SUBDIVISION

Vice-Mayor Ellison said that this public hearing was opened on June 29, 1993, and continued until this date due to some issues raised at the public hearing.

Mr. Tony Nicholson, Urban Planner, reviewed the variance request stating that Gus Barlas is seeking preliminary plat approval of a subdivision to be located in West Asheville along Homeway Road. While a small portion of the property is located within the City, most of the property and all of a proposed street is located in the extra-territorial jurisdiction. The four acre property is to be subdivided into six lots. In order to provide access to three of the lots, the developer must extend Appalachian Way within its existing platted right-of-way. This will entail a 275-foot extension of Appalachian Way to be constructed to DOT standards.

Although a 40 foot wide right-of-way exists for Appalachian Way, this portion of the street has never been constructed. While the developer has proposed to widen the right-of-way to 45 feet to meet DOT street standards, the Asheville Subdivision Regulations requires a minimum width of 50 feet for subdivision streets. Therefore, a variance of 5 feet on the required right-of-way width is requested.

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The Asheville Subdivision Regulations authorizes the Planning and Zoning Commission to recommend and City Council to grant variances from the regulations when the developer can show that a provision should be modified due to topographical or other conditions peculiar to the site.

At City Council's June 29, 1993, meeting, the variance request was tabled to allow time for a number of issues to be resolved with the neighborhood. The issues are as follows:

1. Type of Homes to be Constructed - Mr. Barlas does not intend to build homes on the lots. Rather, he will sell the lots individually to prospective buyers. Therefore, the exact type and size of houses to be constructed is unknown at this point. However, the R-3 zoning district does not permit manufactured homes within the district. All houses must meet the North Carolina Building Code.

2. Extent of New Road Construction - Several residents in the neighborhood voiced concerns about the extent of road construction on the existing Appalachian Way and Honeysuckle Lane. There will be no modifications to any existing road in the area. The new construction will entail a 275' extension of Appalachian Way.

3. Impact of the Variance on Surrounding Properties - This variance does not directly affect properties adjacent to the proposed road extension. If the variance is granted, the road will have a 45' wide right-of-way. If the variance is denied, the road will have a 50' wide right-of-way and Mr. Barlas will be forced to reduce the size of some of the lots to accommodate the full 50' wide right-of-way.

4. Impact of the New Road Construction on Mr. and Mrs. Gosnell's Private Water Line Which lies in the Platted Right-of-Way - The Gosnell's private water line is partially located in the path of the proposed road. Questions exist concerning who is liable if the water line is damaged during construction and who is responsible for future maintenance of the water line. With the assistance of the Legal Department, the following statements were prepared to address this issue of the future maintenance of the water line.

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1. Since the roadway is a platted public right-of-way which permits all abutting lots use of the roadway for ingress and egress, the Gosnell's have installed the water line at their own risk.

2. The Gosnell's would be responsible for future maintenance of the water line and replacement of any pavement that might be damaged in connection with repairs to the water lines.

3. Gus Barlas has agreed to pay for the cost of repairing the Gosnell's water line if it should be damaged during the construction of the street.

Upon inquiry of Councilwoman Field, Mr. Nicholson said that the variance is being requested due to the topographical condition of the site.

Councilman Moore questioned what kind of hardship there is to grant this variance.

Mr. Gus Barlas urged the Council to grant his variance.

Mr. Kenneth Mills, President of Blue Ridge Land Surveying, answered questions relative to the amount of money which Mr. Barlas would have to spend if the variance was not granted. He spoke in support of the granting of the variance.

Vice-Mayor Ellison closed the public hearing at 4:26 p.m.

Councilman Peterson moved to grant a variance of 5 feet, from the required 50 foot right-of-way width for subdivision streets, for Appalachian Way in Homeway Subdivision. This motion was seconded by Councilman Swicegood and carried on a 5-1 vote, with Councilman Moore voting "no".

B. CONTINUATION OF PUBLIC HEARING TO REZONE 720 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

ORDINANCE NO. 2045 - ORDINANCE AMENDING ZONING OF 720 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Vice-Mayor Ellison said that this public hearing was opened on August 3, 1993,

and continued until this date in -4-

order to give the Council members an opportunity to tour the area and consider possible alternatives to Mr. Leftwich's problem.

Ms. Carol Pennell, Urban Planner II, reviewed with Council the request by stating that this lot, located one block east of Hendersonville Road, has access only off of Reed Street. The subject property shares a property line to the north with the McClain property recently rezoned from R-3 Residential District to CH Commercial Highway District (except for one foot parallel to Reed Street).

She said that on July 7, 1993, the Planning and Zoning Commission reviewed and recommended approval of the rezoning of 720 Reed Street from R-3 Residential District to CH Commercial Highway District.

She said that City Council has received a petition containing 27 names of owners and renters along Reed Street which supports rezoning request. The petition reads as follows:

"We, the undersigned, owner's and renter's of property along Reed Street in Asheville, North Carolina, petition the City Council to: 1. Allow rezoning of property at 720 Reed Street, listed as PIN Number 9647-16-84-4015, from residential to commercial. 2. Remove the one foot residential buffer along the west side of Reed Street."

He said that the petition shows unanimous support for his proposed rezoning with the elimination of the one foot residential buffer on the west side of Reed Street.

Councilwoman Field suggested continuing this rezoning request until after the Council was presented with a landscape ordinance, which should be in draft form in October.

Councilman Moore felt that the City needed to stop the encroachment of commercial uses into neighborhoods.

Vice-Mayor Ellison said that he would support the total rezoning of the property due to the hardship it would cause the property owner if they only rezoned all but the one foot strip along Reed Street.

Vice-Mayor Ellison closed the public hearing at 4:39 p.m.

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

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Councilman Swicegood moved for the adoption of Ordinance No. 2045. This motion was seconded by Councilman Peterson.

On a roll call vote of 4-2 (with Councilwoman Field and Councilman Moore voting "no"), Ordinance No. 2045 passed on its first reading.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. ORDINANCE AMENDING CHAPTER 30 TO SET FORTH CONDITIONS REQUIRED OF CHURCHES IN RESIDENTIAL DISTRICTS (CONDITIONAL USE PERMIT REQUIREMENTS)

Vice-Mayor Ellison stated that the public hearing on this matter was held on June 29, 1993.

Ms. Julia Cogburn, Planning Director, reviewed with the Council the proposed amendment stating that churches are currently identified as conditional uses in the R-1, R-2, and R-3 Residential Districts. A minimum number of conditions which churches in these districts must meet are set forth in the existing Section 30-7-1.A. The conditions currently in use do not adequately address the issues confronting the development/expansion of churches in residential districts. Working with representatives of churches and residential neighborhoods, the Planning staff developed the revised conditions to address these issues. The draft ordinance has been reviewed by the Asheville Planning and Zoning Commission and unanimously recommended for adoption at their May 5, 1993 meeting.

She then briefly reviewed the recommended changes in the ordinance.

She gave the following report on some questions that were raised at the public hearing:

REQUEST FOR REPORT ON BOARD OF ADJUSTMENT ROLE TO DATE/LEGAL ISSUES

The Board of Adjustment has dealt over the past three years with at least three matters regarding the expansion of existing church facilities in residential districts where these facilities are only allowed upon the issuance of a conditional use permit. Below is a brief summary of three issues the Board has dealt with:

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1. Grace Episcopal Church

- applied to Board in August of 1990 for conditional use permit and variances to required condition that any activity be located no closer than 40 ft. to any property line
- granted conditional use permit and variances in October of 1990
- submitted revised plan for conditional use approval and variances of the same nature and had conditional use approved but variances denied in May, 1991
- applied for rehearing in early 1992; April of 1992 conditional use again approved and variances again denied.

2. Merrimon Avenue Baptist Church

- in March of 1991 the church was granted a conditional use permit and variance from buffering and bufferyard conditions
- in March of 1992 a new review was conducted (new plan/variance expired); conditional use denied
- litigation (appeal to Superior Court from Board's decision) is pending; court date has been postponed until the issue of the proposed amendment is resolved

3. Midway Church

- late 1992 were scheduled to appear before Board but pulled application after being advised by staff that Board did not have the power to vary conditions set forth in the ordinance for conditional use approval (see below)

In each of these cases the Board should not have waived or varied any of the conditions set forth in the zoning ordinance for conditional use approval of churches in residential districts. In conditional use cases the Board sits to examine the factual evidence of a project to determine if conditions specified in the ordinance have been met.

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Numerous North Carolina Appellate decisions have dealt with the importance of Boards of Adjustment following ordinance provisions exactly. The principal case cited, Chambers v. Board of Adjustment 250 N.C. 195, 108 S.E. 2d (1959), specifically addressed this issue. In this case the North Carolina Supreme Court made it clear that the Board of Adjustment has no authority to waive or modify specific requirements set forth in an ordinance when passing on special use applications.

REPORT ON OTHER CONDITIONAL USES IN RESIDENTIAL DISTRICTS AND THE REQUIREMENTS FOR THESE USES COMPARED TO CHURCHES

The following uses are listed as conditional uses in the R-1, R-2, and R-3 districts in the City of Asheville Zoning Ordinance: schools having a curriculum the same as given in public schools; churches; repositories for ashes of human remains when used as an ancillary use on the same site as a church; mountainside residences; conversion of existing nonconforming apartment buildings to condominium ownership (in R-1 only).

The R-3 district lists the following additional conditional uses: nursery schools; kindergartens, convalescent and nursing homes; homes for the aged; fraternal and philanthropic organizations; greenhouses and commercial nurseries; professional offices (on lots adjacent to certain commercial corridors).

She showed the Council a chart comparing conditional use requirements as set forth in the City's ordinance for several of these conditional uses. She stated that the chart reflects only conditional use requirements and does not reflect regulations found in the use district section of the ordinance.

Council had received a petition containing 104 signatures which reads:

"We, the undersigned, request of City Council that the conditional uses for churches in R-1, R-2, and R-3 residential districts be amended as follows: 30-7-1(A)4.a -- No parking or other activity shall be located less than twenty (20) feet from any property line...

to be deleted and changed as follows:

30-7-1(A)4.a -- No parking or other activity shall be located less than twenty (20) feet from any property line unless there is an agreement between the parties. In the -8-

event of such an agreement, and only in that event, the Board of Adjustment shall permit the setback to be reduced to that agreed upon between the parties, but in no event shall the setback be less than ten (10) feet from any property line."

Mr. Bill Whalen, 38 Woodward Avenue, spoke against reducing the 40 foot setback. He urged the Council not to vote on the issue today but study the issue further.

Ms. Barbara Hodgson, 107 Evelyn Place, spoke in opposition to the change in

setback.

Mr. Dave Hillier, speaking on behalf of Grace Episcopal Church, spoke in favor of the proposed ordinance. He felt the ordinance was fair and was confident that the church would work closely with the neighborhood to buffer the property.

Mr. John Cort, member of Grace Episcopal Church, felt that the 20 foot setback would provide adequate buffer.

Rev. William Edwards, Grace Episcopal Church, spoke in support of the proposed ordinance.

Mr. Mike Lewis, 48 Gracelyn Road, felt that the City needed to preserve neighborhoods and spoke against anything less than a 40 foot setback.

Mr. Monty Wooten, 81 Euclid Boulevard, spoke against reducing the setback to 20 feet. He mentioned several reasons for keeping the 40 foot setback.

Ms. Kathy Gleason, Mediator, spoke about the mediation process that has occurred between the Merrimon Avenue Baptist Church and the surrounding neighborhood.

Mr. Fred Lewis, 38 Haw Creek Circle, spoke in opposition of the proposed ordinance.

Rev. Ben Sloan, 8 Crown Street and Pastor of West Asheville Presbyterian Church, spoke in support of the proposed ordinance.

Mr. Daniel Green, 129 Charlotte Street, felt that City Council should not get involved in church matters unless it relates to a safety or health concern.

Mr. Paul Mittman, 38 Ottari Road, urged the Council to protect the neighborhoods and keep the 40 foot setback requirement.

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Ms. Carolyn Wallace, 19 Austin Avenue, spoke against the proposed ordinance for several reasons.

Mr. Neal Pyatt, 5 Farrwood Avenue, spoke in support of the proposed ordinance.

Dr. Billy Cline, Pastor of the Merrimon Avenue Baptist Church, spoke in support of the proposed ordinance in that the churches are trying to meet the needs of their congregation.

Mr. Bud Corbin, 60 Audubon Drive, spoke in support of the proposed ordinance and felt that churches are good neighbors.

Mr. Bobby Peek, member of the Merrimon Avenue Baptist Church, spoke in support of the proposed ordinance.

Mr. Dennis Hodgson, 107 Evelyn Place, urged the Council not to pass the proposed ordinance and try to preserve the trees.

There was discussion amongst Council relative to the setback requirements.

Vice-Mayor Ellison stated that Mayor Michalove preferred to look at each situation on a case by case basis instead of amending the ordinance as recommended.

At the request of Vice-Mayor Ellison, City Attorney Slawter suggested an amendment that would provide for a variable setback to be determined by the Board of Adjustment as part of the conditional use application process.

Councilman Moore moved to table this matter until August 31, 1993, without further advertisement, in order to give the City Attorney's Office and the Planning Department time to research the language suggested by City Attorney Slawter. This motion was seconded by Councilwoman Field and carried unanimously.

At this time (6:00 p.m.) it was the consensus of Council to take a 5 minute break.

B. FINAL PLAT APPROVAL FOR PHASE II OF DEVONSHIRE SUBDIVISION

This item was deleted from the agenda.

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C. RESOLUTION NO. 93-120 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, APPROVING THE CLAIMS ADMINISTRATION CONTRACT WITH ASHEVILLE CLAIMS CORPORATION AND RELATED MATTERS

City Manager Bean said that the City has been paying in excess of \$1,300,000 for deductible insurance coverage annually and additional funds for Worker's Compensation claims. Insurance claims against the City have been continually within the deductible amount and have been in the annual range of \$170,000. It has been determined that a self insurance fund, initially supported by funds obtained by the Asheville Claims Corporation and the accumulated interest on that money, can pay Worker's Compensation and insurance claims. The current annual appropriation must remain relatively steady in future years in order to repay the obligations and leave a self-perpetuating claims fund at the end of ten years. This program will be funded by Certificates of Participation delivered by the Asheville Claims Corporation. The Corporation will act for the City in paying claims approved by the City. This resolution provides for approval of the contract terms between the City and the Asheville Claims Corporation. It obligates the City to appropriate annually funds sufficient to pay to the Corporation for the previously paid claims, administrative costs and repay obligations. There will be no increase in current appropriations but annual savings after ten years.

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

Councilman Moore moved for the adoption of Resolution No. 93-120. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 90

D. RESOLUTION NO. 93-121 - RESOLUTION AWARDDING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 10) TO APAC-CAROLINA, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

City Manager Bean said that the bids for Street and Sidewalk Improvements Contract No. 10 were received and opened on December 18, 1992. APAC-Carolina, Inc., was the low bidder on the project and it is recommended that the bid be awarded to APAC-Carolina Inc. as the lowest responsible bidder with a total bid in the amount of \$1,628,674.50 for -11-

Section 1, and \$356,404.40 for Section 2, for a total base bid amount of \$2,015,078.90. The total bid amount includes rehabilitation of sewer lines on a number of streets. MSD will reimburse the City for the full cost of the sanitary sewer improvements and rehabilitation.

Mr. Robert Griffin reminded the Council that on August 31, 1993, they would be considering the add alternate to the base bid relative to the Boston Way and Kitchen Place special assessment projects.

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

Councilman Moore moved for the adoption of Resolution No. 93-121. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 93

E. MOTION AUTHORIZING THE CITY MANAGER TO SIGN A FIRE PROTECTION AGREEMENT WITH THE VA MEDICAL CENTER

City Manager Bean said that with the decision not to annex the area around the VA Medical Center, the City is faced with a situation of having previously agreed to annex the VA Medical Center effective October 1 of this year and thereby voiding our fire protection contract. The City has not budgeted any revenue in this year's budget for the VA contract based on the City's previous agreement. He said that he has had a number of discussions with the VA Medical Center and indicated the City's financial problems and concerns. Jim Christian understands the City's position and is willing to work on a phase out of the contract so long as they have a guarantee that at a specific date and time they will become a part of the City. The City has negotiated a tentative agreement that would extend the current contract for a 2 year period of time with the 93-94 contract being 50% of the current amount or \$80,000 and the 94-95 contract being 25% or \$40,000. This phased out contract will be contingent upon the VA Medical Center successfully petitioning the City for annexation of their property. Since there was a previous agreement and since there are no funds in this year's budget, it would appear that this is a fair and equitable settlement of this problem.

Councilwoman Field moved to authorize the City Manager to sign a fire protection agreement with the VA Medical Center. This motion was seconded by Councilman Moore and carried unanimously.

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F. RECOMMENDATION OF AWARDING BIDS ON FOUR REFUSE COLLECTION VEHICLES FOR THE PUBLIC WORKS DEPARTMENT, SANITATION DIVISION

ORDINANCE NO. 2046 - BUDGET AMENDMENT TO AWARD REFUSE COLLECTION VEHICLES

City Manager Bean said that two bids were received and it is recommended that the award of this bid be made to Southern Truck services, Charlotte, North Carolina, for 3 each, "Crane Carrier" 1993 year Model IRL-20 cab and chassis and packer body with a "Toter" dumping unit at \$95,779 each; and 1 each, "Crane Carrier" 1993 year Model IRL-28 cab and chassis and packer body with a "Toter" dumping unit at \$105,129 for a total award of \$392,466. He said funds are currently budgeted in the Capital Improvement Plan. The complete bid summary is attached hereto as Exhibit "A".

Vice-Mayor Ellison suggested that in future bid specifications for major purchases that performance bonds be required if feasible.

Upon inquiry of Councilman Peterson, Mr. Jim Ewing, Public Works Director, said that the vehicles being replaced are over 10 years old and the new trucks will be for a 2 man crew.

Councilman Worley moved to award the bid to Southern Truck services, Charlotte, North Carolina, for 3 each, "Crane Carrier" 1993 year Model IRL-20 cab and chassis and packer body with a "Toter" dumping unit at \$95,779 each; and 1 each, "Crane Carrier" 1993 year Model IRL-28 cab and chassis and packer body with a "Toter" dumping unit at \$105,129 for a total award of \$392,466. This motion was seconded by Councilman Moore and carried unanimously.

City Manager Bean said that a budget amendment is needed to set up an appropriate to purchase the 4 refuse collection vehicles. The money for this purchase has been carried forward and set aside in the Capital Improvement Plan Fund Balance, from fiscal years 1991/92 and 1992/93.

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

Councilman Worley moved to adopt Ordinance No. 2046. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2046 passed on its first and final reading.

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ORDINANCE BOOK NO. 14 - PAGE 17

G. ORDINANCE NO. 2047 - BUDGET AMENDMENT TO APPROPRIATE FUNDS TO PURCHASE PROPERTY FROM THE BOARD OF EDUCATION FOR THE NEW OAKLEY PARK

City Manager Bean said that this budget amendment in the amount of \$335,734 is to appropriate funds to purchase property from the school Board for the new Oakley Park.

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

Councilman Moore moved to adopt Ordinance No. 2047. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2047 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 19

H. RESOLUTION NO. 93-122 - RESOLUTION IDENTIFYING THE AREA DESCRIBED HEREIN AS BEING UNDER CONSIDERATION FOR ANNEXATION BY THE CITY OF ASHEVILLE

City Manager Bean explained that this resolution will identify areas under consideration for annexation. The readoption of the map is necessary for the City to set an effective date of annexation earlier than one year from the passage of an annexation ordinance. This is the fourth map of consideration the City of Asheville has adopted since 1987. Adoption of the map of area considered for annexation does not initiate any annexation proceeding.

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

Councilman Moore moved for the adoption of Resolution No. 93-122. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 94

V. CONSENT AGENDA:

A. APPROVAL OF THE WORKSESSION MINUTES OF JULY 27, 1993, AND THE REGULAR MEETING ON AUGUST 3, 1993

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B. RESOLUTION NO. 93-123 - RESOLUTION AUTHORIZING THE SALE OF A LOT LOCATED ON SAND HILL ROAD

Summary: The City owns a lot on Sand Hill Road (PIN No. 9628.16-92-1814). Mr. Jerry Eury has made an offer for the purchase of this property in the amount of \$7,000, which offer was accompanied by 5% bid deposit. The offer was advertised and no upset bids have been received within the time required. The Asheville City Council has determined that it does not need this property for City purposes and desires to sell it to Mr. Eury. This resolution will authorize the sale of that lot located on Sand Hill Road (PIN No. 9628.16-92-1814) to Mr. Jerry Eury in the amount of \$7,000.

RESOLUTION BOOK NO. 21 - PAGE 95

C. RESOLUTION NO. 93-124 - RESOLUTION AUTHORIZING THE SALE OF A LOT LOCATED OFF MT. CARMEL ROAD

Summary: The City owns a lot off of Mt. Carmel Road (PIN No. 9720.17-01-7167). Mr. and Mrs. Winston Martin have made an offer for the purchase of this property in the amount of \$10,000, which offer was accompanied by 5% bid deposit. The offer was advertised and no upset bids have been received within the time required. The Asheville City Council has determined that it does not need this property for City purposes and desires to sell it to Mr. and Mrs. Martin. This resolution will authorize the sale of that lot located off Mt. Carmel Road (PIN No. 9720.17-01-7167) to Mr. and Mrs. Winston Martin in the amount of \$10,000.

RESOLUTION BOOK NO. 21- PAGE 96

D. RESOLUTION NO. 93-125 - RESOLUTION AUTHORIZING SUBMITTAL OF GRANT TO NORTH CAROLINA HUMANITIES COUNCIL FOR STATION 26 OF THE URBAN TRAIL

Summary: The City, on behalf of the Urban Trail and its Station 26 subcommittee, is applying for a North Carolina Humanities Council Grant. Monies would be used for the research, design and installation of Station 26 in the South Pack Square Area.

RESOLUTION BOOK NO. 21 - PAGE 97

E. RESOLUTION NO. 93-126 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AND EQUIPMENT AT PUBLIC AUCTION

Summary: This resolution will authorize the Purchasing Director to sell additional surplus motor vehicles and -15-

miscellaneous office furnishings and equipment at public auction. The estimated additional revenue from the auction is \$1,500.

RESOLUTION BOOK NO. 21 - PAGE 98

F. RESOLUTION NO. 93-127 - RESOLUTION REAPPOINTING MEMBERS TO THE MINORITY BUSINESS COMMISSION

Summary: The terms of Ron Blythe, as the representative of the Asheville Business Development Center, and Michael Linney, as the representative of the YMI Cultural Center, expired on August 1, 1994. This resolution will reappoint both members for a one year term respectively, both terms to expire August 1, 1994, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 104

G. RESOLUTION NO. 93-128 - RESOLUTION APPOINTING MEMBERS TO THE BELE CHERE COMMISSION

Summary: Resolution No. 93-45 allows the City Council to appoint two members to the Bele Chere Commission. This resolution will appoint Marvin Chambers, 2 Lakewood Drive, Asheville, N.C., and Rocky Fulp, 12 Highland Street, Asheville, N.C., to serve two year terms respectively, both terms to expire August 17, 1995, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 105

H. RESOLUTION NO. 93-129 - RESOLUTION ENDORSING THE APPOINTMENT OF A MEMBER TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Summary: Logan Delany has resigned as a member of the Housing Authority and the Mayor has appointed Cleatus B. Tate, 171 Pearson Drive, Asheville, N.C., to fill the unexpired term of Mr. Delany, term to expire June 11, 1994, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 106

I. RESOLUTION NO. 93-130 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: The terms of Alison Arnold, Peter Loewer, J. Lowell Orbison and Joey Moore expired on August 1, 1993. -16-

This resolution will reappoint Peter Loewer, PO Box 5039, Asheville, N.C., 28803; J. Lowell Orbison, 60 Brookwood Road, Asheville, N.C., 28804; and Joey Moore, 9 Edgedale Drive, Asheville, N.C., to serve additional three year terms respectively, terms expiring August 1, 1996. This resolution will also appoint Rick Crawford, 172 St. Dunstons Road, Asheville, N.C., 28803, to serve a three year term, term expiring August 1, 1996. All appointments are until

their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 107

J. MOTION SETTING A PUBLIC HEARING FOR AUGUST 31, 1993, TO REZONE 401 OLD COUNTY HOME ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

K. MOTION SETTING A PUBLIC HEARING FOR AUGUST 31, 1993, RELATIVE TO AMENDING RULE 17 OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE COMMISSION OF THE CITY OF ASHEVILLE

L. MOTION SETTING A PUBLIC HEARING FOR AUGUST 31, 1993, TO PROVIDE FOR THE

ZONING OF SECTION II OF BRAESIDE AT BILTMORE PARK LOCATED ON OVERLOOK ROAD

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

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

Ms. Mary Weber, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following actions were taken by the Planning and Zoning Commission on August 4, 1993:

THOMS REHABILITATION HOSPITAL ADDITIONS AND RENOVATIONS

Ms. Weber said that Thoms Rehabilitation Hospital has proposed an 18,500 sq. ft., two-story addition to their facility. The addition will consist of a new - 17-

kitchen/cafeteria and 20 new patient beds. The property is zoned Office-Institutional and is surrounded by single-family, commercial, and light industrial uses. The project meets or exceeds the requirements of the Asheville Zoning Ordinance, including parking and landscaping. In addition, all utilities and the Fire Department have approved availability of services to the site. At their August 4, 1993 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

HAMPTON INN

Ms. Weber said that South Asheville Hotel Associates is proposing the construction of a Hampton Inn at 204 Tunnel Road. The 59,600 sq. ft. hotel will consist of 121 rooms and be five stories in height. While the site and all adjacent properties are zoned commercial highway, residential development abuts the property on the north and east. Buckstone Drive will be widened and improved to provide access to the site. In addition, a single-family house and a commercial building fronting on Tunnel Road will be demolished as a result of the project.

The project meets the requirements of the Asheville Zoning Ordinance, including parking and landscaping.

Also, all utilities have approved the availability of services to the site. At their August 4, 1993 meeting, the Planning and Zoning Commission voted to recommend approval of the Hampton Inn with one condition. The condition is that the Fire Department must approve the availability of adequate fire protection to the site. She stated that the condition has been met.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

SLEEP-IN MOTEL/BILTMORE

Mr. Nicholson said that the proposed Sleep-Inn Hotel will be located off of Hendersonville Road between the I-40 exit and the Quality Inn near Biltmore Village. The developer is Biltmore Dairy Farms and the engineer is Bill Lapsey. The site was formerly used as a maintenance vehicle service yard for the Biltmore Dairy processing plant. The -18-

site is graded flat with steep wooded sites to the southwest. The site is zoned Commercial-Service and adjacent zones include C-S with the Quality Inn to the north, I-40 to the south, US-25 to the east, and Biltmore Forest to the west.

The proposed structure is for a 3-story hotel with a total of 100 rooms. It will be constructed in 2 phases: the first phase will be 25,000 square feet with 64 rooms, and the second phase will be 11,180 square feet with 34 rooms. The site plan meets the parking requirements of the City's ordinance. Access will be at an existing driveway off of US 25 which is presently used for the Quality Inn. The plan meets the landscaping requirements including street trees, parking lot trees, and a buffer which is already existing on the steep slope.

There has been contact from several people requesting information about the project. Three have voiced concern about the additional traffic which would be generated on Hendersonville Road. The NCDOT were not required to issue a permit for the project because the hotel will utilize an existing driveway where there is already a traffic signal, so they did not think it warranted a review.

The project has received approval for sewer availability and fire protection. The application for water availability is still being processed but Planning staff has been told that it will be issued soon. At their August 4, 1993 meeting, the Planning and Zoning Commission approved the project with two conditions. The first condition was to obtain a letter for water availability and the second was to add an additional fire hydrant to the site. She said that both conditions have been met.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

ASHEVILLE MALL - DEPARTMENT STORE ADDITION

The Asheville Mall is proposing a 38,261 square foot expansion for a new department store. The developer is R.L. Coleman and the architect is Danie Johnson. The site is zoned Commercial-Highway and adjacent zones include C-H to the north and to the east, and Residential-3 and the Kenilworth neighborhood to the south and west. The proposed expansion involves adding a second story to the area above Uptons and Woolworths. The building footprint itself will not be expanded. The height of the addition will be between -19-

37 and 40 feet high, about the same height as the adjoining Sears Department store. The mall has adequate existing parking for the expansion. Access will continue to be from the existing driveways off of Tunnel Road and White Pine Drive.

The vegetative buffering existing on the site meets the requirements of the ordinance. Planning and Code Enforcement staff recently visited the site to inspect the buffer to ensure there are no gaps in it.

There have been concerns expressed by an individual representing the Kenilworth Neighborhood Association. His concerns have been about the lighting, hours of construction, noise, adequacy of the buffer, amount of parking, and the narrow width of the 2-lane access road behind the mall.

We have received letters indicating that the expansion will have adequate sewer and water availability and fire protection. At their August 4, 1993 meeting, the Asheville Planning and Zoning recommended approval of the site plan.

Mr. Phil Noblitt, 297 White Pine Drive and President of the Kenilworth Forest Homeowners Association, asked that a public hearing be set on this group development at which time the Association would ask for conditions to be set on the group development.

Mr. Rick Coleman spoke against a public hearing being set due to the fact that the issues the Homeowners Association would raise do not relate to this group development.

Councilman Moore moved to set a public hearing on this matter on August 31, 1993. This motion died for a lack of a second.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. JOHNNIE CLARKE COMMENTS

Mr. Johnnie Clarke, 134 Liberty Street in Oakley, solicited the Council's support against illegal dumping in the wetlands.

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C. ASHEVILLE/BUNCOMBE UNITED PUBLIC WORKERS

Mr. Freddie Mitchell, spokesman for the Asheville/ Buncombe United Public Workers, read a prepared statement urging the City Council to take seriously a request from the Civil Service Board to investigate two recent harassment grievances from the Water Department.

D. MONROE GILMORE COMMENTS

Mr. Monroe Gilmore urged the Council to do a thorough investigation of the two grievances filed by Water Department employees.

Vice-Mayor Ellison said that Council will gather additional information and then address the letter received from the Civil Service Board.

Councilman Peterson said that everyone would be given fair and equal representation.

E. CLAIMS

City Manager Bean said the following claim has been received by the City of Asheville during the week of August 2-6, 1993: Murray Nicodemus (Sanitation).

He said this claim has been referred to the appropriate insurers for investigation.

F. LAWSUITS

City Manager Bean said that the City was served with the following lawsuit on August 12, 1993: North Carolina Department of Transportation (condemnation).

He said this lawsuits has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT

Vice-Mayor Ellison adjourned the meeting at 6:50 p.m.

CITY CLERK MAYOR
