

Tuesday - February 15, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-34 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE NANCY CLARKE

City Manager Farris read the resolution stating that Nancy Clarke has been an employee for seven years and has requested retirement from her position as Recreation Center Director II. He expressed City Council's appreciation to Nancy for her service to the City of Asheville and its citizens.

Resolution No. 94-34 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 254

B. RESOLUTION NO. 94-35 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE LEE PRUETT JR.

Mayor Martin read the resolution stating that Lee Pruett Jr. has been an employee for 20 years and has requested retirement from his position as Sanitation Area Supervisor. He expressed City Council's appreciation to Lee for his service to the City of Asheville and its citizens.

Resolution No. 94-35 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 255

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING SECTION 30-9-3D.6. OF THE CODE ORDINANCES REGARDING POLITICAL SIGNS

ORDINANCE NO. 2076 - ORDINANCE AMENDING SECTION 30-9-3D.6. OF THE CODE ORDINANCES REGARDING POLITICAL SIGNS

Mayor Martin opened the public hearing at 4:14 p.m.

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

Ms. Julia Cogburn summarized and explained the proposed amendments as follows: (1) elimination of the restriction of two signs per lot; (2) allowing signs for up to forty-five (45) days prior to a general election, rather than thirty (30) days and (3) clarification that the -2-

time limitations found in the zoning ordinance do not apply to billboards. She stated that this section of the ordinance would be enforced like any other section in the zoning ordinance, i.e., through the Code Enforcement Division.

Councilwoman Sitnick encouraged citizens to remove the signs as soon as possible after the election.

Mayor Martin closed the public hearing at 4:19 p.m.

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

Councilman Swicegood moved for the adoption of Ordinance No. 2076. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2076 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 127

B. PUBLIC HEARING TO REZONE 68 AND 76 ACTON CIRCLE FROM NC NEIGHBORHOOD COMMERCIAL TO CH COMMERCIAL HIGHWAY, WITH THE EXCEPTION OF A 20 FOOT WIDE STRIP RUNNING ALONG ACTON CIRCLE WHICH SHALL REMAIN ZONED NC NEIGHBORHOOD COMMERCIAL

ORDINANCE NO. 2077 - ORDINANCE TO REZONE 68 AND 76 ACTON CIRCLE FROM NC NEIGHBORHOOD COMMERCIAL TO CH COMMERCIAL HIGHWAY, WITH THE EXCEPTION OF A 20 FOOT WIDE STRIP RUNNING ALONG ACTON CIRCLE WHICH SHALL REMAIN ZONED NC NEIGHBORHOOD COMMERCIAL

Mayor Martin opened the public hearing at 4:24 p.m.

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

Ms. Carol Pennell, Urban Planner II, said the two lots in question (PIN Nos. 9617-11-66-6973 and 9617-11-66-4779) are currently zoned NC Neighborhood Commercial but utilized as residential, with single-family detached structures. Located at the sharp corner of Acton Circle, these lots were zoned NC Neighborhood Commercial in 1991 by Council as part of the E.T.J. expansion in the west of Asheville. The Planning and Zoning Commission recommended the rezoning from NC Neighborhood Commercial District to CH Commercial Highway District, with the exception of a 20 foot wide strip immediately adjacent to and extending parallel to Acton Circle, which 20 foot strip would remain zoned NC Neighborhood Commercial District. She stated the Planning & Zoning Commission's intent by leaving the 20 foot strip was to limit access onto Acton Circle, thus alleviating traffic and safety concerns.

Mr. Jim Edmonds, attorney representing Frances Ball, spoke in support of rezoning both properties CH Commercial Highway and not leaving the 20 foot strip zoned NC Neighborhood Commercial. He asked for the same treatment as all the other businesses in the vicinity have, i.e., access on Acton Circle and Highway 19-23. He said that the plan is to combine these two properties (his clients and the Doug Thrash's property) with the property which presently fronts Highway 19-23 (owned -3-

by Doug Thrash). He stated that the main access would be off of Highway 19-23. He said that the two out of the three people who spoke in opposition of the total rezoning to CH were by individuals who did not live on Acton Circle. He asked Council to allow one access onto Acton Circle (with some modifications) that would benefit both pieces of property.

Ms. Pennell responded to Councilman McClure's questions relative to the inconsistency of zoning around the Acton Circle/Monte Vista area. She also responded to questions regarding what uses are permitted in a NC Neighborhood Commercial District and the need for a transitional zone.

Mr. Doug Trash, owner of one of the properties being requested to be rezoned, spoke of the need to rezone these properties CH Commercial Highway and echoed some of Mr. Edmonds' remarks. He also asked Council to allow one access onto Acton Circle that would benefit both pieces of property.

Mr. Bill Best, resident of 35 Acton Circle and the third person who spoke in opposition of the total rezoning to CH Commercial Highway, stated that he and three other property owners on Acton Circle now are not opposed to the total rezoning to CH Commercial Highway.

Mr. W. C. Johnson spoke in favor of the total rezoning to CH Commercial Highway.

Ms. Jan Moore, resident on Monte Vista Road, asked Council to keep the 20 foot strip zoned NC Neighborhood Commercial in order to keep additional traffic off of Acton Circle.

City Attorney Slawter pointed out to the Council that if a shopping center were built on the site with CH zoning and an NC buffer strip along Acton Circle, that the zoning ordinance might prevent some stores in the shopping center from having vehicular access to Acton Circle while allowing other stores to have access.

Mayor Martin closed the public hearing at 5:10 p.m.

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

Councilman Swicegood moved for the adoption of Ordinance No. 2077, which will rezone the two properties described above CH Commercial Highway, with the exception of a 20 foot wide strip immediately adjacent to and extending parallel to Acton Circle, which 20 foot strip would remain zoned NC Neighborhood Commercial District. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 4-3, Ordinance No. 2077 passed on its first reading, with Councilwomen Field and Sitnick and Councilman McClure voting "no".

Vice-Mayor Peterson moved to suspend the rules and proceed to the second and final reading of Ordinance No. 2077. This motion was seconded by Councilwoman Sitnick and carried unanimously.

On a roll call vote of 5-2, Ordinance No. 2077 passed on its second and final reading, with Councilwoman Field and Councilman McClure voting "no". -4-

ORDINANCE BOOK NO. 14 - PAGE 128

C. CONTINUATION OF PUBLIC HEARING TO REVIEW THE SCHEDULE OF RATES AND CHARGES OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

RESOLUTION NO. 94-36 - RESOLUTION ISSUING ORDERS REGARDING THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE

City Attorney Slawter said that this is a continuation of a public hearing

opened on December 14, 1993. He then reviewed the background surrounding this matter by saying that on December 22, 1993, TCI filed its rate schedule with the City of Asheville. However, due to the late submittal of the rate schedule by TCI, the Council continued its public hearing until this date. TCI has not submitted a cost-of-service showing which would justify a rate schedule other than that permitted under FCC standards. The FCC Form 393 submitted by TCI to the City of Asheville indicates that its current rate for basic service tier in the amount of \$9.77 exceeds the maximum rate permitted by the FCC for basic service tier in the amount of \$9.55. The FCC Form 393 submitted by TCI to the City of Asheville indicates that its charges for basic service tier installations all exceed the amount permitted by the FCC for those charges. The FCC Form 393 submitted by TCI to the City of Asheville also shows that its current rate for cable programming service tier in the amount of \$11.17 exceeds the maximum rate permitted by the FCC for cable programming service tier in the amount of \$10.91.

He said the resolution before the Council reads that (1) in that TCI has not submitted a cost-of-service showing which would justify a rate schedule other than that permitted under FCC standards and, pursuant to 47 C.F.R. sec. 76.940, the City of Asheville hereby orders TCI to implement a reduction in basic service tier and associated equipment rates to bring them into compliance with the standards set forth in 47 C.F.R. secs. 76.922 and 76.923; (2) in that TCI has not submitted a cost-of-service showing which would justify a rate schedule other than that permitted under FCC standards and, pursuant to 47 C.F.R. sec. 76.941, the City of Asheville hereby determines that the rates for basic service tier and associated equipment currently charged by TCI and set forth on FCC Form 393 submitted by TCI are unreasonable in that they exceed the maximum rates permitted by FCC standards. The City of Asheville further prescribes the permitted rate of \$9.55 as a reasonable rate for the basic service tier and hereby prescribes as reasonable charges for basic service tier installations those charges shown under the "Permitted" column on page 2 of Part I of the FCC Form 393 submitted by TCI to the City of Asheville; (3) in that TCI has not submitted a cost-of-service showing which would justify a rate schedule other than that permitted under FCC standards and, pursuant to 47 C.F.R. sec. 76.942, the City of Asheville hereby provides notice to TCI that it intends to order TCI to refund to subscribers previously paid rates for basic service tier and charges for related equipment, installation and service to the extent that the previously paid rates and charges exceed the rates and charges permitted by FCC standards. The City of Asheville intends to order a refund for the period from the date TCI implements the prospective rate reduction ordered in Section 1 above back in time to September 1, 1993, with interest on the refunds computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments. In that 47 C.F.R. sec. 76.942 requires that the City of Asheville give TCI notice and opportunity to comment on this order of refund, the City of Asheville hereby continues -5-

this public hearing until March 1, 1994, for the purpose of receiving comment on the order for refund; and (4) in that the rates for cable programming services currently charged by TCI exceed those permitted by FCC standards and in that 47 C.F.R. sec. 76.950 provides that franchising authorities may file with the FCC a complaint challenging the reasonableness of a cable operator's rate for cable programming service, the Asheville City Council hereby directs the City Manager to file FCC Form 329 to challenge the reasonableness of the rates charged by TCI for cable programming service.

Mr. Julian Price, resident on Battery Park Avenue, asked Council to urge TCI Cablevision to furnish cable services to his area in downtown.

When Councilwoman Sitnick questioned whether the 1968 franchise could be re negotiated in order to be more favorable for the City, Mr. Dan Martin, General

Manager of TCI Cablevision, said that he would be open to discuss that with City officials. Mayor Martin instructed the City Manager to arrange that meeting.

Mr. Martin responded to Council's questions as they related to why some areas in the City has cable and why some don't. He stated that Buncombe County has adopted TCI Cable's Form 393 and hoped the Council would do the same.

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

Councilwoman Field moved for the adoption of Resolution No. 94-36. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 256

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF THE BROADWAY WIDENING PROJECT

Councilwoman Field reported that the Transportation Advisory Commission ("TAC") meeting has been rescheduled until February 28, 1993. She said that at the special meeting of the TAC earlier in February, the Broadway Improvement Project group wanted to meet with NC DOT officials before the City Council dealt with this issue. That meeting has been scheduled for Wednesday, February 16, 1994. Therefore, Councilwoman Field said that she would introduce a motion at the end of this meeting to recess this Council meeting and reconvene on Tuesday, February 22, 1994, at 2:00 p.m., in the Civic Center in the old Art Museum space to deal with the issue of the Broadway Widening Project.

B. FIRST READING OF THE STORMWATER MANAGEMENT ORDINANCE

Councilman McClure moved to postpone the first reading of this ordinance until March 22, 1994. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

C. RESOLUTION AUTHORIZING INSTALLATION OF SIDEWALKS ON HAYWOOD STREET

City Manager Farris asked that this resolution be tabled.

At the request of City Manager Farris, Councilwoman Field moved to have the City Manager come back to the Council with a City policy on -6-

public improvements in downtown so Council wouldn't have to deal with these issues on a case by case basis. This motion was seconded by Councilwoman Sitnick and carried unanimously.

IV. NEW BUSINESS:

A. ORDINANCE NO. 2078 - ORDINANCE AMENDING THE REPRESENTATION ON THE ASHEVILLE DOWNTOWN COMMISSION

City Attorney Slawter said that the Buncombe County Board of Commissioners have requested that their representation on the Asheville Downtown Commission be eliminated and that in place of that representation, the Board of Commissioners appoint two members to the Asheville Downtown Commission.

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

Councilwoman Field moved for the adoption of Ordinance No. 2078. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2078 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 130

B. BIDS RELATIVE TO AWARDING 14 VEHICLES CONSISTING OF 1 MINI VAN, 2 UTILITY TYPE TRUCKS AND 11 TRUCKS (VARIOUS SIZES)

City Manager Farris asked that Council delete the seven passenger mini-van in the amount of \$13,649 from the bid summary. He said that the mini-van deletion would reduce the total bid award to \$262,873.80. He then summarized the bid awards as follows: Matthews Ford Inc. in the amount of \$140,991.80, Parkway Chevrolet Inc. in the amount of \$31,905.00, Carolina Truck and Body Company in the amount of \$42,769.00, and MAP Enterprises Inc. in the amount of \$47,208.00. A complete copy of the bid summary is attached hereto as Exhibit "A".

Upon inquiry of Councilman Swicegood, Parks and Recreation Director Ray Kisiah said that the aerial bucket truck is for tree trimming and this new one will replace the truck which is now 12-14 years old.

Councilman Swicegood asked the City Manager for a report on why the City's vehicle fleet has increased by 100 over the past 6 years.

Councilwoman Field moved to authorize bids be awarded as follows: Matthews Ford Inc. in the amount of \$140,991.80, Parkway Chevrolet Inc. in the amount of \$31,905.00, Carolina Truck and Body Company in the amount of \$42,769.00, and MAP Enterprises Inc. in the amount of \$47,208.00. This motion was seconded by Councilman Watts and carried unanimously.

C. ORDINANCE NO. 2079 - BUDGET AMENDMENT TO SET UP THE APPROPRIATION OF THE ENTIRE BUDGET FOR THE WEST CHAPEL ROAD PARK

City Manager Farris said that this budget amendment, in the amount of \$168,090, includes the change order for the sewer line relocation (\$51,089.41), appropriations for fencing, lighting, parking, ADA -7-

requirements, bleachers, dugouts, landscaping and other incidentals. He then asked Parks and Recreation Director Ray Kisiah to show the Council the site plan for the project and explain Phase 2 of the Park which will require additional appropriations.

Mr. Kisiah explained that the Biltmore School was the site of the South Asheville Little League. After the sale of this property to a private individual, the County furnished the funds (approximately \$337,000) for the purchase of 37 acres and the City agreed to develop the park area. \$306,000 has previously been appropriated to cover the cost of grading and preparing the site. He said the \$168,090 will begin the process and cover the cost of engineering charges, fencing, backstops, lighting, stone for access road and parking area, funds for ADA access and that landscaping which is required by City ordinance. Additional funds which will be required next year in the amount of approximately \$300,000 will include the construction of toilet facilities/concession stand, paving of access road, and off-street parking area, scorer's stand and storage building, additional bleachers, dugouts, signage, and additional landscaping. He felt the toilet facilities and concession stand will cost approximately \$125,000 out of the \$300,000. He then showed the Council the layout of the park itself.

Upon inquiry of Councilman Swicegood, Mr. Kisiah estimated an additional \$300,000 to finish the project.

Mr. Kisiah said that a Phase 3 of the project, on the remaining 12 acres, could be developed into one combination Babe Ruth/soccer field for an additional \$400,000. This amount would include the grading, fencing, lighting and extension of the road back to the field.

Mr. Kisiah answered questions raised by Vice-Mayor Peterson as they related to the floodplain area and the uses permitted on that area.

Councilwoman Sitnick stated outright that she was not opposed to little league. She felt that it was real important that the City begin to estimate up front the costs more accurately so the Council doesn't have to deal with these kinds of additional costs down the line.

Councilwoman Sitnick asked what the sale price was and what will be spent on this field. Mr. Kisiah responded that the property sold for \$1.2 million and it was his opinion at that time that it would take approximately \$1 million to replace the facilities that we had at Biltmore School. He said that the County participated by spending \$337,000 for the land purchase.

Councilwoman Sitnick asked whether the City was taking into consideration the stormwater regulations relative to this park. She suggested not paving the whole area and leaving some gravel or possibly the use of pervious materials for paving since the area already was in a floodplain zone. Mr. Kisiah stated that the \$306,000 already spent for grading and site preparation did provide for adequate piping to take care of stormwater runoff and he said that he would be willing to look into the other suggestions, but a cost factor of maintenance would need to be carefully considered.

Planning Director Julia Cogburn answered questions from Councilman McClure regarding variances in the floodplain area.

Councilwoman Sitnick asked how much has been spent on ballfields by the City. Mr. Kisiah responded that very little money has been spent -8-

on the development of ballfields because the funds that the City used were from federal grants.

Councilwoman Field stated that she thought the original arrangement with the City and County on this Park was to be a 50/50 split.

Vice-Mayor Peterson echoed Councilwoman Field's comments on the 50/50 split arrangement and felt that he was misled from the beginning since the County has only contributed \$337,000 for the land and the City is having to spend approximately \$800,000 for the replacement of the facilities. He said that the \$800,000 figure doesn't include the additional \$400,000 if the City chooses to build a combination Babe Ruth/soccer field on the remaining 12 acres.

Mr. Kisiah responded that he felt that unrealistic figures and expectations on construction played a big part in this project. He explained that the County originally said that they would pay \$250,000 and build the complex. He said that if the City were to maintain a ballfield built for \$250,000, the City would spend four times that amount in just maintaining it. He also mentioned that just the grading and site preparation contract alone was \$306,000. When he approached County Manager Bill McElrath about these figures, Mr. McElrath responded that the County did provide the money for the land and it now it is a City program.

Vice-Mayor Peterson and Councilman Swicegood questioned where the breakdown in the 50/50 split occurred since they were told by former City Manager Doug Bean that this project would be a 50/50 City/County project.

City Manager Farris said that he would check to see if there was an agreement of a 50/50 split and then talk to the County Manager. However, in speaking briefly with Mr. McElrath earlier, it was Mr. McElrath's understanding that the County's role in this was to buy the land and that the City would do the development.

When Councilwoman Field asked for a possible delay in this matter to get more information, Mr. Kisiah responded that with action today on the \$168,090, the field can be ready on May 1 when the season actually begins. However, if Council delays action for two weeks, the field cannot be ready until June 1.

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 Peterson moved for the adoption of Ordinance No. 2079. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2079 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 132

D. ORDINANCE NO. 2080 - BUDGET AMENDMENT TO INCREASE APPROPRIATIONS IN THE RIVER PARK PROJECT TO ACCEPT THE ADDITIONAL \$10,000 CONTRIBUTION FROM RIVERLINK

City Manager Farris said RiverLink has donated \$10,000 to the City of Asheville for further development of the French Broad River Park. This action will permit these funds to be placed in the proper accounting category for them to be used in the development of this park. -9-

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

Councilman McClure moved for the adoption of Ordinance No. 2080. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2080 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 134

E. ORDINANCE NO. 2081 - BUDGET AMENDMENT TO SET UP AN APPROPRIATION FOR CONSTRUCTION OF KAYAK/CANOE COURSE ON THE FRENCH BROAD RIVER

City Manager Farris said RiverLink has secured a grant from the State of \$30,000 in order to construct a canoe/kayak whitewater course on the French Broad River. This action is necessary to specifically appropriate the funds from this grant to this project. He said that an additional amount of approximately \$100,000 will be necessary to be raised from local funds by RiverLink before this project can become a reality.

Upon inquiry of Councilwoman Sitnick, City Manager Farris said that if RiverLink cannot raise the additional \$100,000, the Council may be in a difficult position of having to appropriate more money because the City has a \$30,000 grant for the project and it's difficult to stop a project once it's begun.

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

Councilman Swicegood moved for the adoption of Ordinance No. 2081. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2081 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 136

F. RESOLUTION NO. 93-37 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH PERRY M. ALEXANDER CONSTRUCTION COMPANY FOR THE GRADING AND SITE IMPROVEMENT WORK FOR BALLFIELDS ON WEST CHAPEL ROAD

City Manager Farris said that there is a sewer line currently located through the area where the West Chapel Road ballfields will be constructed. This sewer line needs to be replaced. The City has determined that the best method for the necessary replacement of this sewer line is to amend the current contract with Perry M. Alexander Construction Company to include the replacement of this sewer line as required by the Metropolitan Sewerage District. This change order is in the amount of \$51,089.41.

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

Councilwoman Sitnick moved for the adoption of Resolution No. 94-37. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 260

-10-

APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON JANUARY 25, 1994, AND FEBRUARY 1, 1994

At the request of Mr. Ralph Bishop, Mayor Martin removed the approval of the minutes of the regular City Council meetings held on January 25, 1994, and February 1, 1994, from the Consent Agenda in order to discuss them.

Mr. Ralph Bishop read a portion of the State law relative to full and accurate minutes being kept and open for inspection by the public. He said that his statements were not in the minutes of the January 25, 1994, nor the February 1, 1994, meetings.

Deputy City Clerk Maggie Burleson responded that she does not transcribe the City Council minutes verbatim.

City Attorney Slawter said it was his opinion that State law did not require verbatim minutes of Council meetings. He further stated that full and accurate minutes should include any action taken by Council and those must be recorded in the minutes, not everything said in a meeting.

Mayor Martin said that tapes of Council meetings are available for the public to listen to and they are kept for one year.

Mr. Bishop then read another State law relative to inspection and examination of records. He specifically wanted to know how he could get a copy of a certified tape recording of a meeting. City Attorney Slawter responded that certainly a copy of a tape can be made, but was unsure of exactly how someone

could certify the tape as a true copy, given the nature of tapes and their adaptability for change after having been certified. He said that he would look into this question.

Councilman Swicegood moved to approve the minutes of the regular meetings held on January 25, 1994, and February 1, 1994. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

V. CONSENT:

A. RESOLUTION NO. 94-38 - RESOLUTION AUTHORIZING THE INSTALLATION OF VARIABLE RATE PARKING METERS ON HAYWOOD STREET

Summary: A request has been made by merchants on Haywood Street for the installation of meters. This request is supported by the Downtown Association's Issues Committee and the Downtown Commission. Meters to be installed are in current inventory. Cost would be limited to the installation of poles - a cost of \$594 (\$22 per pole x 27 poles) which can be paid out of the Parking Division's equipment budget. This expense would be quickly recovered by revenue generated from the meters.

RESOLUTION BOOK NO. 21 - PAGE 261

B. RESOLUTION NO. 94-39 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE A GRANT APPLICATION WITH THE N.C. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY IN SUPPORT OF AN OLDER ADULT VICTIM OF CRIME SERVICES PROGRAM

Summary: The Police Department is applying for a 12-month grant to support implementation of a project providing victim services to all elderly crime victims. Costs are shared between the City (\$4,941) and the N.C. Department of Crime Control and Public Safety (\$9,175).

-11-

RESOLUTION BOOK NO. 21 - PAGE 262

C. MOTION SETTING A PUBLIC HEARING FOR MARCH 1, 1994, TO ZONE SECTION III OF BRAESIDE TO R-1 RESIDENTIAL DISTRICT

D. MOTION SETTING A PUBLIC HEARING FOR MARCH 1, 1994, TO REZONE 8 LOTS IN THE VICINITY OF THE INTERSECTION OF HAZEL MILL ROAD AND LOUISIANA AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT (PLANNING & ZONING COMMISSION RECOMMENDED REZONING TO OI OFFICE INSTITUTIONAL DISTRICT)

E. MOTION SETTING A PUBLIC HEARING FOR MARCH 1, 1994, TO REZONE THREE LOTS NEXT TO 185 BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

F. MOTION SETTING A PUBLIC HEARING FOR MARCH 1, 1994, TO REZONE 59 WEST OAKVIEW ROAD FROM LI LIGHT INDUSTRIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT

Councilman McClure moved to approve the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Mike Matteson, 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. He 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. He said the following actions were taken by the Planning and Zoning Commission on February 2, 1994:

CLUBHOUSE CONDOMINIUMS

Mr. Matteson said that Elbert Brown, Jr., is requesting approval for the Clubhouse Condominiums, a 12-unit residential project to be located in the northwest corner of the Asheville Racquet Club property. The Asheville Racquet Club is located off Hendersonville Road, with access to the project site provided by Racquet Club Drive, a private road. The 0.88 acre project site is zoned R-3 and the proposed development complies with all requirements of the City's zoning ordinance. Three buildings, each containing 4 units, are proposed for the development. The buildings will be two stories tall. Availability of water and fire protection has been approved for the project. Approval of a sewer allocation for the project has been delayed by the construction of a new sewer line along Hendersonville Road. Concern was expressed by an adjacent property owner regarding potential traffic problems at the intersection of Racquet Club Road and Hendersonville Road.

Following the review of the site plan on February 2, 1994, the Planning and Zoning Commission voted unanimously to approve the project with one condition: Receipt of a letter from MSD approving a sewer allocation for the project.

Upon inquiry of Councilwoman Sitnick about stormwater development regulations, Planning Director Julia Cogburn said that the City can't require developers to meet those regulations at this time, however, some developers already addressing stormwater runoff. -12-

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

THE SUMMIT/INN AT THE RIDGE

Mr. Matteson said that the Summit/Inn at the Ridge is proposing the Phase II development of the retirement community located at 100 Riceville Road, adjacent to the VA Hospital. Mountain Health Services, Inc., is the developer of the project. A site plan for the development was approved by the City in January, 1993. This approval has lapsed and the developers have revised and resubmitted plans for Phase II of the project. Phase II consists of a three-story, 35,600 sq. ft. building which will house 60 catered living units.

The site area for this phase of the project is 1.9 acres and is zoned Office Institutional. Surrounding property is owned by the federal government and the proposed building is adequately buffered from surrounding land uses. Parking and landscaping required by the City will be provided as part of the development. The project has received a wastewater allocation from MSD, but approval of water availability and fire protection has not been received. There was no public opposition to the project.

Following review of the plans on February 2, 1994, the Planning and Zoning Commission voted unanimously to approve the plans with the following conditions:

1. Receipt of a letter confirming the availability of water; and

2. Receipt of a letter confirming the availability of fire protection.

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

B. RESOLUTION NO. 94-40 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE A GRANT APPLICATION WITH THE N.C. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY IN SUPPORT OF A FEAR REDUCTION THROUGH COMMUNITY POLICING PROGRAM

City Manager Farris said that the Police Department is seeking federal funding to support the implementation of community policing in the City which will entail the hiring of five police officers. The grant period is for 24 months beginning July of 1994. The Fiscal Year 1994-95 local match is \$69,908 (federal share \$209,725) and the fiscal year 1995-96 local match is \$60,032 (federal share \$180,097).

He said that there might be some long range budget repercussions because after the grant money runs out, the City will need to consider keeping those five additional officers on the payroll.

Councilman Watts thought this program will be very effective for the City.

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

Councilman Watts moved for the adoption of Resolution No. 93-40. This motion was seconded by Councilwoman Sitnick and carried unanimously. -13-

RESOLUTION BOOK NO. 21 - PAGE 263

C. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of January 24-28, 1994: Judy Ann Worley (Water), Debra Jennings (Civic Center), Bonnie Smith (Water), Thomas Blair (Streets), Hank Komodowski (Water), Forrest London (Streets) and Betsy Ball (Water).

He said that the following claims were received by the City during the week of January 31 - February 4, 1994: Paul Korth (Water), Howard Lamont (Streets), Garland Roberts (Streets), Angeline McKinney (Water), Michael Hare (Water), Megan Johnson (Water), Joyce Lance (Water) and Phillip and Kathie King (Streets).

He also stated that the following claims were received by the City during the week of February 7-11, 1994: Chris Pulliam (Water), Wade Faulkner (Water), Ed Siler (Fire), Ron Davis (Water), Barbara Brank (Water), Floyd Jay Shelton (Water), Melissa Garrison (Water) and Colleen Baldwin (Parks).

He said that these claims would be referred to the appropriate insurers for investigation.

D. LAWSUIT

City Manager Farris said that the City was served with a lawsuit on February 9, 1994, from Sharon Maxwell (Personal Injury).

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

E. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop questioned Council's Rules and Procedures as they related to ordinances being read when requested by the public.

VII. RECESS:

At this time, 6:05 p.m., Councilwoman Field moved to recess this meeting to reconvene on Tuesday, February 22, 1994, at 2:00 p.m. in the Asheville Civic Center in the old Art Museum space to take up the issue of consideration of the Broadway Widening Project. This motion was seconded by Councilwoman Sitnick and carried unanimously.

CITY CLERK MAYOR
