

Tuesday - April 19, 1994 - 4:00 p.m.

Asheville Civic Center - Banquet Room

Regular Meeting

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

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-69 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE WADE COLE

City Manager Farris read the resolution stating that Wade Cole has been an employee for 18 years and has requested retirement from his position as Auto Mechanic. He expressed City Council's appreciation to Wade for his service to the City of Asheville and its citizens.

Resolution No. 94-69 was adopted by acclamation.

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B. RESOLUTION NO. 94-70 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RICHARD VINCIL

City Manager Farris read the resolution stating that Richard Vincil has been an employee for 12 years and has requested retirement from his position as Labor Crew Supervisor. He expressed City Council's appreciation to Richard for his service to the City of Asheville and its citizens.

Resolution No. 94-70 was adopted by acclamation.

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C. RESOLUTION NO. 94-71 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RAY RAGAN

City Manager Farris read the resolution stating that Ray Ragan has been an employee for 21 years and has requested retirement from his position as Traffic Signal Supervisor. He expressed City Council's appreciation to Ray for his service to the City of Asheville and its citizens.

Resolution No. 94-71 was adopted by acclamation.

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D. RESOLUTION NO. 94-72 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE TOMMY PROPOST

City Manager Farris read the resolution stating that Tommy Propost has been an employee for 10 years and has requested retirement from his position as a Welder. He expressed City Council's appreciation to Tommy for his service to the City of Asheville and its citizens. -2-

Resolution No. 94-72 was adopted by acclamation.

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E. PROCLAMATION PROCLAIMING APRIL 23, 1994, AS "HEALTHY KIDS DAY"

Mayor Martin proclaimed the week of April 23, 1994, as "Healthy Kids Day" in the City of Asheville.

E. PROCLAMATION PROCLAIMING MAY 1994 AS "MOTORCYCLE AWARENESS MONTH"

Mayor Martin proclaimed May 1994 as "Motorcycle Awareness Month" in the City of Asheville.

F. PROCLAMATION PROCLAIMING MAY 2-6, 1994 AS "RESPECT FOR LAW WEEK"

Mayor Martin proclaimed May 2-6, 1994 as "Respect for Law Week" in the City of Asheville.

G. PROCLAMATION PROCLAIMING MAY 5, 1994 AS "NATIONAL DAY OF PRAYER"

Mayor Martin proclaimed May 5, 1994 as "National Day of Prayer" in the City of Asheville.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING 144 BEAVERDAM ROAD FROM R-1 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL DISTRICT

ORDINANCE NO. 2096 - ORDINANCE TO REZONE 144 BEAVERDAM ROAD FROM R-1 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL DISTRICT

Mayor Martin opened the public hearing at 4:25 p.m.

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

Mr. Tony Nicholson, Urban Planner, said that a rezoning petition was submitted by David Thompson, representing Ada Deal Estate, requesting a change from R-1 (single family residential) to CG Commercial General for the 1.08 acre tract located at 144 Beaverdam Road (PIN No. 9740-15-53-1108).

The City's Planning staff has recommended that this rezoning be approved for the following reasons:

1. The 2010 Plan designates this property as being within a transitional area between the commercial business center at the intersection of Merrimon Avenue and Beaverdam Road and the institutional uses of Jones Elementary and Asheville Catholic School.

2. The CG Commercial General District is intended to serve the needs of the surrounding residential neighborhoods, while excluding businesses which may be nuisances.

3. The subject property is adjacent to CH Commercial Highway zoning.

4. The majority of the surrounding property is developed for non-residential use.

The Planning and Zoning Commission has considered this request and recommends that it be approved on a 6-1 vote.

A representative of Timbers Condominiums (consisting of 81 units), spoke in opposition of the rezoning request because they did not know how the property would be used and felt that there is already too much traffic on Beaverdam Road.

After Mr. Nicholson stated that the petitioner's proposed use of the property, City Attorney Slawter reminded the Council that in any rezoning the Council must be convinced that any use allowed in the new zoning designation must be appropriate for the site rather than merely the particular use that the applicant may have in mind since that use may change at any time.

At the request of Councilwoman Sitnick, Mr. Nicholson stated the uses allowed in the CG Commercial General District.

Dr. David Thompson, petitioner, read a statement to Council and a letter which he sent to the neighbors indicating how they extensively worked with the neighborhood addressed their concerns by meeting several times with the Grace Neighborhood Association. He also presented Council with three letters from clients who supported the rezoning request.

Dr. Jack Taylor also spoke in support of the proposed rezoning.

Councilwoman Sitnick expressed her appreciation to the petitioner working with the neighborhood on this rezoning. She asked that the traffic concerns be addressed.

Mr. Mike Lewis, President of Grace Neighborhood Association, also endorsed the rezoning request.

Mr. Frank Schepis, resident on Manetta Road, also spoke in support of the rezoning request.

Mayor Martin closed the public hearing at 4:55 p.m.

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

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2096. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2096 passed on its first and final reading.

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B. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ALLOW BOARDING OF ANIMALS AT VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN CG COMMERCIAL GENERAL AND CH COMMERCIAL HIGHWAY DISTRICTS -4-

ORDINANCE NO. 2097 - ORDINANCE AMENDING CHAPTER 30 TO AMEND CONDITIONS REQUIRED OF VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN THE CG COMMERCIAL GENERAL AND CH COMMERCIAL HIGHWAY DISTRICTS

Mayor Martin opened the public hearing at 4:58 p.m.

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

Mr. Tony Nicholson, Urban Planner, said that this amendment would require that boarding of animals be permitted only within a totally enclosed building, operated by a licensed veterinarian and located on the same property where veterinary services are offered. The proposed amendment would apply within the CG Commercial General District and the CH Commercial Highway District.

Dr. Warren Riggle strongly supported the proposed amendment.

Mayor Martin closed the public hearing at 5:00 p.m.

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

Councilman McClure moved for the adoption of Ordinance No. 2097. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2097 passed on its first and final reading.

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C. PUBLIC HEARING DESIGNATING PROPERTY KNOWN AS THE J.M. WESTALL HOUSE AND LOCATED AT 62 EDGEWOOD ROAD AS A LOCAL HISTORIC LANDMARK

ORDINANCE NO. 2098 - AN ORDINANCE DESIGNATING PROPERTY KNOWN AS THE J.M. WESTALL HOUSE AND LOCATED AT 62 EDGEWOOD ROAD AS A LOCAL HISTORIC LANDMARK

Mayor Martin opened the public hearing at 5:01 p.m.

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

Ms. Maggie O'Connor, Historic Resources Director, said that the Historic Resources Commission unanimously recommended to City Council that the James Manassas Westall House located at 62 Edgewood Road be designated as a local historic landmark.

James Manassas Westall was a native of Buncombe County. He was born in Reems Creek on September 11, 1861, and died in Asheville on January 10, 1943, at the age of 81. He was elected to the Asheville City Council in 1893 on the Businessman's Reform Ticket and elected Mayor of the Town of Woolsey, North Carolina, in 1903.

Before starting the Westall Lumber business in 1906, J. M. Westall was one of Asheville's premier builders and contractors from 1884 to -5-

1906. He was known for his fine interior and exterior woodwork. Many of his buildings are still standing today such as: the Central Methodist Church on Church Street, Albemarle Inn on Edgemont Street, and several houses on East Chestnut including 184, 176, 166, 156, and 150.

Designation of this 1898 historic structure as a Local Historic Landmark makes the property owner eligible for a 50% reduction in property taxes. The Westall property taxes in 1993 were \$2,941.76. If designated, property taxes would be reduced by \$1,470.88 per year. In exchange for the property tax reduction,

restrictions are placed on the property and improvements including: any landscaping, exterior of the former barn and the house, and the interior of the main house.

Any modifications to the structures or land must receive a Certificate of Appropriateness from the Historic Resources Commission. All modifications must follow the Secretary of the Interior's Standards for Rehabilitation.

Mr. Jack Westall gave a brief history of the house.

Councilman Watts thanked Mr. Westall for the tour of the house.

Mayor Martin closed the public hearing at 5:08 p.m.

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

Councilman Watts moved for the adoption of Ordinance No. 2098. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 6-0, Ordinance No. 2098 passed on its first and final reading.

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D. PUBLIC HEARING RELATIVE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM'S PROPOSED STATEMENT OF OBJECTIVES AND PROJECTED USE OF FUNDS FOR FISCAL YEAR 1994-95

Mayor Martin opened the public hearing at 5:08 p.m.

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

Director of Community Development Marvin Vierra said that the City anticipates receiving \$1,630,000 through the CDBG Entitlement Program for 1994-95. This represents a 10% increase from the current year. The total budget including \$20,000 of program income will be \$1,650,000. The City has received requests for CDBG funds totaling \$2,440,895. The requests have been reviewed by the Housing and Community Development Committee. The Statement of Objectives was published in the newspaper on April 1, 1994. A public hearing was held on April 6, 1994, at Montford Community Center, at which time only two members attended.

The following is the proposed budget in the Statement of Objectives:

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Affordable Housing Coalition \$ 45,500

HOPE-1 Implementation 142,000

Hill/Cherry (Head of Montford) area 144,000

City Wide Housing Rehab 384,000

Neighborhood Housing Services 110,378

Mountain Housing Opportunities-Homeownership 120,000

Home Site Acquisition 20,000

Habitat for Humanity - Land Acquisition 175,000

South Pack Square Redevelopment 110,000

Trinity Place Shelter 4,000

Hillcrest Enrichment Program 52,739

Vanderbilt Apartments 38,258

Asheville-Buncombe Community Relations Council 18,380

C.D. Planning 30,000

Minority Business Program 74,354

C.D. Administration 181,391

Total Budget \$1,650,000

Mr. Vierra answered Council's questions as they related to what some of the programs entailed, why the 10% increase, and increases or decreases over prior years.

Vice-Mayor Peterson and Councilwoman Sitnick stated that Council is dedicated to taking care of housing needs in this community.

In response to a concern of Mr. Daniel Breen, Mr. Rich Mathews, Director of Neighborhood Housing Services, stated that the funds they receive are distributed throughout the City and not just targeted to one or two areas.

When City Attorney Slawter was asked by Councilman McClure if he had a conflict of interest because he was on the Board of Directors for Neighborhood Housing Services, Mr. Slawter felt there was no conflict.

Mr. Larry Holt, representative of the Housing Authority of the City of Nashville, spoke about city-wide housing being a major objective and the continuing of assisted housing in the Montford community.

Upon inquiry of Councilman Watts, Mr. Holt said that through the modernization program several playgrounds were being upgraded and he would look into the area around Erskine Street Apartments.

When Vice-Mayor Peterson questioned about the monitoring at Hillcrest, Mr. Holt said that as soon as proper licensing is obtained, the monitoring will continue, which will be hopefully before school lets out.

Councilwoman Sitnick asked about the use of CDBG funds for the needed computers at Hillcrest. Mr. Vierra stated that the computers would not be an eligible expenditure of CDBG funds. However, City Manager Farris stated that they would be an eligible expense out of the City's general funds.

Mayor Martin closed the public hearing at 5:36 p.m.

E. 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 -7-

RESOLUTION ORDERING TCI CABLEVISION OF ASHEVILLE TO PROVIDE REFUNDS TO SUBSCRIBERS

City Attorney Slawter briefed the Council on their actions to date and explained that this resolution would order TCI to provide a refund to subscribers back to September 1, 1993, as it relates to basic rates, which is approximately 22 cents a month. However, TCI has stated that if the Council orders the refund, they will increase other charges, where allowable, in order for them to become revenue neutral, thus resulting in 1/3 of their customers receiving a refund and 2/3's of their customers being charged more.

Mayor Martin closed the public hearing at 5:45 p.m.

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

With no motion being made, the resolution died.

III. UNFINISHED BUSINESS:

A. FIRST READING OF AN ORDINANCE REGULATING CONTROL OF STORMWATER

At the request of Stormwater Task Force, it was the consensus of Council to postpone this matter until May 3, 1994.

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-73 - RESOLUTION SUPPORTING ANTI-CRIME LEGISLATION BY CONGRESS TO STOP CRIME AND VIOLENCE IN OUR CITIES AND TOWNS

Councilwoman Sitnick stated that the resolution supports the enactment of anti-crime legislation by Congress so that resources and programs can be utilized to combat the crime problem in this nation.

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. 94-73. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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B. ORDINANCE AMENDING ARTICLE II (ABANDONED VEHICLES) OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

At the request of City Manager Farris, Vice-Mayor Peterson moved to continue this matter until May 3, 1994. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilwoman Sitnick raised several questions which she hoped would be addressed prior to the matter coming up again before Council. She stressed that there needed to be citizen responsibility, not only City responsibility in this ordinance. In specific sections, she questioned who would pay for what and felt that penalties in some -8-

instances would be warranted. She felt a provision of reimbursement to the City for administrative costs would be in order. City Attorney Slawter was able to address some of Councilwoman Sitnick's concerns when they related to statutory provisions.

C. RESOLUTION APPROVING INTERLOCAL AGREEMENT ON REGIONAL AIR POLLUTION CONTROL PROGRAM

At the request of City Manager Farris, Councilwoman Sitnick moved to continue this matter until May 3, 1994. This motion was seconded by Councilman McClure and carried unanimously.

D. ORDINANCE NO. 2099 - BUDGET AMENDMENT RELATIVE TO CLOSING OUT AND ADJUSTING VARIOUS PROJECTS IN THE STREET AND SIDEWALK IMPROVEMENT FUND

City Manager Farris said that this budget amendment, in the amount of \$1,269,041, brings the Street and Sidewalk Fund into agreement with approved and preliminary cost estimates for all projects that either currently exist or that we anticipate will occur within the next 6 to 12 months. New appropriations are for the Sondley Estates Project and Contract No. 10. Amendments to these project budgets provide for a 5% contingency and the expected charges for engineering design and inspection. These adjustments also account for the expected cost of construction.

The other actions in this amendment allow us to close completed projects, Contracts 5, 9 (Patton Avenue) and 11.

Most of the revenue to support these changes is from unbudgeted water and sewer utility work (the main reasons for the change orders). The additional revenue is from the projected fund balance. Sufficient revenue exists in the fund to support these change.

Upon inquiry of Vice-Mayor Peterson about the sidewalks on Wellington, Public Works Director Jim Ewing explained why construction would probably begin in late summer.

At the request of Councilman McClure, Mr. Ewing said that the figure for the Sondley Estates Project does include the reimbursement of \$100,000 from them for the street assessment process.

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

Councilwoman Sitnick moved for the adoption of Ordinance No. 2099. This motion was seconded by Councilman McClure.

On a roll call vote of 6-0, Ordinance No. 2099 passed on its first and final reading.

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E. ORDINANCE NO. 2100 - BUDGET AMENDMENT RELATIVE TO CLOSING OUT AND ADJUSTING VARIOUS PROJECTS IN THE WASTEWATER MASTER PLAN FUND

City Manager Farris said that this budget amendment, in the amount of \$530,592, sets up the appropriations for general engineering and right-of-way acquisition for minor sewer improvement projects that come -9-

up regularly each year. This amendment also creates appropriations for expenses that have already been incurred, i.e., bad debt expense (an uncollectable from MSD on the Broadway sewer upgrade completed several years ago) and the Azalea Road project (a prior annexation project) which is now complete. This budget amendment brings the fund into balance with its actual expenses. The fund has actual revenues well beyond these appropriations. These revenues will be used for obligations created by pending annexations.

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. 2100. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-0, Ordinance No. 2100 passed on its first and final reading.

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F. ORDINANCE NO. 2101 - BUDGET AMENDMENT TO APPROPRIATE CDBG MATCHING FUNDS FOR NC STATE HISTORIC PRESERVATION OFFICE FACADE GRANT FUNDS

City Manager Farris said that this budget amendment will appropriate NC State Historic Preservation Office (SHPO) grant funds and CDBG matching funds for the South Pack Square Facade Program.

The City has recently received approval of a grant from SHPO in the amount of \$5,000. Funding will be used for facade rehabilitation grants to property owners in the South Pack Square (Eagle/Market Streets) area. Matching funds for this grant in the amount of \$7,440 will come from CDBG program income.

The maximum grant per property owner will be \$2,000. The grant funds must be matched by the property owner. The maximum cost per project will therefor be \$4,000.

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

Councilman Watts moved for the adoption of Ordinance No. 2101. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2101 passed on its first and final reading.

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F. RESOLUTION AUTHORIZING STORMWATER IMPROVEMENTS

City Manager Farris said that this resolution would authorize the City Manager to spend approximately \$16,000 to solve drainage problems associated with an expansion of the Blue Ridge Center.

He said Council may recall reviewing a group development permit for Blue Ridge Center. Unfortunately, a problem with off-site drainage was not identified during the review of the plans for the project. Blue Ridge is prevented from directing the runoff from the site to Biltmore Avenue by the NC DOT because the drainage in this area is not adequate. -10-

An alternative is to use an existing 18" storm drain in Short Coxe Avenue/NC 25 at the rear of the site. This storm drain is not adequate to accommodate the volume of runoff to be generated on the Blue Ridge site, and downstream flooding or on-site flooding may result.

With the potential for creating flood problems, staff has not allowed Blue Ridge to connect to the Short Coxe Avenue/NC 25 storm drain without some provision for upgrade. Staff believes that the need for the upgrade is created by the project and that the project should bear the cost. However, we have offered to split the cost. The developer has not accepted this proposal and

requests the City pay the full cost of the upgrade. He recommended Council no approve the resolution.

Councilman McClure, reviewing the Planning & Zoning Commission minutes of when they approved the group development, noted that the stormwater concern was brought up by the Public Works Department at that time. He noted that it was discussed, and thus, the developer knew the City had a concern about the stormwater runoff.

Councilwoman Sitnick felt the City should not split the cost of \$16,000 since the stormwater runoff problems would be caused by the project.

Mr. Danie Johnson, architect and representative of Blue Ridge Services Inc., contended that they followed all the rules and obtained all required approvals for the group development. He noted that at the Planning & Zoning Commission meeting, they did discuss the stormwater concern, however, the Commission felt that the developer had adequately addressed that concern. He agreed that there is a problem with storm drainage in that area, however, they have already spent \$2,600 for engineering and design work for a system to reduce the flow onto Biltmore Avenue.

He said that on March 22, 1994, City Council accepted the Planning & Zoning Commission's report with no mention of the stormwater runoff problem. Now, they cannot obtain a street cut permit until the Public Works Department's concerns are resolved. He appealed to Council to reaffirm the established procedures and allow them to proceed without further hindrance. He felt the issue at this meeting was whether or not owners who comply with the established procedures can rely on the process.

Ms. Elizabeth Graham, member on the Planning & Zoning Commission, explained, to her recollection, that portion of the meeting.

Mr. Daniel Breen felt the City should not contribute any funds to this project and hoped Council passed a stormwater control ordinance soon.

Councilwoman Sitnick stated that the matter before the Council was whether or not to spend \$16,000 or \$7,500 for the project, not to reinforce established procedures.

City Manager Farris stated that if the City contributes \$7,500 to the project, it would be consistent with Council's stormwater policy which was adopted in 1992.

Councilman Swicegood felt it was perhaps an oversight of staff not to mention the stormwater concern when the matter was brought up for Council approval. He then moved to contribute \$7,500 for the project which he felt was more than fair. This motion was seconded by Councilman McClure.

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Mr. Johnson stated that his client would not accept the City's offer to split the cost.

As a result of Mr. Johnson's statement, Councilman Swicegood withdrew his motion to contribute \$7,500 to the project. Councilman McClure then withdrew his second.

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

Due to lack of a motion, the resolution died.

City Manager Farris reaffirmed that the City will continue to enforce their existing stormwater policy, which as it currently reads will prevent Blue Ridge Center from connecting to the Short Coxe Avenue/NC 25 storm drain without some provision for upgrade.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 31, 1994, AND APRIL 5, 1994

B. RESOLUTION NO. 94-74 - AWARDDING OF BIDS RELATIVE TO ANNUAL CONTRACT FOR ASPHALT MATERIALS

Summary: Sealed bids were invited to furnish the City's estimated annual requirement of asphalt materials for force account re-surfacing and street repair. One bid was received. Staff recommends entering into a contract with Asheville Division, APAC-Carolina Inc. for the purchase on an as needed basis only of approximately 6,550 tons assorted asphalt materials for a total of \$163,750. A copy of the complete bid summary is attached hereto as Exhibit "A".

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C. RESOLUTION NO. 94-75 - AWARDDING OF BIDS RELATIVE TO 10 BUS SHELTERS FOR THE ASHEVILLE TRANSIT AUTHORITY

Summary: Sealed bids were invited to furnish the Asheville Transit Authority with ten 6' x 12' bus shelters. Three bids were received. Staff recommends entering into a contract with the low bidder, Columbia Equipment Company Inc., Jamaica, N.Y., for ten Columbia Model 6x12SP bus shelters at \$3,815 each for a total bid of \$38,150. A copy of the complete bid summary is attached hereto as Exhibit "B".

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D. MOTION TO SET A PUBLIC HEARING ON MAY 3, 1994, RELATIVE TO AN APPEAL OF THE DECISION OF THE PLANNING AND ZONING COMMISSION RECOMMENDING DENIAL OF A REQUEST TO REZONE 10 LOTS ON CLINGMAN AND JEFFERSON FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

E. RESOLUTION NO. 94-76 - RESOLUTION APPOINTING MIKE HOLCOMBE TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary: This resolution will appoint Mike Holcombe, City's Director of Water Resources, to the MSD Board, to fill an unexpired term left by Charles Penny. His term will expire January 19, 1997, or until his successor has been duly appointed and qualified.

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F. RESOLUTION NO. 94-77 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT WITH THE NC STATE HISTORIC PRESERVATION OFFICE FOR FACADE GRANT FUNDING

Summary: See above Ordinance No. 2010.

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Councilman Swicegood moved for the adoption of the Consent Agenda. This motion

was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Tony Nicholson, 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 April 6, 1994:

SOUTH ASHEVILLE CINEMAS (ADDITION)

Mr. Nicholson said the South Asheville Cinemas is proposing the addition of two new cinemas to be located at the northeast corner of the existing building. The 8,000 square foot addition will entail a total of 654 new seats. While the property and all surrounding lots are contained within the Commercial Highway zoning district, surrounding land uses include commercial/retail, multi-family residential, and future offices. The proposed site plan meets or exceeds the minimum requirements of the zoning ordinance and the Fire Department has approved the availability of adequate fire protection for the addition.

At their April 6, 1994, meeting, the Planning and Zoning Commission voted to recommend approval of the South Asheville Cinemas addition with one condition, i.e., a letter confirming sewer availability must be obtained.

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

ST. JOSEPH'S HOSPITAL ADDITION TO RELOCATE THE CRITICAL CARE UNIT

Mr. Nicholson said that the proposal is for a 16,500 square foot, one-story addition to be located on the north side of the main hospital building which will house the hospital's Critical Care Unit. Additionally, the proposal involves the extension of an existing private drive. Access to the proposed addition will be from Biltmore Avenue. This site is zoned Office Institutional and the site plan meets all requirements of the City's zoning ordinance. Availability of fire protection and water availability have been approved. A sewer allocation has been applied for, but not yet received. This project has been properly advertised and there has been no public comment.

At their April 6, 1994, meeting, the Planning and Zoning Commission voted to unanimously recommend approval of the site plan with -13-

one condition, i.e., that a sewer allocation be approved by the Metropolitan Sewerage District. He said that this condition has been met.

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

B. SHILOH RESIDENTS ASSOCIATION

Mr. Washington, President of the Shiloh Residents Association, and others in the Shiloh community, urged Council to not to cease the concession stand at the Shiloh ballfield. They said that concession stand supports the finances for the

Shiloh Community Enrichment Program which employs 70 children in the community. Shiloh ballfield is the only ballpark concession stand that uses revenues to create employment for the youth in the area. They urged Council to find a solution so that the concession stand will continue to operate.

Mayor Martin instructed the City Manager to meet with the Shiloh Residents Association and the Director of Parks and Recreation to come up with a solution to their concerns.

C. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of April 4-8, 1994: Reva McMahan (Sanitation), Sidney Feldman (Water), Richard Cook (Water), and Stephanie Christiansen (Streets).

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

D. LAWSUITS

City Manager Farris said that the following lawsuits have been received by the City. (1) April 12, 1994 - Gregory G. Armento (copyright infringement and unfair and deceptive trade practices); (2) April 13, 1994 - Housing Authority v. Bates (condemnation); (3) April 13, 1994 - Housing Authority v. Jordan (condemnation); and (4) April 14, 1994 - Housing Authority v. Palyok (condemnation).

He said these lawsuits have been turned over to the appropriate legal counsel for action.

VII. RECESS:

At 7:02 p.m., Mayor Martin recessed the meeting until 12:00 Noon on Wednesday, April 20, 1994, at the Horticultural Research Station near the Asheville Airport, to consider a resolution of intent to study the creation of a regional water and sewer authority.

CITY CLERK MAYOR
