

Tuesday - May 17, 1994 - 4:00 p.m.

Asheville Civic Center - Thomas Wolfe Auditorium

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

Vice-Mayor Peterson gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF MAY 15-21, 1994, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Martin proclaimed the week of May 15-21, 1994, as "Emergency Medical Services Week" in the City of Asheville and presented the proclamation to Mr. Robert Griffin with the Asheville Fire Department.

B. PROCLAMATION PROCLAIMING MAY 16-20, 1994, AS "NATIONAL POLICE OFFICERS WEEK" AND MAY 18, 1994, AS "PEACE OFFICERS MEMORIAL DAY"

Mayor Martin proclaimed the week of May 16-20, 1994, as "National Police Officers Week" and May 18, 1994, as "Peace Officers Memorial Day" in the City of Asheville and presented the proclamation to Police Chief Will Annarino.

C. RESOLUTION NO. 94-87 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DOROTHY BUMPUS

City Manager Farris read the resolution stating that Dorothy Bumpus has been an employee for 5 years and has requested retirement from her position as a Parking Attendant Sr. in the Downtown Development Department. He expressed City Council's appreciation to Dorothy for her service to the City of Asheville and its citizens.

Resolution No. 94-87 was adopted by acclamation.

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D. RESOLUTION NO. 94-88 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RICHARD E. GREEN

City Manager Farris read the resolution stating that Richard E. Green has been an employee for 20 years and has requested retirement from his position as a Police Sergeant in the Asheville Police Department. He expressed City Council's appreciation to Richard for his service to the City of Asheville and its citizens.

Resolution No. 94-88 was adopted by acclamation.

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II. PUBLIC HEARINGS: NONE.

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III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2103 - AN ORDINANCE ESTABLISHING A POLICY OF NON-DISCRIMINATION WITHIN THE CITY OF ASHEVILLE

Mayor Martin said that the first reading of this ordinance was held on May 3, 1994. He noted that this is not a public hearing. However, everyone wishing to speak will have that opportunity but each one will be limited to three minutes each.

Mayor Martin then read a proposed amended version of the ordinance as follows:

ORDINANCE NO. 2103

ORDINANCE ESTABLISHING A POLICY OF NON-DISCRIMINATION WITHIN THE CITY OF ASHEVILLE

WHEREAS, the City Council of the City of Asheville desires to establish a policy confirming its commitment to equal civil and economic rights for all persons; and

WHEREAS, in stating said policy, it is not the intent of the City Council to establish special rights for any group of individuals, but rather to assure equal rights for all; and

WHEREAS, this ordinance is intended to express the attitude of the City Council toward action, policy and practice that fortifies human dignity and justice; and

WHEREAS, it is the intent of the Council, through this ordinance, to eliminate intolerance, disrespect, harassment, intimidation, bigotry, racism, hatred, and bias in employment practices of the City of Asheville and to encourage the elimination of those negative elements in the entire community in employment, education, accommodation and housing;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT A NEW DIVISION 4 OF ARTICLE IV OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE IS HEREBY ADOPTED AS FOLLOWS:

Section 1. There is hereby established a policy of the City of Asheville to oppose any discrimination in the hiring, promotional and disciplinary practices of the City of Asheville so as to prohibit discrimination against any person for any reason that is not related to bona fide occupational qualifications for the relevant job classification or job performance.

Section 2. The City Manager is hereby directed to establish an administrative policy in order to prohibit such discriminatory practices within the employment practices of the City of Asheville.

Section 3. All citizens of the City, individual and corporate, are hereby requested and urged to use their power and influence to the end that this City shall be one of equal opportunity for all citizens.

Section 4. Nothing in this ordinance shall prohibit the establishment and maintenance of a fair and uniform system of personnel administration which is consistent with the principles contained in the ordinance and with the needs of

the City.

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Councilwoman Sitnick moved to amend the ordinance as read by Mayor Martin. This motion was seconded by Councilwoman Field and carried on a 4-3 vote, with Councilmen McClure, Swicegood and Watts voting "no".

Mayor Martin stated that since there was a sign-up sheet for persons wishing to speak, he would try to alternate speakers for and against the ordinance. He once again asked that everyone limit their comments to three minutes.

The following persons spoke in favor of the ordinance:

Rev. David Eck Mr. Rusty Siviles

Father William Edwards Ms. Joan Marshall

Rev. M. Maureen Killoran Mr. Gerald Brown

Rev. Andrew Gentry Mr. J. Philip Neal

Mr. George Weaver Mr. H. K. Edgerton

Ms. Marsha Bates Mr. Bob MacPharson

Rabbi Robert Ratner Mr. David Vance

Mrs. Marjorie Lockwood Ms. Penny White

Ms. Carolyn Wallace Mr. Steve Davis

Ms. Kim Ellis Ms. Katherine Dix

Ms. Bernadette Thompson Mr. Michael Faulkner

Mr. Toby Ives Ms. Barbara Norton

Mr. Gary Kramer Mr. Howard Hanger

Ms. Janet Conner Mr. Brownie Newman

Ms. Deb Self Mr. Bret Sander

Mr. Andy Reed Ms. Johnice Doyle

Ms. Jan Palich Mr. John Redmond

Mr. Bill Walz Ms. Dorothy Murphree

Ms. Minnie E. Jones Ms. Kelly Jo Housman

Mr. Wally Bowen Mr. Earl Willis

Mr. Fred Mitchell Mr. Carlos Gomez

Mr. Larry Damore Mr. Marty Prairie

The following persons spoke in opposition to the ordinance:

Rev. Wendall Runion Rev. J.B. Higginbotham

Mr. Randy Shepherd Ms. Shirley Miller

Rev. John Grant Mr. John Cress

Rev. Carl Kaltreider Mr. Don Taylor

Rev. Ralph Sexton Jr. Mr. Stan Taylor

Rev. Billy Cline Mr. Jamie Johnson

Mr. Steve Cooper Mr. Jack Kouns

Rev. Rick Edwards Mr. Travis Carson

Rev. John Brewster Mr. Everette E. Parrish

Mrs. James Stickney Mr. John E. Barden

Mrs. Carol Collins Ms. Jill Gallo

Mr. Larry Linney Pastor Bob Doom

Ms. Diana Zinn Mr. David Soesbee

Mr. Gary Mattson Mr. John Spence

Mrs. Robert Hays

During the comments, Rev. Wendall Runion clarified his prior statement to say that after reading the now amended ordinance, he saw no problem with it.

Councilwoman Sitnick stated that the issue of nondiscrimination was an issue during their campaign. She said that the discriminatory practices listed in the ordinance adopted by Council on first reading on May 3, 1994, excluded some people and this amended ordinance is applicable to anyone.

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Councilman Watts said that he felt the ordinance was being rushed through and needed more time to discuss and digest the information. He totally supported nondiscrimination.

Councilman Swicegood felt that there was a policy already in place in the City and felt there was no need for this ordinance, especially since it will broaden the City's liability.

Councilman McClure stressed that no one on City Council will tolerate any discrimination in the City. He felt this ordinance would open the City up for litigation and felt that there were many terms yet to be defined.

Councilwoman Sitnick stated again that this ordinance was amended because a number of people (smokers, pregnant women, etc.) were not included in the categories listed in the ordinance which was adopted on May 3, 1994. She stressed that this ordinance does not endorse or condone anything and it doesn't impose on anyone that they accept anything. Everybody has the right to equal opportunity for employment. She suggested the Mayor leave this issue open for people to submit further comments from the public to the Council in writing. She felt that this amended ordinance is a solution for everyone and

stressed that all of Council care for the citizens of Asheville.

Mayor Martin thanked the audience for coming to the meeting and participating.

On a 4-3 vote, Ordinance No. 2103, as amended, passed on its second and final reading, with Councilmen McClure, Swicegood and Watts voting "no".

ORDINANCE BOOK NO. 14 - PAGE 191

IV. NEW BUSINESS:

A. FIRST READING OF AN ORDINANCE REGULATING CONTROL OF STORMWATER

Vice-Mayor Peterson moved to continue this matter until June 7, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

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 June 7, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION NO. 94-89 - RESOLUTION APPROVING INTERLOCAL AGREEMENT ON REGIONAL AIR POLLUTION CONTROL PROGRAM

City Manager Farris said that this resolution approves an interlocal agreement on the administration of the Western North Carolina Air Pollution Control Board.

The Regional Air Pollution Control program was established by a joint resolution of the City, Buncombe County and Haywood County in -5-

1970. The interlocal agreement provides that Buncombe County will continue to provide administrative support to the Board, including the handling of personnel and financial matters. The agreement also provides that any personal property owned by the agency will revert to the participating local governments. The agreement prevents acquisition of real property. The agency is fully supported by fees and grants.

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. 94-89. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 320

D. RESOLUTION AUTHORIZING THE EXECUTION OF AN ACCESS AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND EXXON CORPORATION FOR CITY-OWNED PROPERTY ON AIRPORT ROAD

City Attorney Slawter said that the City of Asheville, as owner of property on Airport Road, leased property to Exxon Corporation for a service station, beginning on July 30, 1964. The lease expires on July 31, 1994.

The service station on that site has been closed for a while. There remain, however, some underground storage tanks which need to be investigated to determine whether or not any remediation efforts will be required of Exxon Corporation by governmental environmental agencies.

As any investigation and/or remediation which may be required would extend beyond the expiration date of the lease, Exxon Corporation has proposed an access agreement wherein they would pay to the City of Asheville a monthly payment which is to be negotiated between the parties for continued access to the site in order to perform any investigations and/or remediations required by governmental environmental agencies.

Councilman Swicegood asked if there could not be a time limitation imposed on Exxon cleaning up the site. He also felt that the City should be requesting a higher monthly payment from Exxon.

Due to the concerns expressed, Councilman Swicegood moved to continue this matter until June 7, 1994. This motion was seconded by Councilman McClure and carried unanimously.

E. ORDINANCE NO. 2106 - ORDINANCE AMENDING SECTION 19-60 OF THE CODE OF ORDINANCES

City Manager Farris said that during the recodification of the City Code, a subsection of the ordinance regulating trucks on residential streets was inadvertently omitted. This ordinance provides for an amendment of Section 19-60 of the Code so as to reinsert that subsection. Section 19-60 of the Code prohibits heavy trucks from using designated City streets. The provision to be reinserted provides for use of those streets under certain limited conditions.

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. 2106. This motion was seconded by Councilwoman Field.

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On a roll call vote of 7-0, Ordinance No. 2106 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 199

F. ORDINANCE NO. 2107 - BUDGET AMENDMENT TO ESTABLISH AN APPROPRIATION FOR THE CITY'S SHARE OF THE BRAESIDE/BILTMORE SEWER LINE

City Manager Farris said that this budget amendment will appropriate \$185,000 as the City's one-third share to Buncombe County from the Wastewater Capital Fund for the Braeside/Biltmore sewer line. The County will administer the installation of the lines. Any unused funds, including interest earned, if any, will be refunded.

Councilwoman Sitnick stated that she will not approve any change order on this project.

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. 2107. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2107 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 199

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 3, 1994

B. RESOLUTION NO. 94-90 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED STREET BETWEEN WESTCHESTER DRIVE AND PISGAH STREET AND SETTING A PUBLIC HEARING FOR JUNE 21, 1994

RESOLUTION BOOK NO. 21 - PAGE 326

C. RESOLUTION NO. 94-91 - RESOLUTION OF INTENT TO CLOSE SKYVIEW PLACE AND SETTING A PUBLIC HEARING ON JUNE 21, 1994

RESOLUTION BOOK NO. 21 - PAGE 327

D. RESOLUTION NO. 94-92 - RESOLUTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 11 IVY STREET, ASHEVILLE, NORTH CAROLINA

RESOLUTION BOOK NO. 21 - PAGE 328

E. RESOLUTION NO. 94-93 - RESOLUTION AUTHORIZING THE SALE OF THREE VEHICLES TO THE TOWN OF MARSHALL, NORTH CAROLINA

Summary: The Town of Marshall is offering \$5,000 to purchase three police patrol vehicles that have been taken out of service pending disposal. This offer is considered to be fair when compared to book values and prior auction proceeds for these type vehicles.

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Upon Council's approval, the City will accept the Town of Marshall's offer in the amount of \$5,000 for the purchase of one 1985 Ford LTD II, and one 1986 and one 1987 Ford Crown Victorias.

Councilman McClure asked that the City Manager investigate a vehicle take-home program.

RESOLUTION BOOK NO. 21 - PAGE 330

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

VI. OTHER BUSINESS:

A. RESOLUTION NO. 94-94 - RESOLUTION AUTHORIZING CONTRACT WITH MOFFITT INTERNATIONAL

City Manager Farris read the resolution which would authorize the Mayor to execute a contract with Moffitt International Inc. to provide recruitment and selection services for the City Manager position with the following provisions: (1) the maximum fee is \$15,000; (2) the City will be responsible for reasonable expenses related to recruitment and selection, with the condition that total expenses may not exceed \$3,000 without prior approval of the City; (3) Mr. Kurt Jenne, Assistant Director of the Institute of Government, will serve as an advisor to Moffitt International Inc. for defining City Council's desired qualifications for the position.

Councilwoman Field stated that she was out of town when the Council decided to hire Moffitt International. She said that she would not vote for Moffitt only

because she was not convinced they will do the best job for the City of Asheville.

Councilwoman Sitnick stated that she would be in favor of Moffitt because it is the only local executive search company and she supported using local businesses. However, she did have some reservations but hoped they would be able to work with Kurt Jenne and do a good job for Asheville.

City Manager Farris reminded the Council that the next meeting regarding discussion on the City Manager selection will be held on Thursday, May 26, 1994, at 2:00 p.m. in the Council Conference Room, 2nd Floor, City Hall Building.

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

Councilman McClure moved for the adoption of Resolution No. 94-94. This motion was seconded by Councilman Swicegood and carried on a 6-1 vote, with Councilwoman Field voting "no".

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#### C. CITY COUNCIL PRIORITIES

Vice-Mayor Peterson suggested Council start working on the major problems facing Asheville, as outlined on the City Council priorities listing.

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#### D. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of May 2-6, 1994: Mary Bryant (Water) and Eloise House (Parks).

He said the following claims were received for the week of May 9-13, 1994: Gary Montieth (Fire) and Stacey Ogle (Streets).

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

#### E. LAWSUITS

City Manager Farris said that the City has been served with the following lawsuits on May 9, 1994: The Asheville City Board of Education v. Lucile Butler (condemnation) and The Asheville City Board of Education v. Stella Brown (condemnation). He said the City was served on May 5, 1994, with the following lawsuit: MSD v. Max Wilson and wife, Flora Wilson, City of Asheville, et al. (condemnation).

He said these have been referred to the appropriate legal counsel for action.

#### VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 9:25 p.m.

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CITY CLERK MAYOR

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