

Tuesday - May 24, 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 read a prayer.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-95 - RESOLUTION OF APPRECIATION TO THE STUDENTS AND FACULTY OF THE CITY AND GUILDS OF LONDON INSTITUTE DECORATION RESTORATION PROGRAM

Mayor Martin expressed the Council's appreciation to Mr. K. Ray Bailey, President of Asheville-Buncombe Technical College, for making the College's decorative restorative program available to the City. He also commended Derick Tickle, instructor for the program, and his students for their outstanding service they have rendered in restoring the Council Chamber in the City Hall building.

Resolution No. 94-95 was adopted by acclamation.

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II. PUBLIC HEARINGS: None

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-96 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH CAROLINA POWER & LIGHT COMPANY AND PUBLIC SERVICE COMPANY OF NORTH CAROLINA INC.

Mayor Martin read the resolution stating that the City of Asheville has for many years imposed upon Carolina Power & Light Company ("CP&L") and Public Service Company of North Carolina Inc. ("Public Service") a franchise tax equal to 1% of the gross revenues of said utilities within the City annually. He said the utilities have previously paid the annual tax under protest. The parties for the City and the utilities have engaged in discussions and negotiations for several years related to the legal interpretation of the statutes authorizing the tax. He said those utilities pay a separate franchise tax to the State of North Carolina based upon their gross revenues, a portion of which is reimbursed to the City. No other City within the State of North Carolina imposes a comparable tax. He said this resolution will authorize the City to execute an agreement, which is attached hereto as Exhibit "A", with CP&L and Public Service which agreement resolves the disputed interpretation of said statutes.

Mr. Larry McDevitt, attorney representing CP&L and Public Service, felt that this agreement was a true compromise and was glad that the issue was resolved.

Council members thanked all those who participated and felt this was a fair agreement and a positive resolution for both sides.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-96. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 333

A. PRESENTATION OF THE 1994-95 ANNUAL OPERATING BUDGET AND SETTING OF PUBLIC HEARING FOR JUNE 7, 1994

City Manager Farris presented the 1994-95 Annual Operating Budget and summarized the following budget message:

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It was the consensus of Council that City Manager Farris and City staff did an outstanding job in balancing this year's budget. They all agreed that it was a difficult task to balance the budget without raising taxes or firing employees.

Councilwoman Field moved to set a public hearing on June 7, 1994, relative to the 1994-95 Annual Operating Budget. This motion was seconded by Councilman McClure and carried unanimously.

City Manager Farris announced that the Council would be holding their budget worksession beginning at 9:00 a.m. on Tuesday, June 7, 1994, in the Council Conference Room, Second Floor of the City Hall building.

B. ORDINANCE NO. 2108 - ORDINANCE AMENDING SECTION 6-4 OF ARTICLE 1 OF CHAPTER 6 OF THE CODE OF ORDINANCES ESTABLISHING NEW FIRE LIMITS FOR THE CITY OF ASHEVILLE'S PRIMARY FIRE DISTRICT AND ESTABLISHING A SECONDARY FIRE DISTRICT

City Manager Farris said that this revision reduces the size of the "fire district" that encompasses the downtown area of Asheville, and adds a small secondary fire district in a south-of-downtown area to cover particular occupancy hazards in that secondary area. It is the result of an extensive study of the fire district boundaries by the Downtown Association, Fire Department staff and Downtown Development staff.

North Carolina law requires that each municipality create a fire district that encompasses its central business district. Within that fire district, construction-material limitations are imposed by the North Carolina State Building Code to prevent a major fire from spreading from building to building. For example, unprotected wood-frame buildings are prohibited in a fire district.

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The Downtown Association/staff review of the present fire district boundaries was based on acknowledgment that those boundaries had not been changed or examined since 1965. The goal of this review process was to determine whether the more intense, higher-risk concentrations of downtown structures required fire district boundaries as broad as those

in place today. The conclusion of City staff and Downtown Association participants was that those boundaries could be reduced without increasing the risk of a fire of conflagration proportions in downtown Asheville.

Reduction of the fire district boundaries means that owners of land and buildings within the present boundaries but outside the new boundaries would have a broader, more efficient range of construction materials to choose from when building new structures or renovating existing structures. Construction-material limitations would remain for properties within the new fire district boundaries.

Councilwoman Field moved to amend the proposed fire district ordinance by extending the proposed primary district boundary along the centerline of Aston Street between Buncombe Street and Coxe Avenue, thus including the Buncombe County Department of Social Services building. This motion was seconded by Councilman McClure and carried unanimously.

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. 2108, as amended. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2108 passed on its first and final reading.

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C. ORDINANCE NO. 2109 - ORDINANCE AMENDING APPENDIX C, TRAFFIC SCHEDULES, ARTICLES II, SPEED LIMIT, DIVISION II, SCHOOL ZONES, SECTION 41, 42, 44 AND ADDING SECTION 45 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

City Manager Farris said that this action will reduce the speed limit on Hillside between North Liberty and Holland Street, in the vicinity of Claxton Elementary School, to 20 miles per hour and reduce the speed limit on Hendersonville Highway, in the vicinity of Carolina Day School, to 35 miles per hour.

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. 2109. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2109 passed on its first and final reading.

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V. CONSENT:

At the request of Councilwoman Sitnick, approval of the minutes of the regular City Council meeting held on May 17, 1994, was withdrawn -11-

from the consent agenda. She asked that this be withdrawn in order to give the public additional time in which to submit written comments regarding the nondiscrimination ordinance which was adopted on May 17, 1994.

A. RESOLUTION NO. 94-97 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH NC DEPARTMENT OF TRANSPORTATION FOR RE-INSPECTION OF THE BRIDGES ON THE CITY STREET SYSTEM

Summary: This resolution authorizes the City Manager and City Clerk to execute an agreement with N.C. DOT to accomplish the required inspection of the bridges

on the City Street System.

In 1983 the Federal Highway Administration developed the Federal Off-System Bridge Replacement Program. Since the establishment of the program, the City has replaced 15 bridges through the program. The program is funded 80% federal funds and 20% City funds and administered by the North Carolina Department of Transportation. To remain eligible for replacement funds and avoid federal penalties, it is required that all public bridges be inspected every two years. The North Carolina Department of Transportation offers cities in North Carolina three options for meeting the bi-annual inspections requirement. One is to do the federal inspection with City forces; two is for the City to hire a consultant to do the inspection; three is for the City to allow the Department of Transportation to do the inspection with either N.C. DOT personnel or engineering consultants.

Since 1983, the City has elected to execute an agreement with N.C. DOT to accomplish the required inspection through their personnel or engineering consultants. This process allows high numbers of bridges to be inspected under one contract or operation, and, therefore, results in minimum inspection cost per bridge. In the last bridge inspection, the cost was only \$1,150 per bridge. These costs would have been substantially more if any other method was used and more City staff time would have been required to accomplish the inspections. N.C. DOT representatives anticipate the inspection for bridge to be \$1,250 per bridge for the upcoming inspection. The City has 28 bridges which would bring the total cost to \$35,000 and the City's share of 20% to \$7,000. Funds for the City's share are budgeted in the Capital Projects Fund through the Bridge Replacement Program.

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B. RESOLUTION NO. 94-98 - RESOLUTION ACCEPTING STREETS IN PEBBLE CREEK CONDOMINIUMS AS CITY SYSTEM STREETS

Summary: This resolution requests that the City accept the streets in Pebble Creek Condominiums as City System Streets. The Homeowners' Association has made this request. The streets qualify as City System Streets and are improved to City standards. The parking areas along with streets do not qualify for City maintenance; therefore, the homeowners have retained J. Glenn Haynes to establish a metes and bounds description on a plat distinguishing the parking areas from the streets. The plat prepared by Mr. Haynes adequately separates the streets being accepted from the adjoining parking areas.

Upon being accepted as City System Streets, the street mileage can be added to the Powell Bill mileage and the City will receive approximately \$365.00 in Powell Bill funds per year for maintenance and upkeep.

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C. RESOLUTION NO. 94-99 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE RICEVILLE VOLUNTEER FIRE DEPARTMENT

Summary: This resolution authorizes the City Manager to enter into an agreement extending the annexation fire protection agreement between the City and the Riceville Volunteer Fire Department through June 30, 1994.

In 1993, the City Council authorized an extension of the annexation fire protection agreement between Asheville and the Riceville Volunteer Fire Department through the end of this fiscal year.

Asheville and Riceville representatives met and negotiated the specific elements of this agreement extension late last year. But due to a misunderstanding on the part of the Riceville Fire Department, formal approval of the extension proposal on the part of Riceville's Board of Directors did not take place until late March of 1994. Meanwhile, Riceville has continued to deliver its services under the terms of the extension.

Total contract amount for this extension is \$4,473.50.

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D. RESOLUTION NO. 94-100 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO AN AGREEMENT AND CONTRACT OF LEASE BY AND BETWEEN THE CITY AND THE HOUSING AUTHORITY FOR SPACE AT REID CENTER

Summary: This resolution authorizes the Mayor to execute an amendment to an agreement and contract of lease between the City of Asheville and the Asheville Housing Authority for office space at Reid Center.

The City of Asheville developed the Reid Memorial Recreation Center with funds from several sources, including \$150,000 from the Asheville Housing Authority in 1976. Part of the agreement with the Asheville Housing Authority at that time specified that the Housing Authority would use one of the classrooms as a rent collection office for the public housing projects in that immediate area. Recently, funds have been available through a federal grant for the further development of wholesome recreation programs in certain low-income neighborhoods, particularly those operated by a public housing authority. The location of the offices for this special program can be located in the Reid Memorial Recreation Center, thus assuring close cooperative effort in this program between the personnel of the Housing Authority and the Reid Memorial Recreation Center. This office space will be provided within the Reid Recreation Center as long as this cooperative program is in existence. The Housing Authority, through the grant program, will pay all expenses for the renovation of the office space required. The Housing Authority currently pays 10% of the total cost of utilities for the operation of the Reid Center.

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E. MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO AMEND THE ZONING ORDINANCE TO INCLUDE LABORATORIES AS A CONDITIONAL USE IN THE OI OFFICE INSTITUTIONAL DISTRICT

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F. MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO AMEND THE SUBDIVISION REGULATIONS OF THE ZONING ORDINANCE

G. MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO AMEND THE ZONING ORDINANCE TO INCLUDE CHURCHES AS A PERMITTED USE IN THE CS COMMERCIAL SERVICES DISTRICT AND THE LI LIGHT INDUSTRIAL DISTRICT

H. MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO REZONE 30 PROPERTIES ON BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

I. MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, RELATIVE TO A VARIANCE REQUEST FOR PINECROFT ROAD SUBDIVISION

J. MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO REZONE TWO LOTS AND A PORTION OF ONE ON NEW LEICESTER HIGHWAY AND OLD COUNTY HOME ROAD FROM CS COMMERCIAL SERVICE DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Sitnick and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 94-101 - RESOLUTION RATIFYING ACTION OF THE CITY MANAGER REGARDING A GIFT OF STOCK TO THE CITY'S URBAN TRAIL PROGRAM

City Manager Farris read the resolution and stated that the City is presently developing an Urban Trail along specified historic sites. Eleanor F. Rogers desires to make a financial contribution in support of the development of the Urban Trail. Ms. Rogers has donated 16 shares of common stock of Exxon Corporation to be immediately sold and proceeds to be used in the development of the Urban Trail. This resolution authorizes and ratifies the action of the Interim City Manager to sign on behalf of the City the standard stock power authorizing Nations Bank of North Carolina, NA, to sell the aforementioned shares of stock and to remit the proceeds to the City of Asheville.

Mayor Martin asked that the City Manager prepare a letter to Ms. Rogers thanking her for this contribution.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-101. This motion was seconded by Councilwoman Field and carried unanimously.

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B. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop asked City Attorney Slawter several questions as they related to obtaining certified copies of minutes.

C. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of May 14-20, 1994: Roz Robertson (Police), Carvel Taylor (Parks), Eula Penland (Streets), Barbara Bell (Meter Services), James Green (Streets), Taco Bell (Water), Deborah Johnson (Fire), Millie Owen (Water) and Arleasie Keever (Water).

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

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:17 p.m.

CITY CLERK MAYOR
