

Tuesday - June 7, 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

Councilman McClure gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF SANDRA WELLS, TEACHER AT HALL FLETCHER ELEMENTARY SCHOOL, AS BEING NAMED NORTH CAROLINA TEACHER OF THE YEAR

Mayor Martin recognized Ms. Sandra Wells as being named North Carolina Teacher of the Year. The Mayor and Council thanked her for her dedicated service to the children of our community.

B. RESOLUTION NO. 94-102 - RESOLUTION RECOGNIZING CITY OF ASHEVILLE "LEGACY OF EXCELLENCE" TEAM MEMBERS FOR THEIR CONTRIBUTION TO THE "BUILDING COMMUNITY VALUE" COMMUNITY STRATEGIC PLANNING PROCESS

City Manager Farris read the resolution which commended all participants in the City of Asheville's "Legacy of Excellence" quality improvement process ("LX") . He expressed Council's support of the LX and urged continued application of LX problem-identification and problem-solving techniques in support of "Building Community Values."

Councilwoman Field moved for the adoption of Resolution No. 94-102. This motion was seconded by Councilwoman Sitnick and carried unanimously.

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C. PROCLAMATION PROCLAIMING THE WEEK OF JUNE 5-11, 1994, AS "NATIONAL GARDEN WEEK"

Mayor Martin proclaimed the week of June 5-11, 1994, as "National Garden Week" in the City of Asheville.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE THE 1994/95 ANNUAL OPERATING BUDGET

Mayor Martin opened the public hearing at 4:17 p.m.

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

City Manager Farris said that this balanced budget, in the amount of \$59,529,209, includes an ad valorem tax rate of \$.57 per \$100 assessed valuation and continues basic City services at current levels.

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Mr. Ralph Bishop made statements concerning his inability to obtain verbatim minutes of a community meeting held at the East Asheville Community Center. Deputy City Clerk Maggie Burleson responded that the tape of that meeting was inaudible and Mr. Bishop was told that if he would repeat the same questions to City Attorney Slawter at the May 24 meeting, Mr. Slawter would try to respond as he did at the community meeting. She then transcribed verbatim minutes of that portion of the meeting for Mr. Bishop and furnished them to him free of charge.

In response to other comments made by Mr. Bishop, Councilwoman Sitnick said that Mr. Bishop has never been denied an opportunity to address the Council and personally resented his analogy that the Council meeting "is like Hitler's Nazi Germany." She felt it was inappropriate, irrelevant and offensive to the City Council.

Mr. Bob Selby, representing the Council of Independent Business Owners, presented Council with a memo which he summarized several areas of cost containment as follows: (1) Sale of the renovated facility housing the Downtown Development Department be sold generating significant revenue, while consolidation of offices in new public works facility could decrease the current operating budget; (2) Concern that City's Planning Department budget per staff position is much larger than in larger governments; (3) Reconsideration of the process of privatization of sanitation services and define from the outset what criteria are to be used in evaluating prospective service providers; (4) Encourage further discussions with Buncombe County to consider other service partnerships which might include central purchasing, inspections and management information services; and (5) Encourage continued efficiency and improvement in the Inspections Division which will make it easier for developers to build in the City.

Mayor Martin closed the public hearing at 4:34 p.m.

Mayor Martin said that Council would consider the comments made prior to adoption of the budget on June 21, 1994.

B. PUBLIC HEARING TO DIRECT THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 11 IVY STREET, ASHEVILLE, NORTH CAROLINA

ORDINANCE NO. 2110 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 11 IVY STREET, ASHEVILLE, NORTH CAROLINA

Mayor Martin opened the public hearing at 4:35 p.m.

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

Mr. Jeff Trantham, Assistant Director of Building Safety, said that the dwelling was inspected on April 6, 1992, which disclosed that the structure's walls, floors and roof are structurally unsound. He said that the structure is more than 50% gutted by fire, has major structural damage, no sanitary facilities, no electricity, is abandoned, is occupied by vagrants, accessible to children, and is a hazard to the general public. -3-

Mayor Martin closed the public hearing at 4:36 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. 2110. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2110 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 205

C. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO INCLUDE LABORATORIES AS A PERMITTED USE IN THE OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2111 - AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO INCLUDE LABORATORIES AS A PERMITTED USE IN THE OI OFFICE INSTITUTIONAL DISTRICT

Mayor Martin opened the public hearing at 4:38 p.m.

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

Mr. Gerald Green, Senior Planner, said that on May 11, 1994, the Asheville Planning and Zoning Commission reviewed and recommended approval of an amendment to the zoning ordinance which addresses laboratories in the Office Institutional District. The proposed ordinance amendment would allow laboratories as conditional uses in the Office Institutional District. Office Institutional Districts are often located adjacent to residential areas, serving as a transition between residential districts and commercial areas. In order to protect neighboring residential uses from potential adverse impacts of the laboratories, the Planning and Zoning Commission has identified certain conditions which laboratories must meet in order to locate in Office Institutional Districts. These conditions address traffic, waste storage and disposal, odors, lighting, and emission of air borne pollutants. Following review and discussion of the proposed amendment, the Planning and Zoning Commission voted unanimously to recommend approval of the ordinance amendment.

Mr. Green responded to several questions raised by Councilman McClure as they related to the staff recommending labs as a permitted use in the OI District and Planning & Zoning Commission's recommendation to Council that labs be a conditional use in the OI District.

Councilwoman Sitnick stressed that the conditions outlined for labs as a conditional use in the OI District are only guidelines, safety factors and extra precautions in order to protect the neighboring residential areas and could not find any reason to object those precautions.

Councilman McClure felt that the precautions outlined are already covered in different laws that the City has, such as the noise ordinance, the prohibition of trucks on residential streets, etc. -4-

Ms. Barber Melton, Chairman of the Planning & Zoning Commission, explained the Commission's reasoning in it's recommendation to Council and stressed that no one particular lab was mentioned in its deliberations.

Mr. Johnny Lloyd questioned Planning & Zoning Commission's authority to make recommendations to Council.

Mr. Ben Slosman briefed the Council on how this amendment first started and felt that labs should be a permitted use in the OI District, not a conditional use.

Planning Director Julia Cogburn concurred with Mr. Slosman's recollection of

events leading up to this public hearing. She did, however, correct the statement that the ordinance could be amended administratively, which it could not be. The options presented to him were to either have the property rezoned to a zoning classification that permits labs or to petition for a wording amendment to permit laboratories to be a permitted use within the OI District.

Councilman Swicegood felt that there are federal and state agencies that regulate laboratories already and handle the safety factors and the City should leave the enforcement up to them.

Mr. Bob Selby spoke in favor of the laboratories being a permitted use in the OI District.

Mr. Carl Ricker spoke in support of the labs being a permitted use in the OI District. He said that there has been a lab at the old Highland Hospital property since 1904 and had no problems. He felt that if Council is going to put these conditional uses in, they should put them in all the zoning districts and not just in the OI districts.

Mr. H. K. Edgerton felt that the residential neighborhoods should know what the labs will be testing, not only now, but in years to come.

Mr. Jerry Sternberg also pointed out that all the conditions outlined were covered elsewhere, either by City ordinance, State or Federal regulations. He urged Council to make labs a permitted use in the OI District.

At the request of Councilwoman Sitnick, Mr. Ricker explained why he and others felt this was a political issue.

Mr. Joe Chandler spoke about his first-hand knowledge, when he worked in labs in other cities, of how certain chemicals leaked out of the lab buildings.

Mr. Clarence Benton felt that if conditions were placed on one district, they should be placed in all the districts.

Mr. Ralph Bishop commented that Mayor Martin allowed other people at this public hearing to speak longer than the 3 minutes permitted him.

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

Councilman Swicegood moved to adopt a substitute ordinance to include laboratories as a permitted use in the OI District. This motion was seconded by Councilman McClure. -5-

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

On a roll call vote of 5-2, Ordinance No. 2111 passed on its first and final reading, with Councilwomen Field and Sitnick voting "no".

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D. PUBLIC HEARING TO AMEND THE SUBDIVISION REGULATIONS OF THE ZONING ORDINANCE

ORDINANCE NO. 2112 - AN ORDINANCE TO AMEND THE SUBDIVISION REGULATIONS OF THE ZONING ORDINANCE

Mayor Martin opened the public hearing at 5:46 p.m.

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

of the public hearing.

Mr. Gerald Green, Senior Planner, said that this amendment to the subdivision regulations would streamline the review procedure for subdivisions involving no new public or private street construction, no right-of-way dedication, and no utility extension nor utility easement dedication.

Currently all subdivisions must have a preliminary plat approved by the Planning & Zoning Commission and a final plat approved by the City Council. The proposed amendment would eliminate review of those subdivisions described above by the Commission and the Council. The proposal would require those subdivisions to have a sketch plan and a final plat approved by the Planning Department.

Ms. Angel Banks Craven, Right-of-Way Coordinator for MSD, stated that there is no provision in the amendment to safeguard building over existing utilities that may exist within the planned subdivisions. She asked Council to add some type of provisions in this ordinance that in addition to any responsibility that the developer may have to the City within this ordinance, that the developer still be held responsible to work with MSD in order to avoid building over any existing sewer utility lines that might be within the planned subdivision. She stated a problem of there being many sewer lines that have no recorded rights-of-way.

Mr. Green said that at the staff level they would review the plat to make sure that the building area is not compromised by a sewer line or an existing right-of-way. It will be a check at the staff/administrative level.

Upon inquiry of Vice-Mayor Peterson, Ms. Craven said that the mapping program at MSD is approximately 75% complete.

Upon inquiry of Councilwoman Field about how the City can help MSD with this problem, Planning Director Julia Cogburn said that this ordinance has nothing to do with the construction of the building. However, the unified development ordinance might be a place where this problem can be addressed. She said that they would be happy to work with MSD on this. -6-

Mayor Martin closed the public hearing at 6:01 p.m.

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

Councilwoman Field moved for the adoption of Ordinance No. 2112. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2112 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 209

E. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO INCLUDE CHURCHES AS A PERMITTED USE IN THE COMMERCIAL SERVICES DISTRICT AND THE LIGHT INDUSTRIAL DISTRICT

ORDINANCE NO. 2113 - AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO INCLUDE CHURCHES AS A PERMITTED USE IN THE COMMERCIAL SERVICES DISTRICT AND THE LIGHT INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 6:02 p.m.

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

Mr. Paul Benson , Urban Planner, said that this amendment to the zoning ordinance would allow churches and related facilities within the CS Commercial Service District. This amendment would also have the effect of allowing churches within the LI Light Industrial District as all uses allowed in CS Commercial Service District are also allowed in LI Light Industrial District.

Mayor Martin closed the public hearing at 6:03 p.m.

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

Councilwoman Sitnick moved for the adoption of Ordinance No. 2113. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2113 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 213

F. PUBLIC HEARING TO REZONE 30 PROPERTIES ON BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

ORDINANCE NO. 2114 - AN ORDINANCE TO REZONE 30 PROPERTIES ON BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 6:04 p.m.

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

Mr. Paul Benson, Urban Planner, said that in response to community concerns raised during the March 1, 1994, rezoning of property located on Brickyard Road, the Planning and Zoning Commission has initiated a rezoning for approximately 40 acres composed of 30 tax parcels located in the Brickyard Road area from R-2 (low density residential) to R-5 (residential).

The City planning staff recommends that this rezoning be approved for the following reasons:

- All property surrounding the subject area is currently zoned R-5 and is developed consistent with regulations of the R-5 district
- R-5 provides the potential for creation of affordable housing as manufactured homes and manufactured home parks are permitted uses
- A precedent was established for R-5 zoning in this area when 15 acres adjacent to the subject area was rezoned from R-2 to R-5 on March 1, 1994
- The proposed rezoning would eliminate a number of nonconforming situations as several of the subject properties contain manufactured homes
- The proposed rezoning has support from the affected property owners

Mayor Martin closed the public hearing at 6:08 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. 2114. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2114 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 215

G. PUBLIC HEARING ON VARIANCE REQUEST FOR PINECROFT ROAD SUBDIVISION

Mayor Martin opened the public hearing at 6:09 p.m.

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

Mr. Gerald Green, Senior Planner, said the proposed Pineroft Road Subdivision is located off of Pineroft Road in North Asheville. The proposal is to subdivide an approximately 10 acre site into two lots. The site is zoned R-1 and all adjacent property is zoned R-1 or is out of the city's zoning jurisdiction. The site is steeply sloping.

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The petitioner is requesting a variance from Section 17-99 of the city's subdivision regulations (this Section stipulates that all lots abut a public street). This variance would allow the subdivision to be accessed from an existing private drive off of Pineroft Road.

At their May 11, 1994, meeting, the Planning and Zoning Commission voted 5-1 to approve the preliminary plat and recommend approval of the variance request.

Mr. Frank A. Cole urged Council to grant his variance request.

Mayor Martin closed the public hearing at 6:13 p.m.

Councilman Watts moved to allow a modification to the subdivision regulation which requires that every lot in a subdivision abut a public street in Pineroft Road Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

H. PUBLIC HEARING 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

ORDINANCE NO. 2115 - AN ORDINANCE 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

Mayor Martin opened the public hearing at 6:14 p.m.

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

Mr. Paul Benson, Urban Planner, said that this is in response to the rezoning petitioned by Lawrence Traber, representing Harvey Spiegel, property owner, requesting a change from Commercial Service to Light Industrial for three tracts at property on Leicester Highway.

The City planning staff recommends that two lots, PIN Nos. 9628-08-89-2473 and 9628-08-89-5069, be rezoned as petitioned for the following reasons:

- In 1990 the City established industrial zoning in this area by rezoning an adjacent 4.7 acre property in the same ownership as the subject property, making possible the expansion of a nonconforming industrial plant
- Lot #5069 contains a nonconforming industrial building in the same ownership as the subject property
- Lot #2473 is immediately adjacent to the existing industrial plant and bordered on three sides by Light Industrial zoning

The City planning staff recommends that the third lot requested to be rezoned, PIN No. 9628-08-89-4533, not be rezoned for the following reasons:

- This lot fronts directly on Leicester Highway and is separated topographically from the existing industrial -9-

development and Light Industrial zoning along Old County Home Road. This topographic separation makes an excellent zone boundary between Commercial Service and Light Industrial. Direct vehicular access between this lot and the other lots zoned and requested for Light Industrial zoning is not feasible

- All properties fronting both sides of Leicester Highway in this area are zoned and developed with Commercial Services uses
- The 2010 Plan does not indicate industrial development along this stretch of Leicester Highway
- The requested rezoning of this lot would result in a single stretch of less than 100 feet of industrial zoning in an otherwise continuous Commercial Service District

The Planning and Zoning Commission concurs with the City staff in recommending the rezoning of Lots #2473 and #5069 as requested. For Lot #4533, however, the Commission recommends that the part of the lot fronting on, and at grade with, Leicester Highway, remain Commercial Service, while the balance of the lot be rezoned to Light Industrial as petitioned.

Mayor Martin closed the public hearing at 6:20 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. 2115. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2115 passed on its first and final reading.

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III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2116 - ORDINANCE REGULATING STORMWATER RUN-OFF FROM CERTAIN NEW DEVELOPMENTS WITHIN THE CITY OF ASHEVILLE

RESOLUTION NO. 94-103 - RESOLUTION ADOPTING A STORMWATER STANDARD SPECIFICATIONS MANUAL FOR THE CITY OF ASHEVILLE

City Attorney Slawter passed out an amended ordinance while outlining technical changes made.

Councilwoman Sitnick said that the Mayor appointed a stormwater committee, consisting of Councilman McClure, Councilwoman Field, Ron Butler, Barber Melton and herself, which has met for several months, along with staff to receive input and develop an ordinance on stormwater. In addition, City Council has discussed the ordinance at two separate worksessions. This ordinance establishes a program for the installation of facilities to manage stormwater runoff from certain new development in order to reduce the hazards from runoff. A related document is a "Stormwater Standards Specifications" manual that provides developers and design professionals the requirements for guidelines for designing and building stormwater management facilities. -10-

The City's existing soil erosion and sedimentation ordinance is for the purpose of regulating land-disturbing construction activity to prevent erosion and sedimentation. This stormwater ordinance begins where the soil erosion ordinance ends and permanently regulates the quantity of stormwater leaving a development.

The proposed ordinance has been reviewed by various organizations and individuals involved in the land development process and staff has reviewed numerous existing similar ordinances.

The ordinance applies to new development that creates impervious surfaces of greater than 50% of the site area or that encompasses more than five acres. Stormwater management facilities will be required to insure that the runoff from a storm will be as good or better than before the site was developed. The facilities must be designed to accommodate the runoff from a storm of ten year frequency of six hours duration. The ordinance also provides for the ongoing inspection and maintenance of stormwater facilities.

It is the policy of the City to encourage developers to use natural vegetation and creative landscaping stormwater control measures and this ordinance states such. Developers and their authorized registered professionals will be given information on the use of pervious material and natural measures to control stormwater runoff to the extent possible.

To offset the City's costs for administration of the ordinance and the required annual inspections that insure adequate maintenance of detention and retention basins and facilities, fees are currently recommended at \$400 for the Stormwater Discharge Permit and \$100 per year for annual inspection.

The "Stormwater Standard Specifications" provides the requirements for design and construction of stormwater management facilities. The manual includes procedures for calculating the volume of runoff, design requirements for stormwater detention and retention basins to insure that they are adequate and safe, standards for design and installation of storm sewers, and design of open channels. Once this manual is adopted by Council, the City Engineer will be authorized to make minor changes to keep the manual up-to-date.

Both the ordinance and the design manual have been designed to complement existing development ordinances to the extent possible and not to require unreasonable review delays for property owners and subdividers. The Engineering Department is committed to completing the review of the stormwater plans as quickly as possible, but no later than 30 days after submitted as is stated in the ordinance.

Vice-Mayor Peterson and Councilwoman Sitnick thanked the Stormwater Committee and staff for their work and time spent on making this a fair and balanced

ordinance.

Councilwoman Sitnick thanked the residents of Crowfields for working with the City on this ordinance, even though they knew that this ordinance could not help them with their immediate problems. However, the ordinance will help them in future developments in their area.

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

Councilwoman Sitnick moved for the adoption of Ordinance No. 2116. This motion was seconded by Councilwoman Field. -11-

On a roll call vote of 7-0, Ordinance No. 2116 passed on its first and final reading.

Councilwoman Sitnick asked the Council to consider the continuation of the committee members as the Stormwater Utility Committee. Also, she asked that a follow-up be conducted on the City's requesting assistance and a study by the Corp. of Engineers in the Crowfields area.

Councilman McClure felt, and it was the consensus of Council, that these items be discussed in a worksession.

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

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-103. This motion was seconded by Councilwoman Field and carried unanimously.

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B. ORDINANCE NO. 2117 - ORDINANCE AMENDING ARTICLE II (ABANDONED VEHICLES) OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

City Manager Farris said that this revision is in response to major changes in the state laws that authorize cities like Asheville to control junked, abandoned or nuisance vehicles. Our present ordinance does not conform to these new state standards.

Removal of junked, abandoned and/or nuisance vehicles becomes the responsibility of the Police, Fire and Planning Departments. The Police Department is responsible for removal of abandoned vehicles on public and City property, and the Fire Department and Planning Department are responsible for enforcement on private property.

This ordinance also provides the Council with the authority to contract with a single towing service for vehicle removal and disposal at such future time as the Council deems appropriate.

He said all appeals will go to the Buncombe County Magistrate's Office.

He noted that all of Councilwoman Sitnick's concerns regarding cost recovery are not addressed in the ordinance but that the expenses will primarily rely upon the City, as it does now.

Upon inquiry of Councilwoman Sitnick about a recent Supreme Court case, City Attorney Slawter said that the case could have an impact on the recoverability

of fees, but he believed the court decision was primarily zoning regulated fees.

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. 2117. This motion was seconded by Councilwoman Field.

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On a roll call vote of 7-0, Ordinance No. 2117 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 230

IV. NEW BUSINESS:

A. ANNUAL REPORT FROM THE MINORITY BUSINESS COMMISSION

Mr. Clarence Benton, representative of the Minority Business Commission, presented the Annual Report and briefed the Council on their activities during the year.

He said the Commission's recommendations were to amend the City of Asheville's Minority Business Plan utilizing the recommendations set forth by Research and Evaluation Associates, Inc., of Chapel Hill, N.C., in the City of Asheville Minority Business Disparity Study with the modifications by the Minority Business Commission which were presented during Pre-Council by Chairman Nason. In addition to the above mentioned recommendations, the Commission presented the following recommendations:

That the City of Asheville and Buncombe County form the Asheville-Buncombe Minority Business Commission whose purpose is to oversee the Asheville-Buncombe Minority Business Program;

That the City and County work cooperatively to establish a joint Office of Minority Affairs for the purpose of housing the Asheville-Buncombe Minority Business Program and related minority and economic development activities; and

That the aforementioned office be adequately staffed and provided the resources from both the City and County necessary to effectively perform its functions.

Mr. Benton urged Council to adopt the Minority Business Disparity Study prior to adoption of the budget because they are asking for additional staff.

At the request of Mayor Martin, City Manager Farris said that he would work with the City Attorney's Office in bringing the Council appropriate language relative to adopting the Minority Business Disparity Study.

Mr. Daniel Breen, representative of the Asheville African American News Shopper Guide, asked Council several questions regarding the Study.

In response to Vice-Mayor Peterson, Mr. H. K. Edgerton passed out information relative to bonding and lending and spoke in support of the recommendations made by the Commission.

B. 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

At the request of the City Attorney, Vice-Mayor Peterson moved to delay this matter until June 21, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

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C. RESOLUTION NO. 94-104 - RESOLUTION TO ADOPT EMPOWERMENT ZONE STRATEGIC PLAN AND AUTHORIZE SUBMISSION OF APPLICATION

City Manager Farris said that during the past three months, the City has been developing a strategic plan, including widespread community involvement. The strategic plan is a required element of HUD's Empowerment Zone/Enterprise community application. If designated an Empowerment Zone, the City will be eligible to receive \$100,000,000 through Empowerment Zone/Enterprise Community Social Service Block Grant and certain tax credit and tax exempt financing. If designated an Enterprise Community, the City will be eligible to receive approximately \$3,000,000 in Empowerment Zone/Enterprise Community Social Service Block Grant and certain Tax Exempt Facility Bonds.

Planning Director Julia Cogburn reviewed the draft plan which included the following listing of high priorities:

Affordable Housing

Tenant/Homeownership education for public housing residents

Reduced Zoning Barriers

CRA Compliance Initiative

Comprehensive Code Enforcement Strategy

Clingman Avenue/Haywood Road Neighborhood Preservation

City Property made available for Affordable Housing ` development

Feasibility Study/Pilot for Affordable Housing development

Community Wellness

Neighbors Helping Neighbors

Parents as Teachers

Neighborhood Clean-up Program

Learning Institute for Empowerment

Parents to Parents/Motherlove

Street Light Improvement

EvenStart

Economic Opportunity

Job Skills Training Related to Construction Industry

Community-to-Schools Connections/Mentoring

Small Business Grant Program

Grove Arcade Public Market

Riverlink's AMERICORPS

South Pack Square Redevelopment

Community-Based Partnerships

Local Skills Training Related to Construction Industry

Expansion of Community Center Function

Community-Based Van System

Service Organization Computer Network

Mr. Ralph Bishop questioned the use of any of this money being used for the Grove Arcade Building.

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. 94-104. This motion was seconded by Councilman Watts and carried unanimously. -14-

RESOLUTION BOOK NO. 21 - PAGE 352

D. RESOLUTION NO. 94-105 - RESOLUTION APPOINTING MAGDALEN BURLESON AS DEPUTY CITY CLERK

City Attorney Slawter said that this resolution will appoint Maggie Burleson as Deputy City Clerk for the City of Asheville, who shall have full authority to exercise and perform any of the powers and duties of the City Clerk that may be specified by the Council.

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. 94-105. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 353

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

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. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON MAY 24, 1994

B. RESOLUTION NO. 94-108 - RESOLUTION APPOINTING JOHNNY LLOYD AS A MEMBER TO THE CIVIL SERVICE BOARD

Summary: Andy Brantley has resigned as a member of the Civil Service Board,

leaving an unexpired term until May 21, 1995. This resolution will appoint Johnny Lloyd to fill the unexpired term of Mr. Brantley, term to expire May 21, 1995, or until his successor has been duly appointed and qualified.

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C. RESOLUTION NO. 94-109 - RESOLUTION AMENDING THE MEMBERSHIP OF THE CITIZENS/POLICE ADVISORY COMMITTEE AND APPOINTING MEMBERS THERETO

Summary: The terms of A. Robert York, Marvin Nockow, Shannon Adell and Andrea Purcell expired on May 1, 1994. This resolution will appoint Henry Southworth, Dick Shahan, Tommy Sellers, Lonnie Blair and Janice Van Dine to the Citizens/Police Advisory Committee. Their terms will expire on May 1, 1996, or until their successor have been duly appointed and qualified.

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D. RESOLUTION NO. 94-110 - RESOLUTION APPOINTING JOHN INGERSOLL TO THE BUNCOMBE COUNTY DRUG COMMISSION

Summary: The term of Arthur Edington will expire on July 1, 1994. This resolution will appoint John Ingersoll as a member to the Buncombe County Drug Commission to serve a three year term, term to expire July 1, 1997, or until his successor has been duly appointed and qualified.

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E. RESOLUTION NO. 94-111 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO ACCEPT A BID TO PURCHASE DISPOSAL PARCELS 48, 144, 145 AND 198 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

Summary: This resolution will authorize the Housing Authority to accept a bid to purchase Disposal Parcels 48, 144, 145 and 198 (4.4 acres total) from Douglas Company in the amount of \$89,400.

The proposed development will consist of 44 units of project based Section 8 assisted housing for the elderly and handicapped.

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F. RESOLUTION NO. 94-112 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO ACCEPT A BID TO PURCHASE DISPOSAL PARCELS 141, 149 AND 150 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

Summary: This resolution will authorize the Housing Authority to accept a bid to purchase Disposal Parcels 141, 149 and 150 (2.4 acres total) from St. John Church of God Holiness in the amount of \$43,600.

The proposed development will consist of a church building and parking lot.

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G. RESOLUTION NO. 94-113 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION TO ANNEX A NONCONTIGUOUS AREA ON GLEN BRIDGE ROAD KNOWN AS THE RANDY WARN PROPERTY

Summary: On May 23, 1994, the City received a signed petition from Randy and Cathy Warn requesting the annexation of their property on Glen Bridge Road. Mr.

and Mrs. Warn are building a restaurant on the site (Cafe Glen Bridge) and wish to obtain an ABC license. They are requesting annexation into the City in order to legally request that license.

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H. MOTION SETTING A PUBLIC HEARING FOR JUNE 21, 1994, RELATIVE TO VARIANCES REQUESTED BY MOUNTAIN CHATEAU SUBDIVISION

I. MOTION SETTING A PUBLIC HEARING FOR JUNE 21, 1994, TO REZONE 100 WOODLAND DRIVE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 RESIDENTIAL DISTRICT

J. MOTION SETTING A PUBLIC HEARING FOR JUNE 21, 1994, TO ZONE SECTION IV OF BRAESIDE TO R-1 RESIDENTIAL DISTRICT

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

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of -16-

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 June 1, 1994:

SWANNANOA SHOPPING CENTER

Mr. Green said that the proposed Swannanoa Shopping Center is to be located at the intersection of Wood Avenue and Swannanoa River Road. The proposed shopping center will include a 150,000 square foot retail building, a 40,000 square foot retail building, a 68 room hotel/motel, a ten screen movie theater, and two out parcels on a 39 acre panel. Neighboring property owners expressed concern regarding the impact of the project on traffic and water and sewer service in the area.

On June 1, 1994, the Planning & Zoning Commission reviewed the project and recommended approval with five conditions:

1. Receipt of letters approving availability of utilities and adequate fire protection;
2. Provide sidewalks for pedestrian circulation within the development (sidewalks, walking trails, or others subject to staff review);
3. Provide a traffic deceleration lane on Wood Avenue at entrance to development following approval by NC DOT and City Street Division;
4. Take appropriate measures to reduce stormwater pollution; and
5. Incorporate recommendations of the traffic impact analysis only as they apply to this development.

Ms. Elizabeth Graham, member of the Planning & Zoning Commission, explained

that there were several compromises that made the Commission's unanimous vote.

Mr. Green answered Council's questions as they related to the traffic impact analysis. He said the zoning ordinance did not require the study, however, the Traffic Engineer felt the study was needed. Councilman McClure then asked the City Manager to look into the requirement of the study.

Councilwomen Field and Sitnick both stated that they had received numerous calls from residents in this area concerning this group development. Councilwoman Sitnick felt that most of her calls were from residents who just really wanted to know some specifics of the project. She liked the idea of developers meeting with the residents at the beginning of the projects in order to work out any problems and keep the neighbors informed of what type project will be built in their neighborhood.

Although Councilwoman Sitnick did not want to delay the project, she felt the residents had a right to a public hearing to find out the specifics on this project and thus moved to set a public hearing. This motion was seconded by Councilwoman Field.

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Mr. Clay Mooney said that the developer is trying to do a good project and has already met with the Bikeways Task Force. He said that he would be more than happy to meet with the residents of the area and/or the homeowners association and inform them of the project and try to address any concerns they might have.

Councilwoman Sitnick then withdrew her motion to set a public hearing. Councilwoman Field withdrew her second.

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

PARK TERRACE EAST

Mr. Green said that the proposed Park Terrace East group development is to be located on Piney Mountain Road off Chunns Cove Road. The proposed office park will contain 12 office buildings, totaling 68,000 square feet, on the 16 acre site. A representative of the Mountainbrook Homeowner's Association spoke in favor of the project.

On June 1, 1994, the Planning & Zoning Commission reviewed the project and recommended approval with three conditions:

1. Submittal of detailed landscaping plan;
2. Receipt of driveway permit; and
3. Receipt of letter acknowledging adequate fire protection.

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

B. RESOLUTION NO. 94-112 - RESOLUTION AUTHORIZING THE ASSIGNMENT OF TWO SUMMER YOUTH EMPLOYEES TO COMMUNITY OUTREACH INC.

City Manager Farris read the resolution stating that Community Outreach Inc. has requested a grant of \$5,000 and the assignment of two summer youth employees to support a summer enrichment program for disadvantaged youth. The summer enrichment program is consistent with the City Council's objective of

providing community recreation and training programs for the City's youth. This resolution will authorize the assignment of two summer youth employees to Community Outreach Inc. and authorizes a grant of \$5,000 from Council's contingency.

Upon inquiry of Councilman McClure, City Manager Farris said that the \$5,000 can come out of the \$100,000 already set aside for the City's Summer Youth Program.

Councilman Swicegood asked several questions about the program and due to the City's tight budget, he felt they should not be authorizing any grant without going through the outside agency review process first.

Councilwoman Field agreed with Councilman Swicegood regarding the outside agency review process.

Councilman Watts moved to adopt an amended Resolution No. 94-112 to only authorize the assignment of two summer youth employees to Community Outreach Inc. This motion was seconded by Councilman McClure and carried unanimously.

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Councilwoman Field recommended the \$5,000 request be handled through the outside agency review process.

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C. RESOLUTION NO. 94-113 - RESOLUTION APPROVING REDUCTION IN FORCE POLICY

City Manager Farris read the resolution authorizing him to provide the following benefits to employees laid off as a result of the reduction in force: (1) a lump sum payment equal to one week's salary for every year employed by the City up to a maximum of twelve weeks; and (2) payment for full health insurance coverage for a period equal to twelve weeks.

Councilwoman Field moved for the adoption of Resolution No. 94-113. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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D. RESOLUTION NO. 94-114 - RESOLUTION ENCOURAGING THE APPROPRIATE REUSE OF THE GROVE ARCADE

City Manager Farris read the resolution stating that the Grove Arcade is the largest building in downtown Asheville, and it will become vacant in the summer of 1994. The architectural and historic significance of the Grove Arcade has been recognized by its entry on the National Register of Historic Places. The City Council wishes to encourage and support adaptive reuse of the Grove Arcade. The Public Market proposed by the Grove Arcade Foundation is an appropriate use for the building, will help create jobs and generate revenues to the City, and will support programs to revitalize downtown Asheville. The resolution resolves:

1. That City Council endorses the concept of a Public Market in the Grove Arcade.
2. That the City Council will provide up to \$100,000 to the Grove Arcade Foundation to be used solely for the capital cost of renovating the Grove Arcade Building. The grant funds may also be used to match other funding sources as appropriate.

3. That the City will allocate the funds in three annual installments beginning in FY 1994-95. The funds will be retained by the City until the Grove Arcade has sufficient funds to complete the renovation of the building.

4. That the City Council agrees that the City will work with the General Services Administration to acquire the Grove Arcade for the purposes of facilitating the adaptive reuse of the building and insuring that development of the property is consistent with the goals of the City.

Councilwoman Field asked to be excused from voting on this matter due to a possible conflict of interest.

City Attorney Slawter stated that State law provides that council members be excused from voting on matters when their own personal conduct or financial gain is involved.

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Following questions from other members of Council, there was no motion to excuse Councilwoman Field.

Vice-Mayor Peterson moved to adopt Resolution No. 94-114. This motion was seconded by Councilman Watts and carried on a 5-2 vote, with Councilwoman Field and Councilman Swicegood voting "no".

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E. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop requested a copy of the State law where the Institute of Government's opinions supersede State law.

City Attorney Slawter explained that the Institute of Government only interprets State law.

F. LAWSUITS

City Manager Farris said that the City was served with the following lawsuit on May 28, 1994: County of Buncombe v. Pinner, City of Asheville, et al. (tax foreclosure).

He said a copy has been referred to the appropriate legal counsel for action.

G. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of May 21-31, 1994: Lowenia Davidson (Streets), Wendal Gillespie (Streets), Mark Mangum (Water), Beverly Ramsey (Streets), and Ruth Canter (Meter Reading).

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

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:09 p.m.

CITY CLERK MAYOR

