

Tuesday - June 21, 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 Watts gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-115 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE TEDDY STROUPE

City Manager Farris read the resolution stating that Teddy Stroupe has been an employee for 25 years and has requested retirement from his position as Fire Captain. He expressed City Council's appreciation to Teddy for his service to the City of Asheville and its citizens.

Resolution No. 94-115 was adopted by acclamation.

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B. RESOLUTION NO. 94-116 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE MICHAEL EVANS

City Manager Farris read the resolution stating that Teddy Stroupe has been an employee for 24 years and has requested retirement from his position as Street Superintendent. He expressed City Council's appreciation to Mike for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-116. This motion was seconded by Councilwoman Field and carried unanimously.

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II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED STREET BETWEEN WESTCHESTER DRIVE AND PISGAH STREET

RESOLUTION NO. 94-117 - RESOLUTION CLOSING AN UNNAMED STREET BETWEEN WESTCHESTER DRIVE AND PISGAH STREET

Mayor Martin opened the public hearing at 4:16 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 a petition has been received from property owners along an unnamed street between Westchester Drive and Pisgah Street in the Kenilworth area requesting the unnamed street be closed to public use.

Currently the street right-of-way is being utilized as a driveway to the petitioning property owners' residence.

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Upon being closed, the unnamed street right-of-way would become private property and would be taxable as real property.

Upon inquiry of Mr. Tom Wernicke, owner of property adjoining the street, relative to a right-of-way for a gas line, City Attorney Slawter said that the resolution closing the street is subject to the retention by the City and its assignees of an easement for the installation and maintenance of public utilities to be located within the entire portion of the unnamed street to be closed.

Ms. Ann Runne, petitioner, said that Public Service Gas already has a 10 foot easement and urged Council to close the unnamed street.

Mayor Martin closed the public hearing at 4:20 p.m.

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

Councilman Watts moved for the adoption of Resolution No. 94-117. This motion was seconded by Councilman McClure and carried unanimously.

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B. PUBLIC HEARING RELATIVE TO CLOSING THE NORTHERNMOST 170 FEET OF SKYVIEW PLACE

Mayor Martin opened the public hearing at 4:21 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 a petition has been filed by Steve and Deborah Sutton requesting the northernmost 170 feet of Skyview Place be permanently closed to public use. This portion of Skyview Place has created several problems for both the city and the Suttons over the last several years. The steep bank on the east side has slid out on several occasions and numerous actions have been taken to prevent this from occurring, but none have been successful.

Skyview Place has been a City system street as far back as City system street records exist, but there is no platted public right-of-way for the street which connects Sunset Drive with Town Mountain Road. Closing the northernmost 170 feet of Skyview Place will not deny any property owner public access to their property, but will require that Town Mountain Road be utilized for access rather than Sunset Drive for those owners whose driveways are off Skyview Place and that Sunset Drive rather than Skyview Place and Town Mountain Road be utilized for access by those owners whose driveways are off Sunset Drive.

The property owners who could be directly affected by the closing were notified by certified mail since they did not sign the petition.

The closing of the northernmost 170 feet of Skyview Place will allow the Suttons to utilize the roadway of Skyview Place for placement of fill material, and hopefully eliminate the problems with the bank sliding off and blocking the road, as well as undermining the foundation of the Sutton residence.

The road is only 14 feet wide and does not qualify for Powell Bill funds; therefore, no revenues will be lost as a result of the closing. -3-

There is the possibility that some of the adjoining property owners may object to the closing, but they will have access to their property; therefore, the closing can be made in compliance with state regulations.

He suggested Council hold the public hearing and continue the matter in order to look at other options available for the Suttons.

Mayor Martin stated that he visited the site and felt there the Suttons definitely had a problem whether that portion of the street was closed or not.

Mr. Bob Tucker, owner of 12-unit building on Skyview Place, felt that if Council closed that portion of Skyview Place there would be a serious traffic hazard. He felt that Skyview Place was not wide enough to even be a 2-way street. He passed out pictures that illustrated the safety hazard and was sympathetic with the Suttons but urged Council not to close that portion.

Ms. Jane Hurrell, 8 Skyview Place, also urged Council not to close that portion due to a traffic hazard. She suggested making Skyview Place a one-way street.

Mr. John Abbott, owner of property on Skyview Place, asked Council to keep Skyview Place open for the convenience and safety of the property owners. He also was sympathetic with the Suttons but urged Council not to close it. As a contractor, he felt that the Suttons' problem was caused by improper maintenance of Town Mountain Road. He also felt Skyview Place should be a one-way street.

He said that the City has received a letter from Dr. Margaret G. O'Donnell and Roderick D. Whitlock, property owners of 1 Skyview Place, strongly objecting to this closing for the following reasons:

1. Closing this portion of Skyview Place would close off safe access to the property from Sunset Drive, forcing residents along Skyview Place to enter from Town Mountain Road. Because of the curvature of Town Mountain Road above Skyview, the intersection is hazardous most of the time and very dangerous during rush hour. Additionally, the steep grade of Skyview Place at its intersection with Town Mountain Road causes drivers to proceed cautiously onto Skyview from Town Mountain, creating the potential for collisions with oncoming traffic.

2. Since Skyview Place is a narrow, virtually one-lane road, closing one end would force residents to back up out of their parking areas. Garbage trucks and other utility vehicles, as well as emergency vehicles, would find it impossible to service the homes along Skyview.

3. During snowy days, access from Town Mountain Road is impossible. It is crucial that there be access to Sunset Drive from Skyview Place at these times.

4. Skyview Place is a city maintained street and has been at least since 1976; it was asphalted in 1977 or 1978 and has been under city care since that time. We see no reason why Skyview Place should not remain a city street with open access at each end. -4-

5. We perceive that our property value will decline as a result of this closure which would limit movement along Skyview Place.

Mr. Alexander Troy (owner of the rental property at #2 Skyview Place) and Ms.

Mary Daniels (owner of #1 Skyview Place) both called his office to voice their objections to the closing of this portion.

Mr. Steve Sutton, petitioner of the property in question, felt that the 170 feet he is requesting to be closed is entirely on his property and has never been maintained by the City. He explained that it needs to be closed in order that he can rehabilitate and expand an existing retaining wall which is on their property. He explained that his yard has almost eroded to the foundation of his house and one or two more heavy rains, his house will be severely damaged. He said they have asked for Skyview Place to be made a one-way street in the past in addition to asking for some relief in drainage problems. He passed out pictures to the Council which showed the seriousness of the problem.

Mr. John Abbott addressed Mr. Suttons' comments as they related to the paving and re-paving of Skyview Place.

Councilmembers agreed that the Suttons have a serious problem and asked the City Manager to see if he could find some avenues to help the Suttons.

Upon inquiry of Councilman McClure, City Attorney Slawter said that from what he has been able to determine, there has never been a dedication to the City of the right-of-way for that street. However, it is not uncommon at all for the City to acquire whatever public interest is held in the street by performing of maintenance on the street through the years.

When Councilwoman Sitnick asked Mr. Sutton if making Skyview Place a one-way street would solve his problem, he replied that it would not, because he needed that additional property to draw the slope.

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

Councilwoman Field moved to continue this matter until July 19, 1994. This motion was seconded by Councilwoman Sitnick and carried unanimously.

C. PUBLIC HEARING ON VARIANCES REQUESTED FOR MOUNTAIN CHATEAU SUBDIVISION

Mayor Martin opened the public hearing at 4:39 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 John Campbell of Beverly Hanks and Associates has proposed a 10 lot subdivision located off Vance Gap Road. The entire property includes 18 acres of mostly wooded and steeply sloping land. As a part of the subdivision proposal, the developer is requesting three variances from the subdivision regulations. They are as follows:

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1. The subdivision regulations require that each lot abut a public street. The developer desires to utilize an existing private street within the property to provide access to several of the lots. The street is not publicly maintained nor is it built to the standards required by NC DOT. Therefore, a variance is requested in order to create lots which do not abut a public street.

2. The subdivision regulations require streets within a subdivision to have a minimum right-of-way width of 50 feet. The developer proposes a right-of-way width of 45 feet. NC DOT street standards do permit a 45 foot right-of-way. Therefore, a variance is requested to reduce the required right-of-way width to 45 feet.

3. The subdivision regulations require that lot lines which abut streets be located at the edge of the right-of-way rather than at the centerline of the right-of-way. The lots in Mountain Chateau Subdivision were originally platted with lot lines at the centerline of the street. The developer has since replatted the lots and located the lot lines at the edge of the right-of-way, except for Lot 11. Lot 11 was not replatted due to the fact that it was illegally sold prior to the subdivision review process. Therefore, a third variance is requested to permit the property line of Lot 11 to be located at the centerline of the right-of-way.

At the Planning & Zoning Commission's meeting on June 1, 1994, they approved the preliminary plat for Mountain Chateau Subdivision with five conditions including two conditions with address the variances requested.

1. Mountain Chateau Lane should be upgraded to NC DOT standards and dedicated to the public.

2. City Council approve the variance request regarding the reduction of the right-of-way width to 45 feet.

3. City Council approve the variance request to permit the property line of Lot 11 to be located at the centerline of Mountain Chateau Lane.

4. Approval from the Buncombe County Fire Marshal regarding enlargement of cul-de-sac.

5. Lots 7 and 8 shall be renumbered as one lot and Lots 9, 10 and 11 shall be renumbered accordingly.

He read a letter from the City Fire Marshal & the Deputy Buncombe County Fire Marshal in which they state their opposition to two of the three requested variances. Those being the variance in order to create lots which do not abut a public street, and the variance to permit the property line of Lot 11 to be located at the centerline of Mountain Chateau Lane. They felt that "a dedicated street is essential for the fire protection access. We have seen past property disputes over road access ownership impair our ability to provide fire protection."

Upon inquiry of Councilwoman Field, Mr. Nicholson said the 12% grade of the street would pose no problem for emergency vehicles.

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Councilwoman Sitnick wondered, even though the stormwater management ordinance is not in effect until July 1, if the developer has installed any stormwater control measures in the subdivision. Mr. Nicholson felt that measures were being taken to control stormwater runoff.

As a result of questions by Council about the variance regarding the centerline of Lot 11 and the possible action of the owner of Lot 11 preventing an emergency vehicle from passing, Attorney David Matney, who previously researched that question, said the City would need to have the property owner of Lot 11 and their mortgage company sign a document to dedicate the right-of-way to public use.

Mr. C. Williams, property owner of Lot 11, stated that he would never stop an emergency vehicle from passing. He explained the problem surrounding his lot line. He hoped that Council would grant the variance, however, he did not want to hold up the development of the subdivision. He thought that if the variance was not granted, his home might be too close to the lot line which would result

in a different variance being requested.

Ms. Jan Hildebrand spoke in favor of the development, however was concerned about stormwater runoff. She also urged City Council to request NC DOT to improve Vance Gap Road. She understood that Vance Gap was on their priority list at approximately #36 and hoped Council would ask that it be given a higher priority.

Councilwoman Field, member on the Transportation Advisory Commission, stated that the City Manager would soon be giving the City Council an update on the transportation issues.

Mr. John Campbell, Beverly Hanks and Associates, also commented on how the problem with Lot 11's lot line occurred. He explained the reason for the variance request on the private road. He said to pave the road up would cost approximately \$10-18,000, which was expensive for 1,000 feet of road. He urged Council to pass all three requested variances.

Mr. David Matney, attorney representing Laura Ingle, spoke in favor of the development but felt the road needed to be built to NC DOT standards.

Ms. Elizabeth Graham, member on the Planning and Zoning Commission, explained that the Commission recommended bringing the road up to NC DOT standards.

Mayor Martin closing the public hearing at 5:07 p.m.

Councilman Watts moved to approve all three variances requested by he developer. This motion was seconded by Councilman McClure.

Councilman Watts moved to amend his motion to approve only the variances outlined in the Planning & Zoning Commission's recommendation, with the conditions imposed by the Planning & Zoning Commission's recommendation and the additional condition that the property owner of Lot 11 and his mortgage company provide a recorded dedicated right-of-way to public use. This amended motion was seconded by Councilman McClure and carried unanimously.

D. PUBLIC HEARING TO REZONE A PORTION OF 100 WOODLAND DRIVE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT

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ORDINANCE NO. 2118 - ORDINANCE TO REZONE A PORTION OF 100 WOODLAND DRIVE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 5:17 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 the following ordinance would rezone a portion of property located at 100 Woodland Drive from CS Commercial Service to R-3 Medium Density Residential. This rezoning was petitioned by the property owners, Albert and Nan Fender. The requested rezoning has been recommended by the Asheville Planning and Zoning Commission and the City Planning staff.

This rezoning is recommended for the following reasons:

1. This property is currently developed with a single-family residence occupied by the owner/petitioner, which was made non-conforming as a result of City-initiated rezoning during the 1975 comprehensive revision of the zoning

ordinance.

2. This property is not suitable for commercial development because of poor road access. The closest access to major thoroughfare is approximately 1,500 feet along Woodland Drive, a narrow residential street.

Mayor Martin closed the public hearing at 5:18 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. 2118. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2118 passed on its first and final reading.

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E. PUBLIC HEARING TO ZONE SECTION IV OF BRAESIDE R-1 RESIDENTIAL DISTRICT

ORDINANCE NO. 2119 - AN ORDINANCE TO ZONE SECTION IV OF BRAESIDE R-1 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 5:19 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 the following ordinance would zone R-1 Single Family Residential the recently annexed (April 26, 1994) Braeside at Biltmore Park subdivision, Section 4, located on Overlook Road.

The area consists of 12.4 acres subdivided into 18 lots, with an average lot size in excess of 1/2 acre. Previously, Sections 1-3 of this subdivision have also been annexed and zoned R-1. -8-

Mayor Martin closed the public hearing at 5:20 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. 2119. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2119 passed on its first and final reading.

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At 5:25 p.m., Vice-Mayor Peterson moved to go into executive session to discuss a legal matter. This motion was seconded by Councilwoman Field and carried unanimously.

At 5:52 p.m., Councilman McClure moved to come out of executive session. This motion was seconded by Councilwoman Field and carried unanimously.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-118 - RESOLUTION AUTHORIZING THE IMPLEMENTATION OF A CITIZENS ON PATROL PROGRAM

Police Chief Annarino said that this resolution formalizes a program that the Asheville Police Department has been developing with the assistance of the Housing Authority of Asheville.

He summarized the program by saying it is a partnership between the Asheville Police Department, the Housing Authority of Asheville and residents of public housing to form and operate "citizen patrols"; neighbors working with the Asheville Police Department to canvas their neighborhoods for suspicious activity, suspicious vehicles, etc. Training and guidelines will be provided by the Asheville Police Department. Shirts, jackets, reflective vests and office space will be provided by the Housing Authority of Asheville. The program will be implemented on a trial basis at Woodridge Apartments. If proven successful, the program will be expanded into other public housing communities and perhaps even into private residential neighborhoods.

Ms. Noreen Woody, President of the Woodridge Residents Association, was very proud of this program and thanked the Police Department for their help in getting this program started.

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

Councilwoman Sitnick moved for the adoption of Resolution No. 94-118. This motion was seconded by Councilwoman Field and carried unanimously.

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B. ORDINANCE NO. 2120 - ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR FISCAL YEAR 1994-95

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Mayor Martin said that the public hearing on this ordinance was held on June 7, 1994.

City Manager Farris said that this ordinance reflects the recommended budget, as presented to the Council on May 24, 1994. The ordinance as recommended sets the tax rate at \$.57/\$100 valuation.

He summarized several items which were discussed earlier and then recommended a motion to amend the budget ordinance to reflect the following changes:

Chamber of Commerce \$90,000

Asheville Area Rescue Squad 22,500

A-B Community Relations Council 67,500

Drug Commission 0

Arts Alliance 22,500

Community Loan Fund 0

Crime Stoppers 26,820

RiverLink 16,200

League Convention 30,000

Community Policing Grant Match 30,000

Grove Arcade 10,000

CityWorks 48,825

Minority Business Program 0

Contingency 274,450

Regarding the \$90,000 for the Chamber of Commerce, he confirmed that funds for the Chamber would be appropriated but not disbursed by contract until such time as the Council makes a decision about the Economic Development Commission. If the Council decides to go ahead with that Commission, the \$90,000 would be included in whatever commitment the City makes.

Upon inquiry of Councilwoman Sitnick about the \$48,825 for CityWorks, City Manager Farris said that the legal ad portion is already accounted for in the budget.

Councilwoman Field commented on how difficult it was making a decision to not fund the Drug Commission or the Community Loan Fund. She stated the Drug Commission is doing an excellent job. She said that even though the Community Loan Fund was not as successful, a serious effort to improve has been undertaken. It was her understanding that Community Loan Fund is funded through September and if a serious improvement is seen, can come back before the Council for funding.

Councilman Swicegood also felt Council had some tough decisions to make regarding the budget. He felt they made the best decisions they could and the right thing for the City.

The following persons briefed Council on success stories and how important the Drug Commission is and pleaded with Council to reconsider and fund the Drug Commission:

Mr. Bernice Roberts, Chairman of the Buncombe County Drug Commission

Mr. Milton Burrill, resident of Asheville

Ms. Debra Austin, Asheville Community Theater

Ms. Carmen Copenhaver, member on the Drug Commission

Ms. Barbara Zimmerman

Mr. Mike Lewis

Mr. Gerald Gentry

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As a rebuttal to a comment made, Mayor Martin stated that all of Council were aware of the drug problems in Asheville and technically, any appropriation that the Commission receives from the County includes a portion paid by City residents.

Councilman Watts understood that drugs are a serious problem in Asheville and

suggested funding \$13,500 (half of the recommended amount) and monitoring the problem. Councilwoman Field agreed with Councilman Watts.

Councilmen McClure and Swicegood felt that the decisions made earlier were unanimously by the Council.

Councilwoman Sitnick stated up front that she was not on the Council committee that discussed outside agency funding and did not have any of the background information those members had. She said she is one for changing the usual bureaucratic system of government that reacts to crisis, instead of acting preventively. She truly believed it is cheaper in the long run to spend money up front than to deal with the issues down the line where drugs are concerned. She agreed with a comment earlier about the City asking questions and putting conditions on agencies when they budget money to those agencies. She felt this Council expends large sums of money for various projects and programs and sometimes it's hard for her to reconcile that spending. Thus, in the overall scheme, the money requested by the Drug Commission is not much. If there are concerns about the effectiveness of the Drug Commission or the way the Commission spends that money, the Council has a right and obligation to the taxpayers to find out how the money is being spent and have an accountability mechanism put in place. She felt that Council should try to find the money for the Commission in order to (1) fund a Commission that might need to be better, (2) to show Council's commitment in combating drugs in our community, and (3) to work together more closely and frequently. She stated that drugs are a national shame and this Council should be flexible enough to try to find some money in the contingency fund to budget the Commission.

Vice-Mayor Peterson and Councilman McClure felt that if the Council now decides to fund some money to the Drug Commission, the items and budgets already agreed upon earlier might have to be reconsidered again.

City Manager Farris said that he would come back to the Council with recommendations concerning what the City could expect for the money they allocated for CityWorks.

Councilman Swicegood felt that \$27,000 was a lot of money and felt that cuts needed to be made somewhere and the Drug Commission should not be funded.

Councilwoman Field moved to amend the budget ordinance as follows:

Chamber of Commerce \$90,000
Asheville Area Rescue Squad 22,500
A-B Community Relations Council 67,500
Drug Commission 13,500
Arts Alliance 22,500
Community Loan Fund 0
Crime Stoppers 26,820
RiverLink 16,200
League Convention 30,000
Community Policing Grant Match 30,000
Grove Arcade 10,000
CityWorks 0
Contingency 260,950

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She said everything else is zero funded and would have to come out of contingency.

This motion was seconded by Councilman Watts and carried on a 4-3 vote, with Vice-Mayor Peterson and Councilmen McClure and Swicegood voting "no".

All of Council expressed their appreciation to City Manager Farris, Associate City Manager Wolcott, Bob Wurst, Vicki Heidinger and all City staff for cutting the budget by \$3.5 million and not raising taxes for the fifth year in a row.

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. 2120, as amended. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2120 passed on its first and final reading.

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C. RESOLUTION NO. 94-119 - RESOLUTION OF THE CITY OF ASHEVILLE, N.C., PROVIDING FOR THE ISSUANCE OF \$4,000,000 GENERAL OBLIGATION WATER BONDS, SERIES 1994 OF THE CITY OF ASHEVILLE, N.C.

City Manager Farris said that this resolution authorizes the issuance of \$4,000,000 General Obligation Water Bonds, series 1994 of the City of Asheville.

The funds will be used for the construction of improvements to the water system as approved by the voters of the City at a referendum on November 5, 1991. That referendum authorized \$26,000,000 of General Obligation Water Bonds, of which \$19,000,000 were issued on March 31, 1992. Following the sale of the currently proposed issue, a balance of \$3,000,000 will remain as "authorized but unissued."

So as to obtain the most beneficial financing rate for the City, the bonds will be marketed by the NC Local Government Commission through sealed competitive bids which are to be opened on July, 19, 1994.

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

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-119. This motion was seconded by Councilman Swicegood and carried unanimously.

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D. RESOLUTION NO. 94-120 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL OF THE CITY OF ASHEVILLE TO INCLUDE FEES FOR THE STORMWATER MANAGEMENT ORDINANCE

City Manager Farris said that this resolution will amend the Fees and Charges Manual of the City of Asheville by adding fees for implementation of the stormwater management ordinance.

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On June 7, 1994, City Council adopted a stormwater management ordinance, to be effective July 1, 1994. The stormwater management ordinance requires that a fee be paid for an application for a stormwater discharge permit (\$400.00) and that a fee shall be charged for annual inspections of detention or retention basins by the City Engineer (\$100.00).

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

Councilman Swicegood moved for the adoption of Resolution No. 94-120. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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E. 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 July 19, 1994. This motion was seconded by Councilman Swicegood and carried unanimously.

F. RESOLUTION NO. 94-121 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH CAMBRIDGE INTERESTS INC. FOR A PEDESTRIAN BRIDGE CONNECTING PROPERTY OWNED BY CAMBRIDGE INTERESTS INC. TO THE RANKIN AVENUE PARKING GARAGE

City Attorney Slawter said that on October 26, 1993, the City Council authorized the City Manager to sign an agreement with Cambridge Interests Inc. providing for a pedestrian bridge between the Rankin Avenue parking garage and the old Penney's building. The scope of that project now calls for the pedestrian bridge to also extend to the Infill building, located next to the old Penney's building. This should cause no additional burden on the Rankin Avenue parking garage, but since the 1993 resolution specifically referenced only the Penney's building, the City Attorney thought it would be best to have additional authority from the Council authorizing the newly proposed agreement providing for the pedestrian bridge to extend to both buildings.

Upon inquiry of Councilman McClure, City Attorney Slawter said that this will be no cost to the City, however, if the City does incur any cost, it will be reimbursed by the developer.

When Councilwoman Field asked about a possible conflict of interest, City Attorney felt there would be none.

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

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-121. This motion was seconded by Councilwoman Field and carried unanimously.

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G. RESOLUTION NO. 94-122 - RESOLUTION APPROVING THE INSTALLATION OF AN ABOVE-GROUND GASOLINE STORAGE TANK AT THE ASHEVILLE REGIONAL AIRPORT

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City Manager Farris said that this resolution provides for approval of an above-ground gasoline storage tank at the Asheville Regional Airport.

North Carolina's State Building Code (Volume 1, Appendix T) requires that, before an above-ground gasoline storage tank can be installed in Asheville, the City Council must provide final approval.

Until just a few years ago, above-ground gasoline storage tanks were virtually prohibited by North Carolina's safety codes. This was because of the risk

associated with above-ground storage of flammable liquids like gasoline--if gasoline escapes from an above-ground tank, there is an immediate risk of fire.

Underground storage tanks were the preferred alternative until environmental protection agencies discovered the vulnerability of many underground storage tanks to leakage, which often resulted in soil contamination and pollution.

North Carolina's code now allows above-ground gasoline storage tanks if the risk of gasoline leakage is low, if the tank is isolated, if the tank is properly protected from fire and explosion, and if other similar safety requirements are taken into account, and, finally, if local safety officials and the local governing body approve.

A car rental agency at the Asheville Regional Airport is proposing a 1,000-gallon above-ground gasoline storage. This tank would be placed in a non-public area, behind the Airport's security fence, and would be what is called a "vaulted tank"--that is, a "tank within a tank"--so if a leak were to occur in the "inner" tank, that leakage would be contained in the "outer" tank.

The Fire Department's fire code enforcement team has reviewed this proposal, and believes that this above-ground tank is an acceptable and safe alternative to an underground gasoline storage tank, given the type of tank proposed, the relatively small volume of gasoline involved, and the overall controls of access and exposure at the proposed site. Fire Chief John Rukavina and Acting Fire Marshal Wayne Hamilton have approved this proposal, and recommended that the City Council approve this above-ground storage tank installation as provided for in Volume 1, Appendix T of North Carolina's State Building Code.

Fire Chief John Rukavina answered Councilman Swicegood's question of where exactly the tank would be located.

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. 94-122. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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H. ORDINANCE NO. 2121 - ORDINANCE ADDING PROVISION TO PROHIBIT POSSESSION OF FIREARMS OR WEAPONS IN CITY PARKS OR FACILITIES

City Manager Farris said that the Parks and Recreation Department has requested that the City Council consider adoption of an ordinance -14-

prohibiting possession of firearms or weapons in City parks or facilities. As the violation of this proposed ordinance would constitute a misdemeanor, the City Attorney's office consulted with the District Attorney's office about the language in this ordinance. We now have their approval of this language.

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

Councilman Watts moved for the adoption of Ordinance No. 2121. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2121 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 248

I. ORDINANCE NO. 2122 - BUDGET AMENDMENT RELATIVE TO YEAR END BUDGET ADJUSTMENTS

City Manager Farris said that this budget amendment is simply "bookkeeping" revisions. The revisions are for (1) provision for unplanned overtime, (2) information service charge revisions, (3) pay plan distribution, (4) capital projects previously approved in operating funds, and (5) risk management fund establishment.

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. 2122. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2122 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 249

J. RESOLUTION NO. 94-123 - RESOLUTION TO AWARD THE BID FOR THE PURCHASE OF 16 TRANSIT BUSES FOR THE CITY OF ASHEVILLE/ASHEVILLE TRANSIT AUTHORITY

City Manager Farris said that the resolution recommends awarding Bid Request No. 424-94 for 16 transit buses to Bus Industries of America Incorporated.

Pursuant to North Carolina General Statute sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish the Asheville Transit Authority with 16 30 x 96 transit buses. One bid was received.

Since only one bid was received, the Transit Authority conducted a cost/price survey to identify other North Carolina systems who have purchased transit buses within the last few years. This information was submitted to NC DOT - Public Transportation and Rail Division. A complete copy of the summary is attached hereto as Exhibit "A".

With the state's concurrence and Council's approval, he recommended to enter into a contract with the sole bidder, Bus Industries of America, Inc., Oriskany, NY, to purchase 16 1995 "Orion" -15-

Model 05.505 transit buses at a cost of \$215,200 each for a grand total of \$3,443,200. The Assistant City Attorney recommends that the award of the bid be made conditioned upon Bus Industries of America, Inc.'s, compliance with bid specifications as approved by the Public Transportation Division of NC DOT. The Planning Department and the Transit Authority concur with this award.

Upon inquiry of Councilwoman Sitnick, Transportation Planner Carl Ownbey said that the new buses would meet EPA standards.

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. 94-123, with the condition that Bus Industries of America Inc. comply with bid specifications as approved by the Public Transportation Division of NC DOT. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 380

K. ORDINANCE NO. 2123 - BUDGET AMENDMENT TO APPROPRIATE HOME INVESTMENT PARTNERSHIPS PROGRAM GRANT FOR ASHEVILLE REGIONAL HOUSING CONSORTIUM

City Manager Farris said that this budget amendment, in the amount of \$1,152,000, is to appropriate HOME Investment Partnerships Program grant and matching funds.

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. 2123. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2123 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 256

L. RESOLUTION NO. 94-124 - RESOLUTION OF INTENT TO CREATE REGIONAL ECONOMIC DEVELOPMENT COMMISSION

City Manager Farris said that the City of Asheville and the County of Buncombe through informal discussions and dialogue between individual members of the respective governing bodies have been exploring the feasibility of establishing an Economic Development Commission. The citizen council board recognizes the need for a sustained, organized and concerted effort to encourage the location of appropriate manufacturing enterprises, industrial and commercial plants and businesses in Asheville and Buncombe County. The city council wishes to enter into an Interlocal Agreement to provide funding for an Economic Development Commission which would be governed by by-laws approved by the City and County and which would approve and implement an economic development program including, but not limited to the following:

- (a) establish and maintain an economic development database;
 - (b) prepare an economic development strategy with broad-based community participation.
- 16-
- (c) develop a comprehensive program and visual and written materials to encourage the location and/or relocation of manufacturing, industrial and commercial businesses within Buncombe County;
 - (d) develop programs to encourage the retention and expansion of existing businesses;
 - (e) assist and encourage local entrepreneurs in the creation of new small business enterprises;
 - (f) such other activities as authorized by state law or the By-Laws of such proposed commission.
 - (g) employ at least one economic development professional and supporting staff to maintain an Economic Development Office at the Asheville Chamber of Commerce or at such other location as may be selected and approved by the commission.

He said this resolution will express City Council's intent to enter into an

Interlocal Agreement with Buncombe County to create an Economic Development Commission consisting of nine members, four of whom would be appointed by the City of Asheville, four of whom would be appointed by the County and a ninth member appointed by the eight members thus appointed by the City and County. He strongly recommended the City Manager and the County Manager be a part of this Commission as well.

The resolution also expresses Council's intent to fund said proposed Economic Development Commission in an amount up to \$400,000 per year subject to the drafting and adoption of an Interlocal Agreement.

Councilwoman Field asked that her following concerns be included in the interlocal agreement: language about sustainable development, the limit of percentages for administration, the recognition of materials that have already been developed by the Chamber, etc.

Councilwoman Sitnick said that she was just presented with this matter last week and, even though she realizes that Asheville needs economic development and that good jobs are crucial to our city and to our economy, she feels like she is being rushed into this matter. She has no problem in committing to a resolution of intent to create the commission, however, she has some concerns, one being there has been no time for public input. She has received dozens of phone calls and inquiries from taxpayers asking where the City will get the \$400,000. She stressed that her comments are not to cast out the intent to create the commission, but merely to raise questions about it, which is her job as a Councilmember. She said that the City has funded \$100,000 to the Chamber of Commerce in the past for economic development and would like to know what their track record has been, what has been forthcoming for the \$100,000 so the Council knows what better to expect for its additional funding. Basically she needs to know what can the City expect for this investment - what is our return. If a bank gives a business a loan, there would be a business plan, conditions on the loan and expectations regarding the loan.

Mayor Martin said that it is true that the City has in the past given the Chamber of Commerce \$100,000. However, only \$40,000 has been for economic development and the rest went for the visitor's center and other programs.

Councilwoman Sitnick continued by saying it's important for the City to know what kinds of jobs are going to be created. She stressed -17-

the importance of preparing an economic development strategy before funding and that is the first phase of cooperation. She agreed with Councilwoman Field's concerns. She said we have to make sure that City taxpayers are only paying a fair share and no more and if Council is going to be spending taxpayers' money we need to know that their money will be working for all citizens. She felt that the City needs to sit down with the commission to make sure that everyone has the same vision for Asheville, for Buncombe County and for economic development. She thinks it's important that when the criteria is developed for the interlocal agreement that the City Manager and County Manager are on that commission and felt that it was important to include at least one member who has a background in sustainable development. She felt we needed to stress in the interlocal agreement the development of small business, not just industry. She thanked Councilman McClure for bringing up an issue last week about a municipality's responsibility in part regarding economic development which is to provide adequate infrastructure in order to support that development. The City needed to look at that responsibility carefully. She felt the City needed to consider the matter that the County has many, many more acres that are developable for industry than the City has and would that mean that the City is not going to benefit. She stressed that all her questions are because she has not had adequate time to consider this matter but felt they are necessary

because \$400,000 is a lot of money and this is a large subject. The City has 22,500 acres and only 7% of those developable and the County has 183 acres that are developable, which makes it approximately \$4,730 an acre to develop that land in the County. She suggested that the commission use a book entitled Mayor's Task Force on Unemployment that was developed by the City of Wilmington in 1991 at which time the City Manager was Asheville's present Interim City Manager. She said a lot of groundwork has already been done in the area of providing jobs in cities and the book deals with unemployment and what to do about it. She hoped all her comments would be taken into account because Council is accountable to our taxpayers and it is their money we are spending.

Mayor Martin said that the Chamber has had ongoing economic development and has been able to cope with the exiting of jobs in our community and they have also been able to make small strides on the plus side. However, we need to do better than this and that is why we need to fund this effort. He said that the City Manager has, at his request, furnished the Council with an analysis of the relative impact of the proposed economic development commission on the city and non-city taxpayers. He felt that all the questions raised were valid and would be addressed.

Councilman Watts also felt that there was not enough time to study this issue and research it.

Mr. Chuck Reiley, President Elect of the Asheville Area Chamber of Commerce, spoke about the potential that is there for the City and the County to come together in a combined effort towards a very achievable and reasonable cause for this community. He said the Chamber would be willing to work with the City and County in the challenges ahead.

Upon inquiry of Mr. Ralph Bishop about how much it will cost the taxpayers, Mayor Martin said that no determination has been made yet as to the extent of the City's funding. He said that this is only a resolution of intent to create the economic development commission.

Mr. Mike Lewis, representing the Asheville Coalition of Neighborhoods, felt that there was a great deal of merit on the concept -18-

of an entity that will focus its efforts on quality economic development because the City has lacked systematic and comprehensive planning. He did, however, ask Council to delay any action at this meeting and stated his reasons for such a request. He urged Council to pass the unified development ordinance which respects the legitimate needs of neighborhoods.

Councilman McClure stated that the Council responded to some of the issues raised by Mr. Lewis.

Ms. Barbara Shook read a statement about the need for the unified development ordinance as it ties into the need for economic development.

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

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-124. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 382

M. RESOLUTION NO. 94-125 - RESOLUTION AUTHORIZING THE TRANSFER OF OWNERSHIP OF TWO VEHICLES TO ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE

City Manager Farris said that this resolution requests the Council's authorization to transfer ownership of two surplus vehicles to Asheville-Buncombe Technical Community College. The community college intends to use these vehicles for Basic Law Enforcement Training purposes. This arrangement is considered to be in the best interest of the City of Asheville and the community college in that the community college does provide Basic Law Enforcement Training for Asheville police officers. As authorized under North Carolina General Statute 160A-274, "any government unit may upon such terms and conditions as it deems wise with or without consideration exchange with any other governmental unit of any interest in real or personal property that it may own."

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

Councilwoman Sitnick moved for the adoption of Resolution No. 94-125. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 384

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON MAY 17, 1994, AND JUNE 7, 1994

Mr. Ralph Bishop stated that it was his opinion that when a person gets elected to public office, anything that person says is public record. He asked why Councilwoman Sitnick's comments on June 7, 1994, were not in the minutes pertaining to her researching that the City did not have to keep verbatim Council minutes.

Councilwoman Sitnick replied that she made an inquiry to the Institute of Government to confirm whether or not verbatim minutes were -19-

required by State law. They confirmed, what the City Attorney has said meeting after meeting, that we are not required by law to type of verbatim minutes of every Council meeting.

B. RESOLUTION NO. 94-126 - RESOLUTION SETTING A PUBLIC HEARING FOR JULY 19, 1994, DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH 35 OAK PARK ROAD, ASHEVILLE, NORTH CAROLINA

RESOLUTION BOOK NO. 21 - PAGE 386

C. RESOLUTION NO. 94-127 - RESOLUTION SETTING A PUBLIC HEARING FOR JULY 19, 1994, TO ANNEX A NON-CONTIGUOUS AREA ON GLEN BRIDGE ROAD KNOWN AS THE RANDY WARN PROPERTY

Summary: The Planning Department has received a petition for annexation of a non-contiguous parcel of property located on Glen Bridge Road which is owned by Randy and Cathy Warn. The property is not more than three miles from the primary corporate limits, and is not closer to the primary corporate limits of another city than it is to the City of Asheville.

The next step in the annexation procedure is to adopt a resolution setting a public hearing on the question of annexation. A report will be prepared by the Planning Department describing how the area to be annexed meets the standards for annexation as set out in N.C. Gen. Stat. sec. 160A-58.2, as amended.

RESOLUTION BOOK NO. 21 - PAGE 288

D. RESOLUTION NO. 94-128 - RESOLUTION OF INTENT TO CLOSE HENRY STREET AND AN UNNAMED ALLEY OFF GUDGER STREET AND CALLING FOR A PUBLIC HEARING ON JULY 19, 1994

RESOLUTION BOOK NO. 21 - PAGE 389

Councilman McClure moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

VI. OTHER BUSINESS:

A. LAWSUIT SETTLEMENT

Councilman Watts moved to settle the City v. Lodal Inc. and Lodal-South Inc. lawsuit. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

B. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of June 1-10, 1994: Mary King (Streets), Rick Craddock (Parks), Francis Norton (Water), Mary Ann Owen (Civic Center), Audrey Owenby (Streets), Melvin Gregory (Sanitation), and Debbie Luther (Water).

He said that the following claims were received for the week of June 11-20, 1994: Mrs. Keller (Water), Jack Gray (Streets), and James Drummond (Water).

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

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VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:50 p.m.

CITY CLERK MAYOR
