

Tuesday - September 20, 1994 - 4:00 p.m.

Regular Meeting

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

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-171- RESOLUTION IN MEMORY OF Z. B. COOK

Councilman Watts read the resolution in memory of Z. B. Cook and presented it to Mr. Joe Webster who would pass it along to Mrs. Cook.

Councilwoman Field moved for the adoption of Resolution No. 94-171. This motion was seconded by Councilwoman Sitnick and carried unanimously.

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B. RESOLUTION NO. 94-172 - RESOLUTION IN MEMORY OF CALVIN A. STOUT SR.

Councilman Watts read the resolution in memory of Calvin A. Stout Sr. and presented it to Mrs. Stout and his family.

Councilwoman Field moved for the adoption of Resolution No. 94-172. This motion was seconded by Councilwoman Sitnick and carried unanimously.

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C. RESOLUTION NO. 94-173 - RESOLUTION RECOGNIZING THE HEROIC EFFORTS OF ASHEVILLE FIREFIGHTERS IN RESCUING CATHERINE BALLARD

Mayor Martin and Council members presented Steve Fridl, Joe Meadows and Chris Morgan with a resolution recognizing their heroic efforts in rescuing Catherine Ballard from the recent flood waters on August 17, 1994.

Ms. Ballard was present and thanked all those who came to her rescue.

Fire Chief John Rukavina then pinned Mr. Fridl, Mr. Meadows and Mr. Morgan with a personal commendation bar each. He said that the skill and bravery demonstrated by these three firefighters is representative of the skill and bravery of all Asheville firefighters, and of the support provided by other members of the Asheville Fire Department on duty and at the scene of Catherine Ballard's emergency that day.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-173. This motion was seconded by Councilwoman Field and carried unanimously. -2-

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D. PROCLAMATION PROCLAIMING SEPTEMBER 28, 1994, AS "FINANCIAL INSTITUTION BLOOD DONOR DAY"

Mayor Martin proclaimed September 28, 1994, as "Financial Institution Blood Donor Day" in the City of Asheville and presented the proclamation to Lisa Lusk.

E. PROCLAMATION PROCLAIMING OCTOBER 2-8, 1994, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Martin proclaimed October 2-8, 1994, as "Minority Enterprise Development Week" in the City of Asheville and presented the proclamation to Jim Drummond who briefly explained some activities taking place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO A PUBLIC HOUSING PROJECT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AT THE CORNER OF VIRGINIA AND BROTHERTON AVENUES

Mayor Martin reminded the audience that this public hearing was rescheduled until September 27, 1994, at 7:00 p.m. in the Banquet Room of the Asheville Civic Center.

B. PUBLIC HEARING RELATIVE CLOSING CLARK LANE IN THE CITY OF ASHEVILLE, NORTH CAROLINA

RESOLUTION NO. 94-175 - RESOLUTION TO CLOSE CLARK LANE IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Martin opened the public hearing at 4:37 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 Rainbow Mountain Children's School Inc., Church of God-West Asheville, and Walter Russell and wife, Vinne Russell, requesting Clark Lane be permanently closed to public use.

All adjoining property owners have signed the petition and the closing will not deny any property owner access to their property.

Mayor Martin closed the public hearing at 4:39 p.m.

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

Councilman Swicegood moved for the adoption of Resolution No. 94-175. This motion was seconded by Councilwoman Field and carried unanimously.

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C. PUBLIC HEARING FOR THE REVIEW OF THE REVISED CABLE TELEVISION RATE SCHEDULE SUBMITTED BY TCI CABLEVISION OF ASHEVILLE

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RESOLUTION NO. 94-176 - RESOLUTION APPROVING A RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER

Mayor Martin said that the City received the rate schedule on August 15, 1994,

and additional time was necessary in order to review the schedule. The public hearing was continued until this date.

Mayor Martin opened the public hearing at 4:40 p.m.

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

City Manager Farris said this resolution will approve the most recent rate schedule submitted by TCI Cablevision of Asheville to the City of Asheville.

The 1992 Cable Act authorized the City of Asheville to regulate the basic service tier and related equipment, installation and service charges of TCI Cablevision of Asheville. The Federal Communications Commission ("FCC") established a formula for determining the level of reasonable rates for the charges. The initial formula was adopted in 1993, but was revised on February 22, 1994. The 1994 regulations required that TCI submit a new rate schedule to the City of Asheville on or before August 13, 1994. The schedule was received on August 16, 1994.

The City Council previously ordered TCI to reduce its rates to the 1993 maximum permitted by the FCC. After receiving the 1994 rate formula, TCI reduced its rates and submitted the rate schedule for review. The new monthly rate for basic service tier is \$9.19, which is reduced from the previous monthly rate of \$9.77.

A review of the rate schedule shows that the recently reduced rates comply with the FCC maximum permitted rates. The FCC formula for the maximum permitted rates is based upon a nationwide survey by the FCC of cable television systems, based upon an analysis of the average rates of cable television systems subject to effective competition. The FCC considered the number of channels on and subscribers for cable television systems that are subject to effective competition. The FCC permitted rates are, therefore, based upon a survey of rates of comparable cable television systems.

A review of the table showing rates charged by TCI in Asheville and in Buncombe County, as well as rates charged by other systems in cities of similar size, should be based upon the recognition that there are a number of variables, including the number of channels and subscribers, which affect the maximum rates permitted by the FCC for each individual system. The minimum rate which the City Council may approve is that rate permitted by the FCC, which is \$9.19 per month.

The City Council may now consider two courses of action:

1. Take no action as no written decision is necessary for approval of a rate schedule that is within the FCC's permitted maximum charges; or
2. Adopt this resolution which approves the rate schedule submitted by TCI. -4-

If there are objections of subscribers to the approval of the rate schedule, the City Council should adopt the resolution approving the rate schedule, which decision could be appealed by a subscriber to the FCC.

As approval of this resolution would provide some closure to the recent submittal of the rate schedule, approval of the resolution is respectfully recommended.

Councilwoman Sitnick said that after Council deals with this issue relative to the rate schedule, she would like to request that the City work with TCI

Cablevision to determine how the gross revenues are determined and how the City, as the authority, can work with them on our franchise fees and what the City of Asheville gets from those fees.

Mr. Dan Martin, General Manager of TCI Cablevision, summarized the rate schedule information. He said that when the new City Manager takes office, he would be happy to sit down with him to discuss renewing the franchise and developing it into a more modern document.

City Manager Farris said that it might be appropriate at this time to add a request in this resolution that TCI Cablevision provide the City with audited financial statements so that we can answer questions that keep coming up about the franchise fees.

Mayor Martin closed the public hearing at 4:45 p.m.

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

Councilwoman Sitnick moved for the adoption of Resolution No. 94-176, providing that TCI Cablevision provide the City with audited financial statements. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 38

III. UNFINISHED BUSINESS:

A. AN ORDINANCE AMENDING THE CITY CHARTER AND RELATED LAWS OF THE CITY OF ASHEVILLE PURSUANT TO N. C. GEN. STAT. SEC. 160A-102 TO PROVIDE FOR A FOUR-YEAR STAGGERED TERM FOR THE MAYOR AND FOUR-YEAR STAGGERED TERMS FOR THE CITY COUNCIL MEMBERS

Mayor Martin said that this public hearing was held on August 23, 1994.

City Attorney Slawter said that at the September 13, 1994, City Council meeting, the Council decided to adopt an ordinance providing for four-year staggered terms, but subject to a referendum. It is too late to have that issue on the November 1994 ballot. In order to have this issue on the November 1995 ballot, with the changed terms beginning in 1997, if approved, the City Council will need to delay further action until 1995. N. C. Gen. Stat. sec. 160A-102 provides that if the Council makes a Charter change subject to a vote of the people, that referendum takes place within 90 days of the date of adoption of the ordinance. The Council will therefore need to begin the process again in July 1995 and adopt the ordinance in August 1995 in order to have the referendum in November 1995.

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Mayor Martin said that he had no objection to the Mayor's term remaining at two years.

B. ORDINANCE NO. 2139 - ORDINANCE AMENDING ORDINANCE NO. 1501 WHICH AMENDED THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY OF ASHEVILLE

Mayor Martin said that this public hearing was held on August 23, 1994.

City Attorney Slawter said that on July 19, 1994, the City Council adopted Resolution No. 94-146, scheduling a public hearing for August 23, 1994 on the issue of amendment to the City Charter so as to clarify when a second primary

is required in City elections. That public hearing was held on August 23, 1994. This ordinance will make the necessary changes in the Charter so as to clarify this procedure. This ordinance must be adopted, if at all, within sixty days following the public hearing.

The ordinance would amend Ordinance No. 1501 which was adopted on March 19, 1985, providing for the direct election of the Mayor, rather than election of the Mayor from among the members of the Council. Ordinance No. 1501 carried forward old language in the City Charter which required a runoff in a primary if no candidate receives a majority of the votes. Pursuant to general State law, a candidate receiving the highest number of votes who receives at least 40% of the votes (a "substantial plurality"), is determined to be the winner of a primary without a second primary.

During the most recent City Council election, a question arose regarding the interpretation of these provisions. This ordinance would clarify that State law controls.

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. 2139. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-0, Ordinance No. 2139 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 289

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR THE MIDLANDS OF LAKEVIEW PARK SUBDIVISION

Senior Planner Gerald Green said that The Midlands of Lakeview Park Subdivision is located at the intersection of Merrimon Avenue and Stratford Road.

The preliminary plat for the 19 lot subdivision was approved by the Planning & Zoning Commission on October 6, 1993. City Council granted a variance permitting a street right-of-way width of 40 feet within the subdivision.

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All new streets in the subdivision will be constructed to City standards and dedicated to the City. Access to the subdivision will be from Pineacre Boulevard. The developers have submitted a letter of credit to guarantee the completion of streets and other public improvements. The final plat and the letter of credit have been reviewed and approved by the Legal, Public Works and Planning Departments.

Upon inquiry of Councilman McClure about property lines overlapping Stratford Road, Mr. Green responded that it's typical on some of the older developed areas that the property line actually goes into the street. However, the City has an assumed right-of-way through use of a street and there is no lot which actually goes into the street. All the lots meet the minimum lot size without going into the streets.

Councilwoman Sitnick questioned if the street right-of-way width of 40 feet will have any impact on traffic. Mr. Green responded that the street will be built to the same City standard width regardless of the width of the right-of-way. The right-of-way is just to provide adequate room for public services. The

right-of-way width will have no impact on traffic.

Councilwoman Field said that the City should encourage developers to put in pedestrian paths through the subdivision. Mr. Green said that City staff does make that recommendation to the developers. He also said that the proposed Unified Development Ordinance would require subdivisions of this size to have some type of pedestrian accommodation.

When Councilwoman Sitnick questioned if this development had any stormwater control measures incorporated into the design, Mr. Green said that he knew of none, except the standard ones.

Councilman Watts moved for the final plat approval of The Midlands of Lakeview Park Subdivision. This motion was seconded by Councilman Swicegood and carried unanimously.

B. FINAL PLAT APPROVAL FOR TOP OF TRAPPER'S RUN SUBDIVISION

At the request of City staff, this item was deleted from the Agenda.

C. RESOLUTION NO. 94-177 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR WIDENING AND CONSTRUCTION OF BROADWAY AVENUE FROM CATAWBA STREET TO I-40

City Manager Farris said that this resolution authorizes the execution of a municipal agreement with N.C. Department of Transportation ("NC DOT") for the relocation and adjustment of certain municipally owned water lines located along the project known as Broadway Avenue. He said this is a standard agreement for any state highway improvement project. Our right-of-way agreements require that if NC DOT needs the right-of-way, the City moves the utilities.

Upon inquiry of Councilman Swicegood about cost, Mr. Farris said that it would range anywhere from \$100-\$150,000.

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

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Councilwoman Field moved for the adoption of Resolution No. 94-177. This motion was seconded by Councilman Watts and carried unanimously.

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D. RESOLUTION NO. 94-178 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE SUPPLEMENTAL WATER AGREEMENT AND APPROVING AN AMENDMENT TO THE BYLAWS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

City Attorney Slawter said that this ordinance will amend the Supplemental Water Agreement and approve an amendment to the bylaws of the Asheville-Buncombe Water Authority.

The Water Authority currently consists of three appointees from the City, three from the County and two members appointed by the other six members. The current agreement provides for membership to revert to seven members, effective January 1, 1995, consisting of the six City and County appointees plus one additional member appointed by those six.

The Water Authority has requested that the membership be expanded to include

the following membership: three members appointed by the City; three members appointed by Buncombe County; two members appointed by Henderson County; and two additional members to be appointed by those eight members through December 31, 1997, with the eight governmental appointees to appoint only one member after December 31, 1997.

This resolution provides for the expansion of the Water Authority in accordance with the request of the Authority, so as to provide for a total of ten members through December 31, 1997, and nine members thereafter.

This resolution also provides for the approval of the Water Authority bylaws in accordance with that expanded membership.

Councilwoman Sitnick said that she didn't feel comfortable in supporting the resolution. She has no problem with the appointment of the two members from Henderson County and no problem with the membership as it is now with the addition of those two new members. She does, however, have a problem with reverting back to nine members in 1997. Her concern is that there is an outstanding make-up currently on the Water Authority and the City is poised at the threshold of some monumental changes taking place in our community, in our county and in our region. She feels that in order for the proper input and the proper continuity to occur on the Water Authority that it behooves us to maintain the Authority as it is now in order to make sure that the representation is both diverse and academic. She is concerned that if we were to reduce the membership, that we could potentially lose the proper kind of representation and the broad representation that is going to be an absolutely critical element to the decision-making and vision that occurs in our community for both water source, infrastructure and economic development. She thinks that the argument that we need an uneven number on the Authority is bogus. The Authority has had eight members for quite some time and the voting has gone fine. She cannot support this because of the last provision in the amendment that the Authority revert back to seven members with the two appointed from Henderson County on December 31, 1997.

Mayor Martin felt that the decision should be left up to the Council in office in 1997 whether to revert back to nine members or keep the ten member board. - 8-

Councilwoman Sitnick appreciated the Mayor's comments and again stated that she had no problem with extending the membership now. She did, however, remember the controversy that occurred in this community a few years ago in order to expand the Authority. Rather than subject the future Council, the future Mayor and the community to those kinds of deliberations again, her attitude was that "if it ain't broke, don't fix it" and things seem to be going just fine with an even number of members, with the kind of diversity of representation on that Authority. By 1997 things are just going to begin to heat up and she thinks that if we can create some commitment to the best possible representation on the Water Authority possible, now is the time to commit to it. She would certainly like that to be her legacy.

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. 94-178. This motion was seconded by Councilwoman Field and carried on a 5-1 vote, with Councilwoman Sitnick voting "no".

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E. RESOLUTION NO. 94-179 - RESOLUTION RECONSIDERING FUNDING FOR THE COMMUNITY

OUTREACH INC. SUMMER CAMP PROGRAM

Councilman Watts said that this resolution will authorize the City Manager to transfer \$5,000 from contingency to Community Outreach Inc. to cover costs of the Summer Camp Program.

Councilman Swicegood was sure that the program was good, but felt that since the City did go through a difficult process of which programs to fund due to budget cuts, he didn't feel it was appropriate for them to now come back and ask for funding again having been denied earlier. He felt it leaves the City in a vulnerable situation of having to deal with all the groups that were turned down earlier.

Councilman Watts stated that he, personally, was asking for the Council to reconsider the funding, not Community Outreach Inc. After he visited the site and found out how much they were in need of funds to help keep our youth off the street, he felt it was very worthwhile for the City to fund the program.

Councilman McClure realized that tough decisions were made at budget time and felt that the Council would be setting a dangerous precedent in funding the program after it had been turned down earlier. However, he felt that it might be appropriate to fund this Program out of any unspent money from the City's Summer Youth Program, if any monies were unspent.

Councilwoman Field said that there is an outside agency process and knew that many difficult decisions were made on which programs to fund and which programs not to fund. She agreed that this an excellent program for our young people but felt they should not have gone around the process that the other agencies were required to follow. She questioned their 501C3 status stating that the City requires that particular status of all of its other outside agencies.

Mayor Martin assured Councilwoman Field that they did not mean to go around the already established process.

Councilman Watts felt that any monies funded at all to this very worthwhile program would be appreciated. -9-

Councilwoman Sitnick said that the business of government is really interesting - sometimes you get the feeling that the people want too much, the government doesn't deliver and there are all of these pulls and paradoxes. Not too long ago this Council allocated \$185,000 to help a developer put in a project. On Council's agenda today we are considering allocating \$100,000 for a good cause - business to come in and help economic development, help the tax base and provide some good wage jobs. Unfortunately the bottom line is that when we're doing our numbers, they don't always reflect everything that happens in our society. Certainly with business we often times don't reflect the bottom line cost that pollution contributes to our financial dilemma. When we talk about social problems we don't usually put the numbers in the bottom line that crime and violence and poverty and illiteracy and disenfranchisement cost the community. And here we're talking about \$5,000. She agrees with Councilwoman Field that the process is important and it's the only fair way, the even-handed way, when people are coming before Council to ask for money. She realized there is an outside agency program that went on and they did wonderful work, but she has difficulty balancing how the City spends all of this money up front for all kinds of worthy projects, but like Councilman Watts said, we don't consider the costs down the line for not doing something in a preventative fashion. She also said that while she understands the concerns of Councilman Swicegood and the others about process and about when you finish your budget you don't have people coming back to you, but she has a real hard time denying \$5,000 for a

program that's going to be managed by the Ministerial Alliance given their good work they have done in the past. She appreciated their presentation and would like to see this money given to them. In addition, she would like to see them come to the Council and let the Council know how the money is being spent and whether it was successful and effective. She also would like to see this Council eventually develop a generic policy as to our commitment to the young people of this community.

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

Councilman Watts moved for the adoption of Resolution No. 94-179, providing for the Community Outreach Inc. Summer Camp Program be funded out of any funds remaining in the Summer Youth Employment Program up to a maximum of \$5,000. This motion was seconded by Councilwoman Sitnick and carried on a 5-1 vote, with Councilman Swicegood voting "no."

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F. RESOLUTION NO. 94-180 - RESOLUTION REGARDING THE AUTHORIZATION OF AN INSTALLMENT CONTRACT FOR FINANCING POST-RETIREMENT BENEFIT LIABILITIES AND SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994

City Manager Farris said that this resolution will authorize the Interim City Manager, the City Manager, and Finance Director, with advice from the City Attorney and special counsel, to negotiate an installment financing contract, the proceeds of which will pay off, at a savings, the City's contract with the N.C. Local Government Employees Retirement System (NCLGERS) for its unfunded prior service pension obligation. This obligation was incurred when the City's Pension Plans were merged into NCLGERS in 1977-1980.

This resolution also directs the Finance Director to file an application with the Local Government Commission for its approval of the contract. The resolution sets a date and time for a public hearing concerning the contract. - 10-

It is anticipated that this financing arrangement will save the City between one and two million dollars between now and March 2003. March 2003 is the date that the City's existing pay-as-you-go obligation to NCLGERS for funding its prior unfunded service obligations would be fulfilled.

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. 94-180. This motion was seconded by Councilwoman Field and carried unanimously.

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G. RESOLUTION NO. 94-181 - RESOLUTION AUTHORIZING ECONOMIC DEVELOPMENT ASSISTANCE

City Manager Farris said that Trinity Industries Inc. has announced its plans to expand its plant for the manufacture of components and accessories for rail cars with a corresponding increase in employment between 150 to 200 jobs. Any financial assistance by the City Council to the company would be for site improvements and site access to secure these additional jobs for the residents of Asheville. This resolution will express City Council intent to allocate a total of \$100,000 for the Trinity Industries Project. The financial assistance is conditioned upon similar assistance being approved by Buncombe County and

the State of North Carolina. The funds will be provided on a reimbursement basis to be disbursed in two equal payments, with one payment in Fiscal Year 1994-95 and one in Fiscal Year 1995-96.

Councilwoman Field asked if the City could earmark its portion of the money to be used for infrastructure. Mr. Farris felt that the City could probably do that, in fact, the money may be restricted in how it can be use.

City Attorney Slawter said that before Council could actually allocate funds for such a project, a public hearing would be required and the notice of that public hearing would have to set forth how much money the City is going to participate in the project and the specific means by which that money would be used in the project.

Councilman McClure was concerned about equal share - where City residents also pay County taxes and if there was a way to off-set some of the double payments that the City residents would have to make.

When Councilman McClure questioned if MSD would be participating in this project. Mr. Farris said he has not be in any of the discussions at that level of detail but didn't think that their lines extension policy would allow them to participate.

Mayor Martin said that it was his understanding that the City would benefit by approximately \$52,000 per year in tax revenue, not taking into account any subsidiaries that would follow.

Councilwoman Sitnick said that unfortunately she was not able to be at the presentation made by Trinity Industries and she would like to have the opportunity to speak to some people about this. She felt it was a good idea, a good project, and a good business, but the only hang-up for her is this Council has from time-to-time discussed the need for -11-

the City to develop an economic development assistance policy so that when the City is approached for economic development assistance, that they do it with fairness . She felt it was important for the City to begin to dialog about that policy so that when we get these kinds of requests, we treat everybody equally and we know exactly what our policy is regarding economic develop and whether we, as a Council, want to ear-mark our monies for infrastructure needs - which is one of the greatest municipal responsibilities we have.

City Manager Farris said that he sent a draft policy to Council last Friday. The draft does have pay-back provisions, provisions on what the City's money might be used for, it allows special consideration if there are minority owned businesses, etc. He felt it was a workable draft that Council could build from.

Councilwoman Sitnick felt that since Council has not gone over the various provisions in the draft, citing no reference to environmental considerations, no reference to whether or not we want to extend assistance to non-polluting industries, industries that have low water use, etc. she feels that some time needs to be spent in a worksession discussing the draft policy. She has no problem in supporting this industry but thinks that it's important for the Council to come up with something that works for everybody equally. She felt that if the City is going to commit money - parameters are needed.

Mr. Ralph Bishop asked how the City Council could say that this financial assistance would secure additional jobs for the residents of Asheville.

Councilman Swicegood said that the Council would be naive to feel that the additional jobs would go only to City residents, however, there will be other

monies spent and other jobs created by this company which will be assets to the City.

Councilwoman Field said that it's her understanding that these additional jobs will be high paying jobs, these people will be living in the Buncombe County, Asheville area and since Asheville is the retail center, whether they live in the City or not in the City, their sales tax money will be predominantly to the City.

Councilwoman Sitnick said that the resolution before the Council reads that "the City Council wishes to provide financial assistance . . . to secure these additional jobs for the residents of Asheville." She agreed with Councilman Swicegood and Councilwoman Field that there is no way we can guarantee that these jobs will be given to residents of Asheville, so she would like that portion which reads "to secure additional jobs for the residents of Asheville" be stricken from the resolution and something along the lines of "to secure additional jobs for the residents of our area" be inserted in its place. She felt that particular paragraph was misleading.

It was the consensus of Council to reword the paragraph to read "the City Council wishes to provide financial assistance . . . to secure additional jobs for the City of Asheville and surrounding area."

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. 94-181. This motion was seconded by Councilman McClure and carried unanimously.

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H. ORDINANCE NO. 2140 - BUDGET AMENDMENT RELATIVE TO COMMUNITY LOAN POOL SUPPORT

City Manager Farris said that this budget amendment, in the amount of \$27,000, is to administer the Community Loan Pool through the Self-Help Credit Union for the 1994-95 fiscal year. At Council's worksession on September 13th, representatives from this Loan Pool provided a six-month update on the activities of that organization. The results of that six-month status report are encouraging. Therefore, the Council directed staff to prepare a budget amendment for this function. The appropriation will be funded from the General Funds non-departmental contingency. The contingency is adequate to support funding this request. As with the other agencies, this amount represents a 10% reduction from the 1993/94 fiscal year.

Councilwoman Sitnick commended the Community Loan Pool for improving the work they are doing and commended Vice-Mayor Peterson for creating the dialog that was able to lead to this new agreement with the Loan Pool.

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. 2140. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 5-1, Ordinance No. 2140 passed on its first and final reading, with Councilman Swicegood voting "no."

ORDINANCE BOOK NO. 14 - PAGE 291

V. CONSENT:

At the request of Mayor Martin, the resolution relative to the 1995 Tour DuPont will be taken off the consent agenda and considered individually.

Councilwoman Sitnick requested the minutes of the August 23, 1994, meeting be amended to include her verbatim comments made during the discussion relative to the resolution changing the name of Downtown Development Department to City Development Department.

Upon inquiry of Mr. Ralph Bishop, Mayor Martin explained the difference between a worksession and a formal Council meeting.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 9, AUGUST 11, AUGUST 19, AUGUST 23 (as amended), AND SEPTEMBER 13, 1994

B. RESOLUTION NO. 94-182 - RESOLUTION TO AWARD TWO MINI-VANS FOR THE POLICE DEPARTMENT

Summary: This resolution recommends awarding the bid for 2 mini-vans to Matthews Ford Inc. in the amount of \$32,784.

Two bids were received for two 1995 Ford "Aerostar" vans at a price of \$16,392 each. Matthews Ford Inc. was the lowest bidder. A copy of the complete bid summary is attached hereto as Exhibit "A". -13-

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C. RESOLUTION NO. 94-183 - RESOLUTION TO AWARD CONTRACT FOR WATER METERS

Summary: This resolution recommends awarding the bid for water meters to Schlumberger Industries Inc. in the amount of \$321,360.

Two bids were received to establish a two year term purchase contract for the estimated quantity of 6,240 5/8-inch and 200 1-inch water meters with encoder registers less trade-in of equal quantities of scraped 5/8-inch and 1-inch meters. Schlumberger Industries Inc. was the lowest bidder.

Meters will be ordered on an as needed basis and maintained in Central Stores inventory for use by the Water Maintenance Division. A copy of the complete bid summary is attached hereto as Exhibit "B".

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D. RESOLUTION NO. 94-184 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES, OFF-ROAD EQUIPMENT AND OTHER SURPLUS PROPERTY AT PUBLIC AUCTION

Summary: This resolution requests authorization for the City's Purchasing Division to hold a public auction to dispose of motor vehicles, off-road equipment, and other miscellaneous property declared as surplus by various City departments and divisions.

RESOLUTION BOOK NO. 22 - PAGE 52

E. RESOLUTION NO. 94-185 - RESOLUTION ACCEPTING CERTAIN STATE MAINTAINED STREETS IN THE BEAVERDAM AND BREVARD ROAD ANNEXATION AREAS AS CITY SYSTEM STREETS

Summary: The City of Asheville has annexed into the City a section along Brevard Road and along Beaverdam and Lynn Cove Road. The City of Asheville is requesting the North Carolina Department of Transportation remove the following streets from the Secondary Road System and be placed upon the City of Asheville Street System as City maintained streets: Oakview Road, Pine Ridge Court, Interstate Boulevard, Dogwood Road, Old Brevard Road, Pine Lane and Sunny Side Lane.

RESOLUTION BOOK NO. 22 - PAGE 69

F. RESOLUTION NO. 94-186 - RESOLUTION AMENDING THE MEMBERSHIP OF THE CITIZENS/POLICE ADVISORY COMMITTEE

Summary: This resolution will amend the membership of the Citizens/Police Advisory Committee pursuant to a request of Chairman Tommy Sellers.

The amendment will make the City Council member and the two ad hoc member be non-voting members. Presently the only non-voting member on the Committee is the Chief of Police.

RESOLUTION BOOK NO. 22 - PAGE 70

G. RESOLUTION NO. 94-187 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH N.C. DEPARTMENT OF TRANSPORTATION FOR RAILROAD CROSSING SIGNALS

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Summary: This resolution will authorize the Mayor to execute a municipal agreement with N.C. Department of Transportation for a railroad crossing signal at the intersection of Piney Park Street and the Norfolk Southern Railway Crossing.

The City's share of this cost is \$7,500 plus \$490 annually for maintenance of these traffic signals and gates.

RESOLUTION BOOK NO. 22 - PAGE 72

H. RESOLUTION NO. 94-188 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF ASHEVILLE, A FEDERAL AVIATION GRANT AGREEMENT, 3-37-0005-18

Summary: This resolution will authorize the acceptance of a grant agreement in the amount of \$1,296,440 from the FAA to widen the parallel taxiway and connecting taxiways.

RESOLUTION BOOK NO. 22 - PAGE 73

I. RESOLUTION NO. 94-189 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE A MODIFIED GRANT AGREEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION FOR PHASE III TERMINAL EXPANSION

Summary: This resolution will authorize the Mayor to execute a state airport aid modified grant agreement for Phase III terminal expansion. The additional \$300,000 needed will bring the amount of the grant to \$833,260. It will also extend the time of completion of the state grant from January 1, 1995, to January 1, 1996.

RESOLUTION BOOK NO. 22 - PAGE 74

J. RESOLUTION NO. 94-190 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO BUNCOMBE COUNTY SHERIFF'S DEPARTMENT

Summary: This resolution requests Council's authorization to convey surplus equipment to the Buncombe County Sheriff's Department pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 75

K. RESOLUTION NO. 94-191 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO TOWN OF BILTMORE FOREST POLICE DEPARTMENT

Summary: This resolution requests Council's authorization to convey surplus equipment to the Town of Biltmore Forest Police Department pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 76

L. RESOLUTION NO. 94-192 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO BUNCOMBE COUNTY EMERGENCY MANAGEMENT AGENCY

Summary: This resolution requests Council's authorization to convey surplus equipment to the Buncombe County Emergency Management Agency pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 77 -15-

M. RESOLUTION NO. 94-193 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO GROUP 1 OF THE NORTH CAROLINA WING OF THE CIVIL AIR PATROL

Summary: This resolution requests Council's authorization to convey surplus equipment to Group 1 of the North Carolina Wing of the Civil Air Patrol pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 80

N. RESOLUTION NO. 94-194 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO NORTH CAROLINA SEARCH AND RESCUE DOG ASSOCIATION

Summary: This resolution requests Council's authorization to convey surplus equipment to the North Carolina Search and Rescue Dog Association pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 82

O. RESOLUTION NO. 94-195 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE OTEEN III ANNEXATION AREA AND FIXING THE DATE OF A PUBLIC HEARING ON DECEMBER 6, 1994

Summary: This resolution states the intent of the City to consider the annexation of an area east of the City limits and sets the public hearing date for December 6, 1994. The boundaries of the annexation area are, generally, the existing City limit line along Riceville Road to the west and along Tunnel Road (U.S. 70) to the south, and along the centerline of the Blue Ridge Parkway to the north and east.

This annexation was initiated by the City Council in response to the request of the VA Medical Center to be annexed. A larger area is being considered to offset the loss in revenue resulting from the termination of the fire protection services contract with the VA Medical Center.

RESOLUTION BOOK NO. 22 - PAGE 84

P. MOTION SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994, TO PARTIALLY REZONE 1401 PATTON AVENUE

Q. MOTION SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994, TO REZONE 2 MICHIGAN AVENUE AND 15/15-1/2 MICHIGAN AVENUE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 RESIDENTIAL DISTRICT

R. MOTION SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994, TO ZONE BEAVER DAM RUN AREA TO R-2 RESIDENTIAL DISTRICT

S. MOTION SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994, TO AMEND THE ZONING ORDINANCE TO ALLOW CARPET SALES AND SERVICE IN THE CG COMMERCIAL GENERAL DISTRICT

T. MOTION TO RESCHEDULE THE PUBLIC HEARING RELATIVE TO AN ELECTED SCHOOL BOARD FROM OCTOBER 4, 1994, UNTIL OCTOBER 11, 1994, AT 7:00 P.M. IN THE COUNCIL CHAMBER IN THE CITY HALL BUILDING

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilman McClure and carried unanimously. -16-

VI. OTHER BUSINESS:

A. RESOLUTION NO. 94-196 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH MEDALIST SPORTS INC., THE GROVE PARK INN AND THE CITY OF ASHEVILLE FOR THE PURPOSE OF SPONSORING THE 1995 TOUR DUPONT ON MAY 4 AND MAY 5, 1995

Mr. Jim France, Co-Chair of Stage 8 of the 1995 Tour DuPont and General Manager of the Grove Park Inn, briefly explained the 1995 Tour DuPont.

The actual race venue will be the same as last year with the finish of the race on May 4 being held on College Street and with the start of the next day's race beginning at the Grove Park Inn. The route for the leg of the race which will finish in Asheville will be from Greenville, S.C. The next day's leg will begin at the Grove Park Inn and will conclude at Banner Elk, North Carolina.

This event brings international attention to the City of Asheville at relatively small cost and provides the opportunity for the City to host an event in cooperation with the Grove Park Inn and various business interests within the City.

Mayor Martin said 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. 94-196. This motion was seconded by Councilwoman Sitnick and co-seconded by Councilman Watts, which motion carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 87

B. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the

action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on September 7, 1994:

HARRIS TEETER ADDITION ON HENDERSONVILLE ROAD

Mr. Green said that on September 7, 1994, the Planning and Zoning Commission unanimously recommended approval of the proposed Harris Teeter expansion with no conditions.

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

PATTON AVENUE BI-LO

Mr. Green said that on September 7, 1994, the Planning & Zoning Commission reviewed the site plan for a new 38,500 square foot Bi-Lo grocery store to be located at the corner of Patton and Louisiana Avenues. The Commission recommended approval of the site plan with the following conditions:

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1. Obtain driveway permits from NC DOT and City of Asheville;
2. Obtain approval for planting in street right-of-way from NC DOT and City of Asheville;
3. Receipt of letter approving sewer allocation;
4. Provide traffic signal feasibility analysis to City Traffic Engineer; and
5. Install Siamese connection as requested by Fire Department.

Councilman Watts questioned if there was any opposition expressed. Mr. Green stated that he had received one phone call regarding traffic.

Councilwoman Sitnick questioned if this project would have to comply with the stormwater development regulations and Mr. Green responded that it would.

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

C. DAILY RATES AT PARKING DECKS

Councilwoman Field requested the City Manager provide Council with information about rolling back the daily parking rates at the parking garages over the winter. Since the City is now going into the slow season, she would like to see what the impact would be on the budget to roll it back to \$3.00 (opposed to current daily rate of \$4.00), and then possibly pick up the fourth dollar in the spring, going into the tourist season. It was her understanding that the impact for rolling it back to \$3.00 for the whole year would be \$9,000.

City Manager Farris said that he would provide Council with that information at a worksession, along with some other information relative to rates at the parking decks versus off-street parking rates.

D. REGULATION OF ADULT BUSINESSES

Councilman McClure moved to direct the Planning and Zoning Commission consider an amendment to the Zoning Ordinance regarding regulation of the location of

adult businesses. This motion was seconded by Councilwoman Sitnick and carried unanimously.

E. RALPH BISHOP

Mr. Ralph Bishop made comments to Council relative to their stonewalling items he has brought to their attention in the past dealing with criminal activities.

F. CLAIMS

City Manager Farris said that the following claim was received by the City of Asheville during the week of August 18-24, 1994: Robert Cohen (Water).

He said the following claims were received for the week of August 25-31, 1994: Fred and Robin Shelton (Parks & Recreation), Johnnie Hemphill (Water), Shirley Kinney (Streets), Jim Anderson (Streets), Charles Miller (Water), Bell-South (Water) and Jennifer Minyard (Water).

He said the following claims were received for the week of September 1-8, 1994: Jeff Sadagursky (Water) and Jonathan E. Harkness (Water).

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He also said the following claims were received for the week of September 9-15, 1994: Ruhlton Todd Fowler (Streets), Battery Park 30-1/2 (Public Works), Bell-South (Water), Bob Ledford's RV (Police) and Jim Goodrum (Fire).

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

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:17 p.m.

CITY CLERK MAYOR
