

Tuesday - October 4, 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. CAROLINA DAY SCHOOL

Mayor Martin and Council thanked Kathie Kline and her 6th Grade Class of Carolina Day School for coming to observe the Council meeting.

A representative of the 6th Grade Class thanked the Mayor and Council for all their help during the week as they learned about local government.

B. RESOLUTION NO. 94-197 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE
KENNETH BISHOP

City Manager Farris read the resolution stating that Kenneth Bishop has been an employee for almost 30 years and has requested retirement from his position as District Chief in the Fire Department. He expressed City Council's appreciation to Ken for his service to the City of Asheville and its citizens.

Resolution No. 94-197 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 88

C. RESOLUTION NO. 94-198 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE
WILLIAM SUDDERTH

City Manager Farris read the resolution stating that William Sudderth has been an employee for 24 years and has requested retirement from his position as Trade Worker III at the Asheville Civic Center. He expressed City Council's appreciation to Bill for his service to the City of Asheville and its citizens.

Resolution No. 94-198 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 89

D. PROCLAMATION PROCLAIMING OCTOBER 9-15, 1994, AS "ASHEVILLE FIRE PREVENTION
WEEK"

Mayor Martin was pleased to announce that the Asheville Fire Department was presented with the International Association of Fire Chief's "Life Safety Achievement Award".

Mayor Martin then proclaimed October 9-15, 1994, as "Asheville Fire Prevention Week" and presented the proclamation to Fire Chief John Rukavina. -2-

E. PROCLAMATION PROCLAIMING OCTOBER 25, 1994, AS "ASHEVILLE AREA CHAMBER OF COMMERCE DAY"

Mayor Martin proclaimed October 25, 1994, as "Asheville Area Chamber of Commerce Day" and presented the proclamation to Mr. Charles Reiley, President of the Asheville Area Chamber of Commerce.

F. PROCLAMATION PROCLAIMING OCTOBER 1994 AS "CRAGGY CHAPEL MONTH"

Mayor Martin proclaimed the month of October 1994 as "Craggy Chapel Month" and presented the proclamation to Mr. Brown, Director of Admissions at Buncombe Baptist Resource Center and Chairman of the Church Committee.

G. PROCLAMATION PROCLAIMING OCTOBER 2-8, 1994 AS "GREEK HERITAGE WEEK"

Mayor Martin proclaimed the week of October 2-8, 1994 as "Greek Heritage Week" and presented the proclamation to Vice-Mayor Peterson who urged everyone to enjoy the Greek Festival at the City/County Plaza on October 7-9, 1994.

II. PUBLIC HEARINGS:

Mayor Martin reminded the audience that the public hearing relative to an elected school board would be held on October 11, 1994, at 7:00 p.m. in the Council Chamber in the City Hall Building.

A. PUBLIC HEARING RELATIVE TO PARTIALLY REZONING 1401 PATTON AVENUE FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Martin opened the public hearing at 4:26 p.m.

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

Mr. Carl Ownbey, Transit Planner, said that this ordinance requests the rezoning of a portion of a lot, located at 1401 Patton Avenue, from R-3 Medium Density Residential to CH Commercial Highway. The property is currently being used for commercial purposes as an established funeral home. The lot is split zoned and the owner has requested that the entire lot be zoned CH.

He said City Planning staff has recommended that the portion of the lot be rezoned from R-3 Residential to CH Commercial Highway in order to eliminate the split-zoned lot. The building and parking lot (which are located on the portion of the lot that is zoned R-3), are being used for commercial purposes, therefore, the remaining portion of that lot should be rezoned to CH Commercial Highway.

He said the original request by the petitioners was to rezone 24 Tampa Avenue and this split zoned lot. The Planning and Zoning Commission unanimously recommended denial. Not speaking on behalf of the Commission, Mr. Ownbey felt they denied the rezoning because of all the other uses permitted in the CH zone, even though there were no current plans for Groce Funeral Home to change their current use. He also felt they denied it based on drainage and water runoff problems in the area.

-3-

Groce Funeral Home Inc. is only appealing the decision of the Planning and Zoning Commission as it relates to the rezoning of a portion of 1401 Patton Avenue (not the rezoning of 24 Tampa Avenue).

Mayor Martin said that a petition was received on October 3, 1994, in the Mayor's Office, which has 27 signatures on it, stating that "We the undersigned residents of Lucerne Park request the support of Asheville City Council to honor Planning and Zoning Commission's denial of Groce Funeral Home's request to rezone any part of their property from R3 (residential district) to CH (commercial highway). We feel that any further intrusion of commercial zoning into the neighborhood will be detrimental to the quiet, family environment of Lucerne Park." He said the petition has not been checked. Also, the Mayor said a letter dated October 2, 1994, has been received from Guy and Mary Ann Morris asking that City Council deny the request.

Councilwoman Sitnick said that she would have a difficult time voting against the Planning and Zoning Commission's decision because they do not vote unanimously all the time. She has a difficult time not appreciating their expertise in their advisory capacity, especially when they vote unanimously on something. In consideration of (1) the runoff problem that already exists there from the paved surface; (2) the existing intrusion into the neighborhood; (3) not knowing what the Commercial Highway designation could bring in the future as far as commercial use (that goes beyond of what's there now), coupled with the signatures on the petition, (whether they've been checked or not), the letters that she's received, and the multiple phone calls that she's received - she felt that just to eliminate a split lot is not enough of a reason for her to vote against the Planning and Zoning Commission decision. We might vote today and then move on with the rest of the things on the agenda, but the folks who are living in the back of that area will have to wonder about what's going to happen to their neighborhood, what's going to happen to their property values, and what's going to happen with additional runoff from rain. If the property is already being used for what the funeral home needs it for, she would have a difficult time changing the back end of that property to commercial highway when it abuts a residential neighborhood, regardless of what residential designation it is.

Upon inquiry of Vice-Mayor Peterson, Mr. Ownbey said that the commercial buildings on the R-3 portion are grandfathered and would not have to be removed if the designation remained R-3.

Mr. Max Cogburn, attorney for Groce Funeral Home Inc., passed out to Council a booklet containing an overhead photograph of the property, copy of a zoning map, copy of the 1944 purchase description, copy of the commercial building permit issued in 1982, copy of a building permit issued 9-15-94 (which would not permit construction on rear portion of the property), an Asheville Planning office staff recommendation to approve rezoning from R-3 to CH and a summary.

Mr. Cogburn felt that since the original request was to rezone 24 Tampa Avenue and the split zoned lot, that the opposition expressed by the neighbors and the denial by the Planning and Zoning Commission was directed at the rezoning of 24 Tampa Avenue and not the split zoned lot. He stated that they are only appealing the decision not to rezone the split zoned lot.

He said that Groce Funeral Home believed until this summer that their entire property was zoned commercial highway and in fact received -4-

a commercial building permit for a commercial garage in 1982 on the portion of property that they now know is zoned R-3. Groce has been using the property as commercial throughout their history. The R-3 area contains three buildings and if these buildings were to require significant repair, the R-3 designation would negate any possibility of rebuilding, and if Groce could not continue commercial use of this area, their future at this location would be in serious jeopardy. The building permit issued on 9/15/94 "bringing handicap ramp up to Code" indicates that any commercial building activity must take place on the

commercial highway portion of the split zoned property.

He stressed that the zoning map shows what appears to be an arbitrary zoning line across the rear 20% of Groce property. There are no measurements or markings to indicate the exact location of this zoning line and it does not follow any previous property border. He urged Council to rezone the entire lot commercial highway making the official records reflect the truth of how the land is being presently being used.

Upon inquiry of Mayor Martin, City Manager Farris said that perhaps when the Planning and Zoning Commission reviewed the request, they realized they must be prepared for any use that's permitted in the commercial highway district, not just the way it's being used now.

When Councilman Watts questioned why their future at this location would be in serious jeopardy if the portion were not rezoned commercial highway, Mr. Cogburn responded that if they had to make minor or major repairs, there might be some problem in obtaining a building permit for a commercial building in an R-3 district.

Upon inquiry of Councilman McClure if any future expansion by Groce Funeral Home would fall under the new stormwater control ordinance, City Manager Farris felt that it would.

Councilwoman Sitnick wondered if they needed to make major repairs (if the property were grandfathered and there would be no consequence to the owners if it remained split zoned), would they be able to request a variance to be able to do those repairs on the existing building which was build several years ago but now grandfathered in?

Mr. Cogburn responded that it is always possible to ask, however, it's hard to ask an operating business to wait for a variance if the building was severely damaged, e.g., a fire.

Councilwoman Sitnick stated then the concern of the neighborhood is the reverse. If the area is zoned commercial highway right up to their back yards then they are the ones who are hanging in limbo wondering whether or not the funeral home will expand or sell or even have the beautiful building torn down with perhaps a Bi-Lo being built there or something like that. What she sees that back portion of the property being is kind of, not technically, but kind of, a buffer zone at this point or a transitional type zone where it's being used for what it's needed for but it also kind of assures the neighborhood that it won't be, in the future, some kind of increased commercial activity on that property.

Mr. Cogburn responded that since the neighborhood did not want 24 Tampa Avenue to be rezoned commercial highway, they are not appealing that decision. However, the split zoned lot has always been a single lot and that's not going to change. -5-

Mayor Martin questioned that if the funeral home was demolished for some reason, would the developer have to come before the Council. City Manager Farris responded that there are approvals that would have to be obtained, like building permits and perhaps a stormwater permit, but the zoning would be in place so that any permitted use in the commercial highway district would be permitted.

Councilwoman Field said that typically it is good planning practice not to split zone a lot, however, sometimes it is done for a specific reason. She said that, in looking at the picture, the split zoned part looks more than 20% and

stated concern if the line actually goes through the building. She questioned repairs to the building that extended from one zone into the other, like the 10 foot handicapped ramp extension having to be constructed on the portion of property zoned commercial highway.

Planning Director Julia Cogburn said there are non-conforming provisions of the ordinance and it depended on the situation. Basic maintenance is allowed. Problems occur when a non-conforming structure or a non-conforming use in an area is damaged. It depends on the percent of the damage and the extent of the damage, both in terms of the percent of the building and the percent of the value of the property. The decision is very complex. If one of the buildings on the R-3 property is damaged 100% by fire, they could not rebuild that building or obtain a variance to do that. It would be a use variance which is not permitted under North Carolina law. She reiterated staff concerns, the neighborhoods concern and the Planning & Zoning Commission's concerns.

Before Councilwoman Sitnick could finish her question "if there was something that the City could do to accommodate the obvious needs of Groce Funeral Home that would allow them in perpetuity, as long as they occupied it" Ms. Cogburn replied there was nothing the City could do.

Councilwoman Sitnick then asked is there no way that we can protect the rights of the funeral home to use their property as they see fit and still protect the neighborhood from having a zoning line on their back yard which is commercial highway. Obviously, the property is being used now without a problem. The funeral home must be good neighbors since there hasn't been any complaints until this rezoning request. Is there no way that we can find language in our provisions that would allow the funeral home to continue to operate as necessary and still maintain that buffer?

Ms. Cogburn replied that the only thing we might do, but would have to check to see if there might be any conflict with statutory provisions, is to amend the non-conforming section of the ordinance to allow for rebuilding of non-conforming structures and non-conforming uses even if they are 100% damaged. That amendment would have to apply to any business that was non-conforming.

Vice-Mayor Peterson suggested moving the zoning line to within 20 feet of the residential properties. This would make all the buildings be in the commercial highway zone.

Councilman Swicegood felt this property looked like it should be zoned commercial but was concerned that the Planning and Zoning Commission unanimously denied the rezoning request. He asked if the entire area was zoned commercial highway, how much of a buffer would -6-

they be required to have. Ms. Cogburn said that for new construction, they would have to place a 20 foot buffer (or a 5 foot buffer with a 6 foot fence) on any piece of property that abuts a residential zone.

Mr. Bill Groce, Groce Funeral Home, urged Council to vote in favor of rezoning the split zoned lot commercial highway. He felt all the opposition was to the rezoning of 24 Tampa Avenue, not the split zoned lot.

Mr. Dennis Gallogher, 7 Rodgers Place, spoke against the split zoned lot and any rezoning that would bring commercial development to his back door.

Councilwoman Sitnick said the petition the Council received stated opposition for any portion of the property to be rezoned, not just 24 Tampa Avenue. Also, all but one of her phone calls were for any portion of the property.

Ms. Janie Ross, 5 Tampa Avenue, spoke against the split zoned lot rezoning because of possible future development. She felt they needed that R-3 buffer from any more commercial intrusion into their neighborhood.

Councilwoman Sitnick asked if there was no way to exempt that one portion for future repair or replacement, without changing all of the non-conforming portion of the ordinance, in order that we don't penalize a business in good standing? Is there really no way that we cannot exempt that one situation because of their suffering from a mistake made years ago and not penalize the neighborhood that has also bought their properties in good faith. Ms. Cogburn replied that doing so would constitute contract zoning which is illegal. She explained that the City can't take a situation and apply it to one lot - they have to apply like zoning to like properties throughout their jurisdiction.

Councilman Swicegood moved continue this public hearing until November 15, 1994, without further advertisement, in order to visit the property and talk to the Planning and Zoning Commission members about their decision. This motion was seconded by Councilwoman Field and carried unanimously.

City Attorney Slawter advised Council that the petition filed in opposition to the proposed rezoning does not appear sufficient to evoke the requirement that the rezoning be approved by 3/4's vote of the City Council rather than a simple majority vote.

Ms. Ross questioned if tabling this public hearing would allow property owners to file a protest petition?

City Attorney Slawter said that the law provides that the protest petition has to be on a specified form, which the petition is not, and is to be filed with the City Clerk at least two working days before the public hearing scheduled on a rezoning matter, which was not done in this case. He said that he was not aware of any specific provision in the law that states what occurs when there is a postponement of consideration but in his opinion it would now be too late to file a protest petition.

B. PUBLIC HEARING TO REZONING 2 MICHIGAN AVENUE AND 15 15-1/2 MICHIGAN AVENUE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 RESIDENTIAL DISTRICT -7-

ORDINANCE NO. 2141 - ORDINANCE TO REZONE 2 MICHIGAN AVENUE AND 15 15-1/2 MICHIGAN AVENUE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 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. Carl Ownbey, Transit Planner, said that this ordinance requests the rezoning of 2 Michigan Avenue and 15-15 1/2 Michigan Avenue from CS Commercial Service District to R-3 Medium Density Residential.

These two lots are directly adjacent to a residential neighborhood. One lot is currently being used as residential property and the other lot contains an abandoned three unit apartment which the owner wishes to renovate to a two unit apartment.

The City Planning staff and the Planning and Zoning Commission recommended the rezoning of these lots as petitioned.

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 Field moved for the adoption of Ordinance No. 2141. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2141 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 293

C. PUBLIC HEARING TO ZONE BEAVERDAM RUN AREA TO R-2 RESIDENTIAL DISTRICT

ORDINANCE NO. 2142 - ORDINANCE TO ZONE BEAVERDAM RUN AREA TO R-2 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. Mike Matteson, Urban Planner, said that this ordinance will zone approximately 88.61 acres and encompasses the Beaverdam Run Condominiums development as well as five properties on Sunnyside Lane and one property on Lynn Cove Road.

The Planning staff and the Planning and Zoning Commission recommend that the entire area be zoned R-2 Low Density Residential for the following reasons:

- The R-1 zoning district does not allow multi-family development. Nor does it allow more than one residential unit per lot. An R-1 zoning would cause virtually all of the property to be non-conforming.

-8-

- R-2 is the most restrictive zoning district classification which allows condominiums and multiple residential units on a lot. This appeals to the residents of the area.

A lady who served as Secretary to the Beaverdam Community Council and on the Land Use Planning for Beaverdam wanted to make the Council aware that there is a density problem and the problem of Beaverdam Road being a two lane road.

Councilwoman Field said that she is a member of the Transportation Advisory Committee and that Beaverdam Road is on their agenda to be improved with the right-of-way that already exists.

Mayor Martin closed the public hearing at 5:32 p.m.

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

Councilman Swicegood moved for the adoption of Ordinance No. 2142. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2142 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 295

D. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ALLOW CARPET SALES AND SERVICE IN THE CG COMMERCIAL GENERAL DISTRICT

ORDINANCE NO. 2143 - ORDINANCE TO AMEND THE ZONING ORDINANCE TO ALLOW CARPET SALES AND SERVICE IN THE CG COMMERCIAL GENERAL DISTRICT

Mayor Martin opened the public hearing at 5:33 p.m.

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

Mr. Mike Matteson, Urban Planner, said that this ordinance will amend the zoning ordinance to permit carpet sales and service as a permitted use in the CG Commercial General zoning district. It is a permitted use in all of the other commercial zoning districts. The Planning and Zoning Commission voted 5-2 to recommend the wording change.

Mr. Matteson tried to explain Councilwoman Field's concern about why individual retail uses were being added individually.

Councilwoman Sitnick briefed the Council on the Planning and Zoning Commission meeting regarding this matter.

Mr. Lowell Pearlman, President of Pearlman's Carpet, was present to answer any questions Council might have.

Mayor Martin closed the public hearing at 5:42 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read. -9-

Councilwoman Sitnick moved for the adoption of Ordinance No. 2143. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2143 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 301

E. PUBLIC HEARING RELATIVE TO THE APPROVAL OF PENSION OBLIGATION FUNDING CERTIFICATES OF PARTICIPATION

RESOLUTION NO. 94-199 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND RELATED MATTERS

Mayor Martin opened the public hearing at 5:43 p.m.

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

Mr. Larry Fisher, Finance Director, summarized the resolution approving the Installment Financing Contract and made a brief statement about the benefits expected to be derived by the City. He then answered various questions and clarified comments from Council.

Mayor Martin closed the public hearing at 5:52 p.m.

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

Councilman McClure moved for the adoption of Resolution No. 94-199. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 90

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR MOUNTAIN CHATEAU SUBDIVISION

At the request of City staff, this item was removed from City Council consideration at this meeting.

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

Senior Planner Patty Joyce said that the Top of Trapper's Run Subdivision is a six lot subdivision on 2.57 acres zoned R02. It is located off Bear Knoll Road in the Trapper's Run Subdivision in Haw Creek.

The preliminary plat was approved by the Planning & Zoning Commission on September 2, 1992, and this approval was reaffirmed on August 3, 1994, subject to the receipt of a letter approving water availability. That letter was received on September 9, 1994.

The subdivision meets the requirements of the subdivision ordinance in that the major utilities are in place. However, upon final -10-

inspection of the new road by the Public Works Department, there are a few minor improvements to be made to the pavement on the cul-de-sac. Damage to heavy equipment on the new road has caused the road to require another one-inch of pavement. The raising and leveling of manholes will be required and the pavement is required to extend to the curb line.

The owner has covered the cost of these improvements through a letter of credit to the City in the amount of \$1,500, this amount being approved by the Public Works Department.

The Planning Director and the City Attorney's Office has approved the subdivision plat.

Councilwoman Field moved for the final plat approval of Top of Trapper's Run Subdivision. This motion was seconded by Councilman Swicegood and carried unanimously.

C. RESOLUTION NO. 94-200 - RESOLUTION ADJUSTING RENTAL RATE STRUCTURE AND OPTIONAL PERSONNEL, EQUIPMENT AND UTILITY RATES FOR THE ASHEVILLE CIVIC CENTER FACILITIES

Civic Center Director Jim Scott said that this resolution will change the rates being charged for rental of facilities and for optional equipment, personnel, and utilities at the Asheville Civic Center.

These rates were unanimously approved by the Civic Center Commission at their September 19, 1994, meeting.

Vice-Mayor Peterson was pleased that the Civic Center is pursuing its prime objective of operating the Civic Center Complex without subsidies from the City's General Fund.

Councilwoman Field said that she has received several calls from people concerned about the non-profit sector. She asked Mr. Scott if he had some indication of any long term contracts being lost because of these rate changes. He responded that he did anticipate some cancellations.

In response to Councilwoman Field, Mr. Scott said that the rates did not run in the paper, however, approximately 15 groups that use the Civic Center were sent the proposed rates prior to the Civic Center Commission for their review.

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

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-200. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 95

D. RESOLUTION NO. 94-201 - RESOLUTION CHANGING BOOKING POLICIES AT THE ASHEVILLE CIVIC CENTER FACILITIES

Civic Center Director Jim Scott said that this resolution will amend the policies and procedures used for booking events at the Asheville Civic Center.

These policies were unanimously approved by the Civic Center Commission at their September 19, 1994, meeting.

-11-

Upon inquiry of Councilwoman Field, Mr. Scott briefed the Council on how this policy differs from our existing policy.

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

Councilman McClure moved for the adoption of Resolution No. 94-201. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 99

E. RESOLUTION NO. 94-202 - RESOLUTION AUTHORIZING AN AGREEMENT WITH JAMES L. WESTBROOK JR.

City Manager Farris said that this resolution will formalize the agreement between the City and James L. Westbrook Jr. as City Manager, in accordance with the term and conditions set forth in that agreement dated August 19, 1994.

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

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-202. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 102

F. RESOLUTION NO. 94-203 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR NON-PARTISAN ELECTIONS AND CALLING FOR A PUBLIC HEARING ON NOVEMBER 1, 1994

City Attorney Slawter said that this resolution of intent is to consider an ordinance amendment to the City Charter to provide for non-partisan elections

by non-partisan primary and election. The adoption of this resolution is the first step that is required in order for Council to make such a change in the City Charter.

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

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-203. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 103

G. RESOLUTION NO. 94-204 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH MOSER MAYER PHOENIX ASSOCIATES, P.A., FOR THE DESIGN AND ENGINEERING OF A NEW TRANSIT TRANSFER CENTER AND WITH GNA DESIGN ASSOCIATES INC. FOR SURVEYING SERVICES FOR THE NEW TRANSIT CENTER

City Attorney Slawter said that this resolution authorizes the execution of a contract and any change orders with Moser Mayer Phoenix Associates, P.A., for the design and engineering of a new transit transfer center and with GNA Design Associates Inc. for surveying services for the new transit center. -12-

Mr. Slawter answered Councilman McClure's question about a pending legal matter, being assured that no money will be expended until the legal matter has been resolved.

Discussion arose when Councilman McClure inquired about if the firms are local firms. Transit Planner Carl Ownbey said that this firm is from Greensboro and explained that approximately 30 RFP's were sent out, an extensive review process was held and out of the four proposals received, two firms were from Asheville, one from Charlotte and one from Greensboro. The Greensboro firm was the most qualified.

Councilwoman Sitnick said that she was not versed on all of the legalities of due process, but anytime the City can utilize local talent for designs, engineering, implementation, contracting, sub-contracting, she felt it was a good thing to be a community based economy.

Councilwoman Field summarized the Mini-Brooks Act in North Carolina which says when you contract for design services you do not consider fee until after you have selected the person. Then a fee is negotiated. If you can't negotiate their fee into what you think is an appropriate fee, then you can then negotiate with the next person. The idea is that you get a qualification based selection. Also, she didn't think that the City of Asheville had any firms that have experience in doing transit facilities and that might have had some affect on the selection.

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

Councilwoman Field moved for the adoption of Resolution No. 94-204. This motion was seconded by Councilman Watts and carried unanimously.

Mr. Slawter answered Councilwoman Sitnick's inquiry about the language "Authorizing the Mayor to execute . . . any change orders within the budgeted amount" by explaining that it is standard language in all authorizations.

RESOLUTION BOOK NO. 22 - PAGE 106

H. RESOLUTION NO. 94-205 - RESOLUTION AUTHORIZING DESIGN DEVELOPMENT FOR PRITCHARD PARK IMPROVEMENTS

City Manager Farris said that this resolution will authorize the City Manager to expend of up to \$30,000 for design development services for Pritchard Park improvements.

As discussed on September 27, the opportunity to create a major gateway to the City at Pritchard Park will be created by the relocation of the bus transfer point to Aston Street. The improvements will also be designed to increase the sense of security in and around the park.

The design development process will include additional participation by the public in refinement of the conceptual design. In addition, when the selection team is made up, it needs to be as inclusive as possible, including representatives from the Recreation Board, Quality Forward and the Tree and Greenway Commission which will work with the City Manager on the selection of a design and will serve as a resource team throughout the design development process.

-13-

It is estimated that the design development process will require a minimum of six months to complete.

Also, in connection with community participation and the funding plan for this park, the City has received a statement of intent by a large prominent corporation in the community to participate substantially in the improvement of this park. However, before they can go ahead and make a concrete commitment, they need to know what's going to be done and what's it going to cost.

Councilwoman Sitnick questioned if this development was covered by the Mini-Brooks Act. Councilwoman Field said that it was and that Asheville has some very good landscape architects in the community and on City staff.

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. 94-205. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 107

I. MOTION RELATIVE TO THREE ADDITIONAL POLICE CANINE TEAMS

Vice-Mayor Peterson moved to authorize the Police Department to purchase three additional canine units, in the amount of approximately \$60,000, which funding is to come out of the Police Department's existing appropriation. If additional funding is required later in the year, the request will need to come back to the City Council for review. This motion was seconded by Councilman McClure and carried unanimously.

Councilwoman Sitnick thanked Vice-Mayor Peterson and Councilman Watts for having the foresight to spend this money in such a wise way.

J. ORDINANCE NO. 2144 - BUDGET AMENDMENT RELATIVE TO FUNDING CHANGES IN THE GENERAL ADMINISTRATION BUDGET

City Manager Farris said that this budget amendment provides funds for additional salary and benefit costs in the General Administration budget

adopted in June. These adjustments total \$85,133 which brings the total budget to \$280,163 which is still below the funding level of this division from previous years.

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

Councilwoman Sitnick moved for the adoption of Ordinance No. 2144. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2144 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 303

K. ORDINANCE NO. 2145 - BUDGET AMENDMENT RELATIVE TO LIGHT UP YOUR HOLIDAYS

City Manager Farris said that this budget amendment, in the amount of \$5,000, will appropriate the amount agreed upon between the City and -14-

the Arts Alliance to provide the staff support and logistical work needed to conduct the "Light Up Your Holidays" events. This amount will be paid to the Arts Alliance in three equal installments between now and January 1995. The revenues needed to support this appropriation will come from fund balance available in the Festivals Fund.

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. 2145. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2145 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 305

L. ORDINANCE NO. 2146 - BUDGET AMENDMENT RELATIVE TO PARKING METERS IN DOWNTOWN ASHEVILLE

City Manager Farris said that this budget amendment, in the amount of \$50,000, will appropriate the amount necessary to allow us to purchase the remainder of the parking meters needed in downtown. This amount will buy approximately 280 meters and poles. We will complete the installation with City crews. The revenues needed to support this appropriation will come from the parking receipts that we anticipate from these meters.

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

Councilman McClure moved for the adoption of Ordinance No. 2146. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2146 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 307

M. ORDINANCE NO. 2147 - BUDGET AMENDMENT TO APPROPRIATE FEDERAL FUNDS FROM HUD THROUGH THE FAIR HOUSING ASSISTANCE PROGRAM

City Manager Farris said that this budget amendment, in the amount of \$19,300, will appropriate the funds from HUD for the Fair Housing Assistance Program. This will be the eighth year of funding through this program. Grant funds received last year were \$70,000. The decrease in funding is because the City has completed a two year period of capacity building funding. Funding for this year is based on case load processed during previous year. HUD provides \$1,300 per fair housing complaint case processed by Asheville-Buncombe Community Relations. The funding represents \$14,300 for 11 cases processed and \$5,000 for mandatory training of staff. The program is administered under contract by the Asheville-Buncombe Community Relation Council which provides staff support to the Asheville-Buncombe Fair Housing Commission. The City Community Development Division serves as Lead Entity and monitors the program.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read. -15-

Councilwoman Field moved for the adoption of Ordinance No. 2147. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2147 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 309

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON SEPTEMBER 20 AND SEPTEMBER 27, 1994

B. RESOLUTION NO. 94-206 - RESOLUTION REAPPOINTING ROY HARRIS TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Summary: This resolution will reappoint Roy Harris to the Asheville-Buncombe Water Authority for an additional three year term, term to expire September 30, 1997, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 108

C. RESOLUTION NO. 94-207 - RESOLUTION APPOINTING SAMUEL CAMP, WANDA HAWTHORNE, JIM ORR AND BILL STEWART TO THE RECREATION BOARD FOR ASHEVILLE

Summary: The terms of Nancy Boland, Carolyn Tingle, Larry Harmon and Marvin Nockow, as members on the Recreation Board for Asheville, expired on June 30, 1994. This resolution will appoint Samuel Camp, Wanda Hawthorne, Jim Orr and Bill Stewart to three year terms respectfully, terms to expire June 30, 1997, or until their successors are appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 109

D. RESOLUTION NO. 94-108 - RESOLUTION AMENDING MEMBERSHIP ON THE RECREATION BOARD FOR ASHEVILLE

Summary: This resolution will change the membership on the Recreation Board for Asheville to add two ex-officio (non-voting) members to the Recreation Board. The resolution will appoint Nancy Boland and Charlie Bullman to serve three year terms respectfully, terms to expire June 30, 1997, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 110

E. RESOLUTION NO. 94-109 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL FOR THE FAIR HOUSING ASSISTANCE PROGRAM

Summary: See Item M above.

RESOLUTION BOOK NO. 22 - PAGE 111

Councilwoman Sitnick 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. 94-210 - RESOLUTION TO ENTER INTO AN AGREEMENT WITH NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE PRIOR SERVICE CREDIT

City Manager Farris read the resolution to enter into an agreement with the North Carolina Local Governmental Employees' Retirement System to provide prior service credit. This resolution states that the City of Asheville elects to allow credit to all employees who were employed by the City of Asheville on January 1, 1980, on account of prior service to a unit of local government.

Councilwoman Field moved for the adoption of Resolution No. 94-210. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 112

B. APPROPRIATION FOR CHAMBER OF COMMERCE

Councilman Swicegood voiced concern over the \$90,000 appropriation to the Asheville Area Chamber of Commerce. City Manager Farris was instructed to investigate Councilman Swicegood's concern of whether the money was to be appropriated without further consideration of the Council.

C. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of September 15-21, 1994: Claudine A. Hudson (Police), Melissa Whitmire (Police), Geraldine Whitmire (Police), Futon Designs (Streets), Sabrena Brown (Parking) and Keisha Williams (Police).

He said the following claims were received during the week of September 22-28, 1994: Lee Ponder (Water) and Joe Eckert (Water).

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

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:38 p.m.

CITY CLERK MAYOR
