

Tuesday - November 1, 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; City Manager James L. Westbrook Jr.; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF BETTY GIBBS

Mayor Martin recognized Ms. Betty Gibbs who has been named Teacher of the Year for the second time in the Asheville City Schools. Councilman Watts read the certificate and presented it to her.

B. RESOLUTION NO. 94-212 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE
STEPHEN EVANS

City Manager Westbrook read the resolution stating that Stephen Evans has been an employee for 14-1/2 years and has requested retirement from his position as Sergeant in the Asheville Police Department. He expressed City Council's appreciation to Steve for his service to the City of Asheville and its citizens.

Resolution No. 94-212 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 117

C. RESOLUTION NO. 94-213 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE
CHARLES CARVER

City Manager Westbrook read the resolution stating that Charles Carver has been an employee for almost 30 years and has requested retirement from his position as Line Maintenance Worker I in the Water Resource Department. He expressed City Council's appreciation to Charles for his service to the City of Asheville and its citizens.

Resolution No. 94-213 was adopted by acclamation.

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D. RIVERLINK - FRENCH BROAD RIVER PARK

Ms. Karen Cragolin, Executive Director of RiverLink, presented the City Council with a check in the amount of \$100,000 from the Janirve Foundation for the new French Broad River Park. She briefed the Council on the donations received to date and what was purchased with those donations.

On behalf of the City Council, Mayor Martin thanked RiverLink for the generous donation.

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II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO NONPARTISAN ELECTIONS

Mayor Martin opened the public hearing at 4:15 p.m.

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

City Attorney Slawter said that on October 4, 1994, the City Council adopted a resolution scheduling a public hearing for November 1, 1994, on the issue of nonpartisan elections. Of the three types of nonpartisan election from which the Council may choose under State law, the Council decided to proceed with consideration of the "nonpartisan primary and election method." This method would provide for a primary to be conducted on the fourth Tuesday before the election, with the election to be conducted on the Tuesday after the first Monday in November. The voting would be as follows:

a. Mayor: A primary would be required if there are more than two candidates. The top two candidates in the primary are nominated and placed on the November ballot. The person receiving the highest number of votes in November is elected.

b. Council Seats: A primary is conducted if there are more than twelve candidates. The twelve candidates receiving the highest number of votes in the primary are nominated and placed on the November ballot. The six candidates receiving the highest number of votes in the November election are elected.

The provisions of the General Statutes which authorize the Council to amend the City Charter to make the change to nonpartisan elections provide that the ordinance making the change may be adopted not earlier than the next regular meeting of the Council after the public hearing and not later than sixty days after the public hearing. There is, therefore, no action required to be taken by the Council following this public hearing. The ordinance making the amendment will be placed on the next Council agenda for consideration. If the Charter is so amended by the Council, the amendment may be effective upon adoption of the ordinance or the Council may submit the question to the voters by referendum. If the Council should decide to submit the issue to the voters, a date for an election should be scheduled by the adoption of a resolution on the same date as the adoption of the ordinance. In the event that the Council adopts the ordinance making the Charter amendments but does not schedule a referendum, a referendum may be called for upon the submission of a petition signed by at least 10% of the registered voters, or 5,000 voters, whichever is less. Any such petition would have to be filed within thirty days after publication of the notice of adoption of the ordinance.

Mayor Margin felt nonpartisan elections was a good idea and suggested putting it on the ballot for the next election, similar to the item regarding four year staggered terms.

Councilwoman Sitnick said she would not mind putting this question to the voters. She didn't have a problem with nonpartisan elections. -3-

She also didn't think that party politics has anything to do with City government nor does she think it should. She did, however, think that there are some philosophical differences in different parties and some citizens have expressed to her that they like to know what those philosophical differences are in the way a person approaches government - not necessarily that it binds a

person to a particular decision, it's just a matter of the way a person goes about determining the type of government that that person performs. She thought that putting the question to the citizens might help the Council determine whether the citizens want to know about that basic philosophical difference.

Councilman McClure didn't remember if the four year staggered term issue came up throughout the campaign. He did, however, remember the issue of nonpartisan elections. Mayor Martin stated that he brought the staggered term issue up.

Councilman Watts hoped that this could be a decision of the Council, without putting it on the ballot.

Mr. Bob Long Jr. spoke in favor of the nonpartisan primary and election. He felt it would allow all citizens, including the unaffiliated, to fully participate and take a full part in choosing the leadership of our City.

Mr. Doug Thrash also spoke in favor of the nonpartisan elections. He felt issues confronting the City seldom reflect the issues confronting major parties, therefore, to confuse the votes with the party identification is maybe not in the best interest of City issues. He spoke against staggered terms.

Mr. Gene Ellison didn't have any problems with nonpartisan elections, however, he felt there was a greater issue and some safeguards that need to be taken. He felt that if Council was considering staggered terms, they needed consider a combined district and at large election. He urged Council that before a decision is made to go nonpartisan, that they look at the other cities who have gone that route.

Mr. Lewis Clay spoke in favor of nonpartisan elections and congratulated Vice-Mayor Peterson for bring this issue to the Council.

Mr. Jerry Sternberg also spoke in favor of nonpartisan elections.

Mr. Tom Thrash endorsed nonpartisan elections.

Mayor Martin closed the public hearing at 4:32 p.m.

Mayor Martin said that the ordinance making the amendment will be placed on the November 15, 1994, Council agenda for consideration.

B. CONTINUATION OF PUBLIC HEARINGS - MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND MOUNTAIN STREET (Parcel 198); MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND CURVE STREET (Parcel 48); and MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND LINCOLN STREET (Parcels 144 & 145)

Due to these three projects being similarly related, the public hearings were opened on October 25, 1994, and continued until this date.

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Mr. Gene Ellison, attorney representing Douglas Management Company, showed a brief video and slide presentation concerning the projects and stated five essential reasons for supporting the elderly housing project:

Elderly Housing - replacing lost housing and allowing elderly persons to remain in their own neighborhood; 44 units; 95% elderly and 5% handicapped

Jobs - permanent resident manager and maintenance engineer to service the development. As many as 200 workers in the areas of plumbing, electricians,

brick masons, concrete and general laborers. Developer will work with the City's Minority Business Coordinator.

Economic Development - improvements to undeveloped land; \$2.4 million project

Neighborhood Agreement - agreements in writing - one with the Housing Authority and one with the neighborhood association and the developer

Deed Restrictions - 30 years restricted for elderly housing. In addition restrictive covenants could require any change beyond that be with the approval of the neighborhood association - require neighborhood association approval prior to any changes.

He reiterated that this is an opportunity to (1) provide quality housing for senior citizens in the own neighborhood; (2) utilize an excellent location considering the surroundings, the bus line and being near downtown; (3) use of the neighborhood association as a watchdog; (4) supply economic development immediately; and (5) create jobs immediately for over 200 people. He felt this was a win-win situation for the entire community and urged Council to approve the projects.

Upon inquiry of Councilwoman Sitnick about the screening process, Mr. Douglas, Developer, stated that his process consists of a standard credit check, a criminal check, and a standard household apartment application.

The following persons spoke in support of the projects for various reasons, including, but not limited to: good security in apartments, easy access to downtown area for the elderly and handicapped, apartments on a bus route, additional jobs the project would create, need for elderly and handicapped housing, low income people should not be treated differently than higher income people in the location of their housing, shortage of decent and affordable rental housing is most pressing,

Mr. Jim McCulley, retired Counselor for the Buncombe
County Schools

Mr. Joe Chandler, President of the East End/Valley
Street Community

Mr. Tony Sayer, speaking on behalf of the Affordable
Housing Coalition

Mr. Bob Smith, Asheville-Buncombe Community Relations
Council

Mr. James A. Barrett, Attorney and Executive Director
of Pisgah Legal Services

Ms. Bernadette Thompson, Independent Living Counselor at N.C. Division of
Vocational Rehabilitation Services

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Mr. William Young, Vice-President of the East End/Valley Street Community, spoke in opposition of the project. He said that at the community meeting with

the developer on October 30, which was held in accordance to Council's wishes, out of the 27 people who were able to vote, one voted in favor of the project leaving 26 voting against it. He felt the neighborhood had enough apartment complexes and they are trying to get single family homes built. He reminded Council of the petition he presented on October 25 with 59 signatures on it opposing the project.

Upon inquiry of Councilman Watts about the number of people in the neighborhood association, Mr. Young stated that there were approximately 150 votes.

Mr. David Jones, Executive Director of the Housing Authority, spoke in support of the project that began over 12 years ago with the then-neighborhood putting together a redevelopment plan for that section.

When Councilwoman Sitnick asked about the handicapped units, Mr. Douglas responded that a handicapped person could occupy any of the units.

Mr. Halliburton, resident in the affected community, and Ms. Tabby Mpofu, 44 Miller Street, spoke against the project stating that the neighborhood wants single family houses.

Mr. Lawrence Gilliam, employee of the Housing Authority, explained that crime is everywhere, not only in public housing.

Mayor Martin closed the public hearing at 5:20 p.m.

Vice-Mayor Peterson stated that his original concern about the project was that the neighborhood was not contacted about the development and thus, their concerns not taken into consideration. He felt that after looking at all the safety features and the information as a whole, he could now feel comfortable in supporting the projects.

Planning Director Julia Cogburn explained the group development process for Councilman McClure.

Councilwoman Sitnick stated that she attended the developer/community meeting and assured everyone that this issue has been a real gut-wrencher for her. "There's a vast gap of between having opinions and making decisions. There's validity on the part of everybody who has participated in this process starting ten years ago until now. The meeting was a very sad event for me especially since I was the one who requested that the developer meet with the neighbors and with the Housing Authority in order to, at least, be able to communicate concerns and see if some kind of compromise and collaboration was possible. I want to thank all of the neighbors who took 3-1/2 hours of their Sunday and the members of the Housing Authority and Mr. Douglas for being there. I would like to say that I believe that the reason Mr. Douglas brought the members of the South Carolina apartment units up here was for the very reason that Mr. Halliburton mentioned earlier and that was, you can look at a slick video with nice music in the background and get one picture, but if you have an opportunity to speak to the people who are living in that development, you have an opportunity to question them about the realities of living there. Unfortunately that didn't happen. I understand why. There is a lot of -6-

frustration, there is a lot of anger, there is a feeling of being not brought to the table for many years even though this was approved ten or how many years ago, the folks living in that neighborhood now feel that they were not given the opportunity to have a say so. They were not given any sense of control although I agree with Mr. Barrett from the Pisgah Legal Services that neighborhoods should not necessarily have veto power. We have to look at the big picture and we have to look at the community good. I would like to say

that not everybody wants to live in single family houses and not everybody wants to live in apartments and it's the job of a municipality to provide a diverse number of living arrangements for its citizens. I would like to say that while it's true that we need some fundamental reform in how we provide affordable, decent safe housing for the citizens who are less fortunate, we don't have that fundamental reform from the top yet where our federal tax dollars are spent. In the meantime we have to provide housing for those in our community who need it. These units are one bedroom and they are for people 62 years and above. All of the legal processes having to do with this development as they went along over these years have been met and approved, from permitting to zoning to licensing to land purchasing. The only part that the Housing Authority has in this development is they own the land and this City Council on June 7 passed a resolution allowing the Housing Authority to accept bids on this land. I understand some of the frustration that the neighbors have with the Housing Authority and the fact that they did not be brought in as part of the dialog process. But this is a private development just as many developments are in our community, single-family, condominium, townhouse, just as many low income and high income developments are in our community. This is the first time I've had so much conflict in making a decision on anything because I understand the frustration but I also understand the need. I also read the United Way Needs Assessment Report that states "the number one priority in our community is providing safe, decent affordable housing to our citizens." I think if my mother, who is lucky enough to have me to take care of her, who didn't have a whole lot of money, and if she hadn't she would not have been happy in a house - she would have wanted to have lived in this kind of a development surrounded by folks who are her age. I can't let the anger and frustration and the personal problems going on in the neighborhood direct my decision on this. If Mr. Douglas doesn't do this, as has been pointed out, somebody will, maybe the Housing Authority or another developer. This is going to be a development with private management, private maintenance, private security, private enforcement, it's going to be responsible and dignified housing by a developer who has a sterling and superior reputation. It's not perfect, the process was not perfect, the Housing Authority has played a part in this that the neighbors are upset with, but I would urge my fellow City Councilmembers not to throw the baby out with the bath water. If we can't vote for this private, safe, decent, affordable housing development for the elderly then I don't know what we'll ever be able to vote for and I'm going to support it. I would like to just tell you the numbers of Section 8 houses in the different sections of this City so that you are all aware: Western part of City - 270 Section 8 houses; North end - 162; East end - 258; and the South side - 94; for a total of 784 Section 8 houses that are operated by the Housing Authority. The perception that everything is in one place or another is not quite true.

Councilman Watts moved to approve the group development of Mountain Spring Apartments located at the corner of Martin Luther King Jr. Drive and Mountain Street, subject to the conditions imposed by the Planning and Zoning Commission, which includes the approval of reduction in parking. This motion was seconded by Councilwoman Field and carried unanimously.

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Councilman Watts moved to approve the group development of Mountain Spring Apartments located at the corner of Martin Luther King Jr. Drive and Curve Street, subject to the conditions imposed by the Planning and Zoning Commission, which includes the approval of reduction in parking. This motion was seconded by Councilwoman Field and carried unanimously.

Councilwoman Field moved to approve the variance request regarding encroachment of a retaining wall into the required landscaping area. This motion was

seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Field moved to approve the group development of Mountain Spring Apartments located at the corner of Martin Luther King Jr. Drive and Lincoln Street, subject to the conditions imposed by the Planning and Zoning Commission. This motion was seconded by Councilman Swicegood and carried unanimously.

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF A PUBLIC HOUSING PROJECT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE LOCATED AT THE CORNER OF VIRGINIA AND BROTHERTON AVENUES

Mayor Martin said that this public hearing was held on September 27, 1994.

Mr. Gerald Green, Senior Planner, stated that at the Planning and Zoning Commission's meeting on July 6, 1994, the Commission voted 4-3 to recommend approval of the proposed 28 unit public housing project to be located on Virginia Avenue at Brotherton Avenue. The following four conditions were attached to the approval:

1. The un-opened rights-of-way must be closed prior to the issuance of building permit(s);
2. Driveway permits must be obtained for the connections of the driveways;
3. Sidewalks or pedestrian paths shall be provided within the development to connect each building with other buildings in the development and to provide a connection to the street; and
4. Incorporate recommendations of the traffic impact analysis as they apply to the development.

The Commission also recommended denial of the request for a reduction in the required two parking spaces per unit for off-street parking.

The Housing Authority has provided a revised plan which shows sidewalks throughout the development with access onto Virginia and Brotherton Avenues. They have increased the number of parking spaces to provide two spaces per unit plus 5 spaces for a community building which is located on the front portion of the development. The development will consist of 4 duplex buildings and the community building having access off Virginia Avenue. One 4-duplex building and 2 8-unit buildings will have access off Brotherton Avenue, for a total of 28 units.

One major concern was the water system in the area and its ability to provide adequate fire flow, adequate pressure to provide the fire protection for the area. A report from Water Department states that -8-

they are anticipating an improvement to the 6" line on Hudson Street. This improvement "may" improve fire flows on the proposed site. The actual amount of improvement cannot be determined until that line is in because of other problems which may exist in the line on Virginia Avenue. The Fire Department has provided options to the Housing Authority with regard to meeting the fire requirements. Those options include adding individual sprinklers to the development; constructing the development as either duplexes or single-families which would require a lesser fire flow; or some combination of those alternatives.

Another concern was the street system. The City's Traffic Engineer has looked

at the traffic in the area of the project site and has stated that based on his counts in that area and his projection based on the proposed development that he recommends no improvements to the street system in the area and has stated that the street system can accommodate the increased traffic. Residents of the neighborhood did a traffic count on the Virginia Avenue near its intersection with Haywood Road and found significantly higher traffic counts than in the area of the proposed development. The traffic generated by the development would have to access the site in all likelihood from Haywood Road, so the entire street would be impacted by the proposed development.

The Housing Authority has provided the City Council with options, all of which have not been reviewed by the Planning staff or the Planning and Zoning Commission ("P&Z Commission").

The Housing Authority's first option would consist of a total of 24 units, a reduction of 4 units. They would replace the 8 unit buildings with 4 unit garden apartments. The upper level would consist of 1 1 bedroom and 1 2 bedroom garden apartments. The lower level would consist of 1-1 bedroom and 1-2 bedroom garden apartments. It would add handicapped units as suggested at one of the meetings that the City Council and the Housing Authority held. The breakdown would be - 6 1-bedroom units, 2 1-bedroom handicapped units, 12 2-bedroom units, and 4 2-bedroom handicapped units for a total of 24 units. There would be no 3-bedroom units in this proposal. Once again, this has not been reviewed by the Planning staff or the P&Z Commission.

The Housing Authority has a second option calls for a total of 20 units, a reduction of 8 units from the proposal originally presented. They would re-design the all of the buildings to be duplex units, they would add handicapped units with 50% of the units being handicapped accessible. The breakdown would be 10 2-bedroom handicapped units and 10 2-bedroom units, for a total of 20 units. There would be 6 duplex units accessing from Brotherton Avenue with the remaining units accessing from Virginia Avenue. This too has not been reviewed by the Planning staff or the P&Z Commission.

The Housing Authority also has a third option consisting of 13 single family units, 4 duplexes for the handicapped and 4 duplexes for a total of 21 units, all accessing from Virginia Avenue. This option would require the Housing Authority to purchase an additional two acres of land which the Housing Authority does not own. This too has not been reviewed by the Planning staff or the P&Z Commission.

Mayor Martin asked the City Attorney whether if the Housing Authority presented for consideration plans other than those previously reviewed by the P&Z Commission, could the City Council give final consideration to those plans or whether they must be remanded to the P&Z -9-

Commission for review. City Attorney Slawter stated that Section 30-6-2 of the City Code authorizes the City Council to approve the application as submitted to the P&Z Commission or with modifications or conditions. He stated that if the modifications created more of an impact upon the community than the original plan that the matter should be remanded to the P&Z Commission. But, if the modifications resulted in a lesser impact remand should not be required, although remand would still be appropriate if the Council chose to do so.

Upon inquiry of Councilwoman Field about a possible conflict of interest since the firm she works for is doing work for the Housing Authority, City Attorney Slawter said that the statutory provisions not only authorizes, but requires, that City Council members vote on all matters that come before the Council except in two instances - 1) when your personal conduct is at issue and 2) where your own financial gain is involved. In his legal opinion, she did not

have a conflict of interest. However, if the Council felt there was a conflict, by majority vote, they could excuse Councilwoman Field from participation in the matter.

Councilwoman Field felt that there might be an appearance of a conflict of interest.

Councilman Swicegood said that if Councilwoman Field felt there was a conflict of interest on this, he had no problem in excusing her. HHHHHH owever, there might also be an appearance of a conflict with her being on the subcommittee that appropriates the Community Development Block Grant monies. He felt she might want to step down from the subcommittee.

Councilwoman Field said that she would ask to be taken off of that subcommittee.

Councilwoman Sitnick moved to excuse Councilwoman Field from voting on this issue. This motion was seconded by Vice-Mayor Peterson and carried on a 6-1 vote, with Mayor Martin voting "no".

Councilman Swicegood questioned if the development was not approved would the improvements to the water system still take place. Mr. Green responded that they would.

Vice-Mayor Peterson stated some concern on the reports from the Water Department and Traffic Engineering Division.

Councilwoman Sitnick said that she would like to address the issue of the water flow. First of all about the traffic, I find it interesting that we have been dealing with this West Asheville project for quite some time and I'm disappointed that we were not able to get the traffic study numbers here for today. I also want to point out that at least five neighbors that I spoke to personally told me that Fridays between 7:00 a.m. and 7:00 p.m. would be a great time to assess the traffic conditions and I don't believe that that was done. I realize that the Traffic Engineering Division can't accommodate the hourly requests by each individual neighborhood but this is such a controversial issue that I think that perhaps that accommodation could have been made. I would like to point out a couple of things. A memorandum that was sent to Council by the Director of the Water Department Mike Holcombe states as follows: "This area of West Asheville is included in the current fiscal year's annual distribution system improvements project. Specifically there will be an installation -10-

of a 6" water line on Hudson Street. This new line will provide an additional 6" feed to Virginia Avenue from where the subject project current receives water. This will improve both water flows and pressures in some measure to the project." I'm not a lawyer but "in some measure" is very vague. I would also point out that the computer program in the Water Department is not designed to analyze pipes less than 8" in diameter and so providing any kind of accurate reflection on water flow would be rather difficult. I would also like to point out that at the public hearing we had at the Civic Center on September 27, we received from the Fire Marshal an explanation of fire flow and water pressure and psi's and all of that and at 1:40 p.m. today I had a conversation with Mike Holcombe of the Water Department who pointed out to me that at this time and in consideration of the fact that the 6" lines that are being laid now will only improve the flow in some measure that there is no guarantee that we would be able to accommodate 500 gallons per minute and a 20 psi residual pressure even with the new lines. I just wanted to point that out.

At the request of Councilman Watts, Mr. David Jones, Executive Director of the

Housing Authority, answered various questions concerning the Eastview Home Condominiums if this West Asheville project was not built. He summarized that the grant for the West Asheville housing project is based on one to one replacement housing.

Mr. Jones responded to financial information requested by Councilman McClure and explained about how grants differ.

Councilwoman Sitnick questioned Mr. Jones about other properties the Housing Authority owned. He responded that they do own property in various areas in the City but a lot of those properties are not buildable lots.

Several questions were raised by Vice-Mayor Peterson in which Mr. Jones was unable to respond to because he did not have the information available at that time. Mr. Jones stated, however, that he would be glad to furnish whatever information Council wanted to them.

At Mayor Martin's request, Mr. Jones said his recommendation to Council would be to approve the third option. Since the neighborhood and the City Council asked the Housing Authority to come back with a plan with more single family units. He reiterated that the third option has 13 single family units, 4 duplexes for the handicapped and 4 duplexes for a total of 21 units. The Housing Authority will purchase the additional two acres.

Mr. Jones answered questions from Councilman Swicegood relative to elevations in the project particularly at the end of the cul-de-sac.

When Councilman Watts stated his concern about water pressure, Mr. Mike Holcombe, Director of Water Resources, passed out a detailed water map of this area in question. He said that this water line improvement on Hudson Street is an upgrade of an existing 2" line to a 6" line. It's reasonable to assume that by replacing this 2" with a 6", you're going to provide an additional amount of water. This may be a case where expectations exceed reality, because there is no way anyone can translate gpm or psi's would be going up to a specific amount. He apologized if that sounded vague. In short, there will be some improvement in that situation, but at this point he could not say if it's going to be major or marginal.

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Councilwoman Sitnick said the Affordable Housing Coalition, in its own resolution, refers to strong opposition to holding affordable housing developments to a higher standard than non-affordable housing developments or commercial developments. But I would think that we must least hold them to the same standards. The Coalition in its fight for the minimum Housing Code, especially regarding fires, is a good fight. It depletes the affordable housing stock at a faster rate than anything else. Fires in part can be avoided by having a good strong stringently enforced minimum Housing Code but fires need water to be put out if they occur.

Fire Chief John Rukavina said that standards have been developed for water flow expectations at a construction site. Single family dwelling expectation is a minimum flow of 500 gallons per minute at 20 pounds residual pressure. That means when a hydrant is open water must be able to flow 500 gallons of water a minute and if you opened a second hydrant on the system, there's an extra 20 pounds pressure left, so that a fire truck can use that water effectively. Based on what Mr. Holcombe has told Council, the Fire Department would have the same difficulty he has in that it's difficult to say what the improvement in water supply would be based on system improvements. My understanding is that the Housing Authority has retained an engineer that is working on proposals in

this area. We have not seen them yet, although we have been in contact with this man so that when he's ready to bring us information, we are ready to give it the best assessment we can. If you are talking about something larger than a single family dwelling, then our fire flow expectations start at 1,000 gallons per minute. Although what we have done in dealing with situations where reality dictates that there won't be an immediate improvement of the water supply, we will allow some offset through an internal sprinkler system. If the water supply is not even at the 500 gallon per minute level, then it's difficult for us to make that calculation because unless we have some engineered sprinklered planning done, it's impossible to say if what water is there would even support a sprinkler system. It is possible to find answers to those questions. One way to approach it is simply that if the combination of the available water supply and a sprinkler system can't meet the demand of a sprinkler system with some marginal flow left for firefighting then that would clearly be an inadequate water supply for fire protection purposes. When questions are asked relative to water supply, our resource is the Water Authority in terms of what the system is capable of delivering. Since these improvements have been proposed and we don't know what they will yield in terms of increased gallons per minute, for us that part would be speculative.

When Councilman Watts asked if the water was tested for gallons per minute, Fire Chief Rukavina said that the water was tested three times and the water flow hasn't changed substantially. He was stating that on recollection since he hadn't reviewed this since the Council public hearing on September 27. However, his recollection is that the water flows on Brotherton are for all intents and purposes non-existent and that's because it seems that the hydrants there are on a 2" main and that 2" main can deliver water for domestic purposes, but for fire protection purposes the gallons per minute flow is very low. When you get out onto Virginia and further up Virginia the water flows improve. When you get more to the project site, you can develop a 500 gallon per minute flow, which would again be adequate in our view for a single family dwelling but not for a duplex.

Councilman McClure asked Fire Chief Rukavina about the sprinkler system competing with the fire hoses. He responded that if you have a -12-

sprinkler system in there, isn't that going to compete against the fire hoses. Our experience with sprinkler system is that documented evaluations of sprinkler systems indicate that they are very, very effective. The sprinkler system essentially controls or extinguishes the fire before the Fire Department even gets there. Therefore, the sprinkler system competition for water supply is generally not an issue. As a matter of fact, what fire protection experts say is that if a building is equipped with a sprinkler system the Fire Department is better off using water it carries on its own trucks and not interfering with the operation of the sprinkler system.

Councilwoman Sitnick said that there is no way she is going to vote positively to put housing in, that for all intents and purposes and according to everything we have heard today, will endanger its occupants. She is also concerned with the rest of the neighborhood where there are red-topped fire hydrants clearing indicating that fire flow is inadequate. Therefore, she moved to deny this group development project for safety reasons. This motion was seconded by Councilman Swicegood.

Mr. Walter Currie, attorney for the Housing Authority, asked that Councilwoman Sitnick be excused from participating in these deliberations. The reason he stated is that Council today is sitting in a quasi-judicial capacity. The Council is deliberating on whether or not an applicant has complied with the City's ordinance. We feel that the Housing Authority has fully complied with the City's ordinance and that the Council has the evidence to see that.

Councilwoman Sitnick sat with the P&Z Commission when it held it's hearing on this matter. She made comments as to her feelings at that point in time and he felt that, under the authority of Crump v. Board of Education, she has indicated a bias or a prejudice that would be improper under North Carolina law. So we would ask that she be excused from participating.

Vice-Mayor Peterson felt that if you don't have adequate fire protection who will be responsible if a fire occurs.

City Attorney Slawter stated that the Crump case that Mr. Currie is referring to is a case where there was a matter related to a school board employee and the school board was taking action. One member of the school board expressed an opinion regarding the action that should be taken before hearing all of the facts upon which the ultimate determination should have been made. Since he was not present at the P&Z Commission meeting, he assumes that Mr. Currie is saying that Councilwoman Sitnick expressed an opinion there about what should be done in this particular situation without having first participated in hearing what was presented to the Council at the public hearing and at this meeting today. Based upon that, if an opinion was expressed at that time, I would have to concur that the Crump case would apply.

Councilwoman Sitnick asked Mr. Currie what she said.

Mr. Currie said he couldn't tell her in verbatim what she said. However, he could tell her in substance though. First of all, Councilwoman Sitnick sat at the table with the P&Z Commission as though she were a member.

Councilwoman Sitnick asked if that was the meeting where there were no seats left and the Chair invited her to sit on the podium where there were other people sitting.

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Mr. Currie said that he was referring to the public hearing that the P&Z Commission held on this subject.

Councilwoman Sitnick said that she only sat up on the podium one time and that was when this was a full hearing and there were seats placed all over and the Chair Barber Melton asked her to sit on the podium. She is the official liaison from City Council to the P&Z Commission. She usually sits to the side. The one and only time she did sit on the podium was because there was not another spot in the room to sit.

Mr. Currie said it was a meeting of the P&Z Commission. Councilwoman Sitnick did express negative opinions regarding this project at that point in time. He could not tell her verbatim what she said. He has asked the secretary of the P&Z Commission to provide him with a transcript which has not yet been done.

City Attorney Slawter said that if Councilwoman Sitnick's not sure what she said and Mr. Currie is not sure what she said, then he could not state an opinion as to whether the Crump case applies.

Councilwoman Sitnick asked if this was a quasi-judicial hearing? She didn't hear anybody sworn in or asked if they wanted a formal hearing or an informal hearing. We don't have a court reporter here.

City Attorney Slawter said that the public hearing was closed on September 27, 1994.

Councilman Swicegood said that if the Housing Authority is going to challenge

City Council, he would be more than welcome to accept the challenge on a legal battle for whatever grounds they want. He felt like this City Council represents the City and the best interests of the public and to him it's a disgrace for the Housing Authority to get up and say that.

Mr. Craig Justice, attorney with the Van Winkle law firm, and said that there is a case that came in after Crump which said that Crump is not applicable when there was an objective standard being reviewed that would deny a project. Crump only applies when there is some subjectivity but not when there is an objective standard. The case is Rice v. Town of Weaverville. He emphasized to Council when you're talking about fire flow and you're looking at 500 gallons per minute, it's pretty objective to see whether or not they meet that standard or not.

Councilwoman Sitnick appreciated Mr. Justice for bringing that to Council's attention. She said to call her naive but she was elected to serve the public, all of them. She will go to the mat for principle. There is no way she will support anything that endangers one single citizen of the City of Asheville and she would further say to Mr. Currie that there are things that the Housing Authority does and has done and continues to do that clearly offend her. But there is no way she'll bring any of those things up at a City Council meeting. She is offended by his improper remarks. As much time as she puts in on this City Council and as liaison to P&Z Commission, he should be ashamed of himself.

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Ms. Coreen Beverly said that they were not there to try to tell Council how to do their job but we are here to represent housing and there are a lot of people who need those houses.

Councilwoman Sitnick responded by saying that she would not put citizens in housing where they are not sure if they can protect them in case of a fire.

Councilwoman Sitnick said that her motion was made because she has not been assured by the official, professional employees of the City of Asheville that the citizens who live in those units could be protected in case of a fire. It wouldn't matter if this was affordable housing or a high rent district. She has been fighting for affordable housing for 30 years of her adult life. This is nothing personal. This is a political decision, this is a professional decision, this is a safety decision. If she had been told by the Chief of the Fire Department and the Director of the Water Department that we cannot be assured that we can provide fire protection, then she would not be able to sleep at night worrying that if there is a fire that any citizen would be endangered. She appreciated the work the Housing Authority has done in trying to compromise on this and she is very happy with all of that. But she cannot in good conscience endanger a citizen of the City of Asheville. She asked the City Attorney to comment on the statements made by Mr. Justice.

City Attorney Slawter said that he was not familiar with the Rice v. Town of Weaverville case, but would look into it.

Mayor Martin called for a vote on the motion to deny the group development project. This motion carried on a 6-0 vote (Councilwoman Field was excused from voting).

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR MOUNTAIN CHATEAU SUBDIVISION

Mr. Tony Nicholson, Urban Planner, said that on August 1, 1994, the Planning &

Zoning Commission recommended approval of the preliminary plat for Mountain Chateau Subdivision with four conditions - subsequently, all four conditions on the approval have been met.

On June 21, 1994, the City Council took the following actions regarding three variance requests:

- Denial of a variance request regarding the creation of lots which do not abut a public street. Therefore, the street serving the Subdivision, Mountain Chateau Lane, must be upgraded to NC DOT standards and dedicated to the public.
- Approval of a variance request regarding the reduction of the right-of-way width of Mountain Chateau Lane to 45 feet.
- Approval of the variance request to permit the property line of Lot 11 to be located at the centerline of the right-of-way.

Vice-Mayor Peterson moved for the final plat approval of Mountain Chateau Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

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B. FINAL PLAT APPROVAL FOR SWEETBRIAR GROVE SUBDIVISION

Mr. Gerald Green, Senior Planner, said that this subdivision is located on Oteora Road, outside the City limits but within the City's planning jurisdiction. Due to its location outside the City, improvements (streets, water and sewer) do not have to be installed prior to final plat approval. Twenty-one lots are included in the Subdivision, with one of the lots to be reserved as a common area.

On June 1, 1994, the Planning & Zoning Commission recommended approval of the preliminary plat for Sweetbriar Grove Subdivision with the condition that the developer obtain a driveway permit from the North Carolina Department of Transportation. That permit was granted for access to Oteora Road on June 2, 1994.

Councilwoman Field moved for the final plat approval of Sweetbriar Grove Subdivision. This motion was seconded by Councilman Watts and carried unanimously.

C. ORDINANCE NO. 2148 - AN ORDINANCE AMENDING ORDINANCE NO. 1958 REGARDING THE DEMOLITION OF 10 SUNSET SUMMIT

City Attorney Slawter explained this ordinance amends Ordinance No. 1958 to allow enforcement of the January 1991 demolition order in accordance with Article VII of Chapter 4 of the Code of Ordinances of the City of Asheville. The effect of this change is to allow the owner to dispose of the demolition debris on-site in lieu of hauling it to an approved landfill.

The January 1991 demolition order of the Chief Building Inspector was appealed to the Board of Adjustment ("BOA") which upheld the order. The respondent failed to comply with the order, so it was taken to City Council for an ordinance directing the Director of the Building Inspections Division to demolish the dwelling. The property was sold at auction for back taxes. The buyer was Kenneth Maultsby who demolished the dwelling down to the level of the garage floor and then applied for and was issued zoning and building permits to build on the remaining structure. The neighbors appealed the issuance of the permits to the BOA which upheld the permits. The neighbors then appealed the

BOA action to Superior Court. Judge Saunders issued an order to the City directing the Council and the BOA to take whatever action necessary to compel the owner to comply with the original demolition order. City Council passed Ordinance No. 1958 in response to Judge Saunder's order. Mr. Maultsby subsequently razed the rest of the structure. Mr. Maultsby has left concrete, rock, and some quantity of wood on the site, covered it with soil and seeded the lot. Mr. Hixson wrote Mr. Maultsby a letter indicating that, if Mr. Maultsby would get a letter from the North Carolina Department of Environmental Health and Natural Resources ("NCDEHNR") certifying that he had complied with their regulations concerning on-site beneficial fill, a certificate of compliance would be issued for his demolition permit. The neighbors have appealed Mr. Hixson's letter to the BOA. The case has been continued to an indefinite date. In the meantime, NCDEHNR has decided that they do not have jurisdiction over this case and have refused to provide certification making it impossible for Mr. Maultsby to comply with Mr. Hixson's letter.

A NCDEHNR inspector visited the site with Mr. Maultsby and Mr. Hixson and verbally indicated that the site appeared to be okay. The NCDEHNR subsequently determined that they do not have jurisdiction. The small quantity of wood buried in the rubble and the small size of the -16-

lot appear to be acceptable. There are no provisions in the Asheville Code of Ordinances that preclude the disposal of demolition debris as has been done in this case. Based on the foregoing, Mr. Hixson has determined that, upon the revision of Ordinance No. 1958, the demolition of the dwelling at 10 Sunset Summit would be complete.

Ordinance No. 1958 that was adopted by the City Council directing Mr. Hixson to demolish the structure incorporated language of the old City Housing Code and under the old City Housing Code the definition of demolish also directed removal from the site of the structure that was demolished. An argument has been made that Mr. Maultsby must remove everything from the site that was ever a part of that structure because the old City Housing Code in defining demolition says demolish and remove. The new City Housing Code which became effective July 1, 1994, does not include the removal language as a part of the definition of demolish. It provides demolish as meaning "the tearing down and disposal of the entire dwelling in a lawful manner leaving the property free and clear of any debris and without holes or pockets" but does not specifically require removal of all the materials from the site as the old ordinance had required. Mr. Hixson is satisfied that all safety requirements would be met as the site now exists, but again, the argument has been put forth that because of the language in the ordinance as adopted by the City Council incorporating the language of the old Housing Code that made reference to demolish and removal of the structure, the argument is put forth that everything that is on the site must be removed. The ordinance before the Council would amend Ordinance No. 1958 to provide that the definition of demolish under the new Housing Code effective July 1, 1994, would be applicable in this situation, rather than the prior definition, so as to eliminate that specific requirement of removal of the debris from the site. It would only require that the demolition be conducted in a lawful fashion.

Mr. Ron Payne, attorney representing Mr. Maultsby, stated that one fact Mr. Slawter omitted and that is that after leveling the property down to the ground, it was after that that Mr. Hixson interpreted that the driveway was actually a part of the structure and that too had to be removed. That was what prompted Council to enact Ordinance No. 1958. The driveway now has also been removed. The only issue now is whether or not Mr. Maultsby has gone to a great deal of expense in removing a building, and now will have to go to further expense by digging up and removing materials that were used in the construction of the original house. The problem is the City is creating an instance where

someone has more invested in a lot than they can ever hope to get back out of it. By passing this ordinance, the Council is doing nothing more than letting Mr. Maultsby play on the same playing field that someone who were ordered today to tear down a structure would have to comply with. He urged the adoption of the amendment to Ordinance No. 1958.

Mr. Joe McGuire, attorney representing Harvey Heywood, Ray Myers, and the Sunset Mountain Property Owners Association, spoke in opposition to the adoption of this proposed ordinance. This ordinance retroactively gives Mr. Maultsby an exemption contrary to an ordinance already adopted by Council and contrary to a court order entered. He felt that adoption of this retroactive exemption will reward someone who has specifically and willingly violated Council's prior ordinance. He also felt that adoption of this proposed ordinance will subject the City to contempt sanctions for failure to abide by Judge Saunders' order entered January 20, 1994, which directed the City and Mr. Maultsby to comply with the prior demolition order which demolition under the Housing Code at that time meant demolish and remove the entire -17-

structure. He pointed out that between the time Council adopted Ordinance No. 1958 in March 1994 and until the time the new Housing Code was adopted on July 1, 1994, Mr. Maultsby was in direct violation of what the Council ordered him to do, he put fill over all of that 1,000 tons and during that period of time the City officials refused to enforce Ordinance No. 1958 as well as the court order. He presented Council with letters dated May 10, 1994, and June 6, 1994, stating that the City needs to enforce both the court order and the ordinance. He said what is at stake here is a matter of principle, of enforcement of the City's ordinance, but what is also at stake is the whole issue of fairness. When Mr. Maultsby bought this property he knew he had to remove the debris. He bought it pursuant to the deed and a notice of foreclosure saying that he knew he had to remove everything. The people who bid against him did not bid higher because they knew they had to remove the debris. The issue today is he is asking you to retroactively allow him to have violated your ordinance and the court order. The key is that at the time Judge Saunders entered his order in January saying that the building had to be demolished, pursuant to the Housing Code, the Housing Code defined in Section 8-17 (h) "demolish shall mean the demolition and removal of the entire building leaving the property free and clear of any debris and without holes and pockets."

City Attorney Slawter said that the order that was entered by Judge Saunders in January of 1994 directed that the Board of Adjustment and City are ordered to take those steps necessary to enforce the demolition order of March 14, 1991, against the current owner of the Brummer site. That March 14, 1991, order was actually a Board of Adjustment order, rather than Mr. Hixson's order. That March 14 order affirmed Mr. Hixson's order and directed that the petitioner who was Florence Brummer, is hereby ordered to comply with the January 7, 1991, order issued by Mr. Hixson. There was no specific reference to demolition, removal, or anything in that March 14 order, but it did uphold Mr. Hixson's January of 1991 order. Mr. Hixson's January 7, 1991, order directed that, it is hereby ordered that the Respondent Florence Brummer demolish the unfinished dwelling, etc. It did not specifically get into removal. Arguably the definition did include removal as part of demolish at that time, but there was no specific requirement set forth in that order that the demolition would include removal. The only document that he was aware of that that language was specifically included in was in Ordinance No. 1958 that was adopted on March 22, 1994, directing Ken Maultsby to demolish the dwelling and that language said that he's to comply with the Housing Code by demolishing and removing the dwelling and the removal language was incorporated into the ordinance because of the language from the ordinance. But again, the earlier documents, Mr. Hixson's order, the Board of Adjustment order upholding that, and Judge Saunders' order directing that the City and the Board of Adjustment see that

Mr. Maultsby complied with the earlier orders do not specifically specify a requirement for removal.

City Attorney said that Judge Saunders directed that the Board of Adjustment and City take those steps necessary to enforce the demolition. There was a house on the site at that time. This City Council adopted an ordinance directing our Building Inspector to tear the house down if Mr. Maultsby didn't. Mr. Maultsby did tear the house down. I think the City Council has brought about the demolition of the structure and has complied with the court order. Mr. Hixson has stated that the location of the debris on the site would not be in violation of any City Code provisions.

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Councilwoman Sitnick questioned if there was a compaction or a visual problem. Mr. McGuire said that at this time there is not a visual problem, however, there might be a compaction problem. The compaction problem is that environmentally neither the City nor Mr. Maultsby ever got the approval of the State environmental people who said you can bury concrete, and a lot of it was concrete, but you cannot bury treated wood or steel. There was a lot of that that was buried as well. So there is a compaction problem in the sense of what's under there is contrary to the State Environmental Code and there has never been given any approval given for that. Another problem is that with him filling in over 1,000 tons of concrete, steel and treated wood, the elevation upon which to build is going to be that much higher and historically the neighbors concern was about the elevation looming up over their house and blocking their view.

Councilwoman Field asked if there was anything illegal about the way the fill was installed. Mr. Bob Hixson, Director of Building Inspections, said that there is some amount of wood located beneath some of the concrete debris. His belief is that the wood that is there is what was originally the deck at the front of the house. There is concrete debris above that and above that is what I understand is clean fill, which has been seeded. Other than running his equipment over the top of it, I am not sure if he has applied any specific compaction effort to that fill.

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

Councilman Swicegood moved for the adoption of Ordinance No. 2148. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2148 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 311

D. ORDINANCE AMENDING THE HOUSING CODE REGARDING NOTICE REQUIREMENTS

At the request of the City Attorney this item has been deleted from the agenda.

E. ORDINANCE NO. 2149 - ORDINANCE PROHIBITING TRUCK TRAFFIC ON PORTION OF WELLS AVENUE, ALL OF OVERLOOK ROAD AND ALL OF ROCK HILL ROAD

Public Works Director Jim Ewing explained that this ordinance will prohibit truck traffic on a portion of Wells Avenue, portion of Hazel Mill Road, all of Overlook Road and all of Rock Hill Road, all of which were requested by the local residents.

Mr. Charles Worley, attorney representing Kinco Corporation which is one of the occupants of Westside Commercial Park, passed out a map and then explained his reasons for urging Council not to prohibit truck traffic on that portion of Hazel Mill Road.

Mr. Tom Ramsey, President of Tree Products, also urged Council to delete that portion of Hazel Mill Road from the proposed ordinance.

City Attorney Slawter said that the ordinance that prohibits truck does not prohibit trucks on the road if that is the only way that they can get to their destination.

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

Councilwoman Field moved for the adoption of Ordinance No. 2149, with the deletion of the portion of Hazel Mill Road. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2149 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 313

F. RESOLUTION NO. 94-214 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE OTEEN III ANNEXATION AREA

Senior Planner Patty Joyce briefed the Council on the Plan that provides the following information about the character of the area and the delivery of City services:

- Statement showing that the area to be annexed meets all statutory requirements
- Plans for the extension of each major municipal service performed within the municipality at the time of annexation
- Statement of the impact of the annexation on any rural fire department providing service to the area proposed for annexation
- Maps of the municipality and the territory to be annexed

At the request of Vice-Mayor Peterson, Ms. Joyce said she would be happy to arrange a community meeting in the area to let the residents know of the proposed annexation and address any concerns they may have.

Upon inquiry of Councilman McClure about what the residents in the area will receive from this annexation, Ms. Joyce said they would be receiving a higher level of fire protection in addition to the other services the City currently provides. She said there would also be an improvement of the fire rating in this area.

Ms. Joyce responded to a question by Councilman McClure relative to the Riceville Volunteer Fire Department's outstanding debt.

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. 94-214. This motion was seconded by Councilman Watts and carried on a 5-2 vote, with Councilmen McClure and Swicegood voting "no".

RESOLUTION BOOK NO. 22 - PAGE 119

G. RESOLUTION NO. 94-215 - RESOLUTION RECOMMENDING ADOPTION OF ASHEVILLE URBAN AREA THOROUGHFARE PLAN

Transportation Planner Ron Fuller explained that the Asheville Urban Area Thoroughfare Plan Map dated September 29, 1994, has been -20-

approved by the Technical Coordinating Committee, the Transportation Advisory Committee and the Transportation Advisory Group.

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. 94-215. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 120

H. RESOLUTION NO. 94-216 - RESOLUTION ENCOURAGING LEGISLATION TO HELP PUT A STOP TO THE VICIOUS CYCLE OF DOMESTIC VIOLENCE

Councilwomen Field and Sitnick introduced this resolution which will encourage the North Carolina League of Municipalities, National League of Cities and legislators at all levels to rush domestic violence legislation to the top of their agenda in order to help put a stop to the vicious cycle of domestic violence.

Councilwoman Field said that in the State of North Carolina if a man hits a man, it's a felony, but if a man hits a woman, it's a misdemeanor. In fact, there is more protection for a dog than there is for a woman or a child.

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. 94-216. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 121

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON OCTOBER 4, OCTOBER 11 AND OCTOBER 25, 1994

B. RESOLUTION NO. 94-217 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A FIRE RESPONSE AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND FLETCHER FIRE DISTRICT.

Summary: This resolution authorizes the City Manager to enter into an agreement with the Fletcher Fire Department for automatic ladder truck response to reports of structure fires at the Asheville Regional Airport.

Up until the summer of 1993, the Skyland Fire Department provided the ladder truck response required by the Insurance Services Office (ISO) for structure fires at the Airport. But at about the same time that ISO representatives came

to Asheville to evaluate Asheville's fire protection system, Skyland announced the sale of their ladder truck.

ISO expects a ladder truck within five miles of the Airport to respond to structure fires at the Airport. The Fire Chief has negotiated an agreement with the Fletcher Fire Department to provide this ladder truck response.

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Execution of this agreement will mean an improvement in the "fire department" section of ISO's upcoming reevaluation of Asheville's fire rating. This reevaluation is expected to take place in early November.

RESOLUTION BOOK NO. 22 - PAGE 122

C. RESOLUTION NO. 94-218 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE WEST CHAPEL ROAD PARK AND FIXING THE DATE OF A PUBLIC HEARING ON NOVEMBER 15, 1994

RESOLUTION BOOK NO. 22 - PAGE 125

D. RESOLUTION NO. 94-219 - RESOLUTION OF INTENT TO DEMOLISH THE DWELLING LOCATED AT 126 BROAD STREET AND SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994

RESOLUTION BOOK NO. 22 - PAGE 126

E. RESOLUTION NO. 94-220 - RESOLUTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, REGARDING A REQUEST FOR A QUARTERLY ADJUSTMENT TO THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER

RESOLUTION BOOK NO. 22 - PAGE 128

F. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, REGARDING A VARIANCE REQUEST FOR FANN SUBDIVISION

G. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, RELATIVE TO REZONING 591 BREVARD ROAD FROM CH COMMERCIAL HIGHWAY TO LI LIGHT INDUSTRIAL

H. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, RELATIVE TO REZONING ONE LOT ON EMMA ROAD FROM R-5 RESIDENTIAL TO LI LIGHT INDUSTRIAL

I. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, RELATIVE TO REZONING 6, 8, 20 SAND HILL SCHOOL ROAD AND 901 SAND HILL ROAD FROM NC NEIGHBORHOOD COMMERCIAL TO CG COMMERCIAL GENERAL

J. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, RELATIVE TO PARTIALLY REZONING 1389 PATTON AVENUE FROM CH COMMERCIAL HIGHWAY/R-3 RESIDENTIAL TO CH COMMERCIAL HIGHWAY

K. MOTION SETTING A PUBLIC HEARING ON DECEMBER 6, 1994, RELATIVE TO THE ZONING OF THE BREVARD ROAD AREA

L. MOTION SETTING A PUBLIC HEARING ON DECEMBER 6, 1994, RELATIVE TO REZONING 65, 73, 77, 83 AND ONE VACANT LOT ON MONTFORD AVENUE FROM R-4 RESIDENTIAL TO CG COMMERCIAL GENERAL

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

VI. OTHER BUSINESS:

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A. CONTRACT WITH THE CHAMBER OF COMMERCE

Councilman Watts moved to authorize the City Manager to execute an agreement with the Chamber of Commerce in the amount of \$90,000 to be disbursed in quarterly installments. Further that the agreement is to be worded so that the Chamber is to provide the City with a quarterly report evidencing satisfactory progress toward the goals discussed by the Chamber and the City today; and if it's not provided in a timely fashion, and does not evidence satisfactory progress in the opinion of the Council, then there will be no further funding under the agreement. This motion was seconded by Councilwoman Field and carried unanimously.

B. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of September 29-October 5, 1994: Dona Cavanagh (Parks and Recreation), Nichole Shipley (Water), Ben Reeves (Water) and Ernest Page (Water).

He also said the following claims were received during the week of October 6-12, 1994: Alethea Robertson (Fire), Paul N. Wright (Water) and Wayne Hoffner (Water).

He said the following claims were received during October 13-19, 1994: Gail Nelson (Water), Ronald W. Rogers (Parks and Recreation) and Julie Combs (Engineering).

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

C. LAWSUIT

City Manager Westbrook said the following lawsuit has been received on November 1, 1994: Jack Smith Transmission v. Mark Cromer and the City of Asheville (small claims - complaint for money owed).

He said that this will be handled in-house.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:05 p.m.

CITY CLERK MAYOR
