

Tuesday - January 25, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilwoman Barbara Field (out of town)

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-19 - RESOLUTION SUPPORTING INSTALLATION OF SMOKE DETECTORS IN ALL RESIDENCES IN ASHEVILLE AND BUNCOMBE COUNTY

Fire Chief John Rukavina said that the tragic deaths of Pickney Greer Johnson and Eleanor Johnson as a result of fire in their Asheville residence, and of Christina and Jennifer Allen in a fire in their Buncombe County home, have demonstrated the importance of fire safety generally and smoke detectors in particular. Based on national data, at least 30,000 homes, apartments and mobile homes in Asheville and throughout Buncombe County do not have smoke detectors. With strong community support, it is possible to increase efforts to promote smoke detector use and provide smoke detectors to those who can't otherwise afford them to a point where, by the end of this decade, every residence in Asheville and Buncombe County would be protected by at least one working smoke detector.

Ms. Jewell Rhinehart, grandmother of Christina and Jennifer Allen, spoke about the importance of smoke detectors and the definite need for them.

Mr. Mike Knisely, representative of the Asheville Firefighters Association, briefed the Council on the Association's support of the Smoke Detector Giveaway Program and their involvement in that Program over the past seven years.

Mr. Charles Penny and Mr. Ken Robertson, representatives of the American Red Cross, stated that their Board authorized the purchase of 300 smoke detectors to be installed in homes of the elderly and economically disabled in our community. They will work with the Asheville Firefighters Association and hope that the program can also be expanded into Madison County.

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 to adopt Resolution No. 94-14. This motion was seconded by Councilman Watts and carried unanimously.

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B. RESOLUTION NO. 94-14 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE MICHAEL ALEXANDER

Mayor Martin read the resolution stating that Michael Alexander has been an employee for 20 years and has requested retirement from his position as Police Sergeant. He expressed City Council's appreciation to Michael for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-14. This motion was seconded by Councilwoman Sitnick and carried unanimously.

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C. RESOLUTION NO. 94-15 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ERNEST EDWARDS

Mayor Martin read the resolution stating that Ernest Edwards has been an employee for 35 years and has requested retirement from his position as Police Lieutenant. He expressed City Council's appreciation to Ernest for his service to the City of Asheville and its citizens.

Councilman Watts moved for the adoption of Resolution No. 94-15. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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D. RESOLUTION NO. 94-16 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ALAN O'DONNELL

Mayor Martin read the resolution stating that Alan O'Donnell has been an employee for 6 years and has requested retirement from his position as Police Officer Senior. He expressed City Council's appreciation to Alan for his service to the City of Asheville and its citizens.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-16. This motion was seconded by Councilman Swicegood and carried unanimously.

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E. RESOLUTION NO. 94-17 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DEBBIE WELBORN

Mayor Martin read the resolution stating that Debbie Welborn has been an employee for 5 years and has requested retirement from her position as Police Officer Senior. He expressed City Council's appreciation to Debbie for her service to the City of Asheville and its citizens.

Councilman Swicegood moved for the adoption of Resolution No. 94-17. This motion was seconded by Councilwoman Sitnick and carried unanimously.

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F. RESOLUTION NO. 94-18 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RUEL AUSTIN

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Mayor Martin read the resolution stating that Ruel Austin has been an employee for 14 years and has requested retirement from his position as Water Customer Services Superintendent. He expressed City Council's appreciation to Ruel for his service to the City of Asheville and its citizens.

Councilman Swicegood moved for the adoption of Resolution No. 94-18. This

motion was seconded by Councilwoman Sitnick and carried unanimously.

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G. PRESENTATION OF QUARTERLY B*E*S*T AWARD - 4th QUARTER 1993

City Manager Farris presented Betty Myers (Public Works Department) with the 1993 4th Quarterly B*E*S*T award.

Betty was nominated for going above and beyond when a fellow employee was seriously injured while on the job. She carried on behind-the-scenes all day to notify various out-of-town family members and to "look after" the workers who were deeply disturbed by the accident. All this time, she was upset herself, but continued to hold things together. After she left work at 3:00 p.m., she went to the hospital, where she stayed until after 8:00 p.m. (when the employee came out of surgery). Her unselfish support to her co-workers and the injured employee's family should be recognized.

H. PROCLAMATION PROCLAIMING THE WEEK OF JANUARY 30-FEBRUARY 5, 1994, AS "CATHOLIC SCHOOLS WEEK"

Mayor Martin proclaimed the week of January 30-February 5, 1994, as "Catholic Schools Week" in the City of Asheville.

I. RECOGNITION BY LESTER McEWING OF TWO CITY AGENCIES

Mr. Lester McEwing thanked the Housing Authority and the Asheville-Buncombe Historic Resources Commission for their support and assistance when he renovated 125 Cherry Street located within the Montford Historic District and within one of the redevelopment areas identified by the Housing Authority. He said that he renovated the house, which was in a neglected state and converted it to office space.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH THE DWELLING LOCATED AT 29 MADISON LANE, ASHEVILLE, NORTH CAROLINA

ORDINANCE NO. 2072 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH THE DWELLING LOCATED AT 29 MADISON LANE, ASHEVILLE, NORTH CAROLINA

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

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

Mr. Jeff Trantham, Assistant Director of Building Safety, said that on March 26, 1992, the Building Safety Division inspected 29 -4-

Madison Lane and found the dwelling dilapidated in that the walls, floors and roof are structurally unsound, there are no sanitary facilities, no electricity, the structure is abandoned and occupied by vagrants and is accessible to the public.

Mayor Martin closed the public hearing at 4:42 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. 2072. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2072 passed on its first and final reading.

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B. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH THE DWELLING LOCATED AT 92 BRYANT STREET, ASHEVILLE, NORTH CAROLINA

ORDINANCE NO. 2073 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH THE DWELLING LOCATED AT 92 BRYANT STREET, ASHEVILLE, NORTH CAROLINA

Mayor Martin opened the public hearing at 4:43 p.m.

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

Mr. Jeff Trantham, Assistant Director of Building Safety, said that on February 20, 1992, the Building Safety Division inspected 92 Bryant Street and found the dwelling unfit for human habitation. Inspections revealed that the walls, floors and roof are damaged and structurally unsound. The structure is more than 50% gutted by fire, has insufficient facilities and is abandoned and very unsanitary.

Mr. Trantham answered questions relative to the cost of demolition and the cost if asbestos is found in the house.

Upon inquiry of Councilman McClure, Mr. Trantham stated that the demolition process usually takes about two years. City Attorney Slawter stated that time period could be shortened, but he was not sure by how much. He stated that the demolition process is a very complex matter, in particular the notification requirements.

Mr. Trantham responded to Councilman Watts' questions as they related to the status of 126 Broad Street and the Short Crescent Apartments.

Mayor Martin closed the public hearing at 4:51 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read. -5-

Councilman McClure moved for the adoption of Ordinance No. 2073. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2073 passed on its first and final reading.

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C. PUBLIC HEARING RELATIVE TO ADOPTION OF AN ORDINANCE REGULATING CONTROL OF STORMWATER

Councilwoman Sitnick moved to continue the public hearing until 4:00 p.m. on February 1, 1994, in the Banquet Room of the Asheville Civic Center. This motion was seconded by Councilman Watts and carried unanimously.

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT

City Attorney Slawter said that this matter has been continued on several prior occasions for the purpose of allowing time for the courts to make a final determination on the appeal filed by the neighbors from the issuance of zoning and building permits allowing Ken Maultsby to complete the structure. In a recent ruling in the Superior Court, Judge Saunders has found that the permits have been improperly issued and has directed that the City take the necessary steps to enforce Bob Hixson's original demolition order which was entered against Brummer in 1991. He said that he filed a motion asking Judge Saunders to reconsider and to revise his order, but he has denied that motion.

Based upon the ruling from Judge Saunders, Bob Hixson has sent Ken Maultsby a directive that the demolition proceed. If Mr. Maultsby does not follow through with that directive, and there are no further proceedings before the Board of Adjustment or the Superior Court, then Council will still need to determine whether to adopt the ordinance on final reading. At this point, he recommended that the final reading again be continued.

Councilman Swicegood moved to continue the third and final reading of Ordinance No. 1958 until March 15, 1994. This motion was seconded by Councilman Watts and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-20 - RESOLUTION TO PROVIDE FOR A REFERENDUM BY THE CITY OF ASHEVILLE'S ELIGIBLE FIRE DEPARTMENT EMPLOYEES UNDER THE PROVISIONS OF ARTICLE 2 OF CHAPTER 135 OF THE GENERAL STATUTES OF NORTH CAROLINA AND UNDER PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER OF JULY 21, 1961

Fire Chief John Rukavina said that firefighters hired prior to April 1, 1986, do not participate in either Social Security or Medicare, pursuant to federal and state laws and regulations.

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However, both federal and state laws and regulations authorize a referendum for non-participating firefighters to authorize participation in Social Security (including Medicare) or in Medicare alone.

Earlier this year, firefighters hired prior to April 1, 1986, voted down participation in Social Security. A petition has been filed requesting a referendum among these firefighters for participation in Medicare only. State and federal law requires City Council authorization/initiation of this referendum process.

The fiscal impact would be \$49,390, representing City matching contribution of employee 1.45%-of-salary contribution for Medicare coverage for one fiscal year, based on the present budget.

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

Councilman McClure moved for the adoption of Resolution No. 94-20. This motion was seconded by Councilman Swicegood and carried unanimously.

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B. ORDINANCE NO. 2074 - BUDGET AMENDMENT TO APPROPRIATE COMMUNITY DEVELOPMENT

BLOCK GRANT FUNDS FOR AN EMPLOYER ASSISTED HOUSING PROGRAM

Mr. Marvin Vierra, Community Development Director, summarized the employer assisted housing program. He said that it provides low interest mortgage loans and down payment assistance funds to help low and moderate income employees purchase a home for the first time. The program will be a joint effort of the City and the N. C. Housing Finance Agency ("Agency"). Community Development Block Grant program income of \$10,000 will cover cost for the first 6-12 months of the program.

Upon inquiry of Vice-Mayor Peterson, Mr. Vierra explained that from a survey sent to all City employees, 59 were interested and 45 are eligible. He explained about the workshop that will be held and said that possible pre-screening would be done at that time.

Councilman McClure wanted to make sure that employees were aware that there were financial institutions that offer some programs which are competitive with this program for first time home buyers. He felt the City needed to research all its alternatives.

Mr. Ralph Bishop questioned why this federal money was only available to City employees.

Mr. Lloyd felt that \$50,000 would not be enough for a house if it were in compliance with the Minimum Housing Code. Mr. Vierra responded that once the initial \$510,000 was spent (amount committed by the Agency), then the City would try to obtain a new commitment from the Agency.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read. -7-

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2074. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2074 passed on its first and final reading.

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C. ORDINANCE NO. 2075 - BUDGET AMENDMENT FOR CHANGE ORDERS TO STREET AND SIDEWALK CONTRACT #11

Mr. Jim Ewing, Public Works Director, said that this budget amendment, in the amount of \$515,933, will amend the current Street and Sidewalk Contract No. 11 to allow for approved change orders. Approximately one-half of the changes are for water and sewer utilities. These change orders include the additional work Council approved on White Pine Drive in the amount of \$59,000.

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

Councilwoman Sitnick asked if it was unusual for these many change orders for a particular contract. Mr. Ewing stated that the City can generally anticipate 10-25% increase in the project when they get into a system where the infrastructure is over 50 years old.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2075. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2075 passed on its first and final

reading.

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V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 11, 1994

B. BIDS RELATIVE TO PARKING CONTROL EQUIPMENT

Summary: Recommend awarding bid for parking control equipment to Cincinnati Systems Inc., Greenville, South Carolina, in the amount of \$45,911. A copy of the complete bid summary is attached hereto as Exhibit "A".

Upon inquiry of Councilman Swicegood, City Manager Farris said that this amount includes computer equipment necessary to tie the one remaining deck into an overall computer management system for the parking decks.

C. RESOLUTION NO. 94-21 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT WITH NORTH CAROLINA HOUSING FINANCE AGENCY FOR AN EMPLOYER ASSISTED HOUSING PROGRAM

Summary: See prior budget amendment ordinance to appropriate CDBG funds for an employer assisted housing program.

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E. RESOLUTION NO. 94-22 - RESOLUTION AUTHORIZING THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS TO CONVEY REAL PROPERTY TO THE ASHEVILLE CITY SCHOOL BOARD

Summary: Buncombe County owns a parcel of real property due to nonpayment of ad valorem taxes. The parcel is also held in trust by the County for the City. The parcel is adjoining the Isaac Dickson School. The Asheville City Board of Education is about to undertake a project for improvement of traffic flow at the Isaac Dickson School. In order to undertake said project, the School Board is in need of the parcel and this resolution will give the City's approval to convey it to the School Board.

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F. RESOLUTION NO. 94-23 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MODIFIED GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Summary: The City/Airport Authority ("City") submitted a Request for State Aid to Airports dated 7-1-93 to NC DOT for \$233,260 for Phase III Terminal Expansion. In accordance with project approval procedure, NC DOT approved a grant for \$233,260 in State Aid to Airports for the requested items of work. NC DOT and the City mutually executed a Grant Agreement dated 9-20-93, setting forth and agreeing to the terms and conditions of the Grant. NC DOT and the City have now determined and agreed that an additional \$300,000 is needed due to final cost being higher than anticipated. This resolution will modify the amount of the State Grant Agreement dated 9-20-93 from \$233,260 to \$533,260.

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G. RESOLUTION NO. 94-24 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TRANSIT AUTHORITY

Summary: The terms of Wanda Winslow, Myra Grant and David Fort expired on December 31, 1993. This resolution will (1) reappoint Myra Grant, 261 Forest Hill Drive, Asheville, N.C., (2) reappoint David Fort, 15 Briarcliff Drive, Asheville, N.C., and (3) appoint Ron Lambe, 104 Trotter Place, Asheville, N.C.. All appointments are for four year terms respectively, terms expiring December 31, 1997, or until their successors have been duly appointed and qualified.

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H. RESOLUTION NO. 94-25 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Summary: The terms of Hal Starnes, Rudy Stefanec, Pat Ochsenreiter and Michelle Rippon expire on January 21, 1994. This resolution will (1) reappoint Michelle Rippon, 11 N. Market Street, Asheville, N.C., as an alternate member, (2) appoint Pat Ochsenreiter, 47 N. Market Street, Asheville, N.C., as an alternate member, (3) appoint Ann Cross, 5 Woodland Road, West, Asheville, N.C., as a regular member, and (4) appoint Lewis Clay, 1037 New Haw Creek Road, Asheville, N.C., as a regular member. All appointments are for three year terms respectively, terms expiring January 21, 1997, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 245 -9-

I. MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 8, 1994, RELATIVE TO AMENDING SECTION 30-9-3d.6 OF THE CODE OF ORDINANCES REGARDING POLITICAL SIGNS

J. MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 8, 1994, TO REZONE 68 AND 76 ACTON CIRCLE FROM NC NEIGHBORHOOD COMMERCIAL TO CH COMMERCIAL HIGHWAY, WITH THE EXCEPTION OF A 20 FOOT WIDE STRIP RUNNING ALONG ACTON CIRCLE WHICH SHALL REMAIN ZONED NC NEIGHBORHOOD COMMERCIAL

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

VI. OTHER BUSINESS:

A. CLARIFICATION BY COUNCILWOMAN SITNICK

Councilwoman Sitnick questioned a letter she read in the paper on January 24, 1994, which said that the city has had a tax increase of 300%. City Manager Farris said that according to the information he was able to obtain from the financial report, the actual figure for the last ten years for ad valorem taxes was 97%. He said that he would be happy to write the individual who wrote the letter and inform him of his findings.

B. RIGHT-OF-WAY AT BROADWAY AND CATAWBA

City Manager Farris presented Council with a motion to authorize the Mayor to sign all documents necessary for the conveyance to the State of North Carolina of a fee simple right-of-way and permanent drainage easement on City property located at the southwestern corner of the intersection of Broadway and Catawba Street for consideration of \$7,900. However, due to Councilwoman Sitnick's concern to vote on the matter considering the fact that there is so much question and answering going on about Broadway and the project in general, and the acquisition of right-of-way and how that affects the ultimate outcome, City Manager Farris felt delaying the matter until the next Council meeting would be appropriate.

C. COMMENTS BY DANIEL BREEN

Mr. Daniel Breen, 129 Charlotte Street, asked City Council to immediately institute legal proceedings to foreclose on the Pack Plaza property and have it sold and proceeds divided fairly among the creditors for Pack Plaza. If the Council is not willing to do that, he asked Council to have an outside auditor look at all relevant records relating to the Pack Plaza situation.

D. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop sought redress of the City Council. He accused City Clerk Wolcott of withholding information he requested from Council meetings of February 20, 1990, and February 27, 1990. City Clerk Wolcott responded that the information was made available to Mr. Bishop in verbatim form, but Mr. Bishop said the tapes had been tampered with and refused to pay for the transcript.

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E. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of January 10-14, 1994: Bill Johnson (Water), Heather Reel (Parks), Southern Bell (Water), Sandra K. Maynor (Streets), Daisy Wachob (Sanitation), Hank Komodowski (Water), Margaret Tisdale (Streets), Helen A. Krickhan (Water), and Darlene Burnette (Park Maintenance).

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

F. LAWSUIT REPORT

City Manager Farris said that the following lawsuit was received by the City of Asheville on January 12, 1994: APAC-Carolina Inc. (third party suit - indemnification).

He said that this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:43 p.m.

CITY CLERK MAYOR
