

Tuesday - January 10, 1995 - 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 Deputy City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-1 - RESOLUTION AUTHORIZING PRESENTATION OF FIRE ALARM BOX IN MEMORY OF SPURGEON SLUDER

Fire Chief John Rukavina said that the Fire Department is seeking authority through resolution to present a fire alarm box to the descendants of Spurgeon Sluder, an employee of the Fire Department from 1923 to 1959.

Asheville's first public fire alarm system was installed in the 1890's, but much of the system was installed by Mr. Spurgeon during his lengthy career as Asheville's fire alarm superintendent from 1923 to his retirement in 1959.

Mr. Harry Adams, a retired City of Asheville firefighter and safety officer, and Spurgeon Sluder's grandson - is seeking to create a memorial to Mr. Sluder, which would include a fire alarm box.

Because Mr. Adams was unable to attend the meeting, Fire Chief Rukavina was asked to deliver the fire alarm box to him.

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. 95-1. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 1

B. RECOGNITION OF CITY'S 1994 UNITED WAY CAMPAIGN

City Manager Westbrook recognized Kintzley "Junior" Carter, Fire Inspector, and Frank Dover, Fleet Management Shop Supervisor, who were co-coordinators of the City's 1995 United Way Campaign. This campaign resulted in the City employees pledging \$59,237.60. He felt that the United Way Campaign for 1994 was a success and thanked all the employees.

United Way Executive Director George Phiffer also thanked City employees for their generous gifts to the community.

C. PROCLAMATION PROCLAIMING JANUARY 10-17, 1995, AS "DR. MARTIN LUTHER KING JR. WEEK"

Mayor Martin proclaimed the week of January 10-17, 1995, as "Dr. Martin Luther

King Jr. Week" in the City of Asheville and presented the -2- proclamation to Ms. Willa Mae Grant and Ms. Oralene Simmons, who briefed the Council on the activities that would be taking place during this week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE RELATIVE TO PARKING LOT SURFACE REQUIREMENTS

ORDINANCE NO. 2169 - ORDINANCE AMENDING THE ZONING ORDINANCE REGARDING PARKING LOT SURFACING

Mayor Martin opened the public hearing at 4:30 p.m.

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

Mr. Tony Nicholson, Urban Planner, said that upon the direction of City Council, the Planning Department has prepared an amendment to the zoning ordinance in order to provide more flexibility in the types of parking lot surface materials that can be used for new parking lots. The current ordinance requires that almost all parking lots be paved with asphalt. The amendment will allow almost any type of surfacing material, but establishes minimum standards to ensure public safety.

Upon inquiry of Councilman Swicegood about rains washing the gravel into the street and neighboring properties, Mr. Nicholson said that the ordinance has a provision in it that basically prevents that from happening, however, if it does happen, it would be a violation of the zoning ordinance and enforcement would be through the zoning enforcement staff.

Councilwoman Sitnick said that Councilman Swicegood's point was addressed very professionally by staff. She said this amendment is just one small step in this Council's commitment to cutting back on stormwater runoff. This allows businesses and developers more flexibility in their choice of materials. They can still pave because this is not a requirement - it's just more flexibility in the law.

Ms. Fran Meyer, owner of a commercial building on Clayton Street, was in the process of restoring the building and felt that if she paved her parking lot she would have extensive flooding.

Ms. Elizabeth Graham, Chairman of the Planning and Zoning Commission, said that this ordinance would offer developers some alternatives. She said the only major of concern of the Commission was that of maintenance and appearance.

Councilwoman Sitnick said that this ordinance does not talk specifically about gravel - there are new materials coming on the market that a builder or developer can choose to use. The ordinance also has a provision for handicapped accessibility.

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

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

Councilwoman Sitnick moved for the adoption of Ordinance No. 2169. This motion was seconded by Councilman Swicegood. -3-

On a roll call vote of 7-0, Ordinance No. 2169 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 360

III. UNFINISHED BUSINESS:

A. COMMUNITY VISIONING PROPOSAL

Mr. Charlie Glazener, representative of the Chamber of Commerce, gave Council an overview of the proposal which bottom line is to make Asheville the best small metropolitan community in America. He reviewed the breakdown of expenses which totaled \$33,000 - Buncombe County Commissioners \$14,820; City of Asheville \$9,090 and Chamber of Commerce \$9,090.

Mr. Glazener answered various questions from Council ranging from the steering committee make-up to the amount Mr. Luke charges as a facilitator.

Councilwoman Sitnick did not question Mr. Luke's worth as she was not familiar with what the average costs are for facilitators for these kinds of meetings and these might be absolutely appropriate. However, she personally felt that she could not spend \$9,090 of the City's money for this kind of thing. She understood that this is a professional process, but City staff and Council members conducted the EZ/EC study recently which turned people out all over the City.

Upon inquiry of Mayor Martin, City Manager Westbrook said that the \$9,090 is available in either fund balance or contingency.

Councilwoman Sitnick felt the money would be better spent in helping fund CityWorks page to inform our citizens about what goes on in the City every day.

Mayor Martin said a visioning process is very important for Asheville. It is a process that can include a lot of different people in our community who are not heard. He felt Asheville should move forward with this in order to keep focused on our long-term goals. He realized that we are in a short-term budget crunch but the money is available for a item such as this and he felt it would be money well spent.

Mayor Martin said that members of Council have previously received a copy of the proposed budget ordinance in the amount of \$9,090 and it would not be read.

Councilwoman Field moved for the adoption of the proposed ordinance. This motion was seconded by Mayor Martin.

On a roll call vote of 3-4, the motion failed with Vice-Mayor Peterson, Councilman McClure, Councilwoman Sitnick and Councilman Swicegood voting "no".

Councilwoman Sitnick stated that if there is \$9,090 in the contingency fund that we apply that and reserve it until such time that we have additional monies to put to it in order to resume CityWorks in the Citizen-Times newspaper. She asked the City Manager to be prepared to discuss this matter at the upcoming Council retreat. -4-

Mr. H. K. Edgerton asked that the African American newspaper and the Asheville Advocate be included in any negotiations regarding CityWorks .

IV. NEW BUSINESS:

A. RESOLUTION DIRECTING THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION TO

PURSUE THE POSSIBILITY OF DESIGNATION OF EAGLE-MARKET STREETS AS A LOCAL HISTORIC DISTRICT

Ms. Maggie O'Connor, Historic Resources Commission Director, said that the Historic Resources Commission ("HRC") has been approached concerning the creation of a local historic district for the Eagle/Market Street area. The establishment of a historic district was one of the objectives set forth in the South Pack Square Redevelopment Plan. The first step would be for staff to contact the property owners in the area to see if they in fact want the area to be an historic district. If Council wishes, HRC is more than willing to proceed with the research, nomination report, public input, and owner consent.

Vice-Mayor Peterson stated that the problem in the Eagle/Market Street area is trying to get minority businesses opened and minority jobs in that area. He wondered if it would be difficult for minorities to get buildings approved if it were designated as a local historic area. From what he has heard, he wasn't sure if the area residents were in favor of the designation.

Ms. O'Connor said that if the property owners don't want the area designated, the matter would be dropped. She responded to some of the concerns Vice-Mayor Peterson expressed regarding minority businesses in the area.

Councilwoman Sitnick wanted to make sure that the property owners in the area were interested in the designation. She questioned if it would benefit them, whether it would cost more, whether they would get a tax credit or whether it would hinder development. She said that since there's a little bit of uncertainty now regarding South Pack Square if Council should wait to do anything on this until all of those other matters are cleared up.

Ms. O'Connor tried to respond to Councilwoman Sitnick's concerns by stating that, to her knowledge, there has not been a historic district in the United States that the values in the properties have gone down - they have always stabilized and gone up. As far as tax credits, that happens if you are a national register district. Nine of those buildings are eligible for tax credits and some of them are not, like to GOOMBAY building because it is not a contributing structure.

Councilman Watts felt strongly that Dr. John Grant from the Mt. Zion Missionary Baptist Church and property owners in the area need to be educated as to what the historic district designation means.

Mr. Ralph Bishop felt that the property owners in the area had already stated that they did not want the historic district designation.

Dr. John Grant spoke about an incident where Mt. Zion Missionary Baptist Church had applied for a grant and had been turned down. He also asked for some type of educational meeting. As far as some of the concerns about the South Pack Square area, he said that the Eagle/Market Street area is a blighted area and hoped Council would not punish them for something they did not have any responsibility for. -5-

Ms. O'Connor explained the circumstances surrounding the incident of the Church's grant being turned down.

Mr. H. K. Edgerton had serious reservations about this historic designation. For starters, he felt the complexion of the Eagle/Market Street area has changed drastically from the historic area it was. He also felt that if you exempt the GOOMBAY building, you basically wipe out the remaining black businesses in that particular area. He felt there needed to be a lot of communication with the neighborhood, not just the business owners.

Vice-Mayor Peterson moved to have Ms. O'Connor arrange a meeting with Dr. John Grant, property owners, and the surrounding neighborhood in the area to inform them of the specifics of being a local historic district. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilwoman Sitnick asked that the meeting be advertised as widely as possible, such as flyers on the doors, ads in all of the newspapers, etc.

B. CITYWORKS

Councilwoman Sitnick moved to instruct the City Manager to have information available at the upcoming Council retreat on CityWorks, such as the cost of CityWorks in the past in the Citizen-Times and what it might cost us to have an agenda and some points of public notice placed in the Mountain Xpress, the Asheville Advocate and the African American. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Councilmen McClure and Swicegood voting "no".

C. BUDGET AMENDMENT TO CLOSE OUT STREET AND SIDEWALK PROJECT NO. 5

Audit/Budget Director Bob Wurst said that the City of Asheville agreed to provide the Housing Authority with \$126,000 from the Street and Sidewalk fund for additional infrastructure improvements in the Montford community. This budget amendment, in the amount of \$126,000, follows that agreement and allows us to close out that payment.

Mr. H. K. Edgerton said that he has a lien in the amount of \$126,000 on that project and felt that his lien should be satisfied before the project was closed out.

Mayor Martin instructed the City Attorney to investigate Mr. Edgerton's claim of lien and report back to the Council at its next meeting.

D. MOTION RELATIVE TO CITY COUNCIL NOT AUTHORIZING OR APPROVING THE FUNDING OF ANY INTERNAL OR EXTERNAL STUDIES, CONSULTING CONTRACTS, OR THE FUNDING OF ANY AGENCIES UNTIL THE CITY COUNCIL HAS BEEN PROVIDED WITH A COMPLETE LIST AND TOTAL OF FUNDS PAID OR APPROVED

Councilman McClure said that if you review today's agenda, you will see \$187,000 in consulting fees. This does not include \$30,000 relative to Pritchard Park or the \$23,900 for the parking studies, totaling \$240,900 just today on consulting fees. As a result of that, Councilman McClure moved that the City Council not authorize or approve the funding of any internal or external studies, consulting contracts, or the funding of any agencies until the City Council has been provided -6-

with a complete list and total of funds paid or approved. This is to include all contracts regardless of the amount. Also the City Council will be provided with a resource list of alternatives to the use of consultants such as the Blue Ribbon Committee or existing staff. This motion was seconded by Councilman Watts.

Mayor Martin stated that he had no problem with the request and hoped that all the provisions would already be in place. The only thing he would change would be removing the up to \$25,000 threshold that the City Manager is authorized to sign without bringing the matter formally to the City Council. He felt that the motion, as is, would make government a little more cumbersome and perhaps even hamper government. He felt if we didn't have the expertise in-house, we would need to hire a consultant.

Councilman McClure said that even the contracts less than \$25,000 add up very quickly, citing the \$9,090 for the community visioning proposal and the 23,900 for the parking study. He felt Council needed to look at all these contracts to see exactly what we are paying for.

Since this motion would mean that the comprehensive pay and position study would be on hold, Councilwoman Field could not support the motion.

Councilwoman Sitnick said that she has been appalled at the numbers, some of which were just cited by Councilman McClure, that we have spent on study and consultant fees. She was not saying that we shouldn't spend money on studies and consultant fees, because she thought that they are part of knowing what you're doing in government. But, some of the numbers are outrageous. She felt that if we were to put all of that money together and stick it under somebody's mattress, we would have quite a reserve of monies that we could spend on things - turning the shovel of dirt and funding programs, like substations. She felt Council needed to have a complete list of what the City spends, department by department, on studies and consultant fees so that we have an idea of whether we're spending our money wisely or not. That was one of our commitments to the public of this City and if we don't know what we're spending then there is no way we can cut it or be accountable for it and if we're not accountable for it, we don't have any right to spend it.

She looked at one of the consultant fees on the agenda for \$75,000 for a consultant to look into the cable franchise and felt it's just a lot of money. She felt that while we need studies and while we need consultants to do certain things, our government is hampered because we have no money. And if it takes a little discussion, a little extra dialog, a little extra understanding, and a little more paperwork, she thought that in the long-run our government will actually be served better because we will have more money that hasn't been spent on consultant fees to do the work that we need to do. The other thing is that we make everything very complex in government and sometimes we create complexities that hamper government just as much.

At the request of City Manager Westbrook, Councilman McClure clarified his motion by saying that Council wants an accountability of what we have funded right now. If we have a contractual obligation then we will honor that obligation. But, Council wants to know what we have paid for and what we have gotten for that money. At the same token, if we have some items pending, we want to stop those until we know exactly what we have and what we're paying for.

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Councilman McClure said that if we have a committee set up, like the Blue Ribbon Committee, to study efficiency in government, then why would we need the consultant to study City staff to see if any efficiency or inefficiencies exist. He felt the City Manager should be given the opportunity to look at matters like that before going outside. City Manager Westbrook said that he plans on doing that as part of the budget process which we have already started.

Councilman McClure said that the list to Council should contain the following information for the current fiscal year: the amount, who the consultant was, what it was for and whether the study information was implemented.

Councilwoman Field suggested the following information also be included in the list: that it be broken down by department by department, if it was a competitive bid, was it mandated by the State, if the consultant fee was a significant amount (because she didn't think we needed to look at every

consultant fee) and what do other cities pay for comparable work. She felt that this information will give us some idea of how much we have privatized in the City.

Councilwoman Sitnick felt all the points are important but her original request for totals should not be held up until such a time that the Manager is able to get that information since it is a lot. She requested that she get those totals, department by department, prior to the Manager being able to finish all the other work. She also recommended that we get a UNC-A intern to go to her house and go through a box of her agendas. Just by looking at the agenda, they can do a basic study for the last year since we have been in office as to how many consultant fees and study dollars we have approved. She felt it would be a real simple way and we don't need a consultant to do this.

City Manager Westbrook read a definition of consultant that the City has used and it was the consensus of Council that the definition was sufficient.

When Councilwoman Sitnick asked the definition of "any agencies", Councilman McClure said agencies like the Chamber of Commerce, the Art Alliance, and basically anyone exterior to City government. He felt some might be reading more into this than he intended - he felt Council needs an accountability of what is going on, what we pay for and what we are going to be paying for.

Councilwoman Field said that she would vote against the motion, not because she doesn't agree with it, but Council has several things in process. At the last meeting, Vice-Mayor Peterson made a motion that we have the Personnel Department get more figures for a manning study - they did a lot of work on it and they are back with us today. A few months ago we directed the staff to get us a fee on renegotiating the cablevision franchise agreement. She didn't think that things that are already in process should be held up and felt Council is sending the staff mixed messages. Council voted on something last week and now we are now changing our minds. She doesn't have any problem with saying that as of a specific date this occurs, but Council needs to go forward with what we have already in process.

Mayor Martin agreed with Councilwoman Field. He had no problem with the overall concept, however, he felt the City Manager should continue to be authorized to sign contracts up to \$25,000 threshold.

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Councilman Swicegood supported Councilman McClure's motion saying that Councilwoman Sitnick has been asking for this information even before City Manager Westbrook was hired. He felt this is more of an accountability issue.

Vice-Mayor Peterson agreed with Councilman Swicegood stating that \$25,000 is a lot of money and adds up quickly.

Councilman Watts felt the City needed to make a decision on the pay and classification study.

At this time, the motion carried on a 5-2 vote with Mayor Martin and Councilwoman Field voting "no".

E. BUDGET AMENDMENT RELATIVE TO A COMPREHENSIVE PAY AND POSITION STUDY

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH DAVID M. GRIFFITH AND ASSOCIATES LTD. TO CONDUCT A COMPREHENSIVE CITY-WIDE PAY AND POSITION CLASSIFICATION STUDY

These matters were not introduced due to adoption of motion in Item "D".

F. BUDGET AMENDMENT RELATIVE TO CONSULTING SERVICES ASSOCIATED WITH THE
RENEGOTIATION OF A FRANCHISE AGREEMENT WITH TCI CABLEVISION OF ASHEVILLE

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH RICE,
WILLIAMS ASSOCIATES FOR CONSULTING SERVICES TO THE CITY OF ASHEVILLE IN THE
RENEGOTIATION OF A FRANCHISE AGREEMENT WITH TCI CABLEVISION OF ASHEVILLE

These matters were not introduced due to adoption of motion in Item "D".

G. OPPORTUNITY CORPORATION OF MADISON AND BUNCOMBE COUNTIES

Vice-Mayor Peterson moved to suspend the Rules in order to reconsider the budget ordinance amendment adopted on December 6, 1994, providing for funding to the Opportunity Corporation of Madison-Buncombe Counties.

Vice-Mayor Peterson then moved that the action taken on December 6, 1994, amending the budget to provide \$7,835 funding to the Opportunity Corporation of Madison-Buncombe Counties be suspended and the City Manager be directed not to sign any further agreements with or provide any further funding to the Opportunity Corporation of Madison-Buncombe Counties until directed by the City Council to do so.

Vice-Mayor Peterson - Just to go into a few more item, I just wanted to say that as a Council person, being here three years I have never seen such a cover-up, botched up, job in my life. To have a board, I've never been told the board existed, we've never been given any budgets from this board. We supposedly had a person that we put on this board, but he's been on there since 1972. Nobody ever told us that. It's funny that even our City Attorney didn't even know this. So what I'm saying is, this whole deal stinks and I think this should be, should warrant, an investigation. I mean a full investigation of all -9-

books, all money involved. I'm talking about two and one-half million dollars, taxpayers money. It bothers me that Channel 13 reports that they talked to two members that are on this so-called board who didn't even know that Dee Williams was the administrator. Now you tell me that isn't fishy. All this boils down to is, this is money and accountability and that two and one-half million dollars I take very seriously. It especially bothers me when elected officials would rather wish this go away than face the facts. This is not about politics, this is about money, misuse of money and like I said, I demand a full investigation and as far as I'm concerned, I think - I have a list here of present board members and I couldn't - it's funny, they didn't even know who the board members were - the Opportunity Corporation didn't even know who they were. I've got a list here - got one member in 1975 that was put on there, another member in 1976, another member in 1982, of course our member was on there for 22 years and that's about all I've gotten. I've called attorneys, I've tried to get minutes of a meeting that I think was totally illegal where Dee Williams was fired. I called up certain members, I got the brush-off, they referred me to an attorney who says he's really not their attorney. So, what I'm saying is the credibility here stinks. And that's all I've got to say.

Mayor Martin - I've got something to say, although if that was in the form of a motion, I need to get that on the floor.

Peterson - It was in the form of a motion. We'll do the first motion first? I guess we have to vote on that. I don't need to read it again, do I?

City Attorney Slawter - No sir, the first vote will be on the motion to

suspend the Rules.

Mayor - Okay. Then I would like to have a comment at that time. Did I hear a second?

Councilman Swicegood - Second.

Mayor - Okay, I hear a second. All those in favor say aye. All opposed? (Motion carried on a 6-1 vote with Mayor Martin voting "no")

Peterson - That must pass by two-thirds vote, right? So that passed.

Swicegood - We have another motion on an investigation.

Mayor - Before we do that, I would like to make a comment. I think this is strange, but I do think this is an internal problem that the Opportunity Corporation has to deal with. This is a County sponsored program. We have one City appointment - one, and that is the Mayor or his designee, representative. That could be construed as two City appointments by the By-Laws, it's rather nebulous. As I stated last week, I think before we make any decisions, we need to amass all the information that we can to make a sound opinion and decision. To that end, what I did was to ask the City Attorney and staff to get a copy of the By-Laws and a copy of the audit which was done in November of 1994. I would note that it is a clean audit and that things have been gone over by Johnson, Price and Sprinkle as a normal part of their independent auditors report in compliance with the laws, regulations, contracts and grants based on an audit of financial statements performed in accordance with government auditing standards. Each Council member has a copy of that. We have in the past, this board -

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Peterson - I have not gotten a copy of any of that Mayor.

Slawter - A copy of that was put in all the baskets out here, but I'll get you another copy.

Mayor - I wanted to be sure everybody got a copy.

Slawter - I apologize if you didn't get a copy.

Mayor - The board at the Opportunity Corporation consists of 24 to a maximum of 51 people. We in the City have appropriated a total of \$10,000 over the last year. We don't have a long record of contributions to the Opportunity Corporation. Two thousand, one hundred and sixty-five dollars of that \$10,000 appropriation last year was expended. They did not expend all of it I understand because they didn't have sufficient opportunity during the year to undergo the weatherization project that this \$10,000 was specifically directed toward. I don't want a cloud to be hanging over a corporation like Opportunity Corporation that does attract \$2.5 million per year to our community. I don't think that they should operate under that cloud. I do feel that, after reading the By-Laws, that they have every right to hire and to fire whomever they wish, regardless of whether we like it or not - they are an independent organization. And they apparently have acted under those guidelines. Therefore, I would recommend that we do have an independent committee - and we would ask Dr. Rainey, Chairman of the County Commissioners, to follow along with us and ask for this independent committee - that would be composed of a representative of the City and of the County, have a representative of the Opportunity Corporation there and anyone else that we would like to participate from the Council and the Board of Commissioners. And that we hold any further

disbursements at this point - all City funds - until we are assured that we have confirmation of a clean audit. I do not think that we should castigate a lot of good people and their intentions, nor their efforts while imputing their motives whether it's for political anything or political grandstanding or anything - this should not be bandied about as a political pitfall - but treated as an internal affair. Therefore, I would suggest that I, as Mayor, write a letter to Dr. Rainey, Chairman of the Board of Commissioners, requesting a committee composed of someone from the County, someone from the City, whether one or two people from each body I don't care, and a representative of the Opportunity Corporation to hold a private hearing so that we can get to the bottom of this. This is about as far as I want to go at this stage.

Councilwoman Sitnick - I think an independent committee is good, I would, however, caution that if there are several representatives of the Opportunity Corporation, that we be sure to make sure that they represent both sides. It's my understanding that a number of the votes that had been taken were very divided and maybe only one by one vote - so there wasn't a clear mandate from the Corporation. I would also -

Mayor - Talking about that, I understand that the reason you were not given information is because this was done in executive committee behind closed doors because it's a personnel matter.

Peterson - That's what I was told. I was referred to an attorney that supposed to be representing this group that says he really doesn't represent them, so, to be honest with you Mayor - I haven't figured this thing out and I'm glad you have, but I haven't. I have a lot of open questions. I would be very, I would be against a group that was put together that had members of this Opportunity Corporation - how can you evaluate the situation if you're using people internally - I would vote for somebody totally external group of three or four. -11-

Sitnick - Totally independent.

Peterson - Totally independent, but not an internal group.

Sitnick - I wasn't finished with my comments, but I would like to do that. I would like to request that this Council meet with our City employee - the person who has been in place for all these years, not the person - not Ms. Brewer who was just appointed - but rather Mr. Manley, in order for us to ask some of these questions that the Vice-Mayor refers to. I would also like to see if Dee Williams would be willing to come in and talk with us so that we could ask her some questions. Quite frankly I have many more questions than I have answers as I believe you do. Since this all came to light I can tell you I have gotten one anonymous letter, four letters signed, I got three anonymous phone calls and eight identified phone calls from people in the community. Some who I knew, some who I didn't know - obviously I didn't know who the anonymous folks are. The anonymous phone calls were all left on my answering machine, by the way. In view of those letters and phone calls I would say we have some real digging to do here and I would like to bring in the people I mentioned. Since this is federal money, I don't know what the rules and regs on that are, but perhaps if we really want to get down and independent, we might want to call in, I mean the federal people might want to call themselves in. I don't know how that works exactly, maybe Mr. Slawter can better guide us in that. But maybe we need to have that kind of an examination go on. Quite frankly I know Dee, I know a couple of people on the board and as a member of City Council it's our job to put ourselves outside of what any one person is saying, but really to listen to what everybody is saying. And quite frankly from what I've listened, there are a lot of red flags that have been raised and I think that

it behooves us to try and understand what the point of all of this is. I tried to ask myself, in what way did Dee Williams benefit from asking, from bringing up this information. And I don't have an answer for that. If anything I would think there would be a negative impact on her. Again, I'm not saying that we should just believe everything she is saying or all of these calls, or the letter-writers or the members of the board - certainly we can look at minutes and By-Laws and believe them but we need to bring in a group of people who can give us the answers that we need to ask. So I would recommend, in addition to any totally independent committees that are formed and all of these people that you mentioned can certainly be brought in if you will as witnesses, but I would also like to recommend that City Council, for the accountability factor that Vice-Mayor brought up and for the fact that whether it's local money, state money or federal money - it's all the taxpayers money and it's our job to look after it. I would like to ask questions and get some answers before we make any judgments.

Mayor - That's my point.

Swicegood - Seeing that Mr. Burton is here today, do you mind coming and answering some of my questions at the podium?

Lonnie Burton - (stayed seated) I wouldn't mind.

I would like to make myself available - I worked under Dee at the Opportunity Corporation for 30 days in a temporary ... never knowing her before. And I have a lot of information that you all could use.

Sitnick - What is your name?

My name is Chris Wren.

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Swicegood - I had about six or seven questions for Mr. Burton and I don't understand why he won't come to the podium and answer my questions. I would like to see that Attorney General, or what would be the appropriate steps, Mr. Slawter, to get an investigation by some state or federal authorities to find out these allegations that have been made. I think this is bigger than City Council. I think it's bigger than an independent group that would be hand-picked by Asheville City Council, or Gene Rainey, or the County Commissioners. And Mr. Mayor, as a leader of our City, with allegations of monies and vehicles, I can't believe that you would not want an investigation as well and that's what I'm asking. Who would be the appropriate person, or people to go to, to get an investigation done.

Slawter - It would depend upon the exact type of investigation Council is wanting to pursue. This agency is a non-profit corporation that is established for the purpose of accepting federal grants primarily, for expenditure for low income people in the two county area - Madison and Buncombe Counties. And the City's involvement has been to appoint one of a large number of members of their Board of Directors and to provide apparently a very small amount of money during the course of years. The only information we were able to find of any expenditures the City was making, at least for the past ten years, has been the \$10,000 that was appropriated last year for the weatherization program and a little over \$2,000 of that was actually spent. In connection with that appropriation, the City entered into a contract with the Opportunity Corporation as we do with outside agencies for any such expenditures and those contracts authorize us to demand accountings and audits for expenditures of our City monies, but the figures I've heard tossed about are in the millions of dollars, not in the area of \$10,000. And to the extent that there should be an

investigation into the full scope of the Opportunity Corporation, the City Council, or the City Council in conjunction with the County Commissioners, or if that were going to be done, probably you would want to bring in the Madison County Commissioners as well, because they are an essential part of the Board as well. Those bodies could ask for all types of information that would help answer any questions that Council might have and I would think that the Opportunity Corporation would want to provide that information to these three governmental bodies in order to resolve those questions. If they chose not to, Council could ask others to be involved and if Council wanted to ask others to be involved at this point, as you're asking Councilman Swicegood, if you want me to suggest someone else that I would suggest to be involved, I couldn't think of anybody to suggest other than the Attorney General's Office.

Mayor - Mr. Slawter, since this is a County sponsored organization, shouldn't the County be the one to call for an investigation if they wish.

Slawter - The County has put more money into the matter than the City has, but it's not totally a County sponsored corporation. It's a non-profit corporation set up under the guidelines of federal regulations for the purpose of receiving these federal grants and it has both public appointees as board members, on its Board of Directors, and private appointees - and the public appointees are by the City of Asheville, Buncombe County and Madison County. All three. All three of those governmental bodies have involvement and it would be up to Council whether Council wanted to seek an investigation or work with the County or with Madison County on doing an investigation, or ask that they be the ones to do an investigation. But, it would be as appropriate, I would think, for the City of Asheville to do it as would Buncombe County.

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Mayor - I want to address your remark of a second ago. As Mayor of this City, I think it is imperative that we as a Council ask in a responsible manner. And if there is adequate cause to call for a greater investigation, I think we should do that. But in the process of doing that we need to obtain adequate information and that would be done by an independent committee. That's not what you're talking about - not what you alleged a minute ago.

Swicegood - I guess to belabor on that point a little here - I've got the minutes of the Board meeting and just to briefly go over and I've got a copy for all Council members. It says I am asking for this vehicle to be donated to me in lasting memory of the Opportunity Corporation. This is one question I was wanting to ask Mr. Burton. He was asked and he doesn't care to come and ask about this. Now I would like to pass out the minutes of the meeting before he retired.

Mayor - Mr. Burton do you want to respond to any of these questions?

Burton - (seated in audience) ... but I'm sure the Board would be willing to meet with the groups or bodies ...

Peterson - So you're denying the fact that we have these minutes and you asked for the car and you received the car and it was given - made a motion by Ms. Mary Robertson made a motion to approve all requests made by Mr. Burton and it was seconded by Minnie Jones and it was a vote 8-2, motion passed. You're denying that you asked for it?

Burton - (seated in audience) I'm not denying anything. I said that I work for the pleasure of the board ...

Mayor - Mr. Burton would you come to the podium to address these remarks

please. And say what you said. These are all recorded and we can't record -

Burton - The Interim Director works at the pleasure of the Board. I'm the interim Executive Director. I think what Mr. Peterson was reading, I'm not sure - I couldn't hear.

Peterson - I'll give you a copy here. Mr. Burton it's a meeting of the Board of Directors, August 31, 1994.

Burton - I was about to say at that time I was at the Opportunity Corporation. However, at the same time I have not been given permission. I'm here today as a concerned citizen. I was called back because of some allegations made by the former Executive Director. And I'm here, I've been on duty now for two days and I'll be glad to report to my Board Chairperson and the Board what you are speaking in terms of today. And they will make that decision as to who, what questions will be answered from the Corporation. I was told we welcome an investigation. We have no problem with that. ... I've heard and I've read in the papers. But no one as far as I know has asked for a total investigation. I approached the proper people, I don't know. I'm not in a position to report to either of you here today.

Mayor - I will at this point make a motion myself that we, on Council, confer with the Commissioner, the County Commissioner, and request that we do have an independent committee. and we can talk about how many members that this committee will be composed of, with the express purpose of looking at the books and any other pertinent information regarding the Opportunity Corporation.

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Burton - I was told today the Opportunity Corporation welcomes any investigation of any of the books that we have by the City Council or by the County. We would welcome that.

Peterson - Why have your Board members been hiding? Why do they -

Burton - I'm sorry I can't answer.

Peterson - ... Dee Williams, the attorney, the President, where are?

Burton - I'm sure those questions can be answered.

Peterson - Well I hope they will be because there's going to be a lot of people that want to know the answers to those and we are holding this group accountable for this.

Burton - As I mentioned before, we will be happy.

Peterson - But again you deny you did not ask for this car. You did not receive it.

Burton - As I said, I'm not at liberty to discuss anything.

Mayor - One thing I left out of the motion is that any further funds that have been allocated to the Opportunity Corporation at this time be held pending confirmation of a clean audit and to the satisfaction of this Council.

Peterson - Well, I've already got a motion on there Mr. Mayor and I've got a second to my motion, so I think that ours should go in order.

Mayor - I didn't hear a second motion. How can you do two motions at once.

Peterson - My first motion was to suspend the rules in order to reconsider the budget ordinance. That's why.

Mayor - Is that correct?

Slawter - Yes, sir. The document I had prepared included two separate motions and I believe Vice-Mayor Peterson read both of them and then we vote on part of that to suspend the rules and then it would be appropriate to have the second matter.

Mayor - I stand corrected. Excuse me.

Peterson - And I have the second motion right here that I will be glad to read. And that motion is that the action taken on December 6, 1994, amending the budget to provide \$7,835 funding to the Opportunity Corporation of Madison-Buncombe Counties be suspended and the City Manager be directed not to sign any further agreements with or provide any further funding to the Opportunity Corporation of Madison-Buncombe Counties until directed by the City Council to do so.

Mayor - That's essentially the same thing I said and I'll certainly support that.

Peterson - The motion is on the table.

Mayor - Do we need a second on that one as well.

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Swicegood - Second.

Mayor - Any further discussion regarding this.

Swicegood - I'd like to make a motion.

Mayor - Hold on, we have this motion. All in favor of this motion that was just read say aye. All opposed? (motion passed unanimously).

Swicegood - I'd also like to make a motion of getting in contact with the Attorney General's Office and see if we can't get some sort of investigation into the Opportunity Corporation.

Mayor - Do I hear a second?

Peterson - I'll second that.

Mayor - Okay, we have a second. Comments? Mr. Slawter?

Slawter - I had a question of specifically who would be doing that. Would one of the Council members be doing that or if you were directing one of us to do that. I just wanted to be sure if I were to be responsible for doing it.

Swicegood - Mr. Slawter to do it, if the motion carries.

Mayor - Are there any other comments? My comment is that we need to proceed in an orderly manner. I think this is skipping over the local investigation that I think should occur before we call in the Attorney General. They may very well not want to pursue this until we had exhausted local remedies. But if that's the pleasure of the Council, we will make a determination.

Sitnick - Mr. Mayor, I have a question. It's my understanding that we had one City appointee to the Corporation Board, Mr. Leo Manley. The Vice-Mayor said that he did not know about this Corporation for the three years he's been on Council and he said you didn't know about it - how long have you been.

Slawter - Well I hate to say not knowing about that Board - but since 1983. When Vice-Mayor Peterson asked me about the Board three or four weeks ago.

Sitnick - So in other words there has not been - our policy on Council has been that we have requested either a worksession or update meetings or minutes from boards and commissions that we make appointments to. We have also requested updates and worksessions from time to time with outside agencies that we have given funding to, to let us know what they're doing with the money and all of that. Have we never gotten a report from the Opportunity Corporation in 22 years?

Slawter - We've received an audit for their ending June 30, 1994, that is attached to the memo that I gave out to Council yesterday.

Sitnick - And that's the only thing we've received either in writing or by way of minutes, or by way of Mr. Manley being called in for reports. Something that's in the public record that we can go back into the vault there and look and see.

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Slawter - I'm not aware of anything, but I don't know - that doesn't mean we haven't gotten anything. But I'm not aware of anything. Some other staff may be aware of something, I don't know. There are several department heads back there, if somebody does know.

Sitnick - Mr. Burton, are you at liberty to comment as to whether or not Mr. Manley has ever reported back. He was our City appointee.

Burton - Yes, and if you'll check your By-Laws there, he has been appointed for some time. The public officials, they have no time frame, they can serve on our board for life. It's in writing in that information you have before you.

Sitnick - No, my question is, are you aware, did Mr. Manley at any of the Board meetings ever indicate that he had come and had a session with City Council to update them on the activities of the Corporation?

Burton - I don't recall. But I would think that he should have, or the Council should have found out why he hadn't because he was an appointee. And as I mentioned, there is no time frame for public officials.

Sitnick - Yes. But you understand that's how -

Burton - Since that time though we have received CDBG money at the outset. We did receive the monies. ... one reason because we were cut from the funds that you haven't been in contact, maybe, as far as funds. I can say that I do know in touch with the County and of course when we received the \$10,000 grant, we had to ... to the City - of our budget.

Sitnick - Perhaps there's some culpability on the part of previous councils for not requesting a meeting with Mr. Manley to be updated.

Burton - We have followed the guidelines that you set for us in CDBG on last year when we got the \$10,000. That was a basic requirement. And you did receive that information because we were approved.

Sitnick - Yes, and the monies used from that which was a little over \$2,000 that was used for weatherization?

Burton - That's correct. The guidelines for CDBG state clearly what you can use that monies for. As a result we try because we are working with low income houses.

Sitnick - Do you know whether or not 30 years ago or 25 years ago the City gave any monies to the Corporation?

Burton - They did at one time I understand. I don't have the details. They gave monies, they gave matching buildings ... over the years.

Mayor - I understand you started in 1965. Is that correct?

Burton - Yes. And as I said, Community Development funds ... years. They gave us \$10,000 and all of a sudden, it has been over ten or 12 years since we've received any monies. As I said, we have the records and we'd be glad if you could appoint a committee to work with us or come over and review or books, what have you. I was told that I -17-

could readily give you that permission. At your time frame. It's no problem as I understand it. But other than what happened between here and now, I left in September and as a result, as I said, I came back this past weekend. What I hear and what I'm hearing and what I read in the paper - I'm just not aware and I cannot answer that. But I'm sure that from your investigation all your questions can readily be answered and documented. Cause everything as I know - some of the things I hear - everything is above board. Community action agencies are audited every year. State, federal, we have to go through those processes before we can get our funding for the next year. We have to have an audit before we receive any funds. We have a record as far as our audits go of having clean records through the years and of course, we can verify them through auditors, through the state. We have our people, I understand, have been asking for audits. We mail out six audits and as I understand it, they were signed by the past director. So, it's public notice throughout. And it's no secret. When you review audits, you can readily see - and that's what we would like, we welcome someone from the City . . . bodies to know to come in and feel free to ask any questions. So we don't have any closed books or closed - it's an open operation.

Mayor - Are there any other questions?

Sitnick - I would just like to correct the record, I said I have gotten eight phone calls that were identified before I walked into this meeting. I got a ninth message - somebody called regarding the Opportunity Corporation - investigate totally and completely, don't leave any stone unturned. That was the ninth call, just to correct the record.

Mayor - Come forward and state your name.

Chris Wren - Good evening Mr. Mayor, Vice-Mayor and members of the Council and public here. My name is Chris Wren, spelled like the little bird. I was hired as a temporary tenure as the Acting Weatherization Coordinator during this previous fall so I have some inside information on the Opportunity Corporation, but I am here to speak mainly from the people who are out there to receive the benefits that the Opportunity Corporation has to offer. I have documents here, with me this evening, that these people are dissatisfied with the way the Opportunity Corporation is doing. I can prove to you that any audit that I was present during was a farce. I can also show you how I can steal money from the Opportunity Corporation and hide it - and I was there for 30 days. Okay, so

this does need to be investigated.

Councilwoman Field - Were you working under Ms. Williams?

Wren - I was there under Ms. Williams.

Field - Not under Mr. Burton?

Wren - Correct. Ms. Williams and I have no connection whatsoever. I called up there and volunteered my assistance because I understood that they got two houses done in four months, three months excuse me. There were people out there including a 16 year old woman with a brand new baby cold and hungry. There was another person out there, a disabled veteran, who had been on the waiting list for six months and could not get a response - actually had to call Social Services Department to get them to call us. The office manager of the Weatherization Department did not respond in a human manner to these -18-

people. There are several people out there whose houses are in worse condition than before the Weatherization Department got there. The Weatherization Department being under Mr. Burton's reign, okay, at the time of these encumbrances. I have documentation from another person living just inside the Buncombe County line where she had new windows installed in her home - that evening the weatherization coordinator at the time went there and removed the windows from this person's home. She did not know why. She is just a, excuse the expression, tobacco farmer. She is a country person - doesn't understand what's going on here. Doesn't understand what's going on at the Opportunity Corporation but she asked for help and got ripped off. And they hid it. I asked, when I was there as Acting Weatherization Coordinator, the energy assistant and for better explanation, office manager, of the Weatherization Department, refused to work underneath me because I refused to sign things without having it documented first. Okay. The previous Weatherization Coordinator gave her permission to sign things. She signed his name continuously - she has been there 17 years. Okay. There are supposed to be bids accepted by different vendors out there. All the materials are being bought from one vendor. I have contacted, during my employment there, I contacted both those vendors and have some information possibly for you. I can go on right now and get on the soap box for an hour.

Mayor - Let's not do that, leave your name, your address and your phone numbers so that we can contact you in the future. I'm still of the opinion that the investigation should be done locally first, and then if the Attorney General needs to be called in, that's when we need to do that.

Wren - I agree with you Mr. Mayor but it needs to be public information because an audit can be covered up.

Mayor - Do we have any other comments? We have a motion on the floor? Yes sir?

My name is Nicasio Martinez. I moved in the Asheville area about eight years ago. I have been to previous City Council meetings, County Commissioner meetings, School Board meetings, name it. I have been active most of my life helping citizens who have less than I have and I don't have much. What you are hearing about the Opportunity Corporation I believe. My observation of those that we deem to be of the underclass, there is a ... kind of assistance by peoples whose name is on everything in this City. They're serving on everything. It's a very narrow list. I have tried to work for ABCCM, Mountain Housing Opportunity, Housing Development Corporation of Asheville. I have many years of experience working for multi-million dollar funded community action programs. I've worked in weatherization. What I am most concerned, when in Asheville will we actually come to real self-help programs. The Opportunity

Corporation could have done a magnificent, magnanimous job. When I first came to this City they told me to go to YMI. Go to YMI. Go to YMI. I finally went to YMI, everything I presented to YMI was rejected. I am concerned about programs like Head Start. It's under the Opportunity Corporation. But when I look at what the City School Board is not graduating black children, a class of over 300 blacks, less than 25 made the graduating class, less than half of them got diplomas and less than half of those getting diplomas were males. What does this have to do with the Opportunity Corporation? What has that got to do with the ... in this City? It tells me they are asleep. We are perpetuating the violence that is in this City and you're wasting the money that could be actually put to redeeming the finances and the health and the education of these communities that the -19-

Opportunity Corporation was responsible for improving the self-help. Now when I read in the newspaper that a man retiring from a corporation like that suggests that he should get an automobile - he's not working for General Motors. I think an investigation is in order, but not the way Asheville, North Carolina, investigates. They have to ... the Supreme Court right until recently. If this City Council fails to call for an immediate investigation by getting a gentrified list together as to who is going to look into this matter, it will be typical snow falling in July in Asheville, North Carolina.

Mayor - H.K., did you have a comment?

H.K. Edgerton - I just want some clarification on Councilman Peterson's motion. It seems to me that, I heard Councilman Peterson make a motion and that motion was passed with an objection from you Mr. Mayor.

Mayor - I did not object to that second motion.

Edgerton - I'm so thoroughly confused now, I just want to know what happened to the first motion that Councilman Peterson made. I don't understand what's happening here.

Mayor - It was passed. He indicated that he would like to hold on any disbursement of funds regarding that contract, or the appropriation that was passed on December 6, 1994. We have another motion on the floor right now regarding a state attorney general and that's where we are at this point.

Edgerton - Also Mr. Mayor. This may not be the right time to comment, but I'm going to leave you because I know you're very busy. I applaud Councilman Peterson's desire to have an investigation. But I also would like to say something on behalf of Mr. Burton and I don't really care what happens, well, I do care. But I was fortunate enough to be a student of Mr. Burton's at Stephens-Lee High School when Mr. Burton was the Dean of Schools and I know Mr. Burton has a long track record of caring for African Americans in this community. I would like to personally thank Mr. Burton for being one of the persons that was responsible for me being able to graduate from Stephens-Lee High School among many African Americans in this City. And I don't know what happened at the Opportunity Corporation and I do agree with Councilman Peterson that we do need to get to the bottom of this, but I would very much so caution the peoples of this City to make a judgment on Mr. Burton because I have found Mr. Burton to be a gentleman of fine quality and of fine character and I also am a very close friend of Dee Williams and I know Dee Williams is a genius when it comes to financial matters. So I take a great deal of creed in her concerns. But again, I've been out there on a limb, if you will, having the limb sawed off under me, Mr. Mayor when my intentions were to help the people and do good things for the people, so I would caution, until we do, Councilman Peterson find out exactly what happened. And then I applaud you for asking for an investigation. I would caution this City from making any judgments on Mr.

Burton because I find Mr. Burton to be a fine gentleman.

Mayor - Thank you for those comments. Any other questions or comments. I think we're ready to vote.

Field - I just have one small comment and that is in this country people are innocent until proven guilty. And I think clearly we have a situation where there appears to be some perhaps misuse or a problem and I would certainly support an investigation to clear the air. I am not -20-

sure that I understand why the Attorney General needs to do this but I agree there needs to be something done. But right now, Mr. Burton as far as I'm concerned, is innocent. The Opportunity Corporation is innocent, and Ms. Williams is innocent until we get to the bottom of this.

Councilman Watts - The feedback that I get is that the concern of the public - nobody is talking, the board, nobody is talking. And when nobody talks, that arises curiosity and suspicion. And I think ... in the open and more people talk, the board talks, the director talks, to the citizens ...

Mayor - We have a motion on the table at this point. We are going to call in the Attorney General.

Sitnick - Is there a fee, number one. And number two, is there a requirement on our part to provide materials and information, documentation and all of that?

Slawter - There would not be a fee. I'm sure they being a state agency and it's their duty to become involved in matters of investigation of such agencies where that is called for. What all they would require from the City, I really don't know. All I could do would be to contact them and tell them of the Council's concerns and pass along to them Council's request if you make it, that they investigate. And it would be up to them how to pursue that. I just don't know.

Sitnick - I would only say that in order to expedite things in consideration of time that we put together as much information, some of things that we've gotten - maybe some comments from the public and I would certainly like to go beyond what we have here today. Maybe we could meet with some folks before he actually comes in here and starts working. Maybe he wants to meet with folks. I don't know, I think we need to find out the process.

Watts - Inasmuch as federal and state and some local funds are involved in this, I'm sure that the federal government - when they have a federal agency, I mean investigation or something reference to that?

Slawter - Any federal agency that provides funding to the Opportunity Corporation or the City of Asheville or any other body requires audits on, I would think, on an annual basis and has the right to investigate. And I don't know if it's HUD or who the funding comes to the Opportunity Corporation from, but it likely is HUD. They could certainly investigate. HUD could very well investigate and HUD may well be a better choice. I don't know what the scope of the investigation is going to be. Either of them could be called upon to make the investigation. HUD or any other federal agency that provides funding for the agency. An agency such as HUD will investigation by either the City Council or a combination of the City Council along with the County Commissioners or the Madison County Commissioners would focus on, I would think, on accounting type matters and getting a better grasp of what has happened with expenditures. An Attorney General investigation is generally criminally oriented. And if they even would investigate, I don't know but

Mayor - I don't think that they would based upon clearly allegations that have been put forth at this point. That's why I feel that we need to go a step further locally before we call on any other investigation from the state or federal agency. I don't think that they're going to do it.

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Swicegood - We can talk about it. The motion might not pass. Let's get it on the table.

Mayor - I've tried several times to have a vote.

Sitnick - And your motion was?

Swicegood - To have Mr. Slawter call the Attorney General and investigate the Opportunity Corporation, if the motion passes.

Mayor - All those in favor of the motion say aye. All opposed. (Mayor Martin and Councilwoman Field voted "no" - motion carries on a 5-2 vote.)

Sitnick - And I'd like to make another motion. If the Attorney General informs you Mr. Slawter that he is not the appropriate office to investigate these allegations, then I will ask for you to find out where we should go from there in order to not only clear the air, but to clear the air and to make sure that this program is apropos of that we heard from the public that this program is actually effective and doing what it is supposed to do. So basically my motion is to request of the City Attorney if the Attorney General's Office is not the appropriate place to request this investigation that you research what is the appropriate office, whether it's the federal office, maybe Mr. Taylor's office would know, maybe HUD would know. The funds are HUDs.

Wren - The Department of Energy is the one who supplies most of the Weatherization Departments.

Sitnick - So it's multiple funding sources. That complicates it even more. So we've got to find out the proper channels.

Mayor - You've heard a motion, do I hear a second.

Councilman McClure - Second.

Mayor - We have a second. Do you have a comment Mr. Slawter?

Slawter - Only that if there are multiple sources of funding for the Opportunity Corporation, as I said awhile ago, I figured most of it came from HUD. This gentlemen said that the Department of Energy also funds. There may be

Unidentified person from audience - Financial records indicate that ...
Department of Health and Human Services.

Mayor - We have a motion on the floor and the motion is that when the City Attorney, Bill Slawter, determines where, or if the Attorney General is not the proper investigating agency, that he pursue questioning the Attorney General's Office to determine where he should go.

Sitnick - This is to expedite things so that you don't go call the Attorney General who says I'm not your guy and we wait till the next meeting in two weeks where you come back to us and say, he's not the guy, and then we make another motion to direct you in another direction. Just to keep the ball rolling.

Slawter - So I'm not only to investigate who should investigate, but ask them to undertake that investigation. Okay.

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Mayor - Let's take a vote on this motion. All those in favor? All opposed. (motion carried unanimously).

V. CONSENT:

The resolution authorizing the City Manager to enter into an agreement with the Land-of-Sky Regional Council relative to transportation planning was removed from the agenda due to motion passed earlier in meeting.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 20, 1994

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE LAND-OF-SKY REGIONAL COUNCIL RELATIVE TO TRANSPORTATION PLANNING

Item deleted from agenda.

C. RESOLUTION NO. 95-2 - RESOLUTION AWARDING BIDS FOR FLEET VEHICLES

Summary: Two bids were received for several vehicles for use in the Police, Fire, Engineering, Finance, Public Works and Parks and Recreation Department. It is recommended that awards be made by item to the low bidder, all of which meet specifications, as follows: Bid Items 1, 3, 11, 12 and 13 in the amount of \$315,088 to Parkway Chevrolet Inc., Asheville, N.C.; and Bid Items 2, 4, 5, 6, 7, 8, 9, 10 and 20 in the amount of \$201,752 to Matthews Ford Inc., Asheville, N.C. A complete bid summary is attached as Exhibit "A".

RESOLUTION BOOK NO. 22 - PAGE 161

D. MOTION SETTING A PUBLIC HEARING FOR JANUARY 24, 1995, RELATIVE TO AMENDING THE ZONING ORDINANCE REGARDING REGULATION OF THE LOCATION OF ADULT BUSINESSES

E. MOTION SETTING A PUBLIC HEARING FOR JANUARY 24, 1995, RELATIVE TO REVIEWING A GRANT APPLICATION FOR CAPITAL FUNDS FOR THE TRANSIT AUTHORITY

F. MOTION SETTING A PUBLIC HEARING FOR JANUARY 24, 1995, RELATIVE TO REZONING ONE LOT ON OLD COUNTY HOME ROAD WHICH IS ADJACENT TO 302 NEW LEICESTER HIGHWAY AND PARTIALLY REZONE 302 NEW LEICESTER HIGHWAY FROM R-5 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

G. MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 7, 1995, RELATIVE TO APPEAL TO THE CITY COUNCIL WHEN THE PLANNING AND ZONING COMMISSION DENIES APPROVAL OF A PRELIMINARY PLAT FOR A SUBDIVISION

H. MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 7, 1995, TO AMEND THE ZONING ORDINANCE TO PROHIBIT PARKING OF LARGE MOTOR VEHICLES ON PROPERTY IN RESIDENTIALLY ZONED DISTRICTS

I. MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 7, 1995, TO ZONE THE WEST II ANNEXATION AREA AND TWO EXTRA-TERRITORIAL JURISDICTION LOTS

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J. MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 7, 1995, TO ZONE ONE LOT ON ROCKY RIDGE ROAD TO CH COMMERCIAL HIGHWAY DISTRICT

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Ms. Patty Joyce, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following actions were taken by the Planning and Zoning Commission on January 4, 1995:

OAKLEY ELEMENTARY SCHOOL

This project is for the proposed construction of a new Oakley Elementary School on Fairview Road. The project will retain several older buildings and construct a larger two story classroom building and provide a larger and safer student drop off area.

On January 4, 1995, the Oakley Elementary School project was unanimously approved by the Planning and Zoning Commission with the following conditions:

1. Submittal of appropriate letters stating water and sewer availability;
2. Submittal of appropriate letter approving fire protection
3. Receipt of driveway access permits
4. Approved interim parking plan during construction (conditions 1-4 to be met prior to the issuance of the zoning permit)
5. Traffic conditions to be advanced or completed prior to issuance of certificate of compliance:

A. That the Buncombe County School Board agrees to work jointly with the City of Asheville to participate (50% each) in a consultant study for a preliminary route design to determine the feasibility and estimated cost of a realignment project for Liberty, Cedar, Fairview Road intersections. The City's participation in the design study will be in the form of in-kind engineering work to assist the consultant. This project will directly address the function of the street system around Oakley School, traffic flow along Fairview Road, the safety of pedestrian traffic in the area, and impact of outlying planning developments. If the realignment project is determined to be feasible, it will be evaluated during the City's CIP process and prioritized as with all other projects within the city limits.

B. That the Buncombe County School Board agrees to the dedication of School Board property for any right-of-way along Liberty Street and Fairview Road for future traffic improvements up to, but not beyond, a point indicated on the approved site plan (as needed). -24-

C. That the Buncombe County School Board agrees to work with the City of Asheville and the NC DOT to improve the traffic congestion problem in the immediate area of the new Oakley Elementary School.

Council accepted the report of the Planning and Zoning Commission, thereby

approving the project by taking no action.

CARSON'S CREEK APARTMENTS - PHASE II

Meridia Development Inc. has submitted plans for Carson's Creek Apartments, Phase II. This project is proposed to have five buildings containing 100 apartment units on an 8.8 acre tract that is directly adjacent to the site of Carson's Creek Apartments, Phase I, located at 1640 Hendersonville Road.

The Planning staff and the Planning and Zoning Commission have determined that the site plan, as submitted and revised, meets all the requirements of the zoning ordinance.

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

B. ORDINANCE NO. 2170 - BUDGET AMENDMENT RELATIVE TO CENTRAL ASHEVILLE RESOURCE CENTER

During Pre-Council discussion Mr. Gene Ellison stated his request for \$6,000 (in lieu of replacing the front window and front entrance which was estimated at \$6,000) from the City for this project, the distinguishing point is that the Center is providing not only a sub-station for two beat officers, they are also providing a fully separate built out space for the community police team, which includes seven officers. The Central Asheville Resource Center serves the entire City, not just the Montford Community.

Councilwoman Field moved to adopt the budget amendment in the amount of \$6,000, less the cost of the sidewalk repaired in front of the Center. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2170 was passed on its first and final reading.

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C. MOTION RELATIVE TO STUDY OF BUDGET SAVINGS AND COST CUTTING MEASURES

Councilman McClure said that on today's agenda there is already \$187,000 in studies and consulting fees. He also attended a user fee worksession earlier. The purpose was to look for additional revenue. We also met with our legislators and asked them to give us some opportunities for additional revenues. We cut over \$3 million from this year's budget. He is convinced that there is a lot more room for savings without cutting essential service. He then moved that City Council is committed to no tax increases. That no new taxes or increases, user fees, or revenue enhancements will be considered until the City Council has been provided a complete and thorough study of budget savings and cost cutting measures. We hereby direct the City Manager to conduct such a study and report on every possible savings. This motion was seconded by Councilman Swicegood.

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Upon inquiry of Councilwoman Field if his motion included the stormwater utility topic to be discussed by Council at their upcoming retreat, Councilman McClure said that it did.

Councilman McClure said that he had a difficult time asking the people of Asheville to continuously cut their budgets and the City of Asheville is not willing to cut their budget. If all of Council is convinced that this has been

done, then we can look at alternative that we have. He said that no one should be binded 100% but it is a statement of intent on the part of Council.

Councilwoman Sitnick said that while she appreciated Councilman McClure's intent and she believes it has been the intent of this Council to cut the fat, when Mr. Farris was here, we asked him to do that also. I think we all had a good deal of faith in the fact that he looked not for every \$5 and \$10 but, like you said for the nickel and dime. While I think we should be on-going with making sure that we are accountable for every penny we spend, I think that it's important to remember there are needs in this City that are not being met now, whether they are infrastructure needs or service needs. While I am 1,000 percent in your corner for wanting to make sure that we are spending every penny wisely, and I don't think that anybody on this Council doubts that I am committed to that, I would also not like to create a situation that would not allow us to pay for the things we need - not that we want, mind you - but that we need. I wonder whether or not we can accomplish the same thing by just requesting of the City Manager that his number 1, 2 and 3 priorities are making sure that every penny that we collect is spent wisely and spent with priorities in mind and spent on our needs rather than on the things that we would like to have.

Councilman McClure agreed with Councilwoman Sitnick's comments but he also wanted to make sure that we are confident that we have done our fiduciary responsibility of cleaning up our own shop before we start asking the citizens of Asheville to pay for these things. That is his intentions of this motion - to say that this City Council is committed to looking at every possible cost savings before we even consider going back and asking the citizens to do something - we want to know what our cost savings are. That's what his intentions are. We are committed to looking for every cost savings before we go outside to look for other sources of revenue.

At this time, the motion carried on a 6-1 vote with Councilwoman Field voting "no".

D. STORMWATER USER FEE COMMITTEE APPOINTMENT

Councilwoman Sitnick announced that Ron Butler would not be able to continue his work on the Stormwater User Fee Committee due to business conflicts. She felt Ron's input was very valuable on that Committee and he would be missed. Per the Mayor's request, she would submit names to him for this vacancy.

E. UPDATE ON PAYROLL DEDUCTION POLICY

Councilwoman Sitnick asked the City Manager for an update on a policy regarding payroll deductions. Mr. Westbrook said that as soon as he gets the costs related to that he will come back to Council with a recommendation.

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F. RETREAT ITEMS

Councilwoman Field wondered if, in light of the motion adopted earlier relative to no new taxes or increases, user fees, or revenue enhancements being considered until the City Council has been provided a complete and thorough study of budget savings and cost cutting measures, should Council delete from their retreat the topics of stormwater review and solid water committee.

Councilman McClure felt Council did not need to remove any items, but that they needed to be discussed and have a plan in place. He felt Council needed to know what the figures are. He stressed that anytime that Council is going to

do something, particularly like the stormwater utility, then it needs to be revenue neutral somehow or another. How are we going to pay for it? Basically everything he discussed today is to make Council more aware of what Council is doing.

City Manager Westbrook felt the study requested will be part of the annual budget process and felt the items should remain on the retreat agenda.

Vice-Mayor Peterson also questioned the topic of Stephens-Lee Recreation Center on the retreat agenda.

Councilwoman Sitnick felt that sometimes it was best to stop doing something until you have more information, as Council has done today. But in the case of, for instance, the stormwater utility, I don't know how many extra hours I put in as Chair of that Committee, aside from the actual Committee meetings that take place at 8 or 8:15 a.m., all of the studies that I have been reading, all of the literature from other cities, all of the Corp of Engineers information that I have been reading, all of the phone calls - I don't know how many extra hours it puts into my week or the members of the Committee, but quite frankly, if we are not going to figure out a fair and equitable way to pay for something that we don't want to pay for but have to, this is not a matter of choice here, we've got a terrible situation in this community and it's not only \$60 million that they estimated two or three years ago that we needed to repair the existing system, but we have to figure out a fair and equitable way for every single taxpayer to pay for the new needs of the program. Yes, we should keep our administrative costs absolutely at a bare minimum and the money should go into turning that shovel of dirt and putting in that conduit or that storm drain. But the fact is, somewhere, somehow, along the way, the people pay for everything. Including charitable donations that become community efforts to provide means. It all comes out of our pockets. The point of the Stormwater Utility Committee is to find the most fair and equitable way to pay for it. And that includes everybody who contributes to the problem must pay for the solution. My point is, if we are going to have a Council, and I respect everybody's opinion on this, but if we're going to have a Council that is eventually going to say - our policy is we're not going to charge the people to pay for the flooding, for the undermining, for the sink holes that are cropping up all over Asheville, then I'd rather know it now and not have to spend my precious time dealing with this, having meeting, sounding intelligent because I read five hours of information that week that gave me the knowledge to present to the Committee. This is not by choice. The whole point of having government is to provide the services and needs that the taxpayer must have and this is not a luxury item, I can assure you. This is not an item in the budget that we can cut fat out of. There is just one way to do this if we are not going to wash ourselves away. So, quite frankly, I would like to know about it sooner rather -27-

than later, so I can save myself some of the 50 to 70 hours I put in on this Council a week. I voted for the intent to trim every penny, nickel and dime. We've all said that during the campaign, we've said it during our entire year of service here. But I also don't want to be penny foolish and not have the foresight and the political courage to act today and not leave a worse legacy to our children and grandchildren down the line by being stupid and saying, we want to get re-elected so we're not going to put anything out there for the taxpayer to have to pay. That's foolish, but we must assure the taxpayer that every penny is being considered as though it were our own. Knowing it's theirs.

Mayor Martin said we needed to keep it in so we can have the direction we need to have at this point to proceed.

G. MINORITY BUSINESS PLAN

Mr. H. K. Edgerton, Vice-President of the local NAACP and representative of Black Leadership Caucus for District 50, expressed strong objects to the Minority Business Commission moving to the Purchasing Division. He urged Council to take another look at this matter.

H. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of December 15-21, 1994: Ben Shulimson (Parks and Recreation), Ms. M.M. Freeman (Water), Liz Ewing (Water), Ann and Steven Guy (Water), Sherry Spurrier (Water), Cheryl Papay (Sanitation), Shannon Ratliff (Water), Marjorie Liverman (Streets), Tracey Timmerman (Streets), Jerry W. Snyder (Sanitation) and Joe Eckert (Water).

He said the following claims were received during the week of December 21-29, 1994: Kim Ponder (Fire), Michaelene Lord (Water), Porter Lamm (Sanitation), Scott Aiken (Water) and Geneve Stuman (Water).

He also said the following claims were received during the week of December 30, 1994, - January 5, 1995: Charles W. Christy, Treva Redmon (Public Works), Bob Gibbons (Water), Ray Kisiah Jr. (Water) and Scott Jenkins (Streets).

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

I. CLOSED SESSION - PERSONNEL MATTER

At 7:40 p.m., Vice-Mayor Peterson moved to go into closed session to discuss a personnel matter. This motion was seconded by Councilman McClure and carried unanimously.

At 8:00 p.m., Councilman McClure moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

J. APPOINTMENT OF MAGDALEN URBANEC BURLESON AS CITY CLERK FOR THE CITY OF ASHEVILLE

Mayor Martin, on behalf of the City Council, appointed Magdalen Urbanec Burleson as City Clerk of the City of Asheville. He said the terms of her appointment would be set forth in the form of a letter.

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K. ORDINANCE NO. 2171 - BUDGET AMENDMENT TO PROVIDE FUNDING FOR THE CITY CLERK APPOINTMENT

City Manager Westbrook said that a budget amendment, in the amount of \$4,850, would be needed to complete the funding for the City Clerk position.

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

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2171. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2171 passed on its first and final reading.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:10 p.m.

CITY CLERK MAYOR

RESERVED

IMMEDIATE COUNCIL

MEMBER FAMILY
