

Tuesday - March 7, 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, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts (in hospital) - At certain times, Councilman Watts was able to participate in the meeting by use of a speaker phone. At those times, it will be noted.

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-27 - RESOLUTION TO RETIRING EMPLOYEE RONNIE METCALF

City Manager Westbrook read the resolution stating that Ronnie Metcalf has been an employee for 17 years and has requested retirement from his position as Stock Clerk in Fleet Management Division of the Finance Department. He expressed City Council's appreciation to Ronnie for his service to the City of Asheville and its citizens.

Resolution No. 95-27 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 207

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE SONDLAY ESTATES PROJECT, CONSISTING OF SONDLAY PARKWAY, SONDLAY DRIVE, SONDLAY WOODS PLACE, SONDLAY DRIVE SOUTH, SONDLAY DRIVE EAST AND SONDLAY DRIVE NORTH

RESOLUTION NO. 95-28 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE SONDLAY ESTATES PROJECT, CONSISTING OF SONDLAY PARKWAY, SONDLAY DRIVE, SONDLAY WOODS PLACE, SONDLAY DRIVE SOUTH, SONDLAY DRIVE EAST AND SONDLAY DRIVE NORTH

Mayor Martin opened the public hearing at 4:08 p.m.

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

Mr. Bob Wurst, Audit/Budget Director, said that the Sondley Estates Street and Drainage Improvement project is complete. The total project cost is \$421,014. Property owners have agreed to be assessed \$100,000 which results in a per foot assessment rate of \$4.85. The footage of corner lots and lots with frontage on non-adjacent roads was divided by two so as not to penalize those lots.

Upon adoption of the assessments by Council, the approved assessment roll will be provided to the Tax Collector for collection. Property owners will have the opportunity to pay the assessment in full or it will be billed over ten years with 8% interest. -2-

Mayor Martin closed the public hearing at 4:10 p.m.

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

Councilwoman Field moved for the adoption of Resolution No. 95-28 at 4:10 p.m. This motion was seconded by Vice-Mayor Peterson and carried unanimously (6-0 with Councilman Watts not participating).

RESOLUTION BOOK NO. 22 - PAGE 208

III. UNFINISHED BUSINESS:

A. RESOLUTION NO. 95-29 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH BUNCOMBE COUNTY FOR THE PURCHASE AND OPERATION OF THE CRIMINAL JUSTICE INFORMATION SYSTEM

Councilman Watts was able to participate in this portion of the meeting via speaker phone.

City Manager Westbrook highlighted the agreement by saying that the agreement is for seven years beginning July 1, 1995, and the system has to be fully operational by June 30, 1996. If the system is not fully operational at that time then the County will be responsible for the continued funding of the current Criminal Justice Information System (CJIS) Program. The system will be the specific responsibility of the County in every respect and the City will be paying for service. The system must be up and operational 98% of the time, 24 hours a day, 365 days a year. The CJIS Executive Board will become the CJIS Advisory Board (in order to make sure the City concurs with any grants). The agreement contains language about what happens to the equipment if the agreement terminates after seven years, and in all cases the City would be able to get their share of the market value at that time plus the information off the software in order to start our own system. The City would be responsible for 45% of the debt of the operational cost of the CJIS system. Currently the City is responsible for 50%. At 50%, the City's annual proportion would have been \$622,000, but through negotiations, the City's portion is now at 45% down for a cost of \$341,000. The current budget in 1995 is \$185,000 for this program. In the first year, 1996, there will be some duplication because there will be a transition period when both systems will be operating. There will be some additional costs there but after that, the annual cost should be approximately \$341,000. Since current funding is at \$185,000 and the recommended funding is at \$341,000, therefore, there will be an additional cost of approximately \$156,000 per year.

Councilman Swicegood voiced support for the system but was concerned that not only will the City and the County be using the system, but also the Administrative Office of the Courts. He felt the City should only be funding 1/3 of the system and questioned why court system was not putting in their share, especially since they have a member on the committee. He also noted that it's the County's responsibility to run the jail and the court system. He felt he could not support the City's funding at 45%.

City Manager Westbrook explained that basically the court system of the state doesn't want to participate in it although they are going to use the service. Currently they participate in it but it's still 50-50 between the City and the County. They look at the number of warrants -3-

issued and over half of the warrants that are issued or the paperwork that flows is generated by Asheville, therefore, if you look at it from the generation of the input that goes into the system, the City is getting more

than it's share.

Councilwoman Sitnick questioned if there a provision in the agreement about what will happen in a few years should this system or the software become incompatible or obsolete. Is there a provision for a breakdown of who will pay for additional costs in the operational or equipment that might come up due to the quickly changing nature of technology?

Mr. Larry Bopp, Information Services Director, said that this is a long term investment. The computer technology that we are investing in is state of the art and the system is an open system that can be upgraded at any point in time after seven years, if it needs to be upgraded. The City won't have to spend a large amount of money to buy a brand new or a different computer. As far as the applications we are purchasing, the vendor will continue to make improvements to those applications through time and the City can have improvements made at the end of that seven year period if it needs to.

Upon inquiry of Councilwoman Field, City Manager Westbrook explained that while the state will not participate now, we are moving forward to trying to get some state participation on a grant basis, rather than on an on-going basis.

Councilman McClure questioned the three member board, one member which represents the court system. He expressed concern about them having a member on this board, but not participating financially.

City Manager Westbrook said the contract sets the committee up in an advisory capacity so their only duty will be to advise the information management directors of the City and the County on matters. The Committee will have no formal duties at all, it's more of a coordination factor with the court system.

Police Chief Will Annarino explained how the CJIS system would be a benefit to the community and why it's needed.

Councilman Watts said that this is an urgent system that we need if we're going to compete with other cities. He supported going forward with the system.

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

Councilman Watts moved for adoption of Resolution No. 95-29. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman Swicegood voting "no".

RESOLUTION BOOK NO. 22 - PAGE 209

#### IV. NEW BUSINESS:

A. RESOLUTION NO. 95-30 - RESOLUTION OF INTENT TO CLOSE A PORTION OF RESERVOIR ROAD

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Councilman Watts was participating in this matter via speaker phone.

Mr. Larry Ward, Acting Public Works Director, stated that a petition has been received from Jan Howard and the Kenilworth Residents Association Board requesting that a portion of Reservoir Road be permanently closed.

The petition submitted included 131 signatures; 21 live in the general area of the portion of Reservoir Road being petitioned to be closed; one owns property

adjoining the portion to be closed; and four live in the direct vicinity of the closing. Three properties in the direct vicinity of the closing have not signed the petition. Also, a representative of St. Joseph's Hospital, which property joins the portion of the road requested to be closed, signed the petition.

Reservoir Road serves as a through connecting road from Biltmore Avenue via Granby Street, Buchanan Road, to Windswept Drive and Alexander Drive. This through route may also be accomplished via Forest Hill, Thurland and Sherwood Road.

The portion of Reservoir Road requested to be closed averages 12 feet in width and has an average 24-hour traffic of 347 vehicles. During the peak hours, approximately 50 vehicles utilize the road per hour. The speed limit is 35 with 10 mph advisory signs in the curve portion. A speed study has been performed upon the section of road and the recommended speed limit is 15 mph. The roadway has a right-of-way width of 30 feet.

The petitioners petitioning the road closure all own property between the closure and Biltmore entrance which means their access would not be affected. The owners at property beyond the area petitioned to be closed have not signed the petition. The closure would limit their access to Alexander Drive and Windswept. Alexander Drive provides adequate access to the Windswept Drive area as well as the Windswept Condominiums and the Wind-in-the-Oaks Condominiums. These property owners would have direct access to the downtown, north, west and east section of Asheville via Alexander Drive. Their access to the south via Alexander Drive would be very indirect and would require approximately three times the drive distance and time to reach the same point on Biltmore Avenue that could be accessed directly from Reservoir Road. All the traffic utilizing Reservoir Road is residential with the exception of service vehicles and City vehicles accessing the White Fawn Reservoir property. All City vehicles have been asked to utilize Alexander Drive for access to White Fawn to prevent problems from occurring along Reservoir Road.

Trips along Reservoir Road consist of home to school and school to home trips, to work and return trips, shopping and return trips to and from entertainment.

In compliance with State statutes for street closings, the City will need to notify all property owners who may be affected by the closing since all owners did not sign the petition. This would include the property owners at Windswept Condominiums and Wind-in-the-Oaks Condominiums. Should Council decide to pass the resolution of intent, copies of the resolution establishing the intent to close the petitioned portion of Reservoir Road will be sent to all property owners along Reservoir Road, Windswept Drive, Sherwood Road, Buchanan Road, Granby Street, Arden Road, Thurland Avenue and Forest Hill Drive between Thurland Avenue and Biltmore Avenue. -5-

The Public Works Department recommends denial of the petition to close that portion of Reservoir Road. The reasons for denial are that Reservoir Road is a through street that is necessary to conveniently accomplish certain trips for residents in the area; and the road provides alternate access to a number of properties in case of emergencies, such as fire or other catastrophes. The Public Works staff, however, does recommend that the speed limit along the narrow and curving sections of Reservoir Road be reduced to 15 miles per hour and that strict enforcement of the speed limit be conducted, especially during peak hours.

When Councilwoman Sitnick asked if speed limit were reduced from 35 miles per hour to 15 miles per hour could it be enforced, Mr. Ward replied that the average speed was 28 miles per hour, and could not speak to the point of enforceability.

In response to Councilwoman Sitnick's question about when the condominiums were being built above Reservoir Road, were the neighbors, in fact, promised that Alexander Drive would be the route of travel for those condominium tenants, Mr. Ward responded that at least 80% of the condominium traffic from Windswept Condominiums and Wind-in-the-Oaks Condominiums use Alexander Drive as their travel route.

Ms. Jan Kubiniec Howard, initiator of the petition, presented Council with a sheet entitled "Some Pertinent Facts regarding the Petition to Close Reservoir Road." She stated that this is a very involved situation which will not go away by simply reducing the speed limit. She noted the road is narrow and steep. The road curves and has a long straight descent that empties into a 10 foot curve that is three-way blind. She said there is no way to make the road safe. She stated that 50% of the traffic on that road is out of control and speeding. She said the condominium tenants should not object to going another route to save their lives or the lives of a child on that road.

Mr. Ken Myrick, 1 Buchanan Road, spoke in support of closing this portion of the road stating that recently his dog was killed on the road and also his neighbor's mailbox was hit. He felt that Council should weigh convenience against life.

Mr. Deryl Howard, 5 Reservoir Road, stated that when the condominiums were built, the neighbors were assured that no one would use Reservoir Road (which was gravel) as a main access to anywhere except an occasional person at a low rate of speed going through the area. He said they were assured that the reason Alexander Road was built was to service the condominiums. He felt that once Reservoir Road was paved up into the condominiums the speeding started. He spoke in support of closing this portion.

Ms. Myrick, resident and concerned parent living on Buchanan Road, pointed out that there are only two houses on Buchanan Road and there should only be a few people using the road, not 20% of the population that lives in the condominiums. She spoke in support of closing this portion.

Councilwoman Sitnick questioned an item on the "fact" sheet alleging that "an agreement was reached with a previous city council that if the Windswept View and Wind-in-the-Oaks condos were built Reservoir Road was not to be used ...". She asked if that agreement was in writing. Ms. Howard said yes, that she has done tremendous research in the whole aspect of this road for over two years. She said there -6-

ought to be minutes of that during Council meetings and since she was told of this meeting only Friday, she tried to notify people of this meeting and has not had ample time to research that point. She did state, however, that they appear in the Kenilworth Residents meeting minutes, but they have not been able to access those minutes. She is assured, from a number of people, that it exists in writing.

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 had no problem in setting a public hearing but wanted time to look at this road and contact some of the signers on the petition because some did not live anywhere close to this road and she wondered why they signed the petition.

Councilwoman Sitnick moved for the adoption of Resolution No. 95-30. This motion was seconded by Vice-Mayor Peterson and carried unanimously (7-0, with Councilman Watts participating).

RESOLUTION BOOK NO. 22 - PAGE 210

B. ORDINANCE NO. 2194 - BUDGET AMENDMENT FOR A CRT CONSOLE UPGRADE FOR POLICE COMMUNICATIONS

Councilman Watts was participating in this matter via speaker phone.

Mr. Bob Wurst, Audit/Budget Director, said that the 1993/94 Capital Improvements Program ("CIP") Police budget had an appropriation of \$58,000 for an upgrade to one of the Police communication consoles. This upgrade allows the telecommunicators to be more responsive and able to monitor their communication more effectively. A change order to our Motorola radio contract was approved in January of 1994. We expected

the equipment to be installed and paid for in May of 1994. However, the equipment installation was delayed until July of 1994 and the funds were

not encumbered. This delay means that the payment for this equipment occurred in the 1994/95 fiscal year.

Since the payment for the equipment was made against the 1994/95 CIP budget, this purchase will make the Support Division of the Police capital budget go over if we proceed with all planned purchases for this year.

However, since the money originally budgeted for this purchase was not spent in 1993/94, it reverted to fund balance. Therefore, Council can reappropriate the \$53,000 needed to pay for this equipment in the 1994/95 fiscal year.

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. 2194. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2194 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 41

At this point in the meeting, Councilman Watts did not participate any further.

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C. ORDINANCE NO. 2195 - BUDGET AMENDMENT TO APPROPRIATE FUNDS FOR REDEVELOPMENT/REHAB TRANSFER FROM HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO CITY OF ASHEVILLE

Ms. Julia Cogburn, Planning Director, said that this budget amendment, in the amount of \$43,000 will reallocate CDBG funds from the Hill/Cherry Street Neighborhood Improvement Project to Community Development Administration.

She said the City Council has decided to transfer administration of redevelopment and rehabilitation from the Housing Authority to the City of Asheville. Legal and other administrative one-time expenditures will result immediately for the transfer to be effective on July 1, 1995. These costs include transferring documents such as: property ownership, outstanding loans, bank accounts, judgments, liens, suits, agreements, obligations, etc. Actual cost will be charged and all attempts will be made to keep actual cost below budget appropriation. The following is a listing of the budget appropriation: Legal (both City and Housing Authority \$20,000; grant administration (Housing

Authority) \$15,000; copying and duplicating \$2,500; equipment \$3,500; moving (overhead transfer) \$2,000 - totaling \$43,000.

Ms. Elizabeth Graham, Chairman of the Planning and Zoning Commission, wondered why the money was being taken out of the Hill/Cherry Street Neighborhood Improvement Project and not any of the other redevelopment projects. Mr. Marvin Vierra, Community Development Director, explained that only Hill/Cherry Street and South Pack Square have any fund balances. The other projects are closed out.

City Manager Westbrook responded to questions from Mr. Johnny Lloyd about staffing this function when it is transferred to the City.

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

Councilwoman Sitnick moved for the adoption of Ordinance No. 2195. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 6-0, Ordinance No. 2195 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 43

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 21, 1995, AND THE WORKSESSION HELD ON FEBRUARY 28, 1995

B. RESOLUTION NO. 95-31 - RESOLUTION ABOLISHING THE DESIGNATION OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AS THE REDEVELOPMENT COMMISSION OF THE CITY OF ASHEVILLE

Summary: At the direction of City Council, following their retreat held in January, staff has been conducting preliminary work to bring about the transfer of the City's redevelopment and rehabilitation functions. This resolution abolishes the Housing Authority of the City of Asheville as the Redevelopment Commission for the City and exercises its authority to undertake the exercise of the powers, duties and responsibilities of a Redevelopment Commission itself.

RESOLUTION BOOK NO. 22 - PAGE 212 -8-

C. RESOLUTION NO. 95-32 - RESOLUTION TO ESTABLISH AN INTERIM HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

Summary: This resolution will establish an interim Housing and Community Development Committee to serve until a new structure for the committee is formalized. The current Council members of the Housing and Community Development Committee (Leni Sitnick, Chris Peterson and Herb Watts) will review the CDBG and HOME applications with input from Julia Cogburn and Marvin Vierra. This interim committee will recommend the funding allocation for CDBG and review the recommendation for HOME funding allocation from the Housing Consortium. The interim committee will advise the full Council on Housing and Community Development issues until a new committee structure is established during the summer.

RESOLUTION BOOK NO. 22 - PAGE 214

D. RESOLUTION NO. 95-33 - RESOLUTION TO ADOPT THE CITIZEN PARTICIPATION PLAN

FOR THE CITY OF ASHEVILLE

Summary: HUD requires the City to adopt a Citizen Participation Plan that describes citizen participation in the Consolidated Planning process for CDBG and HOME funding grants.

RESOLUTION BOOK NO. 22 - PAGE 215

E. RESOLUTION NO. 95-34 - RESOLUTION REQUESTING NC DOT TO REMOVE CERTAIN STREETS IN THE ENKA ANNEXATION AREA FROM THE STATE STREET SYSTEM SO THAT THEY MAY BE PLACED UPON THE CITY STREET SYSTEM

Summary: Upon annexation of new areas into the City of Asheville, NC DOT requires that the City accept certain State roads in the area as City System Streets.

RESOLUTION BOOK NO. 22 - PAGE 216

F. RESOLUTION NO. 95-35 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP, HUGHES & COMPANY, L.L.P., FOR AUDITING SERVICES FOR FISCAL YEAR 1994-95

Summary: General Statutes require that local governments of NC have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission. Staff recommends audit firm of Crisp, Hughes & Co., LLP.

RESOLUTION BOOK NO. 22 - PAGE 218

G. RESOLUTION NO. 95-36 - RESOLUTION AUTHORIZING THE CITY MANAGE TO APPLY FOR AN URBAN TRAIL GRANT TO COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the Community Foundation of Western North Carolina in the amount of \$5,000. The grant would engage an African-American artist who will prepare a sculpture which would interpret the history of "The Block" near the corner of Eagle and Market Streets. The grant will provide part of the costs of the materials, research, administration, artist fees and shipping for the sculpture.

RESOLUTION BOOK NO. 22 - PAGE 219 -9-

H. RESOLUTION NO. 95-37 - RESOLUTION AUTHORIZING THE CITY MANAGE TO APPLY FOR AN URBAN TRAIL GRANT TO NORTH CAROLINA ARTS COUNCIL

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the North Carolina Arts Council in the amount of \$8,000. The grant would engage an African-American artist who will prepare a sculpture which would interpret the history of "The Block" near the corner of Eagle and Market Streets. The grant will provide part of the costs of the materials, research, administration, artist fees and shipping for the sculpture.

RESOLUTION BOOK NO. 22 - PAGE 220

I. RESOLUTION NO. 95-38 - RESOLUTION TO AWARD BID FOR THE UPGRADE OF THE CITY'S SLI-N TELEPHONE SWITCH

Summary: Three bids were received. Staff recommends award be made to low bidder, Business Communications Inc., Greensboro, N.C., for the purchase of the specified upgrade in the amount of \$24,189. A complete copy of the bid summary is attached hereto as Exhibit "A".



RESOLUTION BOOK NO. 22 - PAGE 221

J. RESOLUTION NO. 95-39 - RESOLUTION TO AWARD BID FOR PRISONER TRANSPORT VEHICLE

Summary: Two bids were received, however, on February 23, 1995, nine days after the bid opening date, the low bidder, Matthews Ford, Asheville, N.C., made a written request to withdraw their bid. Staff recommends that award of bid be made to the second low bidder, Sirchie Finger Print Labs, Inc., Medford, N.J., for one 1995 Ford, E350 Commercial Cutaway Cab and Chassis with a 1995 Supreme/Sirchie Group Body for a total bid of \$41,437. (Sirchie's bid is \$37 higher than the low bid). A complete copy of the bid summary is attached hereto as Exhibit "B".

RESOLUTION BOOK NO. 22 - PAGE 223

K. RESOLUTION NO. 95-40 RESOLUTION APPOINTING G. DIANE WESTMORELAND TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Summary: The term of Gary Ashburn expired on December 31, 1994. This resolution will appoint G. Diane Westmoreland as a member to the Community Relations Council for a three year term, term to expire December 31, 1997, or until her successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 225

L. RESOLUTION NO. 95-41 - RESOLUTION OF INTENT TO DEMOLISH 17 RIDGE STREET AND CALLING FOR A PUBLIC HEARING ON MARCH 21, 1995

RESOLUTION BOOK NO. 22 - PAGE 226

M. RESOLUTION NO. 95-42 - RESOLUTION OF INTENT TO DEMOLISH 106 BURTON STREET AND CALLING FOR A PUBLIC HEARING ON MARCH 21, 1995

RESOLUTION BOOK NO. 22 - PAGE 227 -10-

N. MOTION SETTING A PUBLIC HEARING ON MARCH 21, 1995, TO REZONE 19 LOTS IN THE MONTFORD AVENUE AREA (LOCATED ON PANOLA STREET, CUMBERLAND AVENUE AND MONTFORD PARK PLACE) FROM OI OFFICE INSTITUTIONAL TO R-3 RESIDENTIAL

Councilman McClure moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field 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 March 1, 1995:

#### COURTYARD HOTEL - OFF TUNNEL ROAD

Ms. Patty Joyce, Senior Planner, said the 78 room Courtyard Hotel is proposed to be located on Buckstone Place behind Pearlman's Furniture on Tunnel Road.

On February 17, 1995, a notice was sent by the Planning Department to 10 surrounding property owners making them aware of the proposed hotel and public hearing.

At the public hearing held by the Planning and Zoning Commission on March 1, 1995, one person spoke besides the petitioner. The individual wanted to know where the entrance sign would be located.

The City Planning staff recommended approval with two conditions:

1. Confirmation of fire flow availability.
2. NC DOT approval regarding increase in traffic volume at Buckstone Place/ Tunnel Road intersection and stormwater runoff onto I-240 right-of way.

The Planning and Zoning Commission reviewed and approved the project subject to the conditions recommended by staff.

She stated that NC DOT has since given their approval regarding increase in traffic volume at Buckstone Place/ Tunnel Road intersection and stormwater runoff onto I-240 right-of way.

Mayor Martin stated that he has received one phone call from Mrs. Peek who opposed the project.

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

#### NEW HAW CREEK MEWS APARTMENTS - PHASE 3

Ms. Patty Joyce, Senior Planner, said that the Planning and Zoning Commission held a public hearing on March 1, 1995, for the New Haw Creek Mews Apartments, Phase III, which is proposed for a site at the corner of Beverly Road and Avon Road. The Commission voted 4-3 to approve the group development subject to certain conditions. -11-

New Haw Creek Mews and Associates, Britt Simon, Developer, are proposing to build Phase III of the Haw Creek Mews on Beverly Road across from the Phase I and II of Haw Creek Mews. Phase III will consist of 98 apartment units in nine buildings. The Planning Department's review of the project found that the project met the requirements of the zoning ordinance and thus recommended approval of the project. The developers met with adjoining properties owners to explain the project prior to the public hearing held on February 15, 1995. Concerns about increase traffic and the negative effects of the project on neighboring property owners were expressed. A traffic impact analysis of the proposed project from the Public Works Department was requested by the Planning staff and was discussed.

There was considerable opposition expressed from the neighborhood. Approximately 20 people expressed their concerns at the February 15th hearing about the proposed project and also on issues related to problems they had experienced since the Mews Phase I and II were built. Anticipated problems with increase traffic, crime, litter, noise and concerns about the high density allowed on the site were expressed at that meeting also and at the continuation of the public hearing held on March 1, 1995.

The Planning and Zoning Commission voted (4-3) to approve New Haw Creek Mews, Phase III subject to the following conditions. 1) approval of the erosion control plan, 2) approval of the storm drainage plan and issuance of a "no-rise" certificate for the area along Haw Creek, 3) approval of driveway access

permits, and 4) any changes in the approved site plan will require the approval of the Planning and Zoning Commission.

Mr. Johnny Lloyd, resident in Haw Creek, voiced a concern about traffic.

Ms. Barber Melton, from the Haw Creek Homeowners Association, urged Council to hold a public hearing on this to address safety concerns, concerns with the density being too great for that piece of property and pay particular attention to the track record of the developer.

Ms. Jaimie Mulvey, resident at 24 Lynnstone Court and owner of business at 65 Beverly Road, also urged Council to set a public hearing on this matter.

Mr. Jerry Crow, attorney representing the developer, welcomed a public hearing and hoped that City Council would listen to the developer and the people opposed and keep an open mind.

Vice-Mayor Peterson clarified a statement made in the paper and noted that he did not commit in any way which way someone would vote.

Councilwoman Sitnick moved to set a public hearing on this group development on March 21, 1995. She requested that the Traffic Engineer be available and that either the Council liaison of the Planning and Zoning Commission or the co-liaison be present for this hearing. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Sitnick stressed the importance of appropriate notice. She felt it was imperative that everyone is notified.

B. RESOLUTION NO. 95-43 - RESOLUTION AMENDING RESOLUTION NO. 95-7 ESTABLISHING THE UDO STEERING COMMITTEE

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City Attorney Slawter said that, pursuant to City Council's instructions, this resolution will expand the UDO Steering Committee from seven to nine citizen members. Those members are Gary McClure, City Council representative; Robert Mayhew, Planning & Zoning Commission representative; Jim Skalski, Albert Sneed, Karen Cragolin, E. Benson Slosman, Winston Pulliam, Johnny Lloyd, David Brown, Richard Nantelle and Carolyn Wallace.

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

Councilman McClure moved to adopt Resolution No. 95-43. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 228

C. COUNCIL CHAMBER ACOUSTICS

Councilwoman Sitnick asked the City Manager to see if anything could be done about the acoustics in the Council Chamber. She suggested a different microphone at the podium might be helpful.

D. CITY COUNCIL MEETING DAY AND TIME

Mayor Martin moved to change the formal City Council meeting time from the first and third Tuesdays to the second and fourth Tuesdays at 5:00 p.m., effective May 1, 1995. He felt this would alleviate some of the problems

associated with the City and the County holding their meetings on exactly the same day and at the same time of the month. It was his understanding that the Buncombe County Commissioners hold their formal meetings on the first and third Tuesday beginning at 4:00 p.m., which meetings sometimes carry over to the second and fourth Tuesday. However, if the formal meeting is not carried over, they do not have worksessions and thus, there would not be a County meeting on the Council formal meeting day. This motion was seconded by Councilman Swicegood.

Vice-Mayor Peterson said that his initial motion was to change the day to Thursday at 5:00 p.m. He felt that many people wanted to attend both City and County meetings and if we changed, they would have that opportunity.

Councilwoman Sitnick stated that this has been a real pet peeve for her for the last seven or eight years. She used to stand at Council's podium and give her speech about the conflict of day and time and then she would go to the County Commissioner's meeting and stand at their podium and say the exact same thing. She doesn't understand why Tuesday is such a sacred cow. Apparently it is the day everybody wants to do government. The members of the public will have a difficult time knowing which days are formal meetings, which days are worksession meetings, and as Mr. Bishop pointed out last week, our Charter specifically says that we have to meet with public opportunity for dialog every single week which we do - including our worksessions. So, even on the days when we have our worksessions where the public might want to participate, there's going to be a conflict if those are the days for formal County Commissioner meetings. About six months ago we met with the County and I brought this up at that time and there was no movement on their part to even consider changing their day and their time. I would have to say that changing the time of our meetings might help a little but when you consider theirs starts at 4:00 p.m., most of the business of the meeting comes at the end or the middle of the meeting, people are going to run over here if they chose to be here and -13-

miss part of their meeting. I still don't think it takes care of the problem. It's an improvement. She felt that a lot takes place at worksessions when the County will be having their formal meeting.

Vice-Mayor Peterson concurred with Councilwoman Sitnick saying that the Council gets briefed on controversial items at worksessions and he felt the Council gets more done at worksessions. He felt that the motion on the floor is just sugar-coated and it was not the meaning of his previous motion to change the day.

Mayor Martin said that there were other specific reasons other than just creating a little more convenience for the public, those being, if you have a meeting on Thursday, the legal ads would have to go in the Sunday paper which is more expensive, it would delay public hearings for an additional two weeks, and staff would be hard-pressed coming out of a Thursday evening meeting and have to get their legal notices to the paper by 9:30 a.m. Friday morning.

Vice-Mayor Peterson said he remembered being on the campaign trail when we were specifically asked, would we change the day that Council meetings so as to not conflict with the County government and everyone here, just about, said yes they would. He wanted everyone to remember that if some people vote for this motion, they are breaking a promise. He would not be in support of the motion.

City Attorney Slawter pointed out that Council has to establish, by formal action, when it's normal time of meeting is. In 1982, the Council established by resolution that meetings be on Tuesday afternoons at 4:00 p.m. If Council meets earlier, then the press and other interested parties who have asked that they be notified, are notified of the changed meeting times. The Charter does

provide that Council meet weekly, and except in unusual circumstances that is done. He suggested that if the Council is going to take some action to change the time of the meetings that it not make reference to only the second and fourth Tuesday. We have, informally, begun to have our formal meetings generally on the first and third Tuesdays and informal meetings (worksessions) on the alternate weeks. He recommended that the motion simply state that the meeting be changed to 5:00 p.m. on Tuesdays, rather than say 5:00 p.m. on the second and fourth Tuesdays.

Mayor Martin agreed to amend his motion to read that the formal City Council meetings be held at 5:00 p.m. on Tuesday afternoons effective May 1, 1995, so as not to conflict with County Commission meetings. Councilman Swicegood agreed to the amendment. Staff was directed to start shifting formal meetings from the first and third Tuesdays to the second and fourth Tuesdays.

Councilman Swicegood didn't recall this being that big of an issue for himself and he stated that he never said that he was in agreement to switching the day. He felt like Tuesdays have worked extremely well for this Council and the prior Council he was on. He felt the time change was a very positive move in order to allow more business people to be involved. He supported keeping the meetings on Tuesdays.

Councilwoman Field said that when Vice-Mayor Peterson brought this forth at a meeting two weeks ago, she said that she would be happy to co-sponsor with him and Councilwoman Sitnick to change the meeting to a different day. She is very concerned about the meetings being on the same day. At this point, however, we are not voting on a motion to change the day, but rather a motion to change the time and so she concurred that we need to change the time as well. She said that she supported the time change.

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Mayor Martin disagreed with Vice-Mayor Peterson about going back on promises. He felt that what happened on the campaign trail was to point out that there was a conflict and what we would do was to try and avoid that conflict. If that required changing the day, then we would. But if we can avoid the conflict by other means, I think we should do it that way.

Mayor Martin's motion to change the time of the Council meetings to 5:00 p.m., effective May 1, 1995, was voted on and carried unanimously.

Upon inquiry of Councilwoman Sitnick about any other day of the week that the meeting might be held, City Manager Westbrook said that Mondays and Fridays are generally legal holidays and Wednesdays are traditionally church nights. That leaves Thursdays as the most viable date.

Councilwoman Sitnick suggested meeting at 7:00 p.m. in order to give people a chance to get home and have dinner. If senior citizens attend a public hearing at 5:00 p.m., they may find it difficult to wait so late for dinner.

Mayor Martin said this is not a dead issue, of course, and can be brought back at another time if changes are necessary.

Councilwoman Field said she personally had no problem with having night meetings. She said it might be better for her because that gives her a full day of work. However, having night meetings will cause a tremendous amount of more staff overtime and compensatory time.

E. COMMENTS BY RALPH BISHOP

Mayor Martin read Section 9 out of the Rules and Regulations of the City Council dated December 22, 1992, which states the powers of the Mayor. He told Mr. Ralph Bishop that at any time he impugns the character of any member of this Council or any member of staff, he will call him out of order. He said he will expect Mr. Bishop to cease and desist.

Mr. Bishop stated that the Mayor always has the gavel and anytime he wants to have him arrested for coming over to the Council meetings, we would go to Superior Court and have a jury trial.

Mr. Bishop then spoke to Council about their lack of upholding their oath of offices.

Upon inquiry of Mr. Bishop about Council adopting an ordinance only on one reading, City Attorney Slawter explained a change in the 1993 legislation that now provides that "no ordinance nor an action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of the actual membership of the Council, excluding vacant seats."

#### F. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of February 16-22, 1995: Dewayne Tillman (Police) and Lewis E. Carland (Water).

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He also said that the following claims were received by the City during the week of February 23-March 1, 1995: Vicky Hill (Streets), Connie Sandford (Water), 13 Deanwood Circle (Streets), Derrick DeVerger (Water), Terry Calloway (Streets) and Julie Keefer (Streets).

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

#### G. CLOSED SESSION

At 5:35 p.m. Councilwoman Field moved to go into closed session to discuss a legal issue which requires consulting with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilwoman Sitnick and carried unanimously.

At 6:35 p.m. Councilwoman Field moved to come out of closed session. This motion was seconded by Councilwoman Sitnick and carried unanimously.

#### VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at \_\_\_\_ p.m.

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CITY CLERK MAYOR

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