

Tuesday - October 31, 1995 - 5:05 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 City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-157 - RESOLUTION IN MEMORY OF SARA MARTIN MORRIS

Councilwoman Field read the resolution in memory of Sara M. Morris who October 14, 1995. He presented the resolution to her husband, William, and a family member.

Resolution No. 95-157 was adopted by acclamation.

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B. RESOLUTION NO. 95-158 - RESOLUTION IN MEMORY OF LUCY S. HERRING

Councilman Watts read the resolution in memory of Lucy S. Herring. He presented the resolution to her close friends. Councilman Watts stated that her son lives Arizona and the resolution will be sent to him.

Resolution No. 95-158 was adopted by acclamation.

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C. RESOLUTION NO. 95-159 - RESOLUTION TO RETIRING EMPLOYEE LARRY P. WARD

City Manager Westbrook read the resolution stating that Larry P. Ward has been an employee for 31 years and has requested retirement from his position as Assistant Director of Public Works. He expressed City Council's appreciation to Larry for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-159. This motion was seconded by Councilwoman Sitnick and carried unanimously.

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D. RECOGNITION OF THE ASHEVILLE POLICE DEPARTMENT FOR RECEIVING THE 1995 INTERNATIONAL ASSOCIATION OF LAW ENFORCEMENT PLANNERS ANNUAL PROJECT OF THE YEAR AWARD - PLANNING EFFORTS IN THE ASHEVILLE POLICE AND COMMUNITY DAY

Mayor recognized the following Committee members for the Community and Police Day: Officer Mark Wilson, Officer Wade Wood, Detective Scott -2-

Lunsford, Officer Robin Lunsford, Linda Clark, Sarah Ayers and Officer Dave Romick.

Police Chief Will Annarino said that the Asheville Police Department has been awarded the 1995 International Association of Law Enforcement Planners ("IALEP") Annual Project of the Year Award. The award recognizes the planning efforts in the context within which the Asheville Police and Community Day was conducted. On June 24, 1995, the Police Department held its first Police and Community Day event at Martin Luther King Jr. Park. Over 1,000 people observed the exhibits and demonstrations of police procedures, enjoyed food, entertainment and interaction with police officers and police employees during the course of the day. The event came about after four months planning by a committee of volunteers within the Police Department. This project was nominated for the award and received unanimous approval of the IALEP Awards Committee.

Mayor Martin presented the award to Police Chief Will Annarino and thanked the Planning Committee for their efforts in receiving this award.

## II. PUBLIC HEARINGS:

### A. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR CREEKSIDE RETIREMENT COMMUNITY

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

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

Mr. Mike Matteson, Urban Planner, said that Creekside will be a 46 unit retirement community located on a 7.75 acre site on Tsali Trail (the former Little Beaver Day Care site). All internal drives will be privately maintained. The developers are requesting a slight variance in the number of required parking spaces (from 92 to 84).

On September 21, 1995, a notice was sent by the Planning Department to 39 adjacent property owners making them aware of the October 11, 1995, public hearing held by the Planning and Zoning Commission.

At the Planning and Zoning Commission ("Commission") meeting on October 11, 1995, two people spoke about the proposal. Although not in opposition, concerns were expressed regarding the density of the development.

The City Planning staff recommended approval of the project with four conditions:

- 1) That the final landscape buffering plan be approved by the Planning Department;
- 2) Receipt of a letter confirming adequate water pressure for fire protection;
- 3) Compliance with the City's floodplain ordinance; and
- 4) That the variance request for a reduction in parking spaces be approved by City Council.

At their October 11, 1995, meeting, the Commission reviewed the request and voted unanimously to recommend that City Council approve this group development but deny the variance request for a reduction in parking. The following conditions were recommended: -3-

- 1) That the final landscape buffering plan be approved by the Planning Department;

2) Receipt of a letter confirming adequate water pressure for fire protection;  
and

3) Compliance with the City's floodplain ordinance.

The Commission and the City Planning staff recommend approval of the group development with the aforementioned conditions being met. The Commission recommended denial of the parking variance request.

Upon inquiry of Vice-Mayor Peterson, Mr. Matteson said that because of the size of this project, it does fall under the City's stormwater ordinance and they will need to comply with it.

When Councilwoman Sitnick asked why the Commission recommended denial of the parking variance request, Mr. Matteson said that to his recollection, the Commission felt that the additional parking might be necessary.

Mayor Martin asked what the staff's feeling is regarding the variance request. Mr. Matteson said that staff does not make recommendations on variance requests. However, they feel like the parking scheme was well thought and well researched by the developers, and in light of that and combined with the benefits that you get with increased open space and decrease in pervious surface, the Planning staff doesn't have a problem with the variance request.

When Councilwoman Sitnick asked staff if they felt that two handicapped spaces would be sufficient for a 46 unit retirement community, Mr. Matteson responded that it's sufficient according to our zoning ordinance. The parking lot requires two spaces and most of the units do also have driveways and garages and can be handicapped equipped.

Councilwoman Sitnick applauded "any developer's effort to reduce pervious surface. I don't know what those extra spaces would be used for, whether it would be maintained in buffer or landscaping or natural, but I would like to approve this with the variance request for a reduction in parking spaces."

Mayor Martin pointed out that retired communities, typically, have fewer cars than two per family.

Mayor Martin closed the public hearing at 5:24 p.m.

Councilwoman Sitnick moved to approve the variance request to allow a reduction in the parking spaces from 92 to 84. This motion was seconded by Councilman McClure and carried unanimously.

Councilman Swicegood moved to approve the site plan subject to the three conditions recommended by the Planning & Zoning Commission (with the approval of the variance request). This motion was seconded by Councilman McClure and carried unanimously.

### III. UNFINISHED BUSINESS:

### IV. NEW BUSINESS:

#### A. FINAL PLAT APPROVAL FOR WILSON CREEK SUBDIVISION

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Mr. Gerald Green, Senior Planner, said that Advantage Development Company and WNC Habitat for Humanity is proposing the subdivision of a 12.26 acre tract into a 32 lot residential subdivision. A final plat has been prepared. The

property is located off of Caribou Road. The developers have begun the construction of a new street which will provide access to the lots. The street will be constructed to City standards and will be dedicated to the City for ownership and maintenance. The proposed public road will provide access from Caribou Road. A letter of credit has been provided to the City to guarantee the construction of the road and of other public improvements.

The preliminary plat for this subdivision was reviewed and approved by the Planning & Zoning Commission at their October 11, 1995, meeting. The final plat and the letter of credit have been reviewed by the Legal Division, the Public Works Department, and the Planning Department.

The Planning Department staff recommends that City Council accept the final plat for Wilson Creek Subdivision with the following conditions: (1) the location of the water line and easement be indicated on the plat; (2) the address of the subdivision's owner be included on the plat; (3) the certificate of ownership be revised to reflect ownership by a corporation; (4) the sizes of the metal culverts be indicated; and (5) the size of the box culverts at the creek be noted.

Upon inquiry of Councilwoman Sitnick, Mr. Green stated that conditions (2) and (3) listed above have been complied with by the developer.

When Councilwoman Sitnick inquired about opposition to this project, Mr. Green said that most of the concerns have been addressed; however, there is still some need for improvements to the sewer line serving the Caribou Road area and MSD is aware of that. He felt that the developers have done a very good job in trying to work with the existing topography and maintain the existing vegetation to every extent possible.

Councilwoman Sitnick noted that she read in the paper that Habitat has been the first to be honored with a huge federal grant that is well deserved for the excellent work that they do.

Councilman McClure moved to approve the final plat for Wilson Creek Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

B. RESOLUTION NO. 95-160 - RESOLUTION AWARDED THE BID FOR STREET REHABILITATION PROJECT (CONTRACT NO. 12, PHASE I) TO APAC CAROLINA INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

Mr. Tony Lewis, Interim Engineering Director, said that City Council approved \$1.6 Million for street improvements for the 1995/96 budget. This project is known as Contract No. 12 Street Improvements. These funds were to be used for priority streets of the 43 streets identified.

The City Engineering Department has developed construction plans for Phase I street improvements on the following streets: Hazel Mill Road, Logan Avenue, Bear Creek Road, School Road and Wendover Road. The engineer's estimate for Phase I is \$623,648.

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The project was advertised for one month. On October 16, 1995, the Engineering Department received only one bid for the project. On October 31, 1995, bids were opened again and three bids were received: APAC-Carolina Inc. - \$830,120.55; Paving Enterprises - \$873,513.62; and Jones Grading - \$987,915.75.

This project consists of associated sewer rehabilitation work for which the City will be reimbursed by Metropolitan Sewerage District of Buncombe County. The construction time for this project is identified as 108 calendar days.

Staff recommends awarding the low bid to APAC-Carolina Inc. in the amount of \$830,120.55 for Street Improvements Project Contract No. 12, Phase I.

Upon inquiry of Councilwoman Sitnick about if any of these street improvements include any kind of pedestrian or bike access, Mr. Lewis said associated sidewalk repair would be with those streets that already have sidewalks. Sewer line repair will also be done in conjunction with this project. There are no associated bike baths.

Mr. Lewis answered Councilwoman Field's question relative to the engineer's estimate. He said that there were approximately 43 streets in the original engineer's estimate, which was \$2.7 Million. City Engineering then re-engineered the project with the new project budget being \$1.6 Million. The estimate for this project was done probably about 1-1/2 month ago, prior to the bid submittal.

Upon inquiry of when this project will get started, Mr. Lewis said they want to get started within the next ten days.

When Councilman McClure asked what the difference was between our bid and APAC's bid, Mr. Lewis said the amount was about \$100,000 and the difference being in the aspect of asphalt materials.

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

Councilwoman Field moved for the adoption of Resolution No. 95-160. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 9

#### V. CONSENT:

##### Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 17, 1995, AND THE WORKSESSION HELD ON OCTOBER 24, 1995

B. RESOLUTION NO. 95-161 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF INSPECTING MUNICIPAL BRIDGES

Summary: A municipal agreement has been received from the N.C. Department of Transportation ("NC DOT") for having the City System bridges re-inspected. The Federal Highway Administration reimburses 80% of the bridge inspection cost which is estimated at \$1,600 per bridge. -6-

The City reimburses NC DOT for 20% of the cost for the bridges on the City Street System. The City has 24 bridges which qualify for inspection through the program. The City's share of the estimated cost will be \$7,680 and funds are available in the City's bridge right-of-way fund of the Capital Improvement Program.

RESOLUTION BOOK NO. 23 - PAGE 10

C. RESOLUTION NO. 95-162 - RESOLUTION OF INTENT TO CALL A PUBLIC HEARING ON

NOVEMBER 28, 1995, TO CLOSE PARKWOOD PLACE BETWEEN HAYWOOD ROAD AND PATTON AVENUE

RESOLUTION BOOK NO. 23 - PAGE 11

D. RESOLUTION NO. 95-163 - RESOLUTION OF INTENT TO CALL A PUBLIC HEARING ON NOVEMBER 28, 1995, TO CLOSE A PORTION OF AN UNNAMED ALLEY BETWEEN ELIZABETH PLACE AND WOODLAWN AVENUE

RESOLUTION BOOK NO. 23 - PAGE 12

E. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 14, 1995, TO CONSIDER DESIGNATING THE PROPERTY KNOWN AS "RANKIN HOUSE" LOCATED AT 5 WOODLAWN AS A LOCAL HISTORIC LANDMARK

F. RESOLUTION NO. 95-164 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 30 (LOT AT THE CORNER OF CURVE STREET AND ALEXANDER DRIVE) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

Summary: The bid of Anthony J. Tozzi, in the amount of \$6,210 is the higher of two bids received for the purchase of Disposal Parcel 30 in the East End/Valley Street Community Improvement Area in an amount not less than the established minimum price of \$6,100.

Disposal Parcel 30 is a residential lot at the corner of Curve Street and Alexander Drive comprising 10,672 square feet. The bid from Anthony J. Tozzi for Disposal Parcel 30 includes the proposal to build a duplex, with each unit containing 3 bedrooms and 1-1/2 baths for his personal residence and rental at an anticipated cost of \$107,340. Mr. Tozzi has applied for the Incentive Housing Program (\$1 lot) subsidy.

RESOLUTION BOOK NO. 23 - PAGE 13

G. RESOLUTION NO. 95-165 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 82 (FRAGMENT PARCEL AT THE CORNER OF HAZZARD STREET AND PINE STREET) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

Summary: A bid has been received from Mr. and Mrs. Alfred Logan for the purchase of Disposal Parcel 82 in the East End/Valley Street Community Improvement Area at the established minimum price of \$650.

Disposal Parcel 82 is a fragment parcel at the corner of Hazzard Street and Pine Street comprising 3,049 square feet. It does not meet the minimum standards for a buildable lot. Mr. and Mrs. Logan own a home adjacent to Disposal Parcel 82 and it is their intent to combine that parcel with their lot for additional yard space. Mr. and Mrs. Logan do not plan any construction on this parcel.

RESOLUTION BOOK NO. 23 - PAGE 14 -7-

Councilwoman Sitnick moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2247 - BUDGET AMENDMENT TO CONTINUE ADMINISTRATION OF AMERICANS WITH DISABILITIES ACT COMPLIANCE IN THE CITY'S PROGRAMS, SERVICES AND

## ACTIVITIES

Summary: A transfer of funds is needed to fund administrative costs for ADA compliance and to establish the 1995/96 ADA Capital Project appropriation as approved in the 1995/96 CIP.

The City is committed to continue to achieve ongoing improvement in its ADA compliance. In order to continue, funding for support staff and other resources is needed. A transfer of funds appropriated from the General Fund Contingency is needed to meet the funding requirements.

The funds would be used to continue additional staff support to assist the City ADA Coordinator and to improve ADA compliance in two parts based on approved CIP budget funds. The two parks approved for these funds are Murphy-Oakley Park and Weaver Park.

Staff requests Council approval in the transfer of funds from the General Fund Contingency in the amount of \$25,000 for administrative costs and the transfer of \$150,000 from the Non-Departmental Fund to the 1995/96 ADA Project as approved in the 1995/96 CIP.

ORDINANCE BOOK NO. 15 - PAGE 244

B. ORDINANCE NO. 2248 - BUDGET AMENDMENT TO APPROPRIATE FAIR HOUSING ASSISTANCE PROGRAM GRANT FUNDS

Summary: This budget amendment, in the amount of \$16,700, is to appropriate Fair Housing Assistance Program grant funds.

ORDINANCE BOOK NO. 15 - PAGE 246

Councilwoman Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

## VI. OTHER BUSINESS:

A. COMMENTS BY DANIEL BREEN REGARDING MAYORAL CAMPAIGN

Mr. Daniel Breen urged the Mayoral candidates to not run negative campaigns. He felt that instead of polarizing the community into two rival camps, the leadership of the City needs to come together as one.

B. CLAIMS

The following claims were received by the City of Asheville during the week of October 6-19, 1995: Becky Wilson (Streets), Jeff Fobes (Streets), Kathy Hokestrom (Water), Steven Jackson (Parking Services), Dan Lewis (Streets), Dorothy Thomas (Streets), Travis Gilkeyson (Water), Tammy Strickland (Water), Scott Rickards (Streets), Charee Schulman (Civic Center), Anthony Barksdale (Water), Randy Todd (Water) and Wanda Burleson (Sanitation). -8-

The following claims were received by the City during the week of October 20-25, 1995: Linda Reese (Water), Steve Dunn (Water), APAC (Water), Homer C. Reed (Water), Betty Daughtridge (Streets) and Tracey Martin (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

C. PRIMARY ELECTION RESULTS - CITY OF ASHEVILLE, OCTOBER 10, 1995

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes cast in the Primary Election, City of Asheville, held on October 10, 1995.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:42 p.m.

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CITY CLERK MAYOR

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