

Tuesday - February 27, 1996 - 5:00 p.m.

Regular Meeting

Present: Vice-Mayor Barbara Field, Presiding; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Russell M. Martin

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-35 - RESOLUTION IN MEMORY OF WILLIAM DEBRUHL

Councilman Worley, member of the Asheville-Buncombe Water Authority, read the resolution stating that William DeBruhl served as the Director of the Water and Sewer Services Department for the City of Asheville from 1977 until his retirement in 1985. In 1991, Mr. DeBruhl was appointed by the Buncombe County Commissioners to the Asheville-Buncombe Water Authority where he served on the Policies and Priorities Committee and the Watershed Committee.

Mr. DeBruhl generously contributed his time and talents in the ongoing analysis and solution of the water issues affecting this community. In 1981, he recommended to the City of Asheville and Asheville-Buncombe Water Authority that Bee Tree Lake be redeveloped as a source of water for our community, which subsequently occurred in 1987.

As a result of his dedicated service to the citizens of Asheville, Buncombe and Henderson Counties, the Asheville City Council hereby renames the Bee Tree Plant the "William DeBruhl Water Treatment Facility at Bee Tree Lake."

Councilman Worley presented the resolution to Mrs. DeBruhl and family members.

Councilman Worley moved to adopt Resolution No. 96-35. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 120

II. PUBLIC HEARINGS:

A. CONTINUATION OF A PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

Vice-Mayor Field said that this public hearing was opened on January 9, 1996, and continued January 23, 1996, in order to give the other interested persons an opportunity to speak and also to give the Planning staff an opportunity to look at the uniqueness of this area and perhaps bring Council a different solution to the problem. The public hearing was then continued until this date in order to give both parties involved an opportunity to see if a compromise of the problem could be reached.

Mr. Cliff Parson, attorney representing the petitioner, said that they have meet with some area property owners but no compromise has been reached. He asked Council to considering tabling the matter for six months so that they can continue to search other means for compromise and also the UDO area plan hearing for the west part of the City will be held in late June and that may have an impact on this request.

Vice-Mayor Field asked if anyone from the neighborhood was opposed to Council continuing this matter for six months. When she heard no opposition, Councilman Cloninger moved to continue the public hearing until August 27, 1996, without further advertisement. This motion was seconded by Councilman Sellers and carried unanimously.

B. PUBLIC HEARING RELATIVE TO REZONING 21 PARCELS ON MARNE ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-1A RESIDENTIAL DISTRICT

ORDINANCE NO. 2258 - ORDINANCE TO REZONE 21 PARCELS ON MARNE ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-1A RESIDENTIAL DISTRICT

Vice-Mayor Field opened the public hearing at 5:09 p.m.

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

Mr. Gerald Green, Senior Planner, said that residents of Marne Road petitioned for the rezoning of 21 lots on their street from R-2 to R-1A. The petition was signed by owners of 19 of the lots. The owner of the remaining two lots (James Morgan) is opposed to the rezoning. The two lots owned by Mr. Morgan are vacant; all the other lots are developed with single family homes. In presenting the request, the petitioners stated that they wished to protect the single family character of their neighborhood. They argued that the narrow streets (16' wide) and existing development patterns limit the potential for multi-family development. Mr. Morgan, who is opposed to the rezoning, argued that the rezoning would limit his development options and reduce his return on the property. The present R-2 zoning permits single family development and multi-family development up to six units per acre with a minimum lot size of 10,000 square feet. The requested R-1A zoning permits only single family development with a minimum lot size of 5,400 square feet. Certain related uses are permitted in each district.

The rezoning request was tabled twice by the Planning & Zoning Commission ("Commission") -- once, to give Mr. Morgan time to prepare for the hearing (since he had only received notice one day prior to the Commission hearing) and the other was to give staff time to research questions which arose regarding the following issues: (1) When was the area rezoned from R-3 to R-2? It was rezoned in February of 1982; (2) When did Mr. Morgan purchase the two lots at the end of the street? He purchased them in December of 1984; and (3) What is the width of the street right-of-way on Marne Road? The right-of-way is approximately 18' wide. Then, at their January 3, 1996, meeting, the Commission voted 4-3 to recommend that the request be denied. City staff recommended approval of the rezoning request.

Upon inquiry of Councilman Hay, Mr. Green said that if the two lots owned by Mr. Morgan were rezoned to R-1A, they would be big enough to build single family homes which would be consistent with the rest of the neighborhood. He said that the two lots could even be subdivided into three single family lots.

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When Councilman Worley questioned why the Commission voted as it did, Mr.

Green's recollection was that the opposing votes were concerned about the loss of the property value for Mr. Morgan. Ms. Jane Gianvito Mathews, City Council liaison for the Commission, also recalled that one commissioner expressed concern that it was unfair to Mr. Morgan to change the zoning from multi-family to single-family.

Mr. James Morgan, President of Nynopps, Inc., felt that this rezoning is nothing but a ploy to keep him from developing his property. He explained that he bought the property on the basis that it was zoned R-3 and multiple dwellings were allowed. Then when he tried to sell it, he found the zoning was changed to R-2 without them being notified. They then tried to sell again in 1994 and was told they didn't have the water and sewer available, so that sale fell through. The property is now under contract to be sold again and feels like the neighborhood is once again trying to stop the sale by this rezoning request. He had no objection with them rezoning their 19 lots to R-1A, but was very much opposed to them trying to rezone his two lots. He wants to be able to sell his property and get his money back out of it that he invested in it. He also noted that the rezoning petition was never presented to him.

Councilman Hay suggested that Mr. Morgan might be able to find someone to sell the property to that might want to build three single-family homes. Mr. Morgan said that no one has contacted him regarding that.

When Councilman Sellers noted that on the rezoning petition fact sheet it said that the site was being considered for the development of a family care home which is allowed in the R-1A district, Mr. Morgan responded that nothing is certain until the sale is closed.

When Vice-Mayor Field inquired about Mr. Morgan not being notified until the day of the Commission hearing, Mr. Green responded that notice was sent to the address, but there was no name associated with it. It was unfortunate that Mr. Morgan was out of town until the day of the Commission hearing.

Ms. Gianvito Mathews also reminded Council that one of the reasons why the Commission tabled action on the request was to give Mr. Morgan adequate time to prepare his remarks. She also said that there was concern by the Commission about property owners, like Mr. Morgan, getting misinformation from Buncombe County as to what the zoning of their area is. She felt there needed to be better coordination between the County, the City and real estate agents who are marketing the properties.

Mr. John Carroll, real estate agent speaking on behalf of Mr. Morgan, urged Council not to rezone Mr. Morgan's property to R-1A. When the area residents bought their property, it was with the understanding that the area was zoned for multi-family and it was priced with that understanding. Mr. Morgan wants to protect his potential property value in the event that the sale that he has now should not culminate. He wants to have the option of being able to build single-family or multi-family. He wants to protect his particular rights. He felt the rest of the neighborhood are welcome to do whatever they want to do with their own property, "but don't tread on him."

The following people in support of the rezoning of 21 lots on Marne Road to R-1A, for various reasons, some being, but not limited to: single-family residences are best suited for this neighborhood; Marne Road is a narrow, dead-end road serving only single-family residences;

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all property owners along Marne Road have endorsed the petition except one non-resident; the residents in the area have worked hard to improve the quality of

life in their neighborhood; Marne Road has a unique character and if multi-family homes were built at the end of Marne Road, that character would drastically change; property values of the 12 homes on Marne Road would probably decrease if six apartments were built at the end of the road; and this rezoning request is an example of the urgent need to remap and rezone the City under the UDO - this kind of controversy could be avoided if we had zoning designations that are not contrary to what is already built.

Mr. Richard Nantelle, President of the Coalition of Asheville Neighborhoods

Dr. Steve Davis, speaking on behalf of the Kenilworth Residents Association

Mr. Dudley Wilson, resident on Marne Road

Mr. Jeff Gundlach, 38 Duke Street

Ms. Val Lamberti, 4 Duke Street

Mr. Fred Martin, 11 Spring Park Road

Ms. Myra Fuller, resident on Cumberland Avenue

Mr. Peter Loewer, member of the Tree/Greenway Commission, Friends of the Library, the Botanical Gardens of Asheville and the State University of North Carolina Arboretum at Raleigh

Ms. Barbara Hodgson, 107 Evelyn Place

Vice-Mayor Field closed the public hearing at 5:49 p.m.

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

Councilman Cloninger moved for the adoption of Ordinance No. 2258 to rezone 21 lots on Marne Road from R-2 Residential to R-1A Residential. This motion was seconded by Councilman Skalski.

Councilman Worley said that he has visited the area and has found that Marne Road is a very narrow road with no off-street parking for every house on the road. He felt this area is a single-family neighborhood and it should be zoned that way.

Councilman Cloninger that he felt Mr. Morgan would not have to live with the ramifications of an R-3 zone but the people who live on the street would. He did challenge Mr. Carroll's statement about the neighborhood not treading on Mr. Morgan. He felt that not treading on people is a two-way street. Mr. Morgan is asking the people who live in the neighborhood every day (who are concerned about the safety, additional traffic and parking) not to tread on his right to sell this property at perhaps a greater value. But, Mr. Morgan is willing to tread on them by allowing all of this to occur. He felt City Council should not be a part of fostering something that would have such an adverse impact on this neighborhood.

Councilman Skalski, resident of Kenilworth, spoke in support of the R-1A zoning emphasizing that developers shouldn't be allowed to build development in neighborhoods with no regard to good planning. He hoped that situations like this won't occur in the future with business and neighborhood involvement in the UDO.

Councilman Hay felt that Council will have to deal with more and more requests

for R-1A designations until we get the UDO in place.

On a roll call vote of 6-0, Ordinance No. 2258 carried on its first and final reading.

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ORDINANCE BOOK NO. 15 - PAGE 269

C. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ALLOW RESIDENCES IN THE COMMERCIAL SERVICE DISTRICT USING R-3 MEDIUM DENSITY STANDARDS

ORDINANCE NO. 2259 - ORDINANCE AMENDING THE ZONING ORDINANCE TO ALLOW RESIDENCES IN THE COMMERCIAL SERVICE DISTRICT USING R-3 MEDIUM DENSITY STANDARDS

Vice-Mayor Field opened the public hearing at 5:55 p.m.

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

Mr. Gerald Green, Senior Planner, said that on January 7, 1996, the Planning & Zoning Commission ("Commission") voted 5-1 to recommend approval of a proposed amendment to the zoning ordinance which would allow residential uses as a permitted use in the Commercial Service District ("CS District"). The amendment would require residential uses in the CS District to meet the standards for residential uses established by the R-3 zoning district. Residential uses are not currently permitted in the CS District, although there are a number of grandfathered residential uses in this district. In order to construct additions to these residential uses or to expand them, the owners must request a rezoning. The proposed ordinance would permit mixed commercial-residential uses in the CS District. Residential uses are currently permitted in the other commercial districts (CH, CG and NC) if they meet R-3 standards.

The Planning staff recommended and the Commission, on a 5-1 vote) recommended approval of this request.

When Councilman Skalski asked what the reason was for the Commission member voting no, Councilman Worley (who was present at the Commission hearing) recalled that there was concern that if you allowed residential usage in some of these areas, residential usage could eventually get to the point where it would start clamoring for a change in the zoning to residential, thereby taking away from the commercial service area.

Upon inquiry of Councilman Skalski, Mr. Green said that a quick review of zoning ordinances from other cities revealed that residential uses are permitted in 90% of those cities in all commercial districts. Typically the industrial district is the only district in which residential uses are not permitted.

Councilman Hay asked if he had a conflict of interest since he owned property within the affected area. City Attorney Slawter said that with regard to a broad rezoning definition like this that is applicable throughout the City, the impact upon someone's ownership of property is so remote that he felt there would be no conflict of interest.

Mr. H. K. Edgerton felt there might be a noise ordinance problem.

Vice-Mayor Field, resident in the downtown area, validated Mr. Edgerton's comment about noise.

Vice-Mayor Field closed the public hearing at 6:07 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 2259. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2259 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 271

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-36 - RESOLUTION ENCOURAGING THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS TO CONTINUE TO MAINTAIN THE WEST ASHEVILLE LIBRARY AT ITS CURRENT LOCATION

Councilman Sellers said that the public library serving the residents of West Asheville has been maintained at the same location on Haywood Road for many years. Consideration has been given to the relocation of the library to an alternate site in West Asheville. It is the consensus of the West Asheville community that the community will be best served by the continued maintenance of the library at its current location. The Buncombe County Board of Commissioners provides funding for the Asheville-Buncombe Library System and the City Council desires to express its support for the continued maintenance of the library at its current location in keeping with the wishes of the residents of West Asheville.

Councilman Sellers felt this was a good opportunity to show our joint effort of working with the County. He explained that the Erwin and Enka districts are wishing to have the library moved to their districts. West Asheville residents would love for them to have a library, but not at the expense of moving the one from Haywood Road. The library has been there since 1952 and it services the community well. If renovations take place, the 2,200 square feet library will expand to 6-9,000 square feet, bringing it up to current Codes, including the Americans with Disability Act.

Councilman Skalski noted that this is the only library in Buncombe County west of the French Broad River.

Councilman Worley also said that it is also the most heavily used library, other than the main library, in the system and it's his understanding that the majority of that usage comes from walk-up and bus traffic. He felt that was very significant in terms of where you locate the library and where the best place is to keep it.

Councilman Hay hoped that this resolution will show the County Commissioners that the City is serious about keeping the West Asheville Library where it is and the Council would like to do what it can to make it easy for them to keep the library on Haywood Road.

Mr. Stom Peterson, President of the West Asheville Business Association, spoke in full support of keeping the library at its present location.

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

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Councilman Sellers moved for the adoption of Resolution No. 96-36. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 121

V. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF CITY COUNCIL ANNUAL RETREAT BEGINNING FEBRUARY 2, 1996, THE REGULAR MEETING HELD ON FEBRUARY 13, 1996, AND THE WORKSESSION HELD ON FEBRUARY 20, 1996

B. RESOLUTION NO. 96-37 - RESOLUTION RELATIVE TO REASSIGNMENT OF THE STATE LOAN FOR A REGIONAL WATER TRANSMISSION LINE

Summary: Bond counsel has recommended that it would be beneficial to the issuance of the \$33 Million revenue bonds (for the Regional Water Resources Improvements Program) if a \$3 Million State Loan awarded to the A-B Water Authority ("Authority") was reassigned to the City of Asheville.

In September of 1994, the Authority authorized staff to apply for a N.C. Clean Water Bond Loan to assist in financing a regional water transmission main that will serve the existing and future water supply needs of the region. In February of 1995, the Local Government Commission ("Commission") formally announced the award of a N.C. Clean Water Bond Loan to the Authority in the amount of \$3 Million. The interest rate for this loan is 5.3%. Since the regional transmission main is an integral part of the Regional water Resources Improvements

Program, it is in the best interest of the City of Asheville to accept the loan rather than the Authority. The Commission concurs with reassignment of the loan.

RESOLUTION BOOK NO. 23 - PAGE 122

C. RESOLUTION NO. 96-38 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DEED TO THE STATE OF NORTH CAROLINA FOR 8.31 ACRES OF LAND ADJACENT TO THE WNC AGRICULTURAL CENTER

Summary: The N.C. Dept. of Agriculture has, for some time, expressed interest in acquiring from the City a tract of approximately 15.65 acres located adjacent to the Agricultural Center. On March 30, 1993, the City Council adopted Resolution No. 93-44 authorizing the Mayor to sign an option for conveyance of 8.2 acres of the tract to the State for \$225,500 (\$27,500 per acre). The actual survey reflects 8.31 acres and a resulting purchase price of \$228,525. The remainder of the 15.65 acres has been condemned by the N.C. Dept. of Agriculture and the City is being separately compensated for that property.

This property was purchased jointly by the City and the Federal Aviation Administration on a 50/50 basis. The FAA grant agreement requires that the proceeds of the sale be split 50/50 with the City being allowed to retain one-half of the proceeds and the remaining one-half of the proceeds being required to be put into an airport project at the Asheville Regional Airport.

This resolution authorizes the conveyance to the State of North Carolina of 8.31 acres adjacent to the WNC Agricultural Center for a purchase price of \$228,525.

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RESOLUTION BOOK NO. 23 - PAGE 126

D. RESOLUTION NO. 96-39 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP, HUGHES & CO., L.L.P., FOR AUDITING SERVICES FOR FISCAL YEAR 1995-96

Summary: G.S. 159-34 requires that local governments of N.C. to have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1993 the local audit firm of Crisp Hughes & Co. won the bid for the City's audit with the option, dependent upon the quality of service, to be re-engaged annually for a period of three to five years. They performed the FY '93, FY '94 and the FY '95 audits and have now submitted an engagement letter for the FY '96 audit. The FY '96 audit fee has been estimated at, and limited to, \$50,000. Funds are appropriated in the budget of the Accounting Division of the Finance Department.

Staff recommends reappointment of the audit firm Crisp Hughes & Co., L.L.P.

RESOLUTION BOOK NO. 23 - PAGE 127

E. RESOLUTION NO. 96-40 - RESOLUTION ESTABLISHING THE ASHEVILLE BICENTENNIAL COMMITTEE

Summary: The City of Asheville will celebrate its 200th anniversary in 1997. This committee has been organized to coordinate events as well as promote the City's heritage during the bicentennial year. The committee has established six goals for the bicentennial: (1) Reacquaint Asheville residents with their cultural heritage; (2) Involve all Asheville neighborhoods in the celebration; (3) Create a map of historic sites, events and bicentennial opportunities; (4) Publish a bicentennial cultural calendar of events; (5) Establish a legacy program; and (6) Develop a vision project; the future through the past. In addition, the committee has come up with numerous event ideas including: (1) A. Douglas Ellington architectural exhibition; (2) lecture series; (3) Asheville film series; (4) bicentennial moments on radio and television; (5) "A Slice of History" children's program; (6) History Comes Alive; (7) children's float parade (Bele Chere); and (8) an updated City/County architectural survey.

RESOLUTION BOOK NO. 23 - PAGE 128

F. RESOLUTION NO. 96-41 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNNAMED ALLEY CONNECTING ATKINS AVENUE AND ARDEN AVENUE AND CALLING FOR A PUBLIC HEARING ON MARCH 26, 1996

RESOLUTION BOOK NO. 23 - PAGE 129

G. MOTION SETTING A PUBLIC HEARING ON MARCH 12, 1996, TO CONSIDER A STREET GRADE MODIFICATION REQUEST FOR BREMAR SUBDIVISION

H. MOTION SETTING A PUBLIC HEARING ON MARCH 12, 1996, TO REZONE TWO LOTS LOCATED AT 619 GATEWOOD FROM R-5 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

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I. MOTION SETTING A PUBLIC HEARING ON MARCH 12, 1996, TO REZONE TEN LOTS AT THE CORNER OF STATE STREET AND HANOVER STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT TO NC NEIGHBORHOOD COMMERCIAL

Vice-Mayor Field said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Hay moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

Ordinances:

City Attorney Slawter said that the budget amendment relating to the transit facility will, among other things, authorize the purchase of the building located at 49 Coxe Avenue for \$100,000.

A. ORDINANCE NO. 2260- BUDGET AMENDMENT FOR THE CITY'S RECYCLING PROGRAM

Summary: Up through June 30, 1995, the County had provided two recycling drop centers inside the City as part of the County's recycling program. Effective July 1, 1995, the County arranged their recycling program to include separation of recyclables at the source and collection taking place at the regular scheduled collection point. With these changes by the County, the City was left without a recycling program. In order to continue a recycling program for City residents, arrangements were made with ABC Recycling to continue collection of recyclables at the drop centers and to provide two additional drop centers in the City. ABC Recycling maintains the drop centers, keeps the drop centers clean, collects the recyclables as necessary, and sells the recyclables, with the City receiving 100% of the recyclable sales. Up through November of 1995, the monthly fee from ABC Recycling has averaged \$8,632.78. Receipts from recyclable material sales has averaged \$1,119.89 to the City per month for this same period. Funds to pay ABC Recycling have been taken from the Sanitation Division's budget but need to be replaced to insure sufficient funds for the remainder of the budget year for operating purposes. Sufficient funds to cover payments to ABC Recycling also need to be budgeted for the remainder of the year.

Public Works and Audit/Budget staff recommend that a budget amendment, in the amount of \$105,000 to cover the cost of the City's Recycling Program.

ORDINANCE BOOK NO. 15 - PAGE 272

B. ORDINANCE NO. 2261 - BUDGET AMENDMENT FOR ADDITIONAL FAIR HOUSING ASSISTANCE PROGRAM FUNDS

Summary: On April 28, 1987, the City of Asheville was recognized by HUD as having a fair housing enforcement program which is substantially equivalent to that of the Federal Fair Housing Act. The City has been carrying out its fair housing program under contract with the A-B Community Relations Council and the Fair Housing Commission since 1988. In September 1995 the City received funding approval from HUD of \$16,700 for the current Fair Housing Assistance Program. On January 29, 1996, the City was notified that an additional \$25,940 will be received for the Fair Housing Assistance Program for the 9th year

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funding. The total funding for this program for the 9th year will now be

\$42,640.

ORDINANCE BOOK NO. 15 - PAGE 274

C. ORDINANCE NO. 2262 - BUDGET AMENDMENT TO ALLOW THE CITY TO PURCHASE A VEHICLE ON BEHALF OF THE ASHEVILLE-BUNCOMBE ARSON TASK FORCE

Summary: City Council has previously established an appropriation of \$5,000 as the City's share of the cost of a vehicle for the Arson Task Force. The Task Force has requested that the City purchase said vehicle at a cost not to exceed \$44,000. The Task Force will reimburse the City for the total amount of \$5,000. The City will serve as title-holder of the vehicle on behalf of the A-B Arson Task Force, and, share with Buncombe County the cost of insuring and maintaining the vehicle on behalf of the Task Force pursuant to the provisions of the joint exercise of power agreement that created the Task Force.

This action will establish a capital outlay appropriation for this vehicle and bids, when received, will be submitted to City Council for approval.

ORDINANCE BOOK NO. 15 - PAGE 276

D. ORDINANCE NO. 2263 - BUDGET AMENDMENT TO INCREASE TRANSIT FUNDING FOR THE OPERATING BUDGET AND TO INCREASE THE BUDGET FOR THE TRANSFER FACILITY PROJECT

Summary: This budget amendment restores the City's funding of the Transit Authority from \$794,180, as approved by City Council in June 1995, to the 1993 target level of funding of \$813,485 - an increase of \$19,305. This entitles the City to receive State Transit Maintenance Funds in the amount of \$177,820. These funds are transferred to the Federal Projects Fund - Bus Transfer Facility Project to fund land acquisition, professional services, and demolition costs.

The budget amendment will also authorize the purchase of the building located at 49 Coxe Avenue for \$100,000.

ORDINANCE BOOK NO. 15 - PAGE 278

E. ORDINANCE NO. 2264 - ORDINANCE AMENDING THE CIVIL PENALTIES IN THE CODE OF ORDINANCES TO REFLECT THAT ALL FIRE LANE PARKING VIOLATIONS WILL BE IN THE AMOUNT OF \$35.00

Summary: An amendment needs to be considered by City Council which would make all fire lane violation fees uniform. The City of Asheville currently has three fee amounts for fire lane violations. The Police Department issues fire lane violations in the amount of \$25. Enforcement staff of Parking Service issues fire lane violations in the amount of \$10 by authority set forth in Sections 19-14 and 19-137 of the City Code. The Fire Department issues a fire lane violation in the amount of \$35 as set forth in the Fire Code adopted in July of 1995.

It is staff's recommendation to amend Appendix B of the City Code to include a \$35 penalty for parking in a fire lane. This recommendation has been reviewed by the Police Department, Fire Department, City Attorney's Office and the Finance Department.

ORDINANCE BOOK NO. 15 - PAGE 280

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F. ORDINANCE NO. 2265 - ORDINANCE AMENDING THE ASHEVILLE FIRE CODE BY ADOPTING

THE 1996 STATE FIRE CODE AND MAKING OTHER TECHNICAL AMENDMENTS TO THE ASHEVILLE'S FIRE CODE

Summary: In the course of its approval of the Asheville Fire Code, the N.C. State Building Code Council has asked that Asheville adopt the 1996 State Fire Code and make other technical amendments to the Asheville Fire Code.

On July 25, 1995, the City Council adopted a more streamlined fire code that incorporated provisions from Asheville's original fire code and the State Fire Code into one document. At the time of City Council's action, the State Fire Code in effect was the 1994 edition.

As part of the local fire code process in N.C., the N.C. State Building Code Council (through its Fire Code Committee) reviews fire codes like Asheville's. Asheville's fire code has undergone this review, and the State Building Code Council has asked that Asheville make amendments to Asheville's fire code, including: (1) formal adoption of the 1996 State Fire Code, which went into effect on January 1, 1996; (2) deletions and amendments to standards and definitions, including deletions and amendments that will make Asheville's fire code consistent with the 1996 edition of the State Fire Code; (3) technical and non-substantive amendments that will align Asheville's fire code with the 1996 edition of the State Fire Code; and (4) technical amendments to Chapter 4 (explosive permits), Chapter 17 (liquefied propane gas) and Appendix G (smoke detectors in rental property).

These amendments do not generally interfere with the integrity of the Asheville fire code. The amendments on regulation of smoke detectors in rental property are considerably less stringent than those that have been part of Asheville's fire code since the 1980's; however, recent changes in state law compel these amendments.

ORDINANCE BOOK NO. 15 - PAGE 283

Vice-Mayor Field said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Cloninger.

On a roll call vote of 6-0, the Ordinance Consent Agenda was adopted on the first and final reading.

VI. OTHER BUSINESS:

A. PRE-COUNCIL MINUTES OF FEBRUARY 13, 1996

Councilman Skalski asked the Pre-Council minutes of February 13, 1996, read that Council voted separately on the three Board of Adjustment vacancies. He said that he voted in favor of appointing Joseph Brady as an alternate member and also appointing Dennis Hodgson as a regular member. He asked that his vote against reappointment of Bud Taylor be explained in the minutes. Keeping in mind that he was not against having a real estate person or a developer on the Board of Adjustment, (because he realized that business people need to be represented on all the City's boards and commissions) the reason that he voted against Bud Taylor's reappointment was (and he felt Mr. Taylor was one of the better business members on the Board) that he felt there were already five realtor/developer oriented people on the Board.

B. COMMENTS BY H.K. EDGERTON RELATIVE TO LEGISLATIVE ISSUES

Mr. H. K. Edgerton asked Council to consider the following when preparing their legislative package to the local delegation: (1) How, or can, the NAACP or other organizations within the City propose legislation that will allow the City or County to enter into joint ventures with private enterprise for economic development projects. City Attorney Slawter said that if the NAACP or any group has specific legislation that they wanted to encourage the local delegation to introduce during the Short Session, any organization can communicate that to the local delegation. City Manager Westbrook went on further to explain that the legislation the City Council has chosen to seek would give the same authority to Asheville as other cities have to designate the downtown area within which development projects may take place. (2) Amnesty Day for people who have petty charges and petty crimes. City Attorney Slawter felt the City Council did not have the authority to do that and if anybody could, it would be the legislature. (3) In thinking about how we provide housing in Asheville, hoped Council would re-think the sale of the Murray Hill Park property and what's being proposed. We need to mix our senior citizens with youth in housing.

C. AMNESTY DAY

Mr. Chris Johansen felt the Amnesty Day might be worth pursuing. He suggested contacting the Institute of Government to see what they might know about that topic.

D. CLAIMS

The following claims were received by the City of Asheville during the week of February 9-15, 1996: Pat Ellzey (Streets), William Williams (Streets), Garland Roberts (Water), Robert Goins (Sanitation), Cassandra A. Benton (Water) and Bill Title (Water).

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

VII. ADJOURNMENT:

Vice-Mayor Field adjourned the meeting at 6:30 p.m.

CITY CLERK MAYOR
