

Tuesday - January 14, 1997 - 5:00 p.m.

Regular Meeting

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

Absent: None

INVOCATION

Councilman Skalski gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JANUARY 14-21, 1996, AS "DR. MARTIN LUTHER KING JR. WEEK" IN THE CITY OF ASHEVILLE

Mayor Martin read the proclamation proclaiming January 14-21, 1996, as "Dr. Martin Luther King Jr. Week" in the City of Asheville. He presented the proclamation to Ms. Oralene Simmons who briefed the Council on activities that would be taking place during the week.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 17, 1996, AND THE WORKSESSION HELD ON JANUARY 7, 1997

B. RESOLUTION NO. 97-1 - RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND WACHOVIA BANK CARD SERVICES TO ESTABLISH A PURCHASING CARD PROGRAM

Summary: This resolution would authorize the City Manager to execute an agreement between the City of Asheville and Wachovia Bank Card Services to establish a Purchasing Card Program for use in making official purchases of goods and services.

A "Purchasing Card" is a type of corporate credit card which will be used by City elected officials and designated staff members in making purchases of goods and services in the course of their official duties.

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C. MOTION AUTHORIZING THE PLANNING & DEVELOPMENT DEPARTMENT TO HOLD A WORKSHOP/CHARRETTE TO ASSIST WITH THE CHARLOTTE STREET SMALL AREA PLAN

D. RESOLUTION NO. 97-2 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A TEMPORARY CONSTRUCTION EASEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION FOR THE U.S. 74 HIGHWAY WIDENING PROJECT

Summary: The consideration of a request from State of North Carolina Department of Transportation ("NC DOT") for a temporary easement on City owned property in conjunction with the widening of US 74 Highway.

NC DOT will begin construction of US 74 highway in the spring of 1997. The project consists of widening the existing two lane highway to four lanes for

approximately 4.0 miles.

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The Water Resources Department has been requested by the NC DOT for a temporary construction easement on Parcel 0.65 to facilitate the project. The temporary construction easement will expire at the end of the construction improvements without need or requirement for permanent easement. This site currently is used for the location of the existing Minehole Gap Reservoir and associated water distribution main for the Fairview service area. The effected area is approximately 5,455 square feet or 0.12 acres. The construction proposed for the area consists of excavation (cut) which will extend the side slope for the roadway along this City property. The compensation to the City for the temporary easement will be \$2200.00.

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E. RESOLUTION NO. 97-3 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HAYNES ELECTRIC UTILITY CORPORATION TO PURCHASE AND INSTALL LIGHTING FOR THE LIVINGSTON STREET BALLFIELD

Summary: In an effort to maintain and improve the City of Asheville's park facilities, the Parks and Recreation Department has created a long-term program to upgrade the lighting for City-owned ballfields and has budgeted \$60,000 annually to pay for these improvements. The Livingston Street Ballfield is on the schedule for the current fiscal year.

The City, through the Parks and Recreation Department, has solicited informal bids for the above-stated project. This bid process was engaged in September 1996. A total of eleven advertisements for bid letters were sent out, including 5 to certified minority businesses registered with the City. Advertisement letters were also sent to the Asheville Business Development Center, the City's Minority Business Office and other similar business resource organizations. Four bid proposals were received, none of which were from certified minority businesses. The four bidders are listed below:

Firm Name and Location	Base Bid
Haynes Electric Utility Corp. Asheville, N.C.	\$ 44,766
Palmer Electrical Contracting Inc. Brevard, N.C.	\$ 97,320
Hayes & Lunsford Electrical Contractors Inc. Asheville, N.C.	\$ 89,200
Electrics of Asheville Inc. Asheville, N.C.	\$ 114,300

After review of these bid proposals and the qualification process of the bidders, it was determined that Haynes Electric Utility Corp. would be selected as the lowest qualified bidder and City staff would seek Council approval to enter into a contract to purchase and install lighting at Livingston Street Ballfield.

It was then determined by the contractor that additional improvements would need to be made over and above the scope of the original bid. These changes

included switching to a more powerful system, which would require the addition of three large transformers and other miscellaneous materials and labor. The contractor submitted a

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proposal for a contract change order. City staff reviewed the proposed change order, and concur with Change Order #1 in the amount of \$10,696.

Staff recommends that the City Manager be authorized to enter into a contract with Haynes Electric Utility Corp. for the amount of \$44,766, and Contract Change Order #1 for \$10,696, to purchase and install lighting at Livingston Street Ballfield.

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F. RESOLUTION NO. 97-4 - RESOLUTION AUTHORIZING THE SALE OF A TAX FORECLOSURE LOT LOCATED ON FAIRFAX AVENUE AND AUTHORIZING THE MAYOR TO EXECUTE A NON-WARRANTY DEED CONVEYING THIS LOT TO THE PURCHASER

Summary: Certain lots within the corporate limits of the City of Asheville have previously been foreclosed upon due to the failure of the property owners to pay ad valorem taxes for the City of Asheville and the County of Buncombe. One of those lots is located on Fairfax Avenue and is identified on the Buncombe County tax maps and records as PIN 9638.17-22-1387.

The County of Buncombe has approved the sale of this lot for \$450.00. The County of Buncombe, the City of Asheville and the Asheville Board of Education have previously entered into an arrangement whereby the County of Buncombe would convey certain of these tax lots on behalf of itself, the City and the School Board. A question has arisen, however, with regard to the record title to the property which may be addressed by the City of Asheville providing a non-warranty deed to the purchaser, disclaiming any other interest the City of Asheville may have in the property.

The resolution would authorize the County of Buncombe to convey this lot for the amount of \$450.00 and would also authorize the Mayor to execute a non-warranty deed to convey this lot to the purchaser.

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G. RESOLUTION NO. 97-5 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY AN EASEMENT OVER A PORTION OF DISPOSAL PARCEL 52A OF THE EAST RIVERSIDE REDEVELOPMENT PROJECT TO BELL SOUTH COMMUNICATIONS INC.

Summary: Bell South has requested an easement over a portion of Disposal Parcel 52A in the East Riverside Redevelopment Project Area.

Disposal Parcel 52A is located between Asheland Avenue and Federal Street approximately 250 feet south of Hilliard Avenue. Due to its shape and topography assemblage with adjoining property is its most likely reuse.

Bell South Telecommunications, Inc. has agreed to pay \$1,677.86 for an easement over a portion of Disposal Parcel 52A approximately 15' x 30' containing 419 square feet as a location for a type 80 service cabinet to serve the surrounding area. The easement would adjoin Federal Street from which it would be accessed and Bell South would plant a screen hedge along the other three sides of the property. Two trees would be planted on the Federal Street side. The easement would render the portion of land encumbered by the easement useless for any other purpose.

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Disposal Parcel 52A contains 5,394 square feet and has a current Fair Reuse Value of \$21,600.00. Compensation for the easement was calculated by applying the per square foot value of the whole to the area of the easement.

Approval of the resolution will authorize conveyance of the easement to Bell South for the amount of \$1,677.86.

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H. MOTION ACCEPTING STAFF'S RECOMMENDATIONS PERTAINING TO TRAFFIC CONCERNS ALONG EDGEWOOD ROAD WITH NEW TRAFFIC CONTROL DEVICES AND MEASURES ALONG THAT ROAD TO REMAIN

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Consent Agenda and they will not be read.

Councilman Skalski moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE AMENDING THE ZONING ORDINANCE TO REZONE THE OI PORTIONS OF PIN NOS. 9655.09-15-2013 AND 9655.09-15-0415 LOCATED WEST OF HENDERSONVILLE ROAD TO R-2 MEDIUM DENSITY RESIDENTIAL

Ms. Erin McLoughlin, Urban Planner, asked that City Council reschedule this public hearing. Staff has been directed to study the OI zoning of two parcels of land west of Hendersonville Road. In the past month the property owners have been in negotiations concerning the zoning of these parcels. They feel that they are making progress and have requested that they have more time. Staff requests that Council reschedule this public hearing to February 11, 1997, at 5:00 p.m. in the Council Chamber in the City Hall Building, in order to allow more time for negotiations among property owners and to allow sufficient notice to be sent to neighboring properties.

Mr. William Shuford, affected property owner, asked City Council to reschedule the public hearing for approximately three to six months so the foreclosure proceedings on his property could be completed.

Upon inquiry of Mayor Martin, City Attorney Oast said that rescheduling the public hearing for February 11, 1997, should have no effect on the foreclosure case. To the extent that it might have an effect, he felt that the court in the foreclosure case could enter an appropriate order to stay the public hearing.

Councilman Hay felt that the negotiations do include Mr. Shuford at this point and he was concerned that progress is not being made out there. The south Asheville residents were told that Council would do something for them, but progress has been very slow.

Upon inquiry of Vice-Mayor Field, Mr. Shuford explained that he would not commit to any buffer on his property until the foreclosure proceedings have been completed.

City Attorney Oast said that City Council's consideration of this matter needs to be made independent of any agreements that are reached by the property owners. Negotiations addressed by Mr. Shuford should

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not be of any concern to Council, except and insofar as it bears on the question of whether the public hearing should be continued or not.

Councilman Worley said that this matter has been rescheduled from last year until this date to give the parties an opportunity to negotiate. He felt that what Mr. Shuford is saying that while he really should be a party to the negotiations, he really can't until he has an ownership position in the property. Councilman Worley said that he would be willing to give the parties more time if necessary.

Ms. Laura Eide, property owner in the affected area, was not opposed to sitting down with Mr. Shuford and discussing his concerns.

Mayor Martin said that if an agreement has not been reached by February 11, 1997, City Council can again reschedule the public hearing for additional time.

Councilman Cloninger agreed with Mayor Martin stating that on February 11 City Council could re-evaluate the issues at hand and then, if appropriate, reschedule the public hearing again.

Councilman Worley moved to reschedule the public hearing to February 11, 1997, at 5:00 p.m. in the Council Chamber in the City Hall Building. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Worley responded to a question from Mr. H.K. Edgerton when he asked how this would affect the UDO process.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. 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. The following actions were taken by the Commission on January 8, 1997:

Sand Hill Road Mobile Home Park

Mr. Carl Ownbey, Urban Planner, said that this proposed development is a 41 lot mobile home park on 12 acres located off Sand Hill Road in West Asheville.

On December 2, 1996, the Planning Department received the site plan for the proposed mobile home park. The proposed project will be 41 individual lots developed for mobile homes. The site plan was presented to the Technical Review Committee on December 9, 1996, for their comments.

On January 8, 1997, the Commission reviewed the site plan and opened the meeting for public comment. There were no comments from the public.

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The Commission voted unanimously to approve the project with no conditions.

The Planning Staff and the Commission recommend approval of the Sand Hill Mobile Home Park with no conditions.

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

B. RESOLUTION NO. 97-6 - RESOLUTION APPOINTING BRUCE TOMPKINS AS CHAIRMAN OF THE CITY BUSINESS AND DEVELOPMENT COMMISSION

Vice-Mayor Field, Chairman of the City Council Boards and Commissions Committee, said that the Commission members were asked if anyone was interested in serving as Chairman. The Council Committee recommends Mr. Bruce Tompkins, representative of the Biltmore Village Merchants Association, to be Chairman of the City Business and Development Commission for calendar year 1997 or until his successor has been appointed.

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

Vice-Mayor Field moved for the adoption of Resolution No. 97-6. This motion was seconded by Councilman Sellers and carried unanimously.

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C. CLAIMS

The following claims were received by the City of Asheville during the week of December 13-19, 1997: Lloyd & Barbara Hughes (Streets), Carolyn Staton (Water), Suzette Roberts (Parks & Recreation), Sharon K. Waldrop (Water) and Tonya Dockery (Streets).

The following claims were received during the week of December 20, 1996 - January 2, 1997: Bart Boyer (Finance), Asheville Manor (Sanitation), Tina Boegemann (Water), Karen Branks (Water), Sherron Love (Water) and Charles Smith (Sanitation).

These claims have been referred to Asheville Claims Corporation for investigation.

D. LAWSUIT

The City was filed with a Petition for Writ of Certiorari on December 31, 1996, which is generally described as follows: In re: The matter of William H. Anthony, Elizabeth H. Anthony, and Hiram S. Cody Jr. Appeal to Superior Court of Board of Adjustment decision (Sign Variance).

The appeal is from the Board's decision to grant a variance to Motel 6 for the height and area of a sign. Motel 6 was represented by its own counsel before the Board. The City Attorney's Office will advise the attorney for Motel 6 that the appeal has been filed and expect that they will take appropriate steps to represent their own interest. Accordingly, our involvement will be limited to assisting in the preparation of the record for review.

To this limited extent, this matter will be handled in-house by Ms. Martha McGlohon.

E. CLOSED SESSION

At 5:42, Councilman Worley moved to go into closed session for the following purpose: To establish, or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease. The statutory authority for this closed session is G.S. 143-318.11 (a) (5), and the properties under consideration are (1) the Grove Arcade and (2) approximately 23 acres located on Old Haywood Road, PIN No. 9628.17-02-6431. This motion was seconded by Vice-Mayor Field and carried unanimously.

At 6:43, Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

F. RESOLUTION NO. 97-7 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN APPLICATION AND ANY OTHER NECESSARY DOCUMENTS FOR ACQUIRING THE GROVE ARCADE BUILDING FOR HISTORIC MONUMENT PURPOSES

City Attorney Oast said this action would authorize the Mayor to execute an application, as amended, to General Service Administration for obtaining the Grove Arcade Building for historic monument purposes.

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

Councilman Cloninger moved for the adoption of Resolution No. 97-7. This motion was seconded by Councilman Skalski and carried unanimously.

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VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:45 p.m.

CITY CLERK MAYOR
