

RESOLUTION NO. 20- 128

RESOLUTION SUPPORTING COMMUNITY REPARATIONS FOR BLACK ASHEVILLE

WHEREAS, Black People have been unjustly Enslaved; and

WHEREAS, Black People have been unjustly Segregated; and

WHEREAS, Black people have been unjustly Incarcerated; and

WHEREAS, Black People have been denied housing through racist practices in the private realty market, including redlining, steering, blockbusting, denial of mortgages, and gentrification; and

WHEREAS, Black People have been denied housing, displaced and inadequately housed by government housing policies that include discriminatory VA/FHA practices, Urban Renewal, and a variety of local and federal "affordable" housing programs; and

WHEREAS, Black People have been consistently and widely impoverished by discriminatory wages paid in every sector of the local economy regardless of credentials and experience; and

WHEREAS, Black People have experienced disproportionate unemployment rates and reduced opportunities to fully participate in the local job market; and

WHEREAS, Black People have been systematically excluded from historic and present private economic development and community investments and, therefore, black-owned businesses have not received the benefits of these investments; and

WHEREAS, Black people have been segregated from mainstream education and within present day school programs that include AG, AP, and Honors; and

WHEREAS, Black students have experienced the denial of education through admission, retention and graduation rates of every level of education in WNC and through discriminatory disciplinary practices; and

WHEREAS, Black People historically and presently receive inadequate, if not detrimental, health care as exemplified by disproportionate morbidities and mortality rates that result from the generational trauma of systemic racism, discriminatory treatment by medical professionals, and discriminatory medical practices such as involuntary sterilizations, denial of adequate testing, denial of preventative and curative procedures; and

WHEREAS, Black People have been unjustly targeted by law enforcement and criminal justice procedures, incarcerated at disproportionate rates and subsequently excluded from full participation in the benefits of citizenship that include voting, employment, housing and health care; and

WHEREAS, Black People have disproportionately been forced to reside in, adjacent to, or near Brown Zones and other toxic sites that negatively impact their health and property; and

WHEREAS, Black People have disproportionately been limited to the confined routes of travel provided by public transportation; and

WHEREAS, Black People have disproportionately suffered from the isolation of food deserts and childcare deserts;

WHEREAS, systemic racism was created over centuries and will take time to dismantle;

WHEREAS, state and federal governments have a responsibility to adopt programs, policies, and funding to address reparations;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Council of the City of Asheville:

(1) apologizes and makes amends for its participation in and sanctioning of the Enslavement of Black People;

(2) apologizes and makes amends for its enforcement of segregation and its accompanying discriminatory practices;

(3) apologizes and makes amends for carrying out an urban renewal program that destroyed multiple, successful black communities;

(4) calls on other organizations and institutions in Asheville that have advanced and benefitted from racial inequity to join the city in its apologies and invites them to address racism within their own structures and programs and to work with the city to more comprehensively address systemic racism;

(5) calls on the State of North Carolina and the federal government to initiate policymaking and provide funding for reparations at the state and national levels;

(6) directs the City Manager to establish a process within the next year to develop short, medium and long term recommendations to specifically address the creation of generational wealth and to boost economic mobility and opportunity in the black community;

(7) fully supports its equity department, staff and its work, and encourages the city manager to utilize their talents when forming policy and programs that will establish the creation of generational wealth and address reparations due in the black community as mentioned above;

(8) seeks to establish within the next year, a new commission empowered to make short, medium and long term recommendations that will make significant progress toward repairing the damage caused by public and private systemic Racism. Other local government community

organizations may also be invited to have representation on the Commission. The task of the Community Reparations Commission is to issue a report in a timely manner for consideration by the City and other participating community groups for incorporation into their respective short and long term priorities and plans. Accountability for achieving equity will be enforced in the appropriate offices. The report and the resulting budgetary and programmatic priorities may include but not be limited to increasing minority homeownership and access to other affordable housing, increasing minority business ownership and career opportunities, strategies to grow equity and generational wealth, closing the gaps in health care, education, employment and pay, neighborhood safety and fairness within criminal justice;

(9) calls on the city manager to give, at minimum, a bi-annual update to the city council on the progress of work performed pursuant to this resolution.

Read, approved and adopted this 14th day of July, 2020.

Magdalen Boulton

City Clerk

Edwin E. Miller

Mayor

Approved as to form:

[Signature]

City Attorney



## ON REPARATIONS

BEFORE THE CITY PROCEEDS ANY FURTHER WITH A POLITICALLY-DRIVEN AND DIVISIVE IDEA THAT WILL PUNISH MOST OF OUR CITIZENS FOR PAST CONDITIONS THEY HAD NOTHING TO DO WITH, IT WOULD BETTER FOR ALL IF THE CITY ADMINISTRATION WOULD FIRST TAKE THE TIME AND EFFORT TO INFORM ITSELF OF ALL FEDERAL COURT RULINGS AND LEGAL CONSTRAINTS APPLICABLE TO ANY GOVERNMENTAL TO ADOPT A RACE-BASED PROGRAM.

UNDER OUR CONSTITUTION'S 14<sup>th</sup> AMENDMENT GUARANTEE OF EQUAL PROTECTION OF THE LAWS, OUR COURTS HAVE RULED THAT RACE-BASED SET ASIDES, PREFERENTIAL TREATMENT AND ENTITLEMENTS ARE ONLY PERMITTED TO REMEDY THE PRESENT EFFECTS OF A CURRENT STATE OR LOCAL GOVERNMENT'S PRACTICES OR THOSE THAT HAVE OCCURRED IN THE RELATIVELY RECENT PAST...BUT NOT TO ADDRESS "SOCIETAL DISCRIMINATION" OF YEARS LONG AGO.

IN THE 1995 LANDMARK CASE OF "CITY OF RICHMOND vs. CROSON", A THEN-MORE-LIBERAL SUPREME COURT HELD THAT A STATE OR LOCAL GOVT. CANNOT PROVIDE RACE-BASED (Quote):

"REMEDIES THAT ARE AGELESS IN THEIR REACH INTO THE PAST AND TIMELESS IN THEIR ABILITY TO AFFECT THE FUTURE."

IN HIS FAMOUS DISSENT IN THE 1896 CASE OF PLESSY v. FERGUSON JUSTICE HARLAN OBSERVED THAT UNDER THE 14<sup>th</sup> AMENDT.'S GUARANTEE OF EQUAL PROTECTION:

"OUR CONSTITUTION IS COLOR-BLIND AND NEITHER KNOWS NOR TOLERATES CLASSES AMONG CITIZENS."



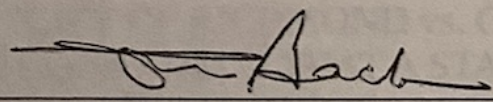
THAT FUNDAMENTAL CONSTITUTIONAL PRINCIPLE PROHIBITS ANY ATTEMPT TO DISGUISE THE "WOLF OF RETRIBUTION" IN THE "SHEEP'S CLOTHING OF REPARATIONS" SO AS TO GRANT TO SOME, AND TO DENY TO OTHERS, CERTAIN PUBLICLY-FINANCED BENEFITS BASED SOLELY UPON THEIR RESPECTIVE RACE.

SIMPLY STATED, FROM A LEGAL AND CONSTITUTIONAL LAW POINT OF VIEW

"THAT DOG WON'T HUNT!"

WITH AN INITIAL BUDGET PROPOSAL TO SPEND \$1,200,000 FOR "REPARATIONS PLANNING AND FUNDING BUT WITH APPARENT INDIFFERENCE TO APPLICABLE LAW, ASHEVILLE IS ABOUT TO BECOME BOGGED DOWN IN A SWAMP OF LEGAL QUICKSAND THAT COULD CAUSE YEARS OF PROTRACTED, UNNECESSARY AND VERY COSTLY LITIGATION.

Asheville  
June 3, 2021

  
\_\_\_\_\_  
SIDNEY M. BACH