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Tuesday - May 15, 1990 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor

William G. Moore; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Eugene W. Ellison and Norma Price; Associate City Attorney Martha McGlohon; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William W. Estes; and City Attorney William

F. Slawter

### **INVOCATION**

The invocation was given by Vice-Mayor Moore.

### **APPROVAL OF THE MINUTES**

The minutes of the May 8, 1990, City Council minutes were approved.

### **I. PROCLAMATIONS**

#### **A. Proclamation - "Industrial Appreciation Day" - May 17, 1990.**

Mayor Michalove proclaimed May 17, 1990, as "Industrial Appreciation Day" and presented the proclamation to Mr. Steve Jenkins.

#### **B. Proclamation - "Motorcycle Awareness Month" - May, 1990.**

Mayor Michalove proclaimed May, 1990, as "Motorcycle Awareness Month" in the City of Asheville.

#### **C. Proclamation - "National Public Works Week" - May 20 - 26, 1990.**

Mayor Michalove proclaimed the week of May 20 - 26, 1990, as "National Public Works Week" and presented the proclamation to Mr. Jim Ewing, Director of Public Works, and to Mr. Harold Huff, Director of Water, Wastewater and Engineering.

#### **D. Resolution No. 90-67 - Resolution recognizing recent retiree Lorraine Justus.**

Mayor Michalove read a resolution recognizing Ms. Lorraine Justus, who has been employed with the City of Asheville since October, 1983. Ms. Justus was an Account Clerk in the Accounting

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Division and was forced into retirement by MS. Charlotte Tell, City Accountant, accepted the resolution for Ms. Justus.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 90-67 was unanimously adopted.

**Resolution Book No. 18 - Page 135.**

#### **E. Proclamation - "Soap Box Derby Days in Western North Carolina" - May 19, 1990, and June 2, 1990.**

Mayor Michalove proclaimed Saturday, May 19, 1990, and Saturday, June 2, 1990, as "Soap Box Derby Days in Western North Carolina" and presented the proclamation to Mr. Jack Lang, President of the West Asheville Rotary Club, and to Mr. Tommy Rice, President-Elect of the West Asheville Rotary Club.

## **II. PUBLIC HEARINGS**

NONE

## **III. OLD BUSINESS**

### **A. Second reading of Ordinance No. 1849 - An ordinance rezoning property on Shiloh Road.**

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1849. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1849 passed on its second reading.

Since there was no opposition to this rezoning and if the Council members did not object, Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1849. This motion was seconded by Vice-Mayor Moore.

Councilman Price stated that it is the standard practice to have rezonings heard at three different Council meeting days.

Councilman Ellison and Vice-Mayor Moore withdrew their motion to suspend the rules and proceed to the third and final reading of Ordinance No. 1849.

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Mayor Michalove stated that the third and final reading of Ordinance No. 1849 would be heard at next week's Council meeting.

### **B. Ordinance No. 1846 - An ordinance allowing horse stables as a conditional use in CBD, CS, LI, and HI zoning district.**

Mayor Michalove stated that this item would be postponed until additional information could be obtained.

## **IV. NEW BUSINESS**

### **A. Presentation of the Asheville-Buncombe Water Authority Budget.**

Mr. Don Williams, Chairman of the Asheville-Buncombe Water Authority Budget Committee, highlighted the Fiscal Year 1990-91 Asheville-Buncombe Water Authority budget for Council members. He said that the Water Authority approved the budget earlier that day. He said that the Water Agreement calls for the Asheville City Council's and the Buncombe County Board of Commissioners' approval of their budget. He said that the budget proposes a 4% increase of water rates effective July 1, 1990.

Councilman Ellison voiced concern about some items which ran over the budgeted amount significantly. Mr. Williams accounted some of those over expenditures due to unexpected water line breaks, extremely cold weather, etc.

Mayor Michalove thanked Mr. Williams for presenting the budget and said that the Council will review the budget in more detail and let the Water Authority know if their decision before July 1, 1990.

### **B. Downtown Loan Pool Report**

Mayor Michalove introduced Mr. Alfred J. Whitesides, Jr., Chairman of the Downtown Loan Pool Task Force.

Mr. Whitesides introduced the present members of the Task Force and then proceeded to give a brief summary of the report to Council members.

Some items he mentioned from the report are that (1) small business development and residential development is needed at this time in the core area of the downtown, (2) CDBG funds in the amount of \$500,000 are needed for the Downtown Assistance Program especially given the inclusion of housing, (3) a range of \$10,000-\$100,000 for loans is requested, (4) the program should start as soon as possible, (5) the first month of the program be set aside for publicizing the program, and (6) after 6 months of operation of the program, a review be made.

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Upon inquiry of Councilman Ellison, Mr. Whitesides said that there was no specific amount set aside for housing. Councilman Ellison suggested that a significant portion of the \$500,000 be set aside to benefit low and moderate income housing. He stated that housing needs to be a top priority.

Upon inquiry of Mayor Michalove, Mr. Whitesides said that each application will be looked at individually to set the interest rate. He said that items like the type of loan, the amount of the loan and the circumstances of the individual would have a bearing on the interest rate. He said that they will try to structure the loan on an individual basis and that all the loans will be below the market rate.

Upon inquiry of Councilman Ellison, Mr. Whitesides said that a default rate range of 5% to 10% would not be high for this type loan and that is the range they are anticipating.

Councilman Bratton felt that the loan pool was an excellent idea in order to get people started who wouldn't normally have the opportunity to do so.

Councilman Frank stated that when Zuchelli, Hunter & Associates did a study a couple of years ago, they reported that the City should not promote more low and moderate housing in the downtown area. She stated that she would be happy to find a copy of that report and give it to Mr. Whitesides along with the new Council members who were not on City Council when the study was done.

Mr. Jim Barrett, Staff Attorney for Pisgah Legal Services, stated that he did not think that the loan pool would really help low and moderate income people. He felt that there was no guarantee that low and moderate income people would be hired as a result of the business development loans. He said that it only required that the majority of those jobs are made available to low income people. He said that he was sure the City and others had best intentions, but low income people were just not getting those jobs. He said that the jobs created would probably be low wage jobs and those are already available in the local economy. He felt that all the paperwork for the loan program is geared toward business and nothing is geared toward housing. He stated that they are opposed to money targeted for low income people not going to low income people.

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There was some discussion held relative to the range of low and moderate income and it was narrowed down to approximately \$15,250 to \$24,400 annually for a family of 4.

Upon inquiry of Councilman Price, it was stated that the applicant would have to have 10% of the loan in cash, 40% of the loan would come from the loan pool, and 50% would be either a bank loan or some other source (church, private investors, etc.)

Upon inquiry of Councilman Ellison, Mr. Barrett stated that the goal of the Pisgah Legal Services was to alleviate poverty through legal means. Councilman Ellison stated that he was glad that Pisgah Legal Services existed because they are the voice of the poor people.

Mayor Michalove thanked the Task Force members and Mr. Barrett and stated that this matter would be brought back up again when Council decides how to allocate the money.

**C. Community Development report relative to scheduling a public hearing for the submission of a final statement of community development objectives and projected use of funds to the Department of Housing and Urban Development for Community Development Block Grant entitlement funds for 1990-91 for May 22, 1990.**

Mr. Marvin Vierra, Director of Community Development, said that the City anticipates receiving \$965,000 through the CDBG entitlement program for 1990-91. He said that the total budget including \$58,000 of program income will be \$1,023,000. He said that a public hearing was held on May 14, 1990, in the Montford community to receive citizen participation in the proposed program. He said that the majority of the people were concerned about the amount of administrative costs associated with carrying out the CDBG program and they felt that administrative costs should not be funded from block grant funds.

There was some discussion relative to the actual items which come under the heading of administrative costs. Mayor Michalove stated that if we don't pay administrative costs out of the CDBG funds, the City Manager will have to find other sources in which to pay these costs.

Councilman Ellison questioned Mr. Vierra about how much of the \$515,354 for the Head of Montford project would be spent for housing and street and sidewalk repairs. He asked that more information be available on the housing issue and that the City look to see if some of the street and sidewalk repairs could come out of the bond money already approved by the voters.

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Upon inquiry of Mayor Michalove, Mr. Vierra stated that he would have available to Council a detailed budget on all the projects proposed in the statement of objectives.

Upon inquiry of Councilman Ellison relative to an extension of the May 31 deadline for the application, Mr. Vierra said that the approval for the extension would have to come from the HUD Central Office which is in Washington, D.C.. He suggested submitting the application on time and later amending the application if need be.

Councilman Ellison moved to set the public hearing for the submission of a final statement of community development objectives and projected use of funds to the Department of Housing and Urban Development for CDBG entitlement funds for 1990-91 for May 22, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Mayor Michalove stated that the City Council will set a time aside for a work shop between now and May 31, 1990, in order to deal with the items discussed today.

**D. Affirmative Action Report.**

Ms. Pam McGrayne, Personnel Director, stated that the City adopted the Affirmative Action Plan on June 22, 1988, and in September, 1989, the first annual progress report was presented. She proceeded to highlight the employment goal progress report.

Councilman Bratton voiced concern over the rule of 3 and felt that it was a barrier in the Affirmative Action Plan. She felt we needed to take some action, whether it be to meet with the legislators again or to look at the length of time on which some members of the Civil Service Board have served, etc. Ms. McGrayne stated that the rule of 3 factor was not a problem with the employment goals in the last 6 months.

Councilman Bratton felt that the Police Department needed to do more in terms of promoting minorities to lieutenants and above. She felt that there may be a problem with the way we do the testing in the City. She suggested meeting with the City Manager and letting him inform the Council on the kind of action the Council can take.

Councilman Ellison stated his frustration over the employment goal progress. He said that he would work with Mr.

Martin Nesbitt to see if, and where, any amendments can be made to the Civil Service Law.

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Upon inquiry of Councilman Ellison about the possibility of a program on how to take standardized civil service examinations, Ms. McGrayne said that a program was started last year of that type for police officers and firefighters.

Vice-Mayor Moore suggested the Council go on a retreat in the near future in order to look at the progress made during the first 6 months of their term.

City Manager Bean spoke in support of the Affirmative Action Plan stating, among other things, that the Plan did not even exist 2 years ago, there was no monitoring system, there was no recruitment plan, and there was no data on underutilized areas. He stated that the City now has all of the above items in progress and that we have made some significant hires since the adoption of the Plan.

#### **E. Consideration of the granting of a massage therapist license.**

Ms. Deborah Adams, Revenue Manager stated that pursuant to Chapter 17A of the Code of Ordinance of the City of Asheville, anyone seeking "the privilege of carrying on the business, trade or profession of masseur or masseuse" must submit specific information to the City Council and have their approval. Mr. Steve Cohen has applied for a masseurs license and has supplied the necessary documents. The appropriate City departments have no problem with issuing him this license but the Legal Division has requested that Mr. Cohen (1) obtain a local health certificate, (2) submit a \$1,000 bond or \$1,000 in cash, and (3) not list his residence address as his business address.

Councilman Ellison moved to grant Mr. Steve Cohen a masseurs license contingent upon him obtaining a local health certificate, him submitting a \$1,000 bond or \$1,000 in cash and him not listing his residence address as his business address. This motion was seconded by Councilman Bratton and carried unanimously.

#### **F. Resolution No. 90-68 - Resolution authorizing the City Manager to secure through Insurance Service of Asheville law enforcement liability excessive coverage.**

City Manager Bean summarized the resolution by stating that the City presently has five million dollars of excess liability coverage for its public officials and has similar five million dollar excess coverage for the Asheville Fire Department. He stated that the current limit of liability coverage for the Asheville Police Department is one million dollars and this resolution would authorize him to secure five million dollars of excess comprehensive liability coverage for law enforcement officers through Insurance Service of Asheville for \$69,000.

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Councilman Ellison moved for the adoption of Resolution No. 90-68. This motion was seconded by Vice-Mayor Moore and carried unanimously.

#### **Resolution Book No. 18 at Page 136.**

#### **G. Asheville-Buncombe Community Relations Council Report.**

Mr. Dwight Mullen reported to Council the Community Relations Council work program for the coming year. He emphasized the role of the Community Relations Council and how they get so much done due to the avoidance of confrontations. He stated that they are now expanding their jurisdiction into the County. He said they will be expanding their board representation and will work on educating individuals regarding gays and lesbians. He felt that the Community Relations Council plays a key position as liaison between the public and other agencies. He stated that the school issue, the continued progress of being liaison between the Police Department and the public and the expanded jurisdiction were all key issues the Community Relations Council was working on.

Mr. Herbert Edwards, Human Resources Manager for Bussman, and new member of the Community Relations

Council, spoke about how glad he was to be on the Council.

Councilman Bratton stated that the City Council and the Community Relations Council have a responsibility to get together and make commitments to work together.

Mayor Michalove thanked the members of the Council for their hard work and for working on these complex issues.

## **V. CONSENT**

### **A. Scheduling a public hearing on the zoning of the recently annexed R. L. Jordon Oil Company Inc. property (Hendersonville Road) for June 5, 1990.**

Councillman Ellison moved to schedule the public hearing on the zoning of the recently annexed R. L. Jordon Oil Company Inc. property for June 5, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

## **VI. OTHER BUSINESS**

### **A. Motion to amend Resolution No. 90-63 scheduling a public hearing on the intent to close a portion of Irving Street. The original resolution set the public hearing for May 29, 1990. The first amendment to the resolution scheduled the public hearing for June 5, 1990. This second amendment to the resolution will set the public hearing for June 12, 1990.**

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Upon motion of Vice-Mayor Moore, seconded by Councilman Price, the public hearing on the intent to close a portion of Irving Street is set for June 12, 1990. This motion was seconded by Councilman Price and carried unanimously.

### **B. Resolution No. 90-96 - Resolution authorizing the City Manager to execute an agreement with Deloitte & Touche for auditing services for the Fiscal Year ending June 30, 1990.**

City Manager Bean stated that a committee consisting of Mayor Michalove, Councilmen Price and Ellison and several City staff members interviewed three audit firms to conduct the City's annual audit. McGladrey & Pullen, Deloitte & Touche and KPMG Peat Marwick were interviewed. The firm of Deloitte & Touche has been recommended by the committee and staff to perform the City's annual audit this year in the amount of \$36,400.

Vice-Mayor Moore moved to adopt Resolution No. 90-96 accepting the recommendation of the committee and staff to hire the firm of Deloitte & Touche to perform the City's annual audit in the amount of \$36,400. This motion was seconded by Councilman Price and carried unanimously.

### **Resolution Book No. 18 at Page 137**

### **C. Report on Sign Survey**

City Manager Bean handed out to Council a sample of what the City will be generating relative to the survey done on signs as a result of the adoption of the sign ordinance. The sheet was for on-premise signs for the north area. The City Manager asked Council if they would prefer to see the total report before they start sending out non-confirming letters (which would take 1-2 more weeks) or if they want staff to start sending out the nonconforming letters as the reports are finalized.

Councilman Ellison suggested that we send out letters to the businesses that are in compliance too, not only the businesses that are not.

Upon inquiry of Vice-Mayor Moore about a postcard type notice for those businesses in compliance, City Manager Bean said that a letter could easily be sent out stating compliance.

Upon inquiry of Councilman Price, City Manager Bean said that he would check to make sure that if a business was

sent a nonconforming letter, that the letter would state the reason why. Councilman Price asked to see a sample of the letters that will be sent.

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Mayor Michalove stated in order to try to avoid any lawsuits because of the nine month frame, the Council would need to check with City Attorney William Slawter to see if there was any way that the Council could readopt the sign ordinance giving the Council more time within which to work on compliance vs.

noncompliance issues. He felt there would be significant interest of the community and the Council will need the additional time to discuss the issues.

Mr. Mike Plemmons, with the Council of Independent Business Owners, stated that most businesses do not know whether they comply with the new sign ordinance or not.

After some discussion, it was the consensus of Council to have the City Manager prepare a sample letter notifying businesses that are in compliance with the sign ordinance and a sample letter notifying the businesses that are not in compliance and let those letters be approved by the Council before sending them out.

City Manager Bean said that he would have the full report to the Council with the sample letters.

#### **D. Leni Sitnick - Request for Sidewalks**

Ms. Leni Sitnick requested the Council to look at the possibility of putting in sidewalks on Edgewood Road and on Weaver Boulevard.

City Manager Bean said that on Edgewood Road, there is no dedicated right-of-way and most of the utilities would have to be moved. He said the logistics of putting sidewalks in on Edgewood Road are not good.

City Manager Bean stated that he would have staff look into the possibility of putting in sidewalks on Weaver Boulevard and the cost associated with that.

Councilman Price stated that a bikeway is proposed for Weaver Boulevard and Ms. Sitnick said that a bikeway may be adequate.

#### **E. Claims**

City Manager Bean said that for the week ending May 11, 1990, the following claims were received: Cheryl McKinney (Water); Richard Hyatt (Police); Larry Penley (Streets); and Dennie Martin (Downtown Development). He said that the claims have been referred to the appropriate insurers for investigation.

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#### **ADJOURNMENT**

Mayor Michalove adjourned the meeting at 7:15 p.m. and stated that the Council would go into executive session.

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CITY CLERK MAYOR

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