

Tuesday - July 17, 1990 - 4:00 P.M.

Regular Meeting

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

William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate

City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the July 10, 1990 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to the closing of Academy and

Center Street at their intersection with Hendersonville Road.

Mayor Michalove opened the public hearing at 4:16 p.m.

The City Clerk presented the notice to the public

setting the time and date for the public hearing and the

affidavit of publication.

Jim Ewing, Director of Public Works, said the N. C.

Department of Transportation's designs for improvements to Hendersonville Road would result in excessive grades and additional right-of-way to connect Academy Street and Center Street to the new roadway. Closing these streets, where they intersect with Hendersonville Road, will eliminate the excessive grades and the need for additional right-of-way acquisition, but will still provide access to Hendersonville Road via Yorkshire, Reed and Fairview Streets. This public hearing was

scheduled at the June 26th meeting.

Mr. Ewing said the Public Works Department concurs with

the closing of Academy and Center Street at the intersection with Hendersonville Road. He said the closing would not occur until the construction project

is underway.

Councilman Estes strongly suggested that the NCDOT

guarantee a safe access into Hendersonville Road. He suggested a traffic light at the intersection of Hendersonville Road and West Chapel Road as well as other access roads if necessary.

Lucille Frady, 705 Center Street, said access roads into

Hendersonville Road are narrow and need widening.

Harold Sluder, 11 Center Street, spoke in opposition to

the closing of Academy and Center Street.

Porter Morgan, 15 Center Street, said he currently has

storm drainage problems and is concerned that this project will cause additional problems.

John Shuford, 618 Brookshire, also requested a safe

access into Hendersonville Road. He suggested traffic lights at Yorkshire and another area to the south.

Cecil Jackson, 709 Brookshire, said Reed Street is in

need of improvements prior to this closing.

After discussion, Councilman Ellison moved that the

public hearing be continued until August 14, 1990 without further advertisement in order for the City Staff to meet with the NCDOT regarding traffic signals on access roads; plans for widening of intersections on access roads; and storm drainage plans. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Mayor Michalove requested that the City Manager furnish

Council members with the City's plan for street improvements on Yorkshire Street, Reed Street, Fairview Road, and West Chapel Road. He also requested that a representative of the NCDOT be present at the August 14,

1990 meeting.

III. OLD BUSINESS:

A. Continuation of public hearing relative to the Cottages

at Richmond Hill Inn.

Mayor Michalove said the City Council continued this

public hearing at the June 26th meeting. The site plan was approved by the Planning and Zoning Commission contingent upon City Council approving a variance for a reduction in the required width of the landscaped buffer

from 20 feet to 10 feet.

Gerald Green, Senior Planner in the Planning Department,

at the request of the developer, requested that the public hearing be continued for two (2) weeks.

Councilman Price moved to continue the public hearing

until August 7, 1990 without further advertisement. This motion was seconded by Councilman Frank and carried

unanimously.

B. Ordinance No. 1860 - Third reading of an ordinance

amending Section 25-5 of the Code of Ordinance (Selling and Entertaining on Streets and Sidewalks).

Mayor Michalove said this ordinance passed on first and

second readings on July 10, 1990. This ordinance provides for street cart-vending, outdoor dining contiguous to restaurants, and street entertainment, which will enliven street atmosphere, provide entrepreneurial opportunities, and create pedestrian

interest.

Upon request of the local ABC Board, through the City

Attorney, Councilman Price moved to amend Ordinance No. 1860 Section B(3)(k) adding the language "all subject to compliance with Chapter 18B, as amended, of the North Carolina General Statutes" and Section B(4)(e) adding the language "in compliance with Chapter 18B, as amended, of the North Carolina General Statutes." This motion was seconded by Councilman Ellison and carried

unanimously.

On a roll call vote of 7-0, Ordinance No. 1860 passed on

third and final reading.

Ordinance Book No. 12 - Page 174 - 181

IV. NEW BUSINESS:

A. Final Plat for Forest Lake Subdivision - Phase II.

Gerald Green, from the Planning Department, said on

February 14, 1990, the Asheville Planning and Zoning Commission reviewed and approved, subject to the granting of variances for street design, the preliminary plat for Forest Lake Subdivision. The 135 lot subdivision is located off Rock Hill Road. City Council granted the requested variances on March 13, 1990. The developers have submitted the final plat for Phase II, containing 34 lots, to the Planning Department for review and approval. The final plat for Phase II of Forest Lake Subdivision complies with the City of Asheville's Subdivision Regulations. This section of the subdivision is located outside City limits in the City's extraterritorial jurisdiction. Improvements (streets, water, sewer, etc.) do not have to be constructed prior to final plat approval in subdivisions located outside city limits.

Councilman Estes moved for the approval of the final

plat for Forest Lake Subdivision, Phase II as recommended by the Planning and Zoning Commission, plat known as 90-073-C dated July 9, 1990. This motion was seconded by Councilman Bratton and carried unanimously.

Mr. Green said the malar plat will be recorded in the

Buncombe County Register of Deeds and a copy maintained

in the Planning Department.

B. Report - Hendersonville Road Project.

Mayor Michalove said the southern segment of the

North Carolina DOT widening project for a five-lane facility along Hendersonville Road (Project #U-90B from the Blue Ridge Parkway to Rock Hill Road) is presently under construction. The design of the northern segment of the project along the Town of Biltmore Forest town limits (Project #U-90A from Rock Hill Road to I-40) has now been completed and construction will begin in November, 1990. The entire project is scheduled to be completed by 1993.

Patty Tallerday, from the Planning Department,

reviewed the attached report outlining the history of the Hendersonville Road Project.

Mary Helen Duke, Transportation Planner for the

Asheville Urban Area, reviewed the attached status report on the Hendersonville Road widening project.

Councilman Estes commented that no elected official

in North Carolina has been involved in the decisions for the Hendersonville Road project.

Polly Hickling, 19 Forest Dale Drive, presented a

petition to members of Council requesting assistance for the residents in the area and to help fund a lawsuit against the state regarding the Hendersonville Road Project. They were mainly concerned about the state taking all the land on the east side of the road for the project.

A resident of 27 Greenwood Circle said the taking

of the property on the east side of the road would reduce the tax base for the City of Asheville. He said the property should be taken from both sides of the road in order to be fair and reasonable.

Jim Andrews of 24 Deanwood Circle asked if the Town

of Biltmore Forest is planning on rezoning the property along Hendersonville Road.

The City Manager of the Town of Biltmore Forest

said the Board has taken no action to rezone the property and has not considered a petition to request a historical designation.

Patty Tallerday said even though the Town of

Biltmore Forest has not requested the historical designation the NCDOT can not take the property as long as it is eligible for historical designation.

Lloyd Kirk, owner of Forest Manor on Hendersonville

Road, requested that Council ask the NCDOT to make a detailed presentation to the residents and Council regarding the project and the impact it will have on the City of Asheville. He said this project will be detrimental to the commercial enterprise on Hendersonville Road.

Tommy Koontz, Trustee of the Biltmore Baptist

Church, requested that Council ask the NCDOT to take the property on both sides of Hendersonville Road. He said this project will greatly affect the parking for Biltmore Baptist Church.

Garland Vance, Associate Pastor of Biltmore Baptist

Church, reiterated comments made by Mr. Koontz.

Councilman Price suggested that Council ask the

NCDOT to meet with Council on the Hendersonville Road Project Site to discuss the concerns of the residents. She also requested that David Brown,

NCDOT Board member, also meet with Council.

Councilman Estes requested a report from the City

Attorney on the legal options Council may have in dealing with the Hendersonville Road Project.

Vice-Mayor Moore requested that the Mayor appoint a

two to three member committee from Council to meet with the NCDOT and the Town of Biltmore Forest to discuss the concerns regarding the Hendersonville Road project. He also requested that the City Attorney research the legal approach Council can take regarding this matter. He suggested that the committee take under consideration what the legal approaches would cost the tax payers; an appraisal of a delay or a stopping of the project if legal action is taken; to consider if there would be a increase in cost if the project was delayed; and an

assessment of the risks of loosing the project.

V. CONSENT:

A. Resolution No. 90-96 - Resolution authorizing the City

Manager to dispose of personal property by private sale

- (1977 Garbage Truck).

SUMMARY: The Town of Burnsville has made an offer of

\$4,400 to the City of Asheville to purchase a 1977 Ford, 25-cubic yard garbage truck. This resolution will authorize the City Manager to sell this vehicle to the Town of

Burnsville.

Resolution Book 18 - Page 169

B. Resolution No. 90-97 - Resolution establishing the

Minority Business Committee.

SUMMARY: City Council adopted the Minority Business

Plan on April 10, 1990. This Plan stipulates that City Council establish a Minority Business Committee to provide oversight and direction for implementation of the Minority Business Plan. This resolution will establish the Minority Business Committee and appoint members to

the Committee.

Resolution Book 18 - Page 170 - 171

C. Resolution No. 90-98 - Resolution authorizing the closing of certain streets in downtown Asheville relative to the Bele Chere Festival.

SUMMARY: The Bele Chere Festival will be held July 26-29, 1990, in Downtown Asheville. This resolution will close streets in downtown Asheville to vehicular traffic for the Festival.

Resolution Book 18 - Page 172 - 175

D. Resolution No. 90-99 - Resolution appointing member to the Asheville Area Civic Center Commission.

SUMMARY: The term of office of O. E. Starnes as a member of the Asheville Area Civic Center Commission expired June 30, 1990. This resolution will reappoint Mr. Starnes to the Asheville Area Civic Center Commission to 3-year term and shall serve until his term expires on June 30, 1993, or until his successor is duly appointed and qualified.

Resolution Book 18 - Page 176

E. Resolution No. 90-100 - Resolution appointing member to the Planning and Zoning Commission.

SUMMARY: The term of office of Pat Hutchison as a member of the Planning and Zoning Commission expires August 14, 1990. This resolution will reappoint Ms. Hutchison to the Planning and Zoning Commission to 2-year term and shall serve until her term expires on August 14, 1992, or until her successor is duly appointed and qualified.

Resolution Book 18 - Page 177

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Group development action by the Planning and Zoning Commission

Gerald Green, Senior Planner with the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. 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 Planning and Zoning Commission at their meeting on July 11, 1990:

1. Additions and Renovations to Oak Gymnasium at A.B.

Technical College

Mr. Gerald Green, Senior Planner in the Planning Department,

said the Asheville-Buncombe Technical Community College is proposing the renovation of and additions to the existing Oak Gymnasium. The gym is located off Victoria Road on the college campus. Included in the project is the addition of 3310 square feet of classroom space and 9880 square feet of gymnasium area. Eleven new parking spaces will be constructed, with most of the parking needs met by existing parking areas. After reviewing the site plan and hearing staff comments on the proposal, the Asheville Planning and

Zoning Commission approved the site plans as presented.

City Council accepted the recommendation of the Planning and

Zoning Commission by taking no action.

2. Amendment to Approved Site Plan for Pinecliff

Condominiums

Gerald Green, Senior Planner in the Planning Department,

said the Pinecliff Condominiums project site plan was submitted to the City of Asheville for review and approval in April, 1986. The plans were reviewed as required by the Group Development requirements by the Planning and Zoning Commission, who recommended approval of Phase I of the project (buildings A thru J) and advised the developer to revise the plans for Phase II (buildings K thru S). Phase I plans were approved by the Asheville City Council on May 27, 1986. Revised plans for the nine buildings in Phase II were submitted to the City in July, 1986. During the review of these plans, staff expressed concern regarding the proposed 17% grade of the southern section of the internal street system. After reviewing the plans, the Planning and Zoning Commission on August 6, 1986 recommended approval of Phase II of the Pinecliff project with a 17% grade on the loop road. Phase II was approved by City Council on

September 30, 1986.

The approved plans call for the construction of eighteen

(18) buildings, each containing four (4) units. Building A was converted into two duplex buildings. Currently, all buildings except K, L, M, and N are constructed or under construction. Buildings P and O are under construction, and Building O is in the early stages of construction.

During the construction of the project, roads were

constructed with grades in excess of the 17% stipulation by the Planning and Zoning Commission in their approval of the project. A section of the southern portion of the road has a grade in excess of 27%, while a section of the northern portion of the road has a grade in excess of 25%.

Significant on-site and off-site erosion problems began

occurring as a result of grading and construction activity at Pinecliff in early 1990. A civil penalty of the \$100 per day for off-site sediment loss was levied against the project beginning February 21, 1990. This penalty continued up to and including April 21, 1990, resulting in a total off-site penalty of \$5,900. The site continued to violate on-site erosion regulations, and the penalty was reduced to \$50 per day effective April 21, 1990. This penalty was lifted June 28, 1990. The developers are required to pay the accumulated civil penalty, which totals approximately \$10,000.

During the inspection of the erosion problems, Planning

Department staff became aware of the excessive road grades. The developer of the Pinecliff project was notified of the

violation of the approved plans and advised to take action to revise the plans and modify the road grades. On June 28 Larry Traber, project architect, presented revised plans for the Pinecliff project to the Planning Department. These plans show the actual location of roads and buildings and call for the construction of a new road on the south side of the project.

According to the revised plans, the section of road with

the 27% grade would be abandoned and demolished and a new section of road with a grade not to exceed 15% would be constructed. Construction of the new section of road would require the relocation of the proposed building SM. The section of road on the north side of the project with a grade in excess of 25% would remain.

The revised plan was approved with reservations by the

Planning and Zoning Commission. Pinecliff Condominiums project site plan was submitted to the City of Asheville for review and approval in April 1986. The plans were reviewed as required by the Group Development requirements by the Planning and Zoning Commission, who

recommended approval of Phase I of the project.

Mr. Green said the developer was advised of the erosion

control violations and has corrected the erosion problems.

Vice-Mayor Moore moved to deny approval of the amended

site plan for Pinecliff Condominiums because the street grades are in excess of 12 percent.

Councilman Ellison said he felt this action would be

unfair to the developer. He said Council should establish reasonable standards for developers to use in regard to street grades before denying projects.

After discussion, Vice-Mayor Moore withdrew his motion

to deny the project.

Councilman Ellison moved to schedule a public hearing

regarding the amended plan for Pinecliff Condominiums. This motion was seconded by Councilman Frank.

After further discussion, Councilman Ellison withdrew

his motion to schedule a public hearing and Councilman Frank accepted.

Mr. Traber, developer of Pinecliff Condominium, said the

erosion control problems have been eliminated. He said one of the reasons the roads are steep is that they have tried to save as many trees as possible and due to a water line in the area.

Considerable discussion was held relative to street

grades in the City of Asheville.

Assistant City Manager Charles Penny said curbside

garbage pickup would not be available to some residents in the project because of the danger the steep grades pose to

the drivers and equipment.

Vice-Mayor Moore strongly opposed developments with grades of more than 12 percent.

Vice-Mayor Moore then moved to schedule a public hearing relative to the amended site plan for Pinecliff Condominiums. This motion was seconded by Councilman Bratton.

On a voice vote of 4-3, Vice-Mayor Moore's motion **failed** with Vice-Mayor Moore, Councilman Bratton, and Mayor Michalove voting "aye".

After further discussion, City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

Report from Water Authority - Councilman Price

Councilman Price noted that the Policies and Procedures

Committee of the Asheville-Buncombe Water Authority denied a request of Champion Finishing Company for an increase in water consumption by 300,000 gpd. She said it is anticipated that Champion Finishing Company will appeal that decision to the entire Authority.

She also reported actions taken by the Water Authority on the Mt. Carmel Water System and Water Conservation measures

Report on Street Grades

Council requested a report on street grades at next week's Pre-Council meeting and a tour to see street grades in the area.

Recognition of Hershey Track Meet Participants

Roy Harris, from Bartlett Street, requested that Council recognize the participants from W. C. Reid Recreation Center who competed in the Hershey Track Meet. He said the participants won first place in relay and first place in broad jump.

Council said they would be pleased to recognize the participants and requested that they come to next week's Council meeting.

Claims - Ralph Hollars (Sewer) - Patsy J. Miller (Sewer) - Deborah Gleeson (Sewer)

The City Manager presented claims received from Ralph Hollars, Patsy J. Miller and Deborah Gleeson.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:30 p.m.

MAYOR CITY CLERK
