

Tuesday - November 13, 1990 - 4:00 p.m.

Regular Meeting

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

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

Absent: Councilman William Estes was attending a judging at the Western North Carolina Development Association.

### **INVOCATION**

The invocation was given by Mayor Michalove.

### **APPROVAL OF THE MINUTES**

Mayor Michalove announced the approval of the minutes of the November 6, 1990, City Council meeting.

### **I. PROCLAMATIONS:**

#### **A. Proclamation proclaiming November 14, 1990, as**

#### **"Operating Room Nurse Day."**

Mayor Michalove proclaimed November 14, 1990, as

"Operating Room Nurse Day" and presented the proclamation to Ms. Juanita Wood, who works at Memorial Mission Surgeon Care. She stated that they are trying to educate the public on the role of the operating room nurses and invited Council members and

the public to stop by and ask some questions.

#### **B. Proclamation proclaiming the week of November 18 - 24,**

#### **1990, as "St. Joseph's Hospital Week."**

Mayor Michalove proclaimed the week of November 14 -

18, 1990, as "St. Joseph's Hospital Week" and presented the proclamation to Mr. Lewis Daniels. Mr. Daniels stated that to celebrate the 90th Anniversary of St. Joseph's Hospital, they started the Tree of Life Program and will be donating money over the next 10 years for the planting of trees. He said that St. Joseph's will at this time donate checks for 90 trees to be placed along French Broad Avenue and at the Beaver Lake Sanctuary. He said that by the year 2000, over 1,000 trees will have been planted in the City of Asheville by St. Joseph's Hospital as living memorials to the Sisters of Mercy. He presented one check to Ms.

Georgia Parker for 45 trees to be planted in the Beaver Lake Sanctuary. He then presented another check to Ms. Susan Roderick for 45 trees to be planted along the French Broad Avenue.

The members of Council thanked Mr. Daniels for the

wonderful way they are commemorating this anniversary

and that the trees would be a great asset to the City.

**C. Proclamation proclaiming November 14, 1990, as "Young Reader's Day."**

Mayor Michalove proclaimed November 14, 1990, as "Young Reader's Day."

**D. Proclamation officially starting the "1990 Light Up Your Holidays Festival."**

Mayor Michalove officially proclaimed the "1990 Light Up Your Holidays Festival" to be in progress.

**II. PUBLIC HEARING:**

**Public hearing relative to close an alley south of Tax Lot 180, Ward 2, Sheet 1 and running west of North Market Street.**

**Resolution No. 90-171 - Resolution to close an alley south of Tax Lot 180, Ward 2, Sheet 1 and running west of North Market Street in the City of Asheville, North Carolina.**

Mayor Michalove opened the public hearing at 4:20 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.

Mr. Larry Ward, Assistant Director of Public Works, stated

that a petition had been received by the adjacent property owners asking that this alley be closed. He said that cablevision, CP&L, Southern Bell and Public Service Gas have lines in that alley but the easements are reserved. He said that he has checked with City departments and they see no reason not to close the alley.

Councilman Price asked that maps accompanying resolutions and ordinances be marked in order to identify the item being discussed.

Mayor Michalove closed the public hearing at 4:26 p.m.

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

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 90-171 was unanimously adopted.

**RESOLUTION BOOK NO. 18 - PAGE 267-268**

At this time (4:27 p.m.), Councilman Wilhelmina Bratton left the meeting in order to attend a conference in Durham, North Carolina, sponsored by the North Carolina Mutual Life Insurance Company.

**III. OLD BUSINESS:**

**A. Ordinance No. 1877 - Second reading of an ordinance rezoning property located on Old County Home Road - Petition of Turnamics, Inc., Owner.**

Mr. Pat Whalen, attorney for the petitioner, asked Council to pass this ordinance on its second and third reading today.

On a roll call vote of 5-0, Ordinance No. 1877 passed on its second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1877. This motion was seconded by Councilman Price and carried on a 4-1 vote, with Vice-Mayor Moore voting "no."

Councilman Price stated that she would not have seconded the above motion but since the City Council will not be meeting next week, she felt that the petitioners should not have to wait two more weeks for adoption of this ordinance.

On a roll call vote of 5-0, Ordinance No. 1877 passed on its third and final reading.

**ORDINANCE BOOK NO. 12 AT PAGE 274**

**IV. NEW BUSINESS:**

**A. Ordinance No. 1878 - Budget amendment to appropriate funds for amended CDBG Program.**

City Manager Bean stated that this ordinance will

appropriate CDBG program income and surplus funds for the FAIR and CARROT housing rehabilitation programs in the amount of \$442,725. He said also appropriated will be \$30,000 for administrative cost of Mountain Housing Opportunities; \$35,275 administrative cost of Habitat for Humanity; and \$50,000 for the West Chapel Circle Drainage. He said these projects were approved by City

Council on October 9, 1990, by adoption of Resolution No. 90-152.

Vice-Mayor Moore moved for the adoption of Ordinance No.

1878. This motion was seconded by Councilman Price.

On a roll call of 5-0, Ordinance No. 1878 passed on its

first and final reading.

**ORDINANCE BOOK NO. 12 AT PAGE 275**

**B. Resolution No. 90-172 - Resolution authorizing the City Manager to purchase umbrella liability coverage. from**

**Sedgwick James of North Carolina, INC.**

City Manager Bean stated that when the bids for the

City's insurance coverage were awarded two months ago, we were still getting quotes on this umbrella coverage. He stated that the City has bound coverage of \$5 million at the present time and the consultant has recommended that the City get \$10 million worth of coverage for an

additional \$9,000.

Upon inquiry of members of Council, John Miall, Director

of Risk Management explained the \$5 million coverage amount versus the \$10 million coverage amount. He stated that for a 12 month period of time, \$5 million would cost the City \$172,000 and \$10 million would cost the City \$200,000. He further stated that on a prorated basis (through September 1, 1991), the City could purchase \$5 million worth of coverage for \$156,000 and

\$10 million worth of coverage for \$181,000.

Councilman Ellison moved to authorize the City Manager

to purchase umbrella liability coverage in the amount of \$5 million from Sedgwick James of North Carolina, Inc. This motion was seconded by Councilman Frank and carried

unanimously.

**RESOLUTION BOOK NO. 18 AT PAGE 269**

**C. Report on War on Drugs Commission.**

Mayor Michalove stated that this item has been deleted from the agenda and that the City Manager has been instructed to write a letter to the Commission.

**V. CONSENT:**

**A. Resolution declaring that portions of Porter Street,**

**Atkin Avenue and an unnamed alley are part of the Street Plan of the City of Asheville adopted pursuant to N. C.**

**Gen. Stat. sec. 136-66.2.**

City Manager Bean asked that this item be pulled off of the Consent Agenda and be considered after the Consent Agenda.

**B. Scheduling a public hearing relative to amending Section**

**30-5-15 (conservation overlay for historic landmarks) to allow for a conditional use district of historic landmarks for November 27, 1990.**

**C. Resolution No. 90-173 - Resolution appointing member to Firemen's Relief Fund.**

The term of office of Webb E. Ellis as a member of the

Firemen's Relief Fund - Board of Trustees - expires on January 1, 1991. This resolution will reappoint Mr. Ellis as a member to serve a two year term, term expiring January 1, 1993, or until his successor is duly appointed and qualified.

**RESOLUTION BOOK NO. 18 - PAGE 270**

**D. Resolution No. 90-174 - Resolution appointing members to the Board of Adjustment under Ordinance No. 322, as amended.**

The terms of office of Richard A. Bass, Hal F. Starnes

and Michelle Rippon as members of the Board of Adjustment expire January 21, 1991. This resolution will reappoint these individuals to serve three year terms, terms expiring January 21, 1994, or until their successors are duly appointed and qualified.

**RESOLUTION BOOK NO. 18 - PAGE 271**

**E. Resolution No. 90-175 - Resolution appointing member to**

**the Asheville-Buncombe Crime Stoppers Committee.**

Joe Haight resigned as a member of the Asheville-

Buncombe Crime Stoppers Committee. This resolution will appoint Steve Curtis as a member of the Asheville-Buncombe Crime Stoppers Committee to serve the unexpired term of Joe Haight, term expiring June 30, 1993, or until his successor is duly appointed and qualified.

**RESOLUTION BOOK NO. 18 - PAGE 272**

**F. Resolution No. 90-176 - Resolution appointing member to the City of Asheville Board of Alcoholic Control.**

The term of office of Osborne M. Hart as a member of

the Alcoholic Beverage Control Board expires on November 13, 1990. This resolution will reappoint Osborne M. Hart as a member to serve a three year term, term expiring November 13, 1993, or until his successor is duly appointed and qualified.

**RESOLUTION BOOK NO. 18 - PAGE 273**

**G. Resolution No. 90-177 - Resolution appointing members to the Asheville-Buncombe Community Relations Council.**

The terms of Hazel Turner and Linda McDaniel as members

of the Asheville-Buncombe Community Relations Council expire on December 31, 1990. This resolution will reappoint Hazel Turner and Linda McDaniel as members of the Asheville-Buncombe Community Relations Council, and shall serve three year terms, terms expiring on December 31, 1993, or until their successors are duly appointed and qualified.

**RESOLUTION BOOK NO. 18 - PAGE 274**

**H. Resolution appointing member to the Recreation Board for Asheville.**

The term of office of Sherman Williams as a member of

the Recreation Board expired on June 30, 1990. This resolution will appoint James A. Grant as a member to serve a three year term, term expiring June 30, 1993, or until his successor is duly appointed and qualified.

**RESOLUTION BOOK NO. 18 - PAGE 275**

**I. Meeting Cancellations - November 20, 1990 -**

**Thanksgiving Week, and December 4, 1990 - National League of Cities Meeting.**

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

**VI. OTHER BUSINESS:**

**A. Resolution declaring whether portions of Porter Street,**

**Atkin Avenue and an unnamed alley are part of the Street Plan of the City of Asheville adopted pursuant to N. C.**

**Gen. Stat. sec. 136-66.2.**

City Attorney William F. Slawter explained the procedure

whereby a developer may withdraw from dedication platted streets that have not been made part of a future street shown on the Street Plan adopted pursuant to N. C. Gen.

Stat. sec. 136-66.2.

Upon inquiry of Mr. Steve Barden, attorney, City Manager

Bean stated that the above-referenced streets are not

part of the City's Street Plan.

Mr. Barden asked that Council adopt this resolution

stating that these streets are not part of the City's Street Plan. He stated that the abutting property owners currently have a shed and a mobile home on these streets and said that when this resolution is adopted, these streets would be subject to taxation, which they at the present time are not. He said the plat was recorded in 1893 and the land doesn't look like that

anymore.

Councilman Ellison felt that if the adoption of this

resolution would be of benefit to some people that he would be interested in hearing from the people that it would adversely affect.

Mr. James Ewing, Director of Public Works, said that a

visual inspection was done and they only saw a CP&L pole there indicating that there was at least one utility company that would be interested in the

adoption of this resolution.

Council members had some concerns about existing

utilities located in the right-of-way of these streets (because perhaps they felt it was a City street). and felt that they could not adopt this resolution until City staff determined what utilities are in that area and advise those companies of this resolution being

requested.

Mr. Barden requested that the resolution reflect that these streets are not part of the City's Street Plan.

It was the consensus of Council to continue this matter until November 27, 1990.

## **B. Planning and Zoning Commission Report**

### 1. Lakeview Mobile Home Park

Mr. Gerald Green, Senior Planner, said that the

Asheville Planning and Zoning Commission on November 7, 1990, reviewed and recommended approval of the site plan with two contingencies. One of the contingencies being approval by the City Council of a variance to permit the placement of seven mobile homes on a site of 47,700 square feet. The other contingency is that all relocated mobile homes shall be at least 20 feet from internal streets.

Councilman Price moved to schedule a public

hearing on this matter for November 27, 1990. This motion was seconded by Councilman Ellison and carried unanimously.

### 2. Haw Creek Heights

Mr. Gerald Green, Senior Planner, said that the

Asheville Planning and Zoning Commission on November 7, 1990, reviewed and recommended approval of the site plan with one contingency. That contingency being the approval by the City Council of a variance to permit the location of two buildings, as shown on the revised plan dated August 13, 1990, within 30 feet of the edge of the street.

Councilman Price moved to schedule a public

hearing on this matter for November 27, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

## **C. Approval of bids on asbestos removal.**

City Manager Bean stated that the 3rd and 4th floors of

the City Hall Building are ready to be renovated and asbestos has been found on those floors. Five bids have been received and he recommended the City awarding the bid to the lowest bidder, NEO Corporation in

Waynesville, N.C., in the amount of \$58,276.

Councilman Price moved to award the bid for asbestos

removal to NEO Corporation in Waynesville, N.C., in the amount of \$58,276. This motion was seconded by Vice-Mayor Moore and carried unanimously.

## **D. Report on Outside Agency Funding Process**

Councilman Ellison stated that outside agencies which

desire funding for a particular fiscal year must follow specific procedures and submit a completed application package to the City staff prior to being considered. He said that agencies which request funds must adhere to a time frame which will be in concert with the City's annual operating budget process. He stated that all agencies which apply for funds will be reviewed and screened annually by a Council committee appointed to review agency requests. He said that the Committee will make its recommendations on which agencies should be

funded to the full Council for its consideration.

Councilman Ellison said that these procedures will be

available by contacting the City Manager's Office or the Public Response Center.

### **E. Asheville High Football Program**

Councilman Ellison requested the Mayor send a letter to

Coach Fogle and his staff prior to Friday night's game expressing how proud the City of Asheville is that they are 6th in the State of North Carolina and how much recognition they have brought to our City. He felt that the efforts of the athletes and entire coaching staff

was outstanding.

At 5:20 p.m. the Council recessed the meeting and Mayor

Michalove announced that the Council would reconvene at 7:00 p.m. later that evening at Enka Middle School for the public

hearing on the question of the annexation of the West area.

The Council reconvened at 7:00 p.m. at Enka Middle School.

Mayor Michalove, Councilmen Frank and Price were present. Councilmen Bratton, Ellison and Estes and Vice-Mayor Moore were not present, having withdrawn from the meeting without being excused by a majority vote of the remaining members present. Councilman Bratton was attending a conference in Durham, North Carolina, sponsored by the North Carolina Mutual Life Insurance Company; Councilman Ellison was expected to be delayed because this was his last Lamaze class; Councilman Estes was expected to be delayed since he was attending a judging at the Western North Carolina Development Association; and Vice-Mayor Moore was unable to return to the meeting because he had a previous teaching

engagement at Highlands.

The City Clerk presented the notice to the public setting

the time and date of the public hearing and the affidavit of

publication.

Mayor Michalove stated that this public hearing was

scheduled relative to the annexation of an area known as the West area. He stated that since there were only three members of Council physically present, comments would be heard at this time but the public hearing would be continued

until November 27, 1990.

Ms. Patty Tallerday, Senior Planner, said that in North

Carolina when areas are developed for urban purposes, city limit boundaries may be extended to include those areas. She said that these areas to be incorporated into the city must meet strict tests to be able to define them as urbanly developed. By use of a map she then described the

boundaries of the area proposed to be annexed.

She said that the total external boundary of the area is

approximately 49,020 feet of which approximately 7,000 feet or 14% coincides with the present City of Asheville boundary. Therefore, at least one-eighth of the total boundary of the area under consideration touches the Asheville city limits. She stated that the area does qualify as being urbanly developed in that of the 676 lots in the area, 560 or 82% are used for some developed purpose,

such as residential, commercial, industrial, institutional or governmental. She said that in addition, 63.7% of the total acreage of land that is used for residential purposes or is vacant is divided into lots of five acres or less in size. She said that 415 acres out of 652 acres are divided

into these smaller lots.

Ms. Tallerday stated that upon the effective date of

annexation the City will provide to the west area the same level of City services as is provided presently in the City of Asheville. She said that with the exception of water and sewer lines, which will be in place within two years of the effective date of annexation, all other major City services will commence on the actual date of annexation. She stated that these services include police protection, fire protection, street maintenance services, street lighting and

sanitation collection.

She stated that upon the effective date of the annexation, a

full range of police services will be provided to the area on the same basis and in the same manner as provided within the rest of the City. She said that additional personnel and equipment will be added to the Asheville Police Department to provide regular patrol services, criminal investigation, community relations/crime prevention

services, ordinance enforcement and traffic control.

In the area of fire protection, the City is prepared to

offer to negotiate a five year contract with the Enka-Candler Fire and Rescue Department which is presently servicing the proposed annexation area to continue to service the area. A written request to negotiate a five year contract has been submitted to the City by Chief Haney of the Enka-Candler Fire and Rescue Department. She said that in the event a contract is signed, response for emergencies will be provided by both the Enka-Candler Fire and Rescue Department from its location on Pisgah Highway and primary response from City of Asheville Fire Station #6. She said plans call for relocation of Fire Station #6 from Haywood Road to a site on the Smoky Park Highway corridor, closer to the west area. She said that upon annexation, property owners in the area will no longer pay the 8 cents

Enka-Candler Fire District tax.

Ms. Tallerday said that currently the west area is serviced

by a private solid waste collection company. She said that upon the effective date of annexation the City will provide solid waste collection services of residential refuse on a weekly basis at curbside. She said special "set out" service to curbside is available for qualified elderly and handicapped individuals. She also said that special collections of loose leaves and tree trimmings placed at

curbside are made periodically.

Street improvements and maintenance will be provided to the

approximately 7.6 miles of state system streets in the area that transfer to the City's system. She said maintenance activities for City streets include resurfacing of public streets, scraping, stoning and paving of unpaved public streets, pothole repair, snow and ice removal and trimming of vegetation on public rights-of-way. She said owners of private or non-state maintained streets may request the City Council to dedicate them as public streets and receive maintenance services. Private streets must meet City street construction standards before they can be dedicated, however, an agreement to share the cost of upgrading the

street can be arranged between the City and private parties.

She said that the City will install and maintain additional

street lights along public streets, approximately every 250 feet unless otherwise requested and will assume the cost of lighting and maintaining street lights located on public

streets.

By use of a map, Ms. Tallerday pointed out the existing and

proposed water lines for the area under consideration. She stated that there is an existing 18" water line along Sand Hill Road, 12" water lines along Monte Vista Road, Moody Avenue and Highway 19-23 and 6" water lines along Asbury Road and Highway 19-23. She said adjacent streets are served with 6" and 2" lines. She said improvements to this area will include 22,385 additional feet of 6" or 8" water lines along Grandview Road, Selwyn Road, Acton Circle, Acton Woods Road, Holcome Road, Old Haywood Road, Knoll Ridge Road and Highway 19-23. She said fire hydrants will be added to existing and proposed water lines as necessary to provide

adequate fire protection.

By use of a map, Ms. Tallerday pointed out the existing and

proposed sewer lines for the area under construction. She said the area is served by a 27" Hominy Creek Interceptor, the 18" Ragsdale Creek Interceptor as well as 8" collection sewers. She said an additional 29,160 feet of 8" sewer line improvements will be needed to serve the area. The majority of new lines will be constructed along Monte Vista Road, Acton Circle, Acton Woods Road west of Highway 19-23, along Pritchard Road, Mayfair Drive and Crestwood Lane and along portions of Sand Hill Road and Gudger Road. She said construction of water and sewer lines will be completed

within two years of the effective date of annexation.

Mayor Michalove stated that the proposed annexation of this

area is not new. He said that this is the same area proposed to be annexed two years ago, except for a large tract of land which is undeveloped.

Mr. Bob Heyward, 15 Mayfair Drive, spoke in opposition of

the annexation stating that the people in that area chose to

live in the County and not the City. He felt that nothing the City could offer would offset the tax burden the residents will incur.

Mr. George Robinson, who resided at 8 Hemlock Drive and now

lives on Grandview Road, said that several years ago Hemlock Drive was brought into the City and he was under the impression that it would be paved and to date the paving still has not taken place. He was opposed to this

annexation.

City Manager Doug Bean explained that at the time of

annexation if the street is a state maintained street, the City will accept it into the City system and maintain. He said, however, that if it is a private street, at the time of annexation, the City will accept it after it has been brought up to City standards and accepted into the City

system.

Mayor Michalove said that City staff would investigate that

particular question and have a response for Mr. Robinson at

the November 27 meeting.

Mr. Clint Jones, resident in Buncombe County, spoke in

opposition to the proposed annexation stating that the residents in the proposed area should be allowed to vote on whether or not they want to be annexed.

Mr. Bean explained the State law summarizing that a city has

the authority and right to extend their boundaries so long

as they meet stringent requirements.

Mr. Buddy Gooden, 24 Glencliff Road, spoke in opposition of

the proposed annexation. He stated that his business was annexed into the City of Asheville in 1983 and feels that he is not being given the amount of police protection promised. He felt that the City should not be able to annex again if they can't service the areas presently in the City.

Mr. Howard Parr, 33 Mayfair Drive, spoke in opposition to

the proposed annexation. He stated that the only good thing would be that they would be able to vote in the next City Council election.

Mr. Ben Pace, owner of Country Food Stores, spoke in

opposition to the proposed annexation stating that he feels the small businesses will be hurt the most by this annexation due to the large amount of taxes (in particular

for him, privilege license taxes).

At this time (7:40 p.m.) Councilman Ellison returned to the

meeting.

Mr. W. V. Henry spoke in opposition to the proposed annexation. He questioned some statements made in the newspapers relative to this proposed annexation.

At this time (7:42 p.m.) Councilman Estes returned to the meeting.

Mr. Keith Herman, 270 Asbury Road, spoke in opposition to

the proposed annexation. He felt the City already had numerous streets to repair, without annexing more. He felt snow and ice removal was not sufficient and also felt the City needed to repair our present water and sewer lines before annexing more. He stated that the privilege tax was just a way to generate revenue. He felt City ordinances, in particular the sign ordinance and the ordinance relative to

certificate of occupancies, were unreasonable.

Mr. Carlie Fender, Moody Avenue, spoke in opposition to the

proposed annexation stating that the high taxes after being annexed would be too much of a burden for many people to bear.

Mr. Tom Thrash, 15 Monte Vista Road, spoke in opposition to

the proposed annexation stating that the proposed area does not meet the requirements of an annexation.

Upon inquiry of Mr. Leon Hall relative to Councilman Estes

thoughts on annexation, he explained that he recognizes that if Asheville did not grow (through annexation) it would wither and the areas in Buncombe County would wither with it. He felt there should be a method or way people would want to be part of an annexation. He said he has seen many cities in North Carolina grow because of annexation and he has seen the City of Asheville grow (by building the Asheville Airport and major medical facilities), he would have to vote in favor of annexation. He did feel, however, that the City might be moving too fast in their annexation process and felt more thought needed to be given to it. He spoke in support of the consolidation of City and County

governments.

Councilman Ellison assured the public that in his mind, no

decision has yet been made to annex this area or not. He said he would listen to the public, listen to the City and then make a decision, which might not be an easy one, but one which he would make only after listening to all concerned.

Councilman Ellison moved to continue the public hearing

regarding the annexation of the West Area until 4:00 p.m. on November 27, 1990, in the City Council Chambers, without further advertisement. This motion was seconded by

Councilman Price and carried unanimously.

---

**MAYOR CITY CLERK**

---