

Tuesday - October 1, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Price and Associate City Manager/City Clerk William F. Wolcott

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the September 17, 1991 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to assessments for improvements on Azalea Avenue.

Resolution No. 91-175 - Resolution directing that the Azalea Avenue Project beginning at the end of the existing pavement on Azalea Avenue and ending at the end of the roadway be undertaken and special assessments made against benefitted properties.

Mayor Michalove opened the public hearing at 4:07 p.m.

The Deputy 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 a petition has been received from property owners on Azalea Avenue for paving improvements. The City intends to undertake the improvements pursuant to the provisions of Chapter 160A, Article 10 of the North Carolina General Statutes. The proposed basis for making assessments for the improvements is based on the frontage abutting on Azalea Avenue at an equal rate per foot of frontage. Fifty percent (50%) of the cost of the work will be assessed against benefitted property. This public hearing is required by N. C. General Statute and will allow public input relative to the process being used for improvements.

He said the total cost of the project is estimated to be \$9,000. He said there are five (5) property owners along the portion of Azalea Avenue to be improved and they will be assessed 1/10 each year along with their tax bill for a period of ten (10) years.

Mayor Michalove closed the public hearing at 4:10 p.m.

Upon motion of Councilman Estes, seconded by Vice-Mayor Moore, Resolution No. 91-175 was unanimously adopted.

Resolution Book No. 19 - Page 15-16

III. OLD BUSINESS:

A. Ordinance No. 1944 - Second reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to define Neighborhood Parks and Neighborhood Playgrounds and to include Neighborhood Parks as permitted uses in R-1 and R-2 Residential Districts.

Mayor Michalove said neighborhood parks currently are not defined in the City of Asheville's Zoning Ordinance, although they are listed as permitted uses in the R-3 and R-5 Residential Districts. The proposed amendment provides a definition of neighborhood parks and identifies them as permitted uses in the R-1 and R-2 Residential Districts. Parks meeting the definition of neighborhood parks, such as the Griffin Boulevard Rose Garden, are currently located in the R-1 and R-2 Districts. The status of these parks as non-conforming uses prevents their expansion and/or improvement. New parks cannot be developed in the R-1 and R-2 districts, limiting the ability of the Parks and Recreation Department to meet the needs of the citizens of Asheville.

This amendment was requested by the Parks and Recreation Department, and the proposed amendment has been reviewed and approved by that department.

Gerald Green, from the Planning Department, said the Planning and Zoning Commission unanimously recommended the proposed amendment for neighborhood parks. He said a proposed park would be a joint effort by the City and the residents in the area proposed for a park. He said a recommendation would be received from the Parks and Recreation Advisory Board before a park could be established.

Ray Kisiah, Director of Parks, Recreation and Public Facilities, said the Recreation Advisory Board and the staff unanimously support the proposed amendment. He said a neighborhood park in the R-1 and R-2 Districts could not be developed without this amendment.

After presentation and discussion of the next item on the agenda, "Proposed Park in the North Asheville Area", a vote was taken on the second reading of this ordinance.

On a roll call vote of 6-0, Ordinance No. 1944 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1944. This motion was seconded by Councilman Estes and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1944 passed on third and final reading.

Ordinance Book No. 12 - Page 487 - 488

IV. NEW BUSINESS:

A. Presentation relative to proposed park in the North Asheville Area.

Bryon Forbes, presented a proposal for North Asheville Park, for a service project for the rank of Eagle Scout. A copy of the proposal is on file in the Office of the City Clerk.

He said he felt the Swain property located on Kimberly Avenue would be an ideal location for a play area.

Many letters of support, which are included in the proposal, were read to

members of Council.

Gerald Green, from the Planning Department, said he had received two telephone calls in opposition to a park in this particular location - from Greg Walker and Susan Roderick.

Mayor Michalove noted that the Asheville City Board of Education owns the property adjacent to Ira B. Jones School on Kimberly Avenue which is the property in question. He indicated that the School Board could develop the park if they so desired.

Councilman Ellison said before voting to assist in the development of a park in North Asheville he would like to receive a report on the status of all parks in the City of Asheville. He said he would also like to know what role the City of Asheville would play in developing the park, funding needed for the park and what the interest of the School Board would be in developing a park.

Nancy Boland, member of the Recreation Board, said the Parks and Recreation Advisory Board has been pressing for a North Asheville Park for fifteen (15) years. She said funds have been set aside for the development of a North Asheville Park.

Vice-Mayor Moore suggested that the ordinance allowing for neighborhood parks in a R-1 or R-2 Residential District include language that artificial lighting can not be used in the parks.

Charlie Bullman, member of the Recreation Board and President of the East Asheville Youth Activities, strongly supported the development of a park in the North Asheville area. He said the park/playground is very much needed in North Asheville. He said he has never received a complaint about the lighting at the East Asheville field.

The City Manager said CIP funds have been set aside for parks in the City.

Amy Pruet, Recreation Center Director, suggested that no lighting be allowed after 10 p.m.

Ray Kisiah requested that the ordinance not include language relative to no lighting since this would restrict all parks in the City from lighting. He said the Asheville City Board of Education does have an interest in a North Asheville Park. He said an architect has prepared plans for a soccer field and two ballfields for the area and the plan does not provide for lighting.

After discussion, Vice-Mayor Moore withdrew his request to amend the ordinance to provide for no lighting.

Leni Sitnick, 90 Gertrude Place, member of the Tree and Greenway Commission, said she wholeheartedly supports Little League. She said she was concerned about the property in question since it is the only virgin woods in the area. She suggested that before a vote is taken on the proposal that adjacent property owners be notified of Council's intent.

David Carey, 24 Hampstead Road, said he owns property adjacent to the property in question. He said before a park is developed in the area adjacent needs of the community need to be met - such as the current overcrowding on Kimberly Avenue.

Carolyn Tingle, Chairman of the Parks and Recreation Advisory Board, said the Board is in unanimous favor of the proposed project.

A resident of Country Club Road said the City should establish an estimated cost to convert the property as proposed and suggested that if the park is developed that no lights be installed. He said an evaluation should be made of the funding set aside for the park.

Sana Efrid, 18 Willow Road, teacher at Ira B. Jones School, spoke in support of the proposed park.

Mayor Michalove suggested that a committee be established to design, on paper, a recommended park for the area. He said the committee should consist of members of the Parks and Recreation Advisory Board, the Tree and Greenway Commission, representatives that presented the proposal at today's meeting, representatives of the neighborhood, the Asheville City School Board, and two Council members. He said a public hearing could then be held on the recommended plan. He said the plan should address concerns such as parking, traffic, and buffering as it relates to the road system - Kimberly Avenue and Beaverdam Road. He said a recommendation should be received from the Parks and Recreation Advisory as to the priority of parks in the City. He said the plan should contain a comprehensive estimate of the cost of the developing the park as well as perhaps developing the park in phases.

Councilman Ellison said he would like a report from the Director of Parks, Recreation, and Public Facilities relative to all parks in the City.

It was noted that a public hearing was held about ten (10) years ago for a park in this area and the comments from that public hearing should be included in the report to Council.

Upon inquiry of Mayor Michalove, Gerald Green from the Planning Department, explained the process to be followed in developing a neighborhood park under the ordinance adopted. He said the Planning Director uses their discretion as to whether a park proposal receives Council approval under the group development process.

Mayor Michalove said he felt Council and/or citizens would have a problem with the Planning Director having this discretion and requested a complete report at next week's Council meeting on the process for developing a neighborhood park.

After discussion, Vice-Mayor Moore moved to accept the recommendations of Mayor Michalove for the committee approach to the proposed park. This motion was seconded by Councilman Bratton and carried unanimously.

` Vice-Mayor Moore moved that the proposed plan to be developed not include lighting for the area. The motion died for the lack of a second.

Mayor Michalove noted that a decision relative to lighting of the proposed park would not be made at today's meeting.

B. Report relative to vaulted sidewalks.

Charles Penny, Assistant City Manager, said as part of the Street and Sidewalk Project, City staff and consulting engineers have prepared plans for a major rehabilitation of Patton Avenue from Meeker Motors to Biltmore Avenue. He said these plans are being extensively coordinated with all utility companies as well as the business community in this area. He said a meeting is scheduled for October 17 at the Asheville Civic Center to present in detail the proposed plan to the area businesses and to receive their input into the plan.

Jim Ewing, Director of Public Works, said one major source of contention throughout the City is the question of vault maintenance responsibility. He

said an unwritten Council policy regarding vaults is that the property owner will repair or remove the vault and the city will replace, reconstruct, or rehabilitate the sidewalks adjacent to the property. However, the property owner can not be forced to repair or remove the vault.

Mr. Ewing said in his opinion the City should undertake the entire project of closing the vaults, backfilling them and constructing, reconstructing or rehabilitating existing sidewalks in the City. He said this process would eliminate the problem of the vaults and the sidewalk having to be redone in the future and provide for a better long term job for replacing sidewalks due to the nature of stress on the sidewalk over the vault.

Mr. Ewing said the Patton Avenue project includes approximately 266 feet of vaults which need to be addressed. He said assuming \$750/foot Patton Avenue would require approximately \$200,000. He said there are other locations in the City which would also qualify, i.e., Kostas Men's Wear on Charlotte Street which is estimated at \$40,000 for repair.

Upon inquiry of Council, Mr. Ewing said the Public Works Department does not have a full inventory of vaults in the City.

Councilman Ellison questioned whether there would be a problem if the vaults were just left alone.

The City Attorney said questions have arisen as to the owner of the vaults and who is responsible. He said in his opinion the property owner is the owner of the vaults, however, the City uses the land above the vaults, for those vaults with which he is familiar.

Robert Camille, recent owner of the old Patton Avenue Cigar Store, said he does not have the money to build or fill in the vault in front of his business. He said in his opinion the vault will be fine without doing anything to the sidewalk where the vault is located.

The City Manager said in some instances the sidewalk must be replaced due to safety hazards and some vaults are structurally unsafe and the question of liability arises. He recommended that the City undertake the responsibility of closing the vaults, backfilling them and constructing, reconstruction or rehabilitating the existing sidewalks - or - develop a process whereby the property owners is forced to pay one-half of the cost.

After discussion it was determined that the City staff would conduct a thorough study of the vault problem city wide, research what other cities are doing about the vault problem, determine a cost estimate city wide, and determine legal and liability options.

C. Ordinance No. 1949 - Budget ordinance amendment to appropriate Fair Housing Assistance Program Grant Funds.

The City Manager said this action will appropriate \$5,600 of Fair Housing Assistance Program Grant funds from HUD for the fifth year funding of the project.

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. 1949. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 6-0, Ordinance No. 1949 passed on first and final

reading.

Ordinance Book No. 13 - Page 5

D. Presentation - Comprehensive Housing Affordability Strategy.

Cindy Weeks, Member of the Comprehensive Housing Affordability Strategy Task Force, presented members of Council the Comprehensive Housing Affordability Strategy (CHAS) plan.

Ms. Weeks highlighted the plan which is on file in the Office of the City Clerk.

She said the task force formed to consider CHAS elements views this process an opportunity to develop an ongoing, unified approach to solving local affordable housing problems. She said approval of the CHAS by HUD is required for the City to remain eligible for Community Development Block Grant and other HUD housing resource.

Ms. Weeks said the planning process will be institutionalized in two ways. First, the CHAS Task Force, to be renamed the Housing Affordability Task Force, will be formally appointed to meet as an ongoing advisory body to the City, with broad representation from the public and private sectors, and a membership which will include representation from the groups included in the current CHAS task force, along with the addition of other interested groups, including the Asheville Area Chamber of Commerce, the Residents Council of the Asheville Housing Authority, the Mortgage Lenders Association, the Asheville Property Investment Association, and the Coalition of Asheville Neighborhoods. Second, the City will allocate staff time to coordinate the research and strategy development, giving additional qualified staff person(s) prime responsibility for coordinating the City's planning for low and moderate income housing development.

She reviewed the twelve strategies to be implemented and requested that the City evaluate them to determine the feasibility of each one.

Upon inquiry of Mayor Michalove, Marvin Vierra, Director of Community Development, said the City must submit the CHAS Plan to HUD by October 30. He said most of the funds to implement the program have already been programmed, however, there are portions of the recommendations that have not been funded.

Mayor Michalove noted that about a year and a half ago the City Council made a commitment to low and moderate income housing development.

Mr. Vierra indicated that a resolution will be presented to Council on October 15, 1991 for approval of the CHAS plan.

Council requested that staff prepare a report for Council before the October 15 meeting indicating additional funds needed for implementation of the plan; an organizational chart showing the relationship of the CHAS Task Force to City Council as well as the Community Development/Housing Authority Committee; how the Task Force Committee members will be appointed; the responsibility and purpose of the Committee and a recommendation from the Community Development/Housing Authority Committee relative to the CHAS plan.

E. Report relative to Adopt-A-Street Program and approval of Adopt-A-Street signs.

The City Manager said this program will allow groups or agencies to adopt a street and be responsible for cleaning up trash and litter along the street. He

said the adopted streets would have Adopt-A-Street Program signs placed with the name of the adopting agency or group. He showed members of Council an example of the signs and said the cost of each sign would be approximately \$40.00. He said the signs will conform to the Sign Ordinance.

Councilman Ellison said, considering the problem the state is having with the constitutionality of allowing some groups to adopt roads/streets and not others, he requested that Council have an executive session to address developing a policy on selecting groups to adopt a street.

Mayor Michalove requested that one of the signs be placed on a street for Council to view.

F. Affirmative Action Report.

Pam McGrayne, Personnel Director, highlighted the 1990-91 Annual Affirmative Action Report which included an analysis of the Plan's program objectives and employment goals for FY 1990-1991 and establishes objectives and goals for FY 1991-92. A copy of the report is on file in the Office of the City Clerk.

G. Approval of request for massage therapist license - Craig J. Ellis

The City Attorney said Asheville Code Chapter 17A and Ordinance 1899 requires anyone seeking "the privilege of carrying on the business, trade, or profession of masseur or masseuse" to obtain approval from Council for a license.

He said Mr. Craig J. Ellis has requested approval of a massage therapist license and has furnished all the required information.

Councilman Ellison moved to approve the request of Craig J. Ellis for a massage therapist license. This motion was seconded by Vice-Mayor Moore and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

A. Dave Cheadle - Art Sign Company - Fee for Sign Permits

Dave Cheadle said he felt the fee for sign permits should be revised. He said the fee should be based on the cost of the sign rather than the size of the sign. He said for a sign 120 square feet, the permit fee is \$180.00 whether the sign cost is \$450.00 or \$4,500.00.

B. Councilman Frank - Report Housing/Community Development Committee

Councilman Frank said the Housing/Community Development Committee met and discussed whether to leave the seven (7) properties in the Pack Plaza Redevelopment Project or to include them in the South Pack Square Redevelopment Plan. She said the committee will be recommending that the properties remain in the Pack Plaza Redevelopment Project.

Mayor Michalove said Council needs a recommendation from the Housing/Community Development Committee relative to the CHAS plan.

Councilman Ellison noted that the spend rate of CDBG funds is now ahead. He said the problem the City had last year with spend rate has been resolved.

C. Goals for Parking

The City Manager noted that the goals for parking will be on the October 15, 1991 agenda.

D. Claims - Maggie L. Smith (Water) - Alvin Duncan (Sanitation) - Barbara MacBryde (Water) - Paul W. Martini (Parks)

The City Manager said claims were received from Maggie L. Smith, Alvin Duncan, Barbara MacBryde, and Paul W. Martini.

Mayor Michalove said these claims have been referred to the appropriate insurers for investigation.

E. Status Report - UDO

Councilman Ellison requested a status report on the Unified Development Ordinance.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:35 p.m.

MAYOR CITY CLERK
