

Tuesday - July 14, 1992 - 4:00 p.m.

Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the June 30, 1992, City Council minutes as submitted.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JULY 1992 AS "RECREATION AND PARK MONTH"

Mayor Michalove proclaimed July 1992 as "Recreation and Park Month" in the City of Asheville and presented it to Ray Kisiah, Director of Parks, Recreation and Public Facilities.

B. RESOLUTION NO. 92-91 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE TERRY SMITH

Mayor Michalove read the resolution stating that Terry Smith has been an employee for 37 years and has requested retirement from his position as Maintenance Superintendent with the Asheville Civic Center. He expressed City Council's appreciation to Terry for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Councilman Moore moved for the adoption of Resolution No. 92-92. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 218

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDMENTS TO THE APPROVED SITE PLAN FOR THE RIVERSIDE DRIVE WAREHOUSES LOCATED AT 794 RIVERSIDE DRIVE

-2-

Mayor Michalove opened the public hearing at 4:21 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that in April, 1991, the Asheville Planning and Zoning Commission and the Asheville City Council approved, with

two contingencies, the group development site plan for a warehouse at 794 Riverside Drive owned by Jerry Sternberg. One of the contingencies dealt with floodproofing the building in accordance with the City's floodplain ordinance. The other contingency dealt with the developer reducing the driveway width for the loading area to 24 feet and rearranging the paving to allow trucks to back into the loading berth.

He said a revised plan complying with the contingency relative to the driveway width was presented to the Planning Department on May 13, 1991, and a zoning permit was issued based on this revised site plan.

An inspection of the site for zoning compliance in mid May 1992 identified several deviations from the approved site plan. These deviations included:

The driveway for the loading area was constructed with a width of 30 feet;

Only seven of the fourteen required street trees were planted;

The required parking lot trees and buffer trees were not planted; and

The location of the parking area was changed.

The owner of the project was notified of the deviations in a letter dated May 22, 1992, and instructed by telephone as to what actions he would need to take to resolve the deviations from the site plan. Actions necessary to resolve the deviations are:

Provide the required landscaping;

Provide a revised, as built site plan; and

Request the Planning and Zoning Commission and City Council to remove the contingency limiting the driveway width to 24 feet.

-3-

A public hearing date on the matter was scheduled by City Council, who also requested a recommendation from the Planning and Zoning Commission. The issue was discussed by the Planning and Zoning Commission at their July 1, 1992, meeting and the following recommendations were made:

1. The amendments to the site plan which can be approved by the Planning Director (change in location of parking area) be approved;
2. A revised, as-built site plan, showing all modifications to the approved plan, be submitted to the Planning Department;
3. No variances to the landscaping ordinance be granted under any condition; and
4. The contingency regarding the width of the driveway be removed.

The motion carried with a vote of 6-1.

Mr. Green said that he had met with the owner's representative, Ben Slosman, at the site and determined that only 6 trees would be required in order to meet the City's landscaping ordinance.

At the request of Councilman Worley, Mr. Green pointed out the differences in the site plan originally approved.

Upon inquiry of Vice-Mayor Ellison, Mr. Green stated that the landscape ordinance requires 1 street tree for every 40 feet of street frontage or any portion thereof. The warehouse in question has 545 feet street frontage, thereby requiring 14 street trees.

Councilman Peterson stated that in looking at the site plan the trees already looked close together without the additional six required.

Councilman Peterson asked whether or not the Tree/Greenway Commission had looked at this issue relative to the number of trees required. Ms. Leni Sitnick, member of the Tree/Greenway Commission, stated that she personally had not seen the site in question. She did state, however, that City ordinances (including the landscape ordinance) exist for uniformity, equality and fairness to all.

Councilman Swicegood stated that he had spoken with several builders of major projects in the area and they felt the City is anti-growth. He felt the City needed to promote -4-

good growth and work with the developers. He spoke in support of granting the variance regarding the additional trees.

Councilman Peterson stated he had received numerous complaints relative to problems encountered when trying to build in Asheville. He felt that business and government should work together and the need for streamlining in the Planning Department was critical. He felt the Tree/Greenway Commission should have been notified of this project and should have had an opportunity to review it.

Upon inquiry of Councilman Worley relative to the clustering of trees in some areas on the site, Mr. Green stated that the site plan made some of the trees look closer together than they actually were and there are several instances throughout the City that the trees are much closer together.

Councilwoman Field stated that there should be no problem in putting additional trees in the site if you consider the requirements for a viable tree.

Councilman Swicegood questioned why some buildings were demolished to the ground while others (Mr. Sternberg's building) were to be demolished with the provision that the concrete slab be removed.

In response to Councilman Worley's question, Mr. Green stated that a revised as-built site plan is needed in the Planning Department's files for future reference.

Vice-Mayor Ellison felt that minor problems of this nature (variance of a minor number of trees) should be ironed out before it reaches the City Council. He wholeheartedly supported enforcement of City ordinances, but also felt the need for flexibility.

Councilman Moore stressed the City's need to require conformation to reasonable rules and regulations regarding development. He believed the City's ability to enforce regulations is paramount to the future of the community.

Upon inquiry of Councilwoman Field on why Mr. Sternberg will not plant the six additional trees, Mr. Slosman said the trees that are already planted there grew too large. He said the cost of the 6 additional trees is not an issue.

Councilwoman Field suggested some other type of landscaping at the entrance, i.e. lower plantings or flowers. Mr. Green said he would be happy to work with

the developer on this issue.

-5-

Mr. Jerry Sternberg gave a brief history of the problems he encountered when he was trying to get his building permit and the series of inspections he had to obtain. He feels that he is entitled to a Certificate of Occupancy now without having to plant any additional trees or submit a revised, as-built, site plan. He said having to submit a revised, as-built, site plan would cost him an additional \$1,500 for an engineer, surveyor and architect and he felt the need for such a site plan was unnecessary. He asked the Council to either issue him a Certificate of Occupancy for his building or he intended to move his tenant out (ITCO Tire Co.) and demolish the building. He said that his estimate to demolish the building and remove the concrete slab would run approximately \$250,000-\$300,000.

Upon inquiry of Vice-Mayor Ellison on why the developer did not follow the original site plan approved, Mr. Sternberg stated that at the time the building was being built, they did not know who the tenant would be. Therefore, minor changes were made - without obtaining prior approval. He did state, however, that they followed the original plans for the entire building and structure, but not the landscape plan and the moving of the parking lot.

Mr. Ben Slosman, developer, spoke in favor of the City issuing Mr. Sternberg a Certificate of Occupancy. He felt the building was over-inspected and the trees already planted were a hazard for tractors and trailers coming in and out from the road and felt no more trees were needed in that area. Mr. Slosman felt that the City should have a better attitude and use common sense in dealing with developers and not make building in the City such a hostile affair.

Upon inquiry of Councilwoman Field, Mr. Sternberg stated that the estimate he obtained to demolish his building was reached by spending \$39.00 a ton to dump in the Buncombe County landfill.

Councilwoman Field asked if the Planning Department would accept a marked-up copy of the already approved site plan as the revised, as-built, site plan. Mr. Green stated that they would, but it would have to be verified on the site to make sure everything was accurate. Councilwoman Field offered her services, free of charge, to Mr. Sternberg to redraw the minor changes.

Ms. Leni Sitnick, member of the Tree/Greenway Commission, stated that if Council compromises on leaving six trees off on various projects, Asheville will not be Cool and Green Asheville any longer. She did state, -6-

however, that the location of the project (on the river) is a very important factor, especially when Asheville is trying to improve the appearance of the riverfront. She stressed the Council to use the expertise of the members of the Tree/Greenway Commission. She presented each Council member with a book entitled "Green City Program."

Mr. Jim Hughes, tenant of 274 Riverside Drive, spoke about the appearance of the building and how it enhanced the whole area. He spoke in favor of the City issuing Mr. Sternberg a Certificate of Occupancy and stated that they have been regulated to death.

Mr. Ralph Bishop hoped that the City would stop hassling Mr. Sternberg and start doing something about Mr. J. D. Plemmons, who he alleges has been running a gambling joint at 704 Riverside Drive for 20 years.

Mayor Michalove closed the public hearing at 5:25 p.m.

Councilman Swicegood moved to grant a variance for allowing the reduced number of trees (addition of no more trees). This motion was seconded by Councilman Worley and carried on a 5-2 vote, with Councilman Moore and Councilwoman Field voting "no".

Vice-Mayor Ellison moved to accept the other three recommendations from the Planning and Zoning Commission:

1. The amendments to the site plan which can be approved by the Planning Director (change in location of parking area) be approved;
2. A revised, as-built site plan, showing all modifications to the approved plan, be submitted to the Planning Department;
3. The contingency regarding the width of the driveway be removed.

This motion was seconded by Councilman Worley and carried unanimously.

Vice-Mayor Ellison weighed both sides of the issue and reached a decision that he voted for the no more trees, because it didn't make sense to vote against it.

Councilman Worley hoped that the unified development ordinance will make it easier for developers to comply with the laws and hoped that the City would encourage development in the City.

-7-

Councilman Peterson stressed the need to streamline government to make it would more efficiently.

Councilman Swicegood thanked Mr. Sternberg for building in the City.

Mayor Michalove stated that the City Council will have to find a way to simplify the process for developers trying to build in the City.

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. RECEIPT OF PETITION AGAINST WESTRIDGE MARKET PLACE PROPERTY SATELLITE ANNEXATION

Mayor Michalove asked that City staff investigate the satellite annexation request of Westridge Market Place property for the purpose of building an ABC Store and report back to the City Council. He stated that the action to be taken today is solely for the purpose of directing the City Clerk to investigate a petition received to annex the property.

City Attorney Slawter said that at the next meeting the City Clerk will certify the sufficiency of the petition, if appropriate, and a public hearing date will then be set.

A petition was presented to the Mayor with 1,501 names on it opposing "the satellite annexation of property adjoining (sic) Asbury Road at West Ridge Marketplace for the purpose of building and operating an ABC outlet in the Enka-Candler area. We also oppose the construction and operation of an ABC outlet anywhere outside Asheville City Limits and any satellite annexation thereof." The petition is not reproduced herein, but is kept on file in the City Clerk's Office and is incorporated herein as if set forth herein.

Councilman Worley stressed that the City is not seeking this annexation, the property owner is asking to be annexed.

B. ORDINANCE NO. 1979 - BUDGET AMENDMENT TO APPROPRIATE ADDITIONAL FUNDS TO UPGRADE LIGHTS AT BULLMAN PARK BALLFIELDS

City Manager Bean said this CIP project has been budgeted for the past two years, however, we were held up on this project because of the question as to whether or not an electrical engineer would be required to prepare the plans for this renovation or whether this could be done by in- -8-

house staff. After the determination was made that an electrical engineer would be required, additional time was necessary to prepare, advertise, accept, and approve the contract to employ an electrical engineer for this project. Also during this time, additional renovations were discovered as being necessary to complete this project, therefore, the total cost of this project is approximately \$20,000 more than had been anticipated. Fortunately, the cost for the construction of new toilet facilities at Shiloh ballfield was less than anticipated, therefore, most of the additional funds will be secured from this account. When this project is completed, this will provide the complete new lighting system for Bullman Park in East Asheville with underground wiring, metal halide fixtures and new switching devices which were necessary because of public safety.

Mayor Michalove said members of Council have been furnished with copies of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 1979. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 1979 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 106

V. CONSENT:

A. RESOLUTION NO. 92-92 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE A MODIFIED GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION - PROJECT NO. 9-9584894

Summary: This resolution will modify the amount of the State grant for Phase II Baggage Claim/Rental Car/Second Floor Administrative Office Addition at the Asheville Regional Airport from \$701,967 to \$1,001,967 and extend the time of completion of the State grant from January 1, 1993, to January 1, 1994.

RESOLUTION BOOK NO. 19 AT PAGE 219

B. RESOLUTION NO. 92-93 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE IMPROVEMENTS OF NC 63 (LEICESTER HIGHWAY) FROM THE ASHEVILLE CITY LIMITS TO SR 1004 (NEWFOUND ROAD) IN GEORGETOWN

-9-

Summary: The North Carolina Department of Transportation (NC DOT) has prepared and adopted plans to make certain street and highway constructions and improvements within the City under Project U-2000, for the relocation and adjustment of NC 63 (Leicester Highway) from the Asheville city limits to SR 1004 (Newfound Road) in Georgetown. NC DOT's construction contractor will

perform the utility work and the City will give full reimbursement for the costs.

RESOLUTION BOOK NO. 19 - PAGE 221

C. RESOLUTION NO. 92-94 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE TITLE VI STANDARD ASSURANCES AS REQUIRED BY THE FEDERAL TRANSIT ADMINISTRATION

Summary: The City of Asheville must assure the Federal Transit Administration that it will comply with the Title VI Civil Rights Act of 1964 and not discriminate against minority communities on the level and quality of transportation services and transit related benefits provided. The City assures that it will provide the appropriate language in all solicitations for work, bid specifications, leases, and contracts that will allow minority business enterprises full opportunity to submit bids for work and will not discriminate based on race, color and national origin.

RESOLUTION BOOK NO. 19 - PAGE 222

D. RESOLUTION NO. 92-95 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MEMORANDUM OF UNDERSTANDING FOR CONTINUING, COOPERATIVE AND COMPREHENSIVE TRANSPORTATION PLANNING

Summary: The Memorandum of Understanding is an agreement between the units of local government and the State which sets forth the responsibilities and working arrangements for maintaining a comprehensive transportation planning process. The Memorandum is required by the Federal Highways Administration as the agreement that creates the Metropolitan Planning Organization.

RESOLUTION BOOK NO. 19 - PAGE 223

E. RESOLUTION NO. 92-96 - RESOLUTION AUTHORIZING THE SALE OF A USED VEHICLE TO THE COUNTY OF BUNCOMBE

Summary: The City presently owns a 1986 Ford pickup truck which has been previously used by the City's animal control officers, and the County of Buncombe has need of this vehicle.

-10-

RESOLUTION BOOK NO. 19 - PAGE 224

F. RESOLUTION NO. 92-97 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO ENTER INTO A CONTRACT WITH HAYNES ELECTRIC UTILITY CORPORATION FOR UPGRADE OF BALLFIELD LIGHTS AT BULLMAN PARK

Summary: The bids for upgrading the lights at Bullman

Park Ballfield were higher than anticipated because of the need to employ an electrical engineer for design purposes and because of the need to replace more of the existing system than was at first anticipated. However, this will complete this project and change the three ballfields at this site from incandescent lighting system to metal halide fixtures which will give more light while reducing the operating costs.

RESOLUTION BOOK NO. 19 - PAGE 225

G. RESOLUTION NO. 92-98 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A NONCONTIGUOUS AREA ON U.S. 19-23 KNOWN AS THE WESTRIDGE MARKET PLACE PROPERTY

Summary: The City of Asheville has received a petition from owners of Westridge Market Place Associates requesting annexation of a noncontiguous area known as Westridge Market Place on U.S. Highway 19-23.

RESOLUTION BOOK NO. 19 - PAGE 226

H. MOTION SETTING A PUBLIC HEARING ON AUGUST 25, 1992, RELATIVE TO A PARTIAL REZONING OF 8 CLAIRMONT AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT, EXCEPT FOR A 10 FOOT STRIP TO REMAIN R-3 RESIDENTIAL DISTRICT WHICH STRIP RUNS PARALLEL WITH THE SOUTHERN PROPERTY LINE OF THE LOT.

I. MOTION SETTING A PUBLIC HEARING ON JULY 28, 1992, RELATIVE TO REZONING PROPERTIES ON REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT.

J. BIDS RELATIVE TO NEW WATER METERS

Summary: Award of contract to purchase 6,240 each 5/8 inch water meters at \$20.43 each with trade-in allowance for 6,240 each old 5/8 inch water meters at (\$4.00) each and to purchase 200 each one-inch water meters at \$53.00 each with

-11-
trade-in allowance for 200 each old 5/8 inch water meters at (\$9.00) each to low bidder, Schlumberger Industries Inc., Atlanta, Georgia, in the net amount of \$111,323.20. A copy of the complete bid summary is attached hereto as Exhibit "A".

Upon motion of Vice-Mayor Ellison, seconded by Councilwoman Field, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

A. REQUEST FOR SIDEWALKS ON HENDERSONVILLE ROAD

City Manager Bean stated that the City had received a request for the City Council to ask the North Carolina Department of Transportation to install sidewalks on a specific portion of the Hendersonville Road Project. He stated that it would cost the City approximately \$180,000 to install the new sidewalks. He said that a municipal agreement would have to be signed and the City would be responsible for the full cost. He did state, however, that the City could make a special plea to the Highway Commissioner to see if they have any additional State funds, that would be over and above normal appropriations for this project, that could be used to install new sidewalks.

Upon the consensus of Council, the Mayor was authorized to make contact to the State and ask if they have any discretionary money to be used for the new sidewalks. He was also asked to work with Councilwoman Field since she is on a task force that deals with this type of matter.

B. CITY COUNCIL MEETINGS

Mayor Michalove announced that beginning July 28, 1992, the City Council meetings would be held in the City Hall Building, 2nd Floor, Council Chamber.

C. ASHEVILLE TRANSIT AUTHORITY BUS SHELTERS

Mayor Michalove thanked Councilman Peterson for the work he has done with the Asheville Transit Authority on the bus shelter issue.

D. WESTRIDGE MARKET PLACE SATELLITE ANNEXATION

Mr. W. V. Henry, 98 Starnes Cove Road, spoke against the Westridge Market Place satellite annexation for an ABC outlet.

-12-

E. LENI SITNICK COMMENTS

Ms. Leni Sitnick asked the City Council to consider appointing Jane Gianvito Mathews to the Planning and Zoning Commission.

She also asked the City Council to utilize the Tree/Greenway Commission to its advantage.

She questioned why the trees were not planted in front of the stamp and sign shop on Biltmore Avenue. Assistant City Manager Charles Penny stated that the sidewalks in that area are only temporary and when the permanent sidewalks are installed, the trees would be planted.

F. WAYNE WARREN - RETIRED POLICE OFFICER

Mr. Wayne Warren, retired police officer, asked the City Council to adopt a resolution to end the practice of taking the State pay raise out of the City's check.

Mayor Michalove instructed the City Manager to prepare a report for Council's review including the number of officers involved and the amount of money involved.

G. RALPH BISHOP

Mr. Ralph Bishop agreed that City government needs to be streamlined and asked that the City Council investigate the gambling operations taking place by Mr. J D. Plemmons at 704 Riverside Drive.

H. CLAIMS

City Manager Bean said that the City of Asheville received the following claim for the week of June 22 - June 26, 1992: Linda McGowan (Streets).

He also said that the City received the following claims for the week of June 29 - July 3, 1992: Bill Chase (Water); Young's Sheet Metal (Water); and Elaine Collins (Water).

He said that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:15 p.m.

CITY CLERK MAYOR
