

Tuesday - September 15, 1992 - 4:00 p.m.

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; Assistant City Manager Charles W. Penny; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: City Manager Douglas O. Bean

INVOCATION

Councilman Moore gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the September 1, 1992, and September 8, 1992, City Council minutes as submitted.

I. NEW BUSINESS:

A. REPORT FROM ELIZABETH TAYLOR, BUNCOMBE COUNTY TAX COLLECTOR

Ms. Elizabeth C. Taylor, Tax Collector, summarized the final settlement statement of taxes for August, 1992. She reviewed the following figures:

Collections for August 1992 Uncollected

1983-89 \$ 71,006.81 3,010,304.57 99.13%

1990 93,103.99 1,895,649.69 97.29%

1991 267,458.84 3,299,192.83 95.49%

The above figures reflect gross collections for the month of August 1992.

1992

Levy \$67,655,526.19

Coll: 7,504.34 .01%

County 5,559.18

Asheville 1,945.16

Woodfin -0-

UnColl: 67,648,021.85 99.99%

The percentage collected last year as of August 31, 1991 - .59%

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The percentage collected this year as of September 15, 1992 - 2.98%

Ms. Taylor stated that once House Bill 20 goes into effect, it will improve

collections on personal property (i.e., some type of procedure letting the license tag office know that the person had not paid their property taxes and a tag for their automobile will not be issued). She said that if the County will fund a computer and one more person, they would be able to have a station at the license tag office allowing people to pay their taxes on the spot, thus allowing them to renew their license.

Upon inquiry of Councilman Swicegood, Ms. Taylor stated that the Pack Plaza taxes for 1990 and 1991 are still under appeal in the Courts and have not been paid.

In response to Councilman Peterson, Ms. Taylor felt that a larger facility with a drive-up window would help collections.

Mayor Michalove asked that Ms. Taylor provide him with information relative to space requirements and he would send a letter to the County Commissioners and suggest the larger facilities, if it would be financially feasible.

Vice-Mayor Moore and Councilman Worley suggested the use of the City Works page as a means for notifying the public about the importance of paying property taxes, the methods you can pay and ways to avoid late fees. They suggested Ms. Taylor provide City staff with some information on this issue so that it can be inserted in the City Works.

B. FINAL PLAT APPROVAL OF HEATH RIDGE ACRES SUBDIVISION POSTPONED AT THE REQUEST OF PLANNING STAFF

II. PROCLAMATIONS:

A. PROCLAMATION ANNOUNCING THE TENTH ANNIVERSARY KICKOFF CELEBRATION OF MAGIC COMMUNITY GARDENS

Mayor Michalove announced the Tenth Anniversary Kickoff Celebration of MAGIC Community Gardens on Friday, September 25, 1992, at 7:30 p.m. at Jubilee! on Wall Street. He presented the proclamation to Ms. Barbara Hightower, Development Coordinator, who spoke about some activities that will be taking place.

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III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1980, AN ORDINANCE AMENDING ZONING OF FIVE PROPERTIES LOCATED ON REED STREET

Mayor Michalove stated that this ordinance passed on its first reading on July 28, 1992, and on its second reading on August 25, 1992.

On a roll call vote of 5-2, with Councilman Moore and Councilwoman Field voting "no", Ordinance No. 1980 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 108

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO THE DEMOLITION OF 37 ADAMS STREET

ORDINANCE NO. 1988 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH AND REMOVE THE DWELLING KNOWN AS 37 ADAMS STREET, ASHEVILLE, NORTH CAROLINA

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

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

Assistant Director of Inspections Jeff Trantham stated that on March 22, 1990, the Inspections Division inspected 37 Adams Street and found it was unfit for human habitation. Inspections revealed that part of the roof had collapsed and was damaged by fire; that part of the floor system had collapsed; and that the structure was dangerous to enter. A hearing was held on July 31, 1991, and the owner was later ordered to demolish. The owner has failed to take any action. The current value of the house is \$10,800 and the land is valued at \$3,600. The estimated cost to tear the house down is \$2,500-\$3,500, depending if asbestos is found.

Mr. Trantham showed a short video showing the state of the house and stated that Habitat for Humanity is not interested in rehabilitation of the house. The Inspections Division has not yet heard from Mountain Neighborhood Housing and would suggest postponing the final reading of the ordinance until September 29 giving Mountain Neighborhood Housing an opportunity to respond.

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Upon inquiry of Councilman Swicegood, there was some discussion as to the length of time a house is first condemned to the actual demolition of the house.

Mayor Michalove closed the public hearing at 4:33 p.m.

Mayor Michalove stated that members of Council had been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 1988 with the understanding that as soon as demolition occurs, the City immediately start the process which would enable it to be reimbursed back for the cost of demolition. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1988 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 1988. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1988 passed on its second reading.

B. PUBLIC HEARING RELATIVE TO CHANGING A STREET NAME IN OAKWOOD SUBDIVISION FROM HAPPY ROAD TO HOMEWOOD DRIVE

RESOLUTION NO. 92-125 - RESOLUTION CHANGING THE NAME OF HAPPY ROAD TO HOMEWOOD DRIVE

Mayor Michalove opened the public hearing at 4:37 p.m.

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

Ms. Mary Weber, Urban Planner, stated that on September 1, 1992, the City Council approved the final plat of Oakwood Subdivision. A request has been made to change the name of the street from Happy Road to Homewood Drive. Although Happy Road has never been used as an address, it appears on the final plat of

the existing homes and must be formally changed in order to meet the requirements of the Asheville Subdivision Regulations.

Mayor Michalove closed the public hearing at 4:38 p.m.

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Mayor Michalove stated that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman Worley moved for the adoption of Resolution No. 92-125. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 267

C. PUBLIC HEARING RELATIVE TO ASSIGNING ZONING CLASSIFICATIONS TO THE NEW HAW CREEK II ANNEXATION AREA

ORDINANCE NO. 1989 - AN ORDINANCE PROVIDING FOR THE ZONING FOR THE HAW CREEK II ANNEXATION AREA

Mayor Michalove opened the public hearing at 4:39 p.m.

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

Mr. Verl Emrick, Executive Assistant in the Planning Department, stated that on June 30, 1992, the annexation of the Haw Creek II area became effective. The North Carolina General Statutes specifies that when a municipality completes its annexation process, if it has a zoning ordinance in effect, the annexed area must also be zoned.

He said that at its regular meeting on August 5, 1992, the Planning and Zoning Commission voted to recommend that the Haw Creek area be zoned. The specific recommendations were to assign a combination of R-1 and R-2 Residential Districts in the area. The Planning and Zoning Commission's recommendations included both initial zoning of property in the annexed area as well as rezoning of property which was included in the original extraterritorial jurisdiction area in the Haw Creek Valley.

Mayor Michalove closed the public hearing at 4:48 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 1989. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1989 passed on its first reading.

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Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1989. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1989 passed on its second reading.

D. PUBLIC HEARING RELATIVE TO (A) EXPANSION OF EXTRATERRITORIAL JURISDICTION (ETJ) IN THE HAW CREEK AREA AND (B) ASSIGNING ZONING CLASSIFICATIONS TO THE

EXPANDED ETJ

ORDINANCE NO. 1990 - ORDINANCE AMENDING SECTION 30-1-3 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (TERRITORIAL AND EXTRATERRITORIAL JURISDICTION OF ZONING ORDINANCE)

Mayor Michalove opened the public hearing at 4:50 p.m.

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

Mr. Verl Emrick, Executive Assistant in the Planning Department, said that with the annexation of the Haw Creek II area, the City's zoning jurisdiction in the Haw Creek Valley encompassed approximately 90% of the valley region. Following the Planning and Zoning Commission's direction and at the request of valley residents, staff studied the possibility of expanding the ETJ. This study resulted in a recommendation to expand the ETJ into the upper region of the valley and to the slopes bordering the valley.

At its regular meeting on August 5, 1992, the Planning and Zoning Commission recommended that the City Council expand the ETJ and to assign a combination of R-1 and R-2 Residential Districts.

There was some discussion relative to whether the Ridge Law would apply and Mr. Emrick offered to prepare a report regarding this issue which would be sent to Council prior to the third reading of this ordinance.

Mayor Michalove closed the public hearing at 4:51 p.m.

Mayor Michalove said members of Council have been previously furnished with a copy of this ordinance and it would not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1990. This motion was seconded by Councilman Worley.

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On a roll call vote of 7-0, Ordinance No. 1990 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1990. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1990 passed on its second reading.

E. PUBLIC HEARING RELATIVE TO THE FILING OF A GRANT APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR FISCAL YEAR 1993 TRANSIT OPERATING ASSISTANCE

RESOLUTION NO. 92-126 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

Mayor Michalove opened the public hearing at 4:52 p.m.

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

Mr. Carl Ownbey, Planner, stated that each year the City of Asheville applies to the Federal Transit Administration for Section 9 Operating Assistance funds

to aid in the operations of the Asheville Transit Authority.

Mayor Michalove closed the public hearing at 4:55 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-126. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 268

V. CONSENT:

NOTE OF ITEM DELETED - THE MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 29, 1992, REGARDING MANUFACTURED HOUSING POLICY FOR THE UNIFIED DEVELOPMENT ORDINANCE WAS DELETED

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A. MOTION SETTING PUBLIC HEARING ON SEPTEMBER 29, 1992, RELATIVE TO PROPOSED CHANGES IN DUPLICATE STREET NAMES

B. MOTION SETTING PUBLIC HEARING ON SEPTEMBER 29, 1992, RELATIVE TO REZONING OF 1221 SWEETEN CREEK ROAD FROM CS COMMERCIAL SERVICE DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

C. RESOLUTION NO. 92-127 - RESOLUTION OF INTENT TO AUTHORIZE THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO DEAD END MOUNT CLARE AT ITS INTERSECTION WITH BROADWAY AND CALLING A PUBLIC HEARING ON THE QUESTION FOR OCTOBER 13, 1992

RESOLUTION BOOK NO. 19 - PAGE 270

D. RESOLUTION NO. 92-128 - RESOLUTION OF INTENT TO CLOSE A PORTION OF ST. PAUL STREET BETWEEN SUMMIT STREET AND HENDERSONVILLE ROAD AND CALLING A PUBLIC HEARING ON THE QUESTION FOR OCTOBER 13, 1992

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E. RESOLUTION NO. 92-129 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE ADDENDUM NO. 4 AND ANY SUBSEQUENT ADDENDA TO THE CONTRACT WITH VAUGHN & MELTON FOR ENGINEERING SERVICES FOR STREET AND SIDEWALK IMPROVEMENT AND REHABILITATION PROJECTS

Summary: During the course of Contract No. 7, several items were added to the contract but the situation which impacted Contract No. 7 the most was the construction of the storm sewer on Merrimon Avenue. Once the sidewalk had been removed and the construction begun, several obstructions were discovered that were not on any maps and, therefore, could not be accounted for in the design. The subsequent redesign and difficulty in installation extended the contract past its completion date which required additional engineering services that had not been accounted for in the initial proposal. In addition, geotechnical services for the changes had to be increased in order to assure quality construction.

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Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

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VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Ms. Mary Weber, Urban Planner, 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. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following actions were taken by the Planning and Zoning Commission on September 2, 1992:

MULBERRY HILL MOBILE HOME PARK

Ms. Weber said the group development request is for a mobile home park consisting of 48 homes on 529 North Louisiana Avenue. The site is 9 acres in area on gently sloping terrain. There is an existing single-family home on the site which will remain. The project is located in the R-5 Residential Zoning District and all adjacent properties are also in the R-5 District.

The site will be accessed through a new driveway off of North Louisiana. There will be a 20 ft. buffer around the perimeter of the site. The existing trees on the east and south sides of the property will be preserved, in addition to several other trees on the site.

Water and storm sewer services are available to the site, as well as adequate water flow and pressure for fire protection. The Metropolitan Sewerage District has not yet granted wastewater allocation because they are concerned about the quality of the downstream line. MSD is in the process of inspecting the line to assess its condition. So far, the line appears to be in better condition than previously thought. The developer is willing to share the cost of repairing the line if necessary.

At their September 2, 1992 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the project with one condition - MSD must certify that the downstream line will be able to handle the increased wastewater and agree to allow the project to connect onto the MSD system.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

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BILTMORE BUSINESS CENTER

Ms. Weber said the group development request is for a 34,730 square foot office/warehouse located on 125 Fairview Road. The site is three acres in area and is flat with a steep slope to the east. The project is located adjacent to the Slosman Corporation and is currently used for truck parking. The project is located in the Heavy Industrial Zoning District. The adjacent properties to the north, south, and west are also within the Heavy Industrial Zoning District and the properties to the east are located in the Residential-3 Medium Density Zoning District.

Access to the site will be through two existing driveways. All utilities are available for the project and there will be adequate fire protection. The site plan complies with all requirements of the Asheville Zoning Ordinance. The

Asheville Planning and Zoning Commission recommended approval of the project at their September 2, 1992 meeting.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

U.S. CELLULAR

Ms. Weber said Azalea Development Company is proposing the construction of a building to be used for retail sales by U. S. Cellular Corporation. The 6,800 sq. ft. building will be located on the same lot as the Turtle Creek Shopping Center on Hendersonville Road. Parking for U. S. Cellular will be accommodated through a shared parking agreement with the Rock of Asheville Church, which is located within the shopping center. The site is contained within the Commercial Highway Zoning District and is adjacent to lots zoned Commercial Highway and R-2 Residential.

In addition, all utilities and adequate fire protection are available for the project. At their September 2, 1992 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

GENERAL MEDICAL CORPORATION

Ms. Weber said Benson Slosman is requesting approval of the site plan for a 35,000 square foot industrial building -11-

and related parking. The building will be located off Interstate Road in a small industrial park located west of Brevard Road. The project site is approximately 2.9 acres and has been graded. All utility services are available at the site and are adequate to meet the needs of the proposed development. Fire protection will be provided by the Enka-Candler Volunteer Fire Department.

After reviewing the plans, the Planning and Zoning Commission voted 6-0 to approve the project with two conditions:

1. Receipt of a driveway permit from NCDOT required; and
2. The developer must obtain an easement agreement to permit the sewer line to cross property owned by Carolina Tractor Company. As of this date, this easement has been obtained.

There was no public opposition to the project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. RESOLUTION NO. 92-130 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, 3-37-0005-15

Assistant City Manager Penny said that this grant agreement is in the amount of \$1,327,688. He said the FAA has approved a project consisting of (1) FAR Part 107 Security Measures; (2) Construct Runway 34 ERSA - Phase I; and (3) Rehabilitate A.R.F.F. vehicle.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it will not be read.

Councilman Moore moved for the adoption of Resolution no. 92-130. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

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C. CLAIMS

Assistant City Manager Penny said the following claims were received by the City during the week of August 31 - -12-

September 4, 1992: Vonda Reid (Water); Kathryn C. Penland (Water); Lottie Murawski (Streets); and Rosalie Davison (Inspections).

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

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:05 p.m.

CITY CLERK MAYOR
