

Tuesday - November 3, 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; 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 October 20, 1992, City Council minutes as submitted.

At this time, Vice-Mayor Ellison left the meeting unexcused. Mayor Michalove stated that all Vice-Mayor Ellison's votes will be in the affirmative.

I. PROCLAMATION:

A. CERTIFICATE FOR FORMER CITY MANAGER INTERN JOHN WITHERSPOON

City Manager Bean presented John Witherspoon with a certificate in appreciation for his work as City Manager Intern.

B. RECOGNITION OF MAKOTO HASEGAWA

Mayor Michalove recognized Makoto Hasegawa, Japanese intern from Shimizu City, Japan, and presented him some gifts. Mr. Hasegawa said how pleased he was to be in the United States and especially in Asheville, North Carolina.

C. PROCLAMATION PROCLAIMING NOVEMBER 8-14, 1992, AS "VOICE OF DEMOCRACY WEEK"

Mayor Michalove proclaimed the week of November 8-14, 1992, as "Voice of Democracy Week" in the City of Asheville.

D. PROCLAMATION PROCLAIMING THE WEEK OF NOVEMBER 1, 1992, AS "NATIONAL MEDICAL STAFF SERVICES AWARENESS WEEK"

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Mayor Michalove proclaimed the week of November 1, 1992, as "National Medical Staff Services Awareness Week" in the City of Asheville. He presented the proclamation to Ms. Marcia Amos, from St. Joseph's Hospital, who spoke about the importance of medical staff services.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CHANGING "McINTOSH ROAD" TO "KEENAN DRIVE" AT THE REQUEST OF RESIDENTS ON McINTOSH ROAD

RESOLUTION NO. 92-153 - RESOLUTION CHANGING THE NAME OF McINTOSH ROAD TO KEENAN DRIVE

Mayor Michalove opened the public hearing at 4:24 p.m.

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

Fire Chief John Rukavina said that Mary Ann Noblett and Mr. and Mrs. Joseph M. Hyatt are the only two residences on McIntosh Road. They have requested that the name of their street be changed to Keenan Drive. This change would reduce mail delivery confusion and potential emergency response confusion because there is another street in Buncombe County called McIntosh Road. Buncombe County representatives have confirmed that Keenan Drive will not duplicate another street name elsewhere in Buncombe County.

Ms. Noblett urged the Council to change the name which should help expedite mail delivery.

Mayor Michalove closed the public hearing at 4:27 p.m.

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

Councilman Worley moved for the adoption of Resolution No. 92-153. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 311

B. PUBLIC HEARING RELATIVE TO REZONING OF 16 SEPARATE PARCELS LOCATED ON GASHES CREEK ROAD FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

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ORDINANCE NO. 1996 - ORDINANCE AMENDING ZONING OF SIXTEEN SEPARATE PARCELS (OR PORTIONS OF A LOT) ON GASHES CREEK ROAD

Mayor Michalove opened the public hearing at 4:29 p.m.

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

Ms. Carol Alberice, Urban Planner II, said that on September 2, 1992, the Asheville Planning and Zoning

Commission heard a request to consider the rezoning of three individual properties on Gashes Creek Road from R-2 to an OI zoning classification. The Planning staff recommendation was approval based on the 2010 Asheville City Plan. During the public hearing it became apparent to the Commission that a larger area should be considered for the change to OI zoning. The item was tabled until October.

She said that a neighborhood public hearing was held at the Gashes Creek Baptist Church on September 16, 1992. A presentation was presented by the Planning staff and comments were taken from those affected by the proposed rezoning change.

She said that at the October 8, 1992, Planning and Zoning meeting, the enlarged request was approved unanimously with no public opposition.

Mr. Brad Galbraith, real estate agent representing the petitioners who originally requested the rezoning of three individual properties, spoke in favor of the rezoning. He asked if the Council could possibly adopt the

ordinance on all three readings today since everyone involved was in favor of the rezoning.

Mr. John Moore, representative of the Gashes Creek Baptist Church, commended the Planning staff on how they approached the community with the rezoning request. He spoke in favor of the rezoning.

Mayor Michalove closed the public hearing at 4:40 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 Worley moved for the adoption of the ordinance. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1996 passed on its first reading.

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Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 1996. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1996 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1996. This motion was seconded by Councilman Swicegood and carried on a 5-2 vote, with Mayor Michalove and Councilman Moore voting "no."

On a roll call vote of 7-0, Ordinance No. 1996 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 154

C. PUBLIC HEARING RELATIVE TO REZONING OF 4 PARCELS LOCATED ON CROWELL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

ORDINANCE NO. 1997 - ORDINANCE AMENDING ZONING OF FOUR LOTS LOCATED ON CROWELL ROAD

Mayor Michalove opened the public hearing at 4:42 p.m.

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

Ms. Carol Alberice said that on October 8, 1992, the Planning and Zoning Commission voted unanimously to rezone

four properties on the east side of Crowell Road from R-3 to CS and tabled consideration of another eight properties along the same street pending further research.

She said the 4 approved properties are flat to sloping in terrain and used currently as single family dwellings. The 2010 Asheville City Plan shows, in the northwest quadrant of the land use maps, this area as commercial with a commercial business center to be located at the intersection of 19/23 and I-40.

She said that 4 surrounding property owners spoke in opposition to the commercial rezoning at the Planning and Zoning meeting.

Mr. W. V. Henry, 98 Starnes Cove Road, spoke against the proposed rezoning.

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

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

Councilman Moore moved for the adoption of Ordinance No. 1997. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 1997 passed on its first reading.

D. PUBLIC HEARING RELATIVE TO ZONING OF 2323 HENDERSONVILLE ROAD

ORDINANCE NO. 1998 - ORDINANCE CREATING NEW ZONING FOR 2323 HENDERSONVILLE ROAD

Mayor Michalove opened the public hearing at 4:54 p.m.

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

Ms. Carol Alberice said that this is a recent satellite annexation (September 29, 1992) and currently not zoned. The past zoning was under Limestone Township and was of commercial nature. The Planning and Zoning Commission on October 8, 1992, reviewed and recommended CH Commercial Highway District for 2323 Hendersonville Road.

Mayor Michalove closed the public hearing at 4:56 p.m.

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

Councilman Moore moved for the adoption of Ordinance No. 1998. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 1998 passed on its first reading.

Councilman Swicegood moved to suspend the rules and proceed to the second reading of Ordinance No. 1998. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1998 passed on its second reading.

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E. PUBLIC HEARING RELATIVE TO THE PRELIMINARY ASSESSMENT ROLL ON THE WHITE PINE DRIVE SPECIAL ASSESSMENT PETITION

RESOLUTION NO. 92-154 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE WHITE PINE DRIVE PROJECT BEGINNING NEAR ITS INTERSECTION WITH BRACKETTOWN ROAD AND ENDING AT ITS INTERSECTION WITH U.S. HIGHWAY 70 (TUNNEL ROAD)

Mayor Michalove opened the public hearing at 4:57 p.m.

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

City Manager Bean said that this resolution would confirm the preliminary assessments made in the White Pine Drive Project. The total cost of the project, including labor, materials, equipment and the cost of publication of notice is \$46,123.50. The amount assessed and which will be paid by R. L. Coleman and Company is \$16,704.00.

Councilman Swicegood questioned whether the improvements made would help the traffic flow in that area.

Mayor Michalove closed the public hearing at 4:59 p.m.

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

Councilman Moore moved for the adoption of Resolution No. 92-154 on November 3, 1992, at 4:59 p.m. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 213

F. PUBLIC HEARING RELATIVE TO A BOND ORDER AUTHORIZING THE ISSUANCE OF \$3,250,000 STREETS AND SIDEWALKS REFUNDING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 5:00 p.m.

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

City Manager Bean said that Council adopted a resolution authorizing publication of Notice of Intent to Apply to Local Government Commission (LGC) for approval of -7-

Refunding Bonds on September 29, 1992. Notice was published on October 2, 1992, and application to LGC was made on October 8, 1992. Bond Orders were introduced on October 20, 1992, and this public hearing was set for today. A sworn statement of debt was filed with the City Clerk on October 14, 1992.

Mayor Michalove closed the public hearing at 5:02 p.m.

Councilman Moore moved for the adoption of the Bond Order authorizing the issuance of \$3,250,000 Streets and Sidewalks Refunding Bonds of the City of Asheville, North Carolina.

F. PUBLIC HEARING RELATIVE TO A BOND ORDER AUTHORIZING THE ISSUANCE OF \$10,250,000 PUBLIC IMPROVEMENT REFUNDING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

RESOLUTION NO. 92-155 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF \$13,500,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 1992 OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 5:03 p.m.

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

City Manager Bean said that Council adopted a resolution authorizing publication of Notice of Intent to Apply to Local Government Commission (LGC) for approval of Refunding Bonds on September 29, 1992. Notice was published on

October 2, 1992, and application to LGC was made on October 8, 1992. Bond Orders were introduced on October 20, 1992, and this public hearing was set for today. A sworn statement of debt was filed with the City Clerk on October 14, 1992.

Mayor Michalove closed the public hearing at 5:04 p.m.

Councilman Moore moved for the adoption of the Bond Order authorizing the issuance of \$10,250,000 Public Improvement Refunding Bonds of the City of Asheville, North Carolina.

Councilman Moore moved for the adoption of Resolution No. 92-155 which establishes the details of the Bonds and approves an Escrow Agreement. This motion was seconded by Councilman Worley and carried unanimously.

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RESOLUTION BOOK NO. 19 - PAGE 314

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1991, AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 19-23 (KNOWN AS A PORTION OF WESTRIDGE MARKET PLACE ASSOCIATES, INC., PROPERTY)

Mayor Michalove said that the public hearing on this matter was opened on August 11, 1992, and continued until September 29, 1992. This ordinance passed on its first and second reading on September 29, 1992.

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

On a roll call vote of 6-1 (with Councilman Peterson voting "no"), Ordinance No. 1991 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 143

IV. NEW BUSINESS:

A. ORDINANCE NO. 1999 - ORDINANCE AMENDING ORDINANCE NO. 1855, AS PREVIOUSLY AMENDED (ORDINANCE FOR THE LEVY AND COLLECTION OF BUSINESS LICENSE TAXES)

City Manager Bean stated that Chapter 955 of the 1991 Session Laws made changes in the authority for local franchise taxes for dry cleaners and laundries. This ordinance amends the City's privilege license in accordance with those changes.

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

Councilman Worley moved for the adoption of the ordinance. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1999 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1999. This motion was seconded by Councilman Worley and carried unanimously.

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On a roll call vote of 7-0, Ordinance No. 1999 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1999. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1999 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 160

B. RESOLUTION NO. 92-156 - RESOLUTION TO AUTHORIZE SUBMISSION OF AN APPLICATION TO THE STATE OF NORTH CAROLINA FOR FUNDS TO REHAB OAK KNOLL APARTMENTS

Mr. Marvin Vierra, Community Development Director, said that the owner of Oak Knoll Apartments has requested the City apply to the State for funds through the HOME Program to be used for rehabilitation of the Oak Knoll Apartments. The funds received by the City would be loaned to the owner for rehab of the 180 units with requirements that the rents be affordable to low income persons and the units meet HUD housing quality standards. The total project cost is \$1,073,428, \$547,170 to be paid for by the owner.

Mr. Larry Fisher, Finance Director, stated that he had been provided three years of audited financial statements of Oak Knoll Apartments, proforma statements for future years, and has contacted bankers and he was satisfied with the credit worthiness of the principal.

Upon inquiry of Councilman Swicegood about the poor condition of the apartments, Mr. Glynn G. Nalls, Vice-President of Operations for MBG Management, Inc., stated that the apartments were built in 1984 and physical repairs are common in apartment complexes after 6 or 7 years.

There was discussion relative to the number of units that were Section 8 units and non-assisted units.

Mr. Nalls stated that the owner, Rick Marshall, will be spending \$547,170 for the rehab of the apartments and the \$526,258 HOME loan request is for weatherization of the apartments, i.e. installation of vinyl siding, window replacement, patio doors, entrance doors, storm doors and shutters. He said that regardless of the HOME loan, Mr. Marshall intended to continue with his part of the rehab of the apartments. He said that HUD only allows Mr. Marshall -10-

to make \$22,600 a year in the apartments, regardless of profits made.

There was discussion relative to the financial status of the owner.

Mr. James A. Barrett, Attorney for Pisgah Legal Services, urged the Council to support the loan application. He said, among other things, that the developer proposes to pay the City 3% interest and pay back the amount to the City. He said the funds can then be used over and over again for affordable housing purposes.

Ms. Christine Fountain, President of the Tenants' Association, spoke in favor of the loan application. She said the weatherization items will help make the apartments more energy efficient. She also hoped that there would be employment opportunities as a result of the rehab of the apartments.

Mr. Tony Sayer, Director of Affordable Housing Coalition, spoke in support of the loan application.

Councilman Moore moved for the adoption of Resolution No. 92-156. This motion was seconded by Councilman Worley and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no."

RESOLUTION BOOK NO. 19 AT PAGE 324

V. CONSENT AGENDA:

A. BIDS RELATIVE TO PARKING METERS FOR THE PARKING SERVICES DIVISION

Summary: Bids were invited to furnish a total of 325 new parking meters less trade-in for 313 surplus/junk parking meters for the Parking Services Division. Two bids were received and City staff recommends awarding the contract to the low bidder, POM Incorporated, Russellville, Arkansas in the net bid amount of \$59,711.30. See Exhibit "A" attached hereto for the complete bid summary .

B. RESOLUTION NO. 92-157 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE TECHNICAL SERVICES CONTRACT (#88-84) WITH THE LAND-OF-SKY REGIONAL COUNCIL

Summary: This amendment extends the existing agreement for Land-of-Sky Regional Council to continue providing certain transportation services.

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RESOLUTION BOOK NO. 19 AT PAGE 326

C. RESOLUTION NO. 92-158 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT FUNDS FROM THE NORTH CAROLINA ARTS COUNCIL AND, UPON APPROVAL, TO SIGN A GRANT AGREEMENT

Summary: This resolution will authorize the City Manager to sign an application for \$2,100 in grant funds from the North Carolina Arts Council for arts expansion in the Livingston Street neighborhood.

RESOLUTION BOOK NO. 19 AT PAGE 327

D. RESOLUTION NO. 29-159 - RESOLUTION CALLING FOR A PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL REGARDING THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY

Summary: This resolution will schedule the date for a public hearing to announce the completion of the preliminary assessment roll. The public hearing will be scheduled for November 17, 1992, at 4:00 p.m. in the Council Chamber on the Second Floor of the City Hall Building, at which time the Council will either adopt a resolution confirming the assessment roll or otherwise act on the preliminary assessment roll.

RESOLUTION BOOK NO. 19 AT PAGE 328

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

VI. OTHER BUSINESS:

A. RESOLUTION NO. 92-160 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Mr. John Dusenbury resigned as a regular member from the Board of Adjustment in June, 1992; Richard A. Bass resigned as a regular member from the Board of

Adjustment in October, 1992; the term of Barney Woodard as an alternate will expire January 21, 1993; and the term of Jeff Dave as a regular will expire January 21, 1993. This resolution will: (1) Appoint Kent Newell to fill the unexpired regular term of John Dusenbury, term to expire January 21, 1993, and then for a three year regular term, term to expire January 21, -12-

1996; (2) Appoint Patrick Ochsenreiter to fill the unexpired regular term of Richard A. Bass, term to expire January 21, 1994; (3) Appoint Jim Hunter (effective January 21, 1993) to fill a three year alternate term, term expiring January 21, 1996; and (4) Reappoint Jeff Dave as a regular member to an additional three year regular term, term to expire January 21, 1996. All terms are effective until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 160

B. CLAIMS

City Manager Bean said the following claim has been received by the City during the week of October 19-23, 1992: Julius J. Johnson (Police).

He stated that the followings claim have been received by the City during the week of October 26-30, 1992: Suzanne Saunders (Water); Southern Bell (Water); Carlina Hall (Inspections); and John Cram (Water).

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

VIII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:55 p.m.

CITY CLERK MAYORMEMORANDUM TO: Ken Michalove, Mayor, and Members of the Asheville City Council

FROM: Charles Penny, Assistant City Manager

DATE: November 13, 1992

SUBJECT: Timber Management Plan

The staff of the Water Department has prepared the Asheville Watershed Resource Management Plan and as a part of that plan is a section on timber management. The timber management plan calls for the cutting of timber in the watershed.

For many years the City of Asheville allowed contractors to harvest the timber with the City receiving monetary compensation for the wood from timbering. In 1988, the Water Authority approved a contract for some timbering on the watershed and the amount of revenues received from the project was about \$50,000 gross. According to the Water Agreement, revenues from timbering are to be returned to the City of Asheville.

According to the City Attorney Bill Slawter and the Water Authority attorney Phil Smith, the City Council retains the authority over the watershed, however, you may delegate the responsibility for making a decision on the timbering issue to the Water Authority. No formal action has ever been taken to provide that authority to the Water Authority.

Some limited harvesting of timber in the watershed would provide revenues to the City of Asheville. There are some techniques for harvesting timber which would not be characteritized as "clearcutting".

Although revenues can be realized from harvesting some of the timber, you must also be aware of the fact that some groups are opposed to any cutting of timber on the watershed. This is a very emotional and political issue.

Bill Slawter will be available to discuss the legal responsibilities as it pertains to the Water Agreement. We can also provide to you a copy of the draft copy of the Watershed Resource Management Plan.
