

Tuesday - February 16, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen 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: Councilman William G. Moore

INVOCATION

Councilman Peterson gave the invocation.

RECOGNITION

Mayor Michalove recognized 1st and 2nd graders from Isaac Dickson Elementary School.

I. PROCLAMATIONS:

A. RECOGNITION OF DETECTIVE JUDY ROMICK

Mr. Donald W. Rabon, Chairman of the Law Enforcement Department of the North Carolina Justice Academy, presented Detective Judy Romick with a certificate for successful completion of the Criminal Investigator Certificate Program.

B. RECOGNITION OF FORMER CITY MANAGER INTERN TOM BROOKS

City Manager Bean presented former City Manager Intern Tom Brooks with a Certificate of Appreciation for his work during his internship.

C. RECOGNITION OF FORMER CITY MANAGER INTERN JOHN WILLIAMS

City Manager Bean presented former City Manager Intern John Williams with a Certificate of Appreciation for his work during his internship.

D. PRESENTATION OF DISTINGUISHED BUDGET PRESENTATION AWARD TO ROBERT G. WURST

City Manager Bean presented Robert G. Wurst with the Distinguished Budget Presentation Award. He said this award, from the Government Finance Officers Association, is -2-

the highest form of recognition in governmental budgeting and represents a significant achievement by the City of Asheville.

E. RESOLUTION NO. 93-13 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE CLATIE THOMAS

Mayor Michalove read the resolution stating that Clatie Thomas has been with the City for 18 years and has requested retirement from her position as City Hall Services Supervisor in the Parks and Recreation Department. He expressed the City Council's appreciation to Clatie for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-13 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 62

II. PUBLIC HEARINGS: None

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2010 - AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ASHEVILLE RELATIVE TO ARTICLE 6 - GROUP DEVELOPMENTS

Mayor Michalove stated that this ordinance passed on its first and second readings on January 5, 1993.

Mr. Gerald Green, Senior Planner, said that on January 5, 1993, Mr. Rich Mathews, President of the Coalition of Asheville Neighborhoods ("CAN"), felt the group development projects "located within, adjacent to, or no further than 250 feet from residentially zoned property" be subject to a public hearing before City Council. At Council's request, he researched the recommendation and based upon a review of 1992 group development project files, it appears that implementation of CAN's recommendation would significantly affect the impact of the proposed ordinance amendment. He said inclusion of CAN's recommendation would subject most large development projects to review by the Planning & Zoning Commission and the City Council. Because of the linear nature of much of Asheville's commercial, office/ institutional, and industrial zoning, most projects in these zones are adjacent to or within 250 feet of residentially zoned property.

He said the Planning staff recommends approval of the ordinance amendment as originally proposed. Issues which address the impact of non-residential development and multi-

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family residential development on adjacent residential property should be fully addressed in the revision of the City's land development regulations. These issues include landscaping, buffering, setbacks, transition zones, height limitation, and traffic impacts, among others. Planning staff is currently researching these issues and developing recommendations for inclusion in the new land development regulations.

He said that he talked with representatives of CAN about the City staff recommendation and told them that the adjacent property owners would be notified informally of any group development within 250 feet of a residential zone.

Vice-Mayor Ellison felt that an amendment to this ordinance was appropriate so that the notification to adjacent property owners would be mandatory.

Vice-Mayor Ellison moved to amend the ordinance to require that notice be given to abutting property owners for proposed projects that would have been subject to group development review by the Planning & Zoning Commission and the City Council prior to the thresholds being increased. The notice given would be in the same manner as if the project were to be reviewed by the Planning and Zoning Commission and the City Council. This motion was seconded by Councilwoman Field and carried unanimously.

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

On a roll call vote of 6-0, Ordinance No. 2010, as amended, passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 182

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR WILLIAMSBURG SUBDIVISION

Ms. Mary Weber, Urban Planner, said that the proposed Williamsburg Subdivision is located in Oakley at Merchant Street near Fairview Road. The five lot subdivision is on two acres on sloping terrain. The site is zoned R-3 and will be developed for housing.

She said a new street will be constructed off of Merchant Street with a maximum grade of 14.3%. All utility services are available to the site and the developer has obtained a letter of credit to ensure that the infrastructure will be installed.

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She said that at the Planning & Zoning Commission meeting of September 2, 1992, they recommended approval of the preliminary plat with one condition, i.e. to maintain the leveling area at the intersection of Williamsburg Place and Merchant Street as noted on the plan.

Upon inquiry of Mayor Michalove of what was proposed, Ms. Weber stated that there would be single family homes in this area.

Upon inquiry of Vice-Mayor Ellison, Mr. Tim Swann stated that the railroad tracks would pose no problems with the subdivision.

Councilman Swicegood moved for the approval of the final plat of Williamsburg Subdivision, subject to the developer maintaining the leveling area at the intersection of Williamsburg Place and Merchant Street as noted on the preliminary plat. This motion was seconded by Councilman Worley and carried unanimously.

B. ORDINANCE NO. 2014 - ORDINANCE AMENDING CHAPTER 23A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (REGULATION OF TREES)

Mr. Dennis Wilson, member of the Asheville Tree/ Greenway Commission, reviewed the Commission's recommended revisions to the tree planting policy as follows:

"Section 23A-2. Tree Planting Policy.

The City of Asheville encourages tree planting by private individuals, groups and businesses on public property and street rights-of-way. However, to obtain maximum benefit from these efforts, all plantings on public rights-of-way or public property owned by the City of Asheville, its agents, boards and commissions shall be done in accordance with the applicable City Street Plan. The City Street Plan shall be developed on a street-by-street basis by the Asheville Tree and Greenway Commission. (**"and approved by the Asheville City Council." was deleted**)

**In the event that any person, including governmental or other public agencies, requests that tree planting be done other than as described or shown in the City Street Plan, that person shall make a request to the Asheville Tree and Greenway Commission, who shall then determine whether or not the City Street Plan shall be so amended. If the Commission denies that request, the person may appeal that decision to the City Council. (new language)** -5-

The Parks and Recreation Department of the City of Asheville shall have the authority to maintain trees planted on public rights-of-way or public property owned by the City of Asheville, its agents, boards, authorities and commissions."

Mr. Wilson felt with the deletion of the approval by the Asheville City Council of the Street Plan, the Commission would be able to have the freedom to modify the plan as they go along without having to come before the Council for

any minor changes.

Vice-Mayor Ellison felt that an appeal time provision be written into the ordinance.

It was Council's consensus not to delete the City Council approval of the Street Plan since the City Council is ultimately responsible for the Plan.

Mayor Michalove felt the Council needed to approve the Street Plan changes when new streets were added or deleted, not when the Tree/Greenway Commission changed species of trees.

Councilman Worley moved to amend Section 23-A (first paragraph) to read as follows: (underlining denotes addition from what the Tree/Greenway Commission recommended):

"The City of Asheville encourages . . . The City Street Plan shall be developed on a street-by-street basis by the Asheville Tree and Greenway Commission and approved by the Asheville City Council. The initial plan, and the subsequent addition or deletion of any streets to or from the plan, shall be approved by the Asheville City Council. The City street plan shall be presented to the City Council by the Tree/Greenway Commission for review not less than annually."

This motion was seconded by Vice-Mayor Ellison and carried unanimously.

Vice-Mayor Ellison moved to amend Section 23-A (second paragraph) to provide that notice of any such appeal shall be in writing and shall be filed with the City Clerk within 10 days from the date of the decision of the Asheville Tree/Greenway Commission. This motion was seconded by Councilman Worley and carried unanimously.

Mr. Wilson then reviewed the Commission's recommended revisions to the tree protection during construction section as follows:

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#### Section 23A-8. Tree Protection During Construction.

Except by permit, construction activities under the drip line of a regulated tree are prohibited. Activities include, but are not limited to, trenching or grading, storage of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.

**When applying for a permit, the party doing construction work under the drip line of a regulated tree shall submit a plan showing in full detail the method or means by which a tree or trees will be protected during the entire construction process. The plan shall be subject to the approval of the Director of the Parks and Recreation Department, or his or her designee. The plan must be approved prior to a permit being issued. (new language)**

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

Vice-Mayor Ellison moved for the adoption of Ordinance No. 2014, as amended. This motion was seconded by Councilman Peterson.

On a roll call vote of 6-0, Ordinance No. 2014, as amended, passed on its first reading.

#### C. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS TO PURCHASE PROPERTY LOCATED NEAR HARVEST HOUSE

City Manager Bean said that this item has been deleted from the agenda.

#### D. ORDINANCE NO. 2015 - AN ORDINANCE AMENDING SECTION 28-52 (B) OF CHAPTER 28

OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Mr. Jim Ewing, Director of Public Works, stated that a petition has been received from residents of Westwood Avenue and Waynesville Avenue to designate both streets as "no truck" routes. He said the Traffic Engineering Division completed a study on Waynesville Avenue and its findings show an excessive volume of commercial trucks on this residential street. It is their recommendation to prohibit the truck traffic on Waynesville Avenue from Ridgeway Drive to Westwood Place.

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

Councilman Worley moved for the adoption of Ordinance No. 2015. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2015 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2015. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2015 passed on its second reading.

E. ORDINANCE NO. 2016 - BUDGET AMENDMENT RELATIVE TO A GRANT FROM THE FEDERAL HIGHWAY ADMINISTRATION FOR TRANSPORTATION PLANNING

City Manager Bean said that this budget amendment is to establish an account code to receive and disburse funds from a grant for \$32,650 from the Federal Highway Administration for transportation planning.

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

Councilman Worley moved for the adoption of Ordinance No. 2016. This motion was seconded by Vice-Mayor Ellison.

On a roll call vote of 6-0, Ordinance No. 2015 passed on its first and final reading.

ORDINANCE BOOK NO. 13 - PAGE 199

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 2, 1993

B. RESOLUTION NO. 93-14 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY RUNNING WEST OFF PEARL STREET AND CALLING FOR A PUBLIC HEARING ON MARCH 16, 1993

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C. RESOLUTION NO. 93-15 - RESOLUTION APPOINT LARRY CASPER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary: The term of Frank Smith expired on January 19, 1993. This resolution

will appoint Larry Casper to serve a three year term, term expiring January 19, 1996, or until his successor has been duly appointed and qualified.

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D. RESOLUTION NO. 93-16 - RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION TO THE ASHEVILLE REGIONAL HOUSING CONSORTIUM FOR HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR 1993-1994

Summary: This action will authorize submission of the HOME project funding application for 1993 funds. Funds will be allocated to the following agencies: Asheville Housing Authority FAIR City Wide Rehab \$206,371 and Mountain Housing Opportunities, Inc., Affordable Homeownership Program \$36,418. Other funds to be leveraged includes \$40,000 NC Housing Finance Agency and \$24,000 CDBG. The initial HOME Investment Partnership Program funds will be \$242,789 and the fiscal year 1993 match will be \$60,697.

RESOLUTION BOOK NO. 20 - PAGE 66

E. RESOLUTION NO. 93-17 - RESOLUTION SUPPORTING THE DEVELOPMENT OF PERMANENT HEADQUARTERS FOR THE BLUE RIDGE PARKWAY ON PARKWAY LANDS AT HEMPHILL KNOB

RESOLUTION BOOK NO. 20 - PAGE 67

F. RESOLUTION NO. 93-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH WHEELER CONSTRUCTION COMPANY INC. FOR THE PROJECT KNOWN AS AZALEA ROAD EIGHT-INCH SEWER LINE PROJECT

Summary: This project consists of approximately 420 linear feet of 8-inch sanitary sewer line and 190 linear feet of 4-inch sanitary sewer service lines and all associated appurtenances according to City specifications. Sealed bids were opened on January 26, 1993, with Wheeler Construction Company Inc. being the low bidder at \$29,960 and it is recommended that the contract be awarded to Wheeler Construction Company Inc. (See attached bid summary which is attached hereto and made a part hereof as Exhibit "A".) It is anticipated that construction will begin March 1, 1993, and that the project will be completed by March 31, 1993.

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RESOLUTION BOOK NO. 20 - PAGE 69

G. RESOLUTION NO. 93-19 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE WITH W.S. HARRISON JR. AND WIFE, CHARLOTTE D. HARRISON, FOR A PARKING LOT ON EAGLE STREET

Summary: The City of Asheville has leased a parking lot located on Eagle Street for a number of years and desires to continue to lease that parking lot. The owners of that lot have proposed a lease to the City for five years.

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## VI. OTHER BUSINESS:

### A. GROUP DEVELOPMENT

Mr. Gerald Green, Senior 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. He 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. He said the following action was taken by the Planning and Zoning Commission on February 3, 1993:

OVERLOOK POINTE BI-LO

Mr. Green said that Hughes Development Corporation is proposing the construction of a 38,000 square feet Bi-Lo grocery store to be located at the southwest intersection of Overlook Road and Hendersonville Road. The site is zoned commercial-highway and is bordered on the south and east by commercial development, on the north and west by multi-family residential (Crowfields Condominiums), and on the southwest by single-family residential. The availability of adequate water, sanitary sewer, and fire protection services have been approved.

He said the developer is requesting a variance of 7.5 feet on the building setback adjacent to Overlook Road. The required setback is 17.5 feet and the proposed setback is 10 feet. With the exception of the variance request, the proposed development meets or exceeds the requirements of the Asheville Zoning Ordinance.

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He said that Planning has received significant public comment regarding this project, especially from the Crowfields Development. Their concerns include increases in traffic, problems with stormwater runoff, and the removal of trees along Overlook Road.

He said the developer has scheduled a meeting with representatives from the Crowfields for the purpose of addressing their concerns in an informal setting.

Mr. Green said that at their February 3, 1993, meeting, the Planning and Zoning Commission voted to recommend approval of the site plan and the request for a variance for the development with two conditions:

1. The developer must obtain driveway permits from NCDOT; and
2. The variance request must be granted by City Council.

He said that the City has received a request from the attorney representing Crowfields to set the public hearing for March 16 instead of March 2. The request states that postponing the public hearing would allow more time for review of the project and that one of the main representatives for the Crowfields would not be able to attend the March 2 public hearing.

He said the developer is working under a tight timeframe and is opposed to postponing the public hearing until March 16. A letter from Philip G. Carson, attorney for Hughes Development Corporation, has also been received requesting the public hearing be held on March 2 per normal procedures.

Mr. Tracy McFarlan, President of the Executive Committee of Crowfields, asked the Council to set the public hearing on this matter for March 16 in order to give Crowfields more time to prepare a thorough presentation to the City Council on their point of view for this group development.

Mr. Jackson Hughes, Hughes Development Corporation, asked the Council to set the public hearing on March 2, as would normally be done for a group development, stressing that they are working with and providing information to Crowfields in order to address their concerns.

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Upon inquiry of Mayor Michalove as to when Crowfields was notified of the proposed group development, Mr. Green stated that letters dated January 20, 1993, were sent in addition to the notice in the City Works Page.

Councilman Swicegood moved to set a public hearing on this matter on Tuesday, March 2, 1992, at 4:00 p.m. in the Council Chamber of the City Hall Building. This motion was seconded by Councilman Worley and carried unanimously.

#### B. ASHEVILLE TRANSIT AUTHORITY

Councilman Peterson moved to have a joint meeting with the Asheville City Council and the Asheville Transit Authority. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

#### C. ASHEVILLE TRANSIT AUTHORITY

Ms. Laura Deaton supported the joint meeting of the City Council and Asheville Transit Authority and asked that Mr. Mark Richards also be invited to the meeting. She felt that an investigation into the Asheville Transit Authority and the firing of Mr. Richards was in order.

#### D. ASHEVILLE SCHOOL BOARD INTERVIEWS

Ms. Jamie Ross, representative of the League of Women Voters, read a prepared statement relative to the upcoming appointments to the Asheville School Board.

#### E. THOROUGHFARE COMMITTEE

Mr. Greg Gregory, representative of the WNC Alliance Transportation Task Force, requested the City Council endorse the re-establishment of the citizens advisory group to work with the Asheville-Buncombe Transportation Advisory Committee on the Asheville Urban Area Thoroughfare Plan.

Councilwoman Field stated that this re-establishment process is currently underway.

#### F. WATER DEPARTMENT EMPLOYEE COMMENTS

Mr. Carroll Williams, President of the Asheville-Buncombe Public Workers, voiced concern over the \$60,000-plus spent on Water Department studies. He said these problems have been going on for years and felt now is the time to get them resolved. He offered the assistance of his group to work together to improve City government and employee relations.

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Mr. Bob Warren, attorney representing a group of Water Department employees, expressed his concern that the recent efficiency study and attitude study would be not properly implemented. Mr. Warren indicated that there were numerous employee concerns that needed to be addressed.

City Manager Bean explained the process that the Water Authority's Budget Committee would be using in conjunction with the City staff to implement the studies. He said that he would provide reports to the City Council on the progress of implementation.

Mr. Peter Rauschenplat, employee in the Water Maintenance Division, spoke about how jobs need to be completed right the first time, saving the taxpayers money

and thus helping the City run efficiently.

Ms. Jean Sales expressed concern over high water and sewer bills. She asked that a public hearing be held by the Water Authority and City Council for taxpayers and water users to address the problems of waste she stated.

Mayor Michalove stated that a public hearing will be held by the Water Authority in early May on their budget (which the items Ms. Sales addressed would fall under), the City Council would be holding a public hearing on the City's budget in June (which will be advertised on the City Works Page) and the Water Authority meets the second Tuesday of every month which is open to the public.

Mr. Monroe Gilmore spoke about the need for substantial change in order for improvements to be made.

Ms. Leni Sitnick urged the Council to support the word of their employees.

#### G. CLAIMS

City Manager Bean said the following claims have been received by the City during the week of January 25-29, 1993: Southern Bell (Water); and Southern Bell (Water).

He said the following claims have been received during the week of February 1-5, 1993: Ruth Shatto (Streets); Lynn Worley (Police); Ted Kimmel (Water); Shari Lae (Water); Dorothy C. Johnson (Water); Charlotte Dotson (Water); Jean Rathburn (Water); Margaret Shaffer (Streets); Robin Haile (Water); Florence McNeely (Water); and Mary Louise Axelson (Streets).

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He said the following claims have been received during the week of February 8-12, 1993: Rush Clifford III (Police); Charles Brackett (Water); Barbara McAfee (Water); Tecora Young (Water); David Mann (Water); John McKinley (Water); Don Neale (Water); and Franklin Hyatt Jr. (Water).

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

#### VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:10 p.m.

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CITY CLERK MAYOR

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