

Tuesday - March 2, 1993 - 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, 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 Joseph Carr Swicegood

INVOCATION

Councilman Moore gave the invocation.

I. PROCLAMATIONS:

A. CERTIFICATE OF RECOGNITION TO THE ASHEVILLE HIGH SCHOOL'S MEN'S BASKETBALL TEAM

Vice-Mayor Ellison, on behalf of the City Council, commended and honored the Asheville High School's Men's Basketball Team for their outstanding undefeated season and wished them well in the upcoming State Playoffs which begin March 11, 1993.

B. RESOLUTION NO. 93-20 - RESOLUTION WELCOMING THE SOUTHERN BASKETBALL CONFERENCE

Mayor Michalove read the resolution and recognized Mr. Wright Waters with the Southern Basketball Conference. He said that on March 4, 5, 6 and 7, 1993, the Southern Conference will be holding their annual Southern Conference Basketball Tournament in Asheville. The City Council expresses its appreciation to the Southern Conference for selecting Asheville for its annual tournament, wishes form them another successful year, and extends a warm welcome to all participants.

Resolution No. 93-20 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 77

C. RESOLUTION NO. 93-21 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE WILLIAM MARVIN HENSLEY

Mayor Michalove read the resolution stating that William Marvin Hensley has been with the City for 21 years and has requested retirement from his position as Fire -2-

Captain in the Asheville Fire Department. He expressed the City Council's appreciation to Mr. Hensley for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-21 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 78

D. RESOLUTION NO. 93-22 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DEAN WHITESIDE

Mayor Michalove read the resolution stating that Dean Whiteside has been with

the City for 19 years and has requested retirement from his position as Fire Captain in the Asheville Fire Department. He expressed the City Council's appreciation to Dean for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-22 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 79

E. RESOLUTION NO. 93-23 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE
EUGENE ELLINGTON

Mayor Michalove read the resolution stating that Eugene Ellington has been with the City for 23 years and has requested retirement from his position as Line Maintenance Worker I in the Water Department. He expressed the City Council's appreciation to Eugene for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-23 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 80

F. LIGHT-UP-YOUR-HOLIDAYS FESTIVAL

Ms. Carolyn Ketchum thanked the City Council, on behalf of the tourism industry, for their support of the Light Up Your Holidays Festival. She was pleased to report that this Festival was selected as one of the 100 events in North America.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO OVERLOOK POINTE BI-LO GROUP DEVELOPMENT

-3-

Mayor Michalove opened the public hearing at 4:14 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 Hughes Development Corporation is proposing the construction of a

of a 38,000 square feet Bi-Lo grocery store to be located at the southwest intersection of Overlook Road and Hendersonville Road on a 4-acre site. 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.

He said that the Planning Department 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 met with representatives from the Crowfields for the purpose of addressing their concerns. He stated that as a result of those meetings, the developer will leave the majority of trees along Overlook Road which will screen most of the building and parking area from Crowfields.

He said that traffic counts were conducted by the North Carolina Department of Transportation and those studies confirmed that Hendersonville Road is adequate to maintain the increase in traffic.

He said that at the Planning & Zoning Commission's February 3, 1993, meeting, the 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

-4-

2. The variance request must be granted by City Council.

Mayor Michalove thanked everyone for their letters relative to this project and felt it was the consensus of the Council to look at factual engineering information as it relates to the water runoff issue. He also stressed that the Council would be looking at the health, safety and welfare issue of the area residents.

City Attorney Slawter explained the appropriate procedures that the Council has control over relative to the granting of variances.

Mr. Phil Carson, attorney for the developer, said that the developers have gone out of their way to try to address Crowfields' concerns. The loss of trees issue has been resolved by leaving virtually all the trees along Overlook Road except at the driveway entrances. He felt the water runoff concerns have been addressed by the engineering studies done. He urged the Council to grant the variance which would allow the building to be 17 feet back from its side yard property lines.

Mr. Jackson Hughes, representing Hughes Development Corporation, echoed Mr. Carson's comments and stated that the new Bi-Lo would produce 125 new jobs along with additional property tax for the City. By use of charts, he showed that the water runoff from its front parking lot will pass through Crowfields' Dingle Creek before the stormwater surge upstream comes through. He said the runoff from the store's roof and back area will be contained in a detention pond that will hold the water for gradual release.

Upon inquiry of Councilman Moore, Mr. Hughes confirmed that if the variance was not granted, the majority of the existing trees would have to be removed. He explained that the rear dock could no longer remain in the back area without the variance and would have to be moved to the Overlook Road side area.

Councilwoman Field suggested that the building be moved closer to Hendersonville Road which would require some of the 191 parking spaces to be lost. Mr. Hughes responded by saying that with the truck traffic the way it is, it would not be feasible to move the building, and he felt that the loss of any parking spaces might result in people having to park on the side of Overlook Road.

-5-

Vice-Mayor Ellison explained how important it was for the Council to look at the stormwater runoff studies performed by the developer's engineer and also the Crowfield residents.

Upon inquiry of Vice-Mayor Ellison if Hughes Development Corporation would correct any deficiencies or pay for any damage to Crowfields' property as a result of stormwater runoff, Mr. Hughes stated that they cannot be held responsible for any future development in that area caused by others, e.g. the 180 units to be developed on 12 acres.

Mr. O. E. Starnes, attorney representing Crowfields Condominiums, spoke in opposition to the proposed Bi-Lo. He explained each of their concerns which includes, but is not limited to, (1) substantial increase of water runoff onto Crowfields' properties; (2) the request for a variance; (3) buffering along the north and west side of the site and night lighting; and (4) the safety and increased traffic on the use of Overlook Road to access into this property. He furnished the Council with information relative to their concerns which included pictures of the area.

Mr. John Munson, resident of Crowfields, spoke in opposition to this project stating that even though the developer intends to leave most of the existing trees, the close proximity of the building and parking lot area to those trees would cause the roots to be destroyed, thus killing the trees.

Mr. Tracy McFarlan, President of the Executive Committee at Crowfields, spoke in opposition of the Bi-Lo project stating that, among other things, the widening of Overlook Road would cause a major problem and property values for the condominiums close to Overlook Road will drop.

Mr. Robert Euler, resident of Crowfields, spoke against the project mentioning that all the water runoff will be going to creeks on Crowfields' property.

Mr. Clay Hipshire, adjoining property owner on Overlook Road, was concerned that if the Bi-Lo was built, he would be looking at a large concrete building with substantial increase of truck traffic.

Mr. Howard Carlson, resident of Crowfields, spoke in opposition to the project and stated that Crowfields has already spent \$75,000 to repair their creek banks and anymore water runoff would require further repair.

-6-

Mayor Michalove closed the public hearing at 5:42 p.m.

Councilman Worley moved to postpone any action on this matter until March 16, 1993, in order to give the City an opportunity to review the engineering studies of the developer and Crowfields. This motion was seconded by Councilman Moore and carried unanimously.

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2015 - AN ORDINANCE AMENDING SECTION 28-52, TRAFFIC OF TRUCKS ON DESIGNATED RESIDENTIAL STREETS, TO INCLUDE A PORTION OF WAYNESVILLE AVENUE

Mayor Michalove stated that this ordinance was passed on its first and second reading on February 16, 1993. He refreshed the Council's memory that 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.

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. 2015 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 198

B. SECOND READING OF ORDINANCE NO. 2014 - AN ORDINANCE AMENDING CHAPTER 23A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Mayor Michalove said that this ordinance passed on its first reading on February 16, 1993, with amendments to the proposed draft submitted by the Tree/Greenway Commission ("Commission"). The amendments to the draft submitted by the Commission were that (1) the City Street Plan shall be developed on a street-by-street basis by the Commission and approved by the Asheville City Council; (2) the initial City Street Plan, and the subsequent addition or deletion of any streets to or from the plan, be approved by the City Council; (3) the City Street Plan shall be presented to the City Council by the Commission for review not less than annually; and (4) 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 Commission.

-7-

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

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

IV. NEW BUSINESS:

A. RESOLUTION DIRECTING THE BOSTON WAY PROJECT FROM ITS INTERSECTION WITH HENDERSONVILLE ROAD TO ITS INTERSECTION WITH ALL SOULS CRESCENT AT ITS WESTERN END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

Vice-Mayor Ellison moved to postpone action on this matter until March 30, 1993. This motion was seconded by Councilwoman Field and carried unanimously.

B. RESOLUTION DIRECTING THE KITCHEN WAY PROJECT BEGINNING AT ITS INTERSECTION WITH ANGLE STREET TO ITS INTERSECTION WITH BROOK STREET BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

Vice-Mayor Ellison moved to postpone action on this matter until March 30, 1993. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO SET FORTH FEES FOR FIRE INSPECTION SERVICES

Fire Chief John Rukavina explained that as of January 1, 1993, the State Building Code mandates fire inspections in most structures in Asheville, other than one- and two-family homes. In order to comply with this mandate, additional resources are required in the Fire Department. This resolution would establish fees for mandatory fire inspections that would cover these costs. He said that the fees would be \$12.50 for inspections annually, \$22.50 for biennial inspections, and \$32.50 for triennial inspections. He said the income from fees is estimated at approximately \$76,000 per year; additional fire code enforcement expenses are estimated at approximately \$76,000 per year.

Fire Chief Rukavina explained the Fire Department's plan for carrying out this mandate. Firefighters are being trained for state certification as fire inspectors, and will conduct many of the required inspections while on duty. Costs for this approach would include training and incentives for state certification. Council members indicated their approval of this approach. -8-

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

Upon inquiry of Vice-Mayor Ellison if business owners could have the inspections done privately and provide a certificate to the City, Fire Chief Rukavina stated that all inspections must be performed by certified inspectors employed by a unit of government.

It was the consensus of Council that it was unfair to charge businesses that have to be inspected once every three years, three times as much as those that have to be inspected annually. Councilwoman Field suggested perhaps charging businesses by size or occupancy.

Upon inquiry of Councilman Peterson about implementing this fee, Fire Chief Rukavina stated that he would be having 120 firefighters (who are being training to be certified inspectors) making personal visits to the businesses letting them know what the inspection requirements were.

In response to Councilman Peterson's question about businesses that are not up to Code, Fire Chief Rukavina stated that the enforcement of the Fire Code is a maintenance code for existing conditions. He explained that if an old building met Code requirements at the time of construction, then it would probably meet today's Fire Code. He said the inspectors would only be looking for items of a basic nature, e.g., locked exit doors, accumulations of trash, etc.

Councilman Worley moved to postpone action on this matter until April 27, 1993, in order to give the Fire Chief an opportunity to present a more equitable fee system and give the public adequate notice of the fees to be charged, responsibility for payment, and other information the City Manager will be able to give the Council on their budget worksession on April 20, 1993, relative to this matter. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

D. RESOLUTION NO. 93-24 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE SCHOOL BOARD

Mayor Michalove said that the terms of Harriett Haith, J.R. Downs and Carol Matthews, as members of the Asheville School Board, will expire on April 1, 1993. On February 22, 1993, Mr. Downs submitted a letter stating that because of job responsibilities that require him to travel out of state on a regular basis, such travel will prohibit him from -9-

serving as a member of the Asheville School Board. He asked that his name be withdrawn for consideration for reappointment.

Mayor Michalove said that after a lengthy process of interviews, reviewing questionnaires and considering numerous letters relative to supporting the different candidates, it was the Council's decision to reappoint Carol Matthews, 15 Lynwood Road, Asheville, N.C., 28804; appoint Hazel M. Turner, 321 Woodberry Apartments, Asheville, N.C., 28801; and appoint Susan Carscaddon Fisher, 36 Clarendon Road, Asheville, N.C., 28806, all to four year terms, terms to expire April 1, 1997, or until their successors have been duly appointed and qualified.

Mayor Michalove thanked Marsha Bate, Joe Bly, Wanda Henry-Coleman, Brian Weinkle and Mae Catherine White for taking time out of their busy schedules to participate in the School Board candidate process.

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

Resolution No. 93-24 was adopted by acclamation.

RESOLUTION BOOK NO. 20 - PAGE 81

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 16, 1993

B. RESOLUTION NO. 93-25 - RESOLUTION OF INTENT TO CLOSE A PORTION OF LENOX COURT, AND CALLING A PUBLIC HEARING ON THE QUESTION FOR MARCH 30, 1993

RESOLUTION BOOK NO. 20 - PAGE 82

C. RESOLUTION NO. 93-26 - RESOLUTION OF INTENT TO CLOSE A 10' ALLEY LYING BETWEEN LENOX COURT AND MURDOCK AVENUE, AND CALLING A PUBLIC HEARING ON THE QUESTION FOR MARCH 30, 1993

RESOLUTION BOOK NO. 20 - PAGE 84

D. RESOLUTION NO. 93-27 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MARCH 30, 1993, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 42 ROBERTS STREET

-10-

RESOLUTION BOOK NO. 20 - PAGE 86

E. RESOLUTION NO. 93-28 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MARCH 30, 1993, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 67 MOUNT CLARE AVENUE

RESOLUTION BOOK NO. 20 - PAGE 88

F. RESOLUTION NO. 93-29 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MARCH 30, 1993, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 16 CLYDE STREET

RESOLUTION BOOK NO. 20 - PAGE 90

G. RESOLUTION NO. 93-30 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MODIFIED GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Summary: This resolution authorizes the Mayor to execute a modified grant agreement in the amount of the State Grant from \$1,001,967 to \$1,068,707 with the North Carolina Department of Transportation for Phase II Baggage Claim/Rental Car/Second Floor Administrative Office Addition at the Asheville Regional Airport.

RESOLUTION BOOK NO. 20 - PAGE 92

H. RESOLUTION NO. 93-31 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY AGREEMENTS TO ESTABLISH RETROACTIVELY THE CITY OF ASHEVILLE CAFETERIA PLAN, THE CITY OF ASHEVILLE INSURANCE BENEFITS PLAN, THE CITY OF

ASHEVILLE MEDICAL REIMBURSEMENT PLAN, AND THE CITY OF ASHEVILLE DEPENDENT CARE REIMBURSEMENT PLAN

Summary: This resolution will authorize the City Manager to sign those documents to amend and restate plans to meet Internal Revenue Service requirements. These plans are fully funded in the current year's operating budget.

RESOLUTION BOOK NO. 20 - PAGE 94

I. RESOLUTION NO. 93-32 - RESOLUTION AUTHORIZING SUBMISSION OF AN ASHEVILLE REGIONAL HOUSING CONSORTIUM APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR HOME INVESTMENT PARTNERSHIPS PROGRAM GRANT FOR FY 93-94

-11-

Summary: This action will authorize submission of the Asheville Regional Housing Consortium's HOME grant application for 1993 funds. The application is submitted by the Lead Entity of the Consortium. Following are the member governments approved by the Consortium Board of Directors for project funds within their jurisdiction: City of Asheville, Town of Woodfin, Buncombe County and Madison County. As required by HUD regulations, 15% of program funds will be awarded to non-profit Community Housing Development organizations.

The total HOME grant will be \$837,000. The City of Asheville will receive \$242,789 for program cost and \$83,700 for administrative cost. The total match for grant is \$188,324 and the City's share of match is \$60,697.

RESOLUTION BOOK NO. 20 - PAGE 95

J. RESOLUTION NO. 93-33 - RESOLUTION APPOINTING A MEMBER TO THE MINORITY BUSINESS COMMISSION

Summary: The term of Matthew Bacoate, as the representative of the YMI Cultural Center on the Minority Business Commission, expired August 1, 1992. This resolution will appoint Mr. Michael Linney, to serve as the representative of the YMI Cultural Center on the Minority Business Commission. His term will be for one year, expiring August 1, 1993, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 96

K. RESOLUTION NO. 93-34 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO EXECUTE AN ACCREDITATION AGREEMENT WITH THE COMMISSION ON ACCREDITATION FOR LAW ENFORCEMENT AGENCIES INC.

Summary: The Police Department desires to become an accredited police department pursuant to the standards and guidelines set forth by the Commission for Accreditation for Law Enforcement Agencies Inc. The City Manager will be authorized to execute an accreditation agreement not to exceed \$16,000, approved by the City Attorney, for the purpose of the Commission assessing the City Police Department for accreditation purposes in accordance with their standards.

RESOLUTION BOOK NO. 20 - PAGE 97

-12-

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

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Bean said the following claims were received by the City of Asheville during the week of February 15-19, 1993: Sharon Young (Water); Howard T. Leonhardt (Sanitation); Florence Pearson (Sewer); Scott Rhodes (Water); Bobby Price (Water); Phil Reeves (Water); Norman Rogers (Water); and Steve Gossett (Water).

He said the following claims were received during the week of February 22-26, 1993: Evelyn Talbot (Water); Athena Sawyer (Water); Paul Mount Construction (Sewer); Bill Peterson (Parking); and Ken McCain (Water).

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

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:30 p.m.

CITY CLERK MAYOR
