

Tuesday - June 8, 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 Charles Worley gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 93-70 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DAVID CRANDALL

Mayor Michalove read the resolution stating that David Crandall has been an employee for 20 years and has requested retirement from his position as Police Officer Sr. in the Asheville Police Department. He expressed City Council's appreciation to David for his service to the City of Asheville and its citizens.

Resolution No. 93-70 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 198

B. PROCLAMATION HONORING PUBLIC SERVICE EMPLOYEES

Mayor Michalove recognized the following City of Asheville employees who are finalists in the Public Service Employee Recognition Program:

Outstanding Manager - Nanci Farmer

Outstanding Supervisor - Bill Fulp

Outstanding Professional - Debbie Faulkner

Outstanding Clerical - Gladys McDaniel

Equal Employment

Opportunity Service - Marilyn Bass

Heroic Act - Judy Hensley

Hoyt Abney Award - Herbert Watts

II. PUBLIC HEARING:

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A. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR THE CAROLINA MOUNTAIN DERMATOLOGY

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

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

Mr. Tony Nicholson, Urban Planner, explained that approval of a site plan under the vested rights procedures gives the applicant the right to start construction of the development as approved within two years of approval, regardless of the subsequent adoption of ordinances which may affect the project. The State of North Carolina has required all cities to adopt Watershed Regulations by July 1, 1993, These new regulations will entail significant restrictions on new development within the watershed area.

He explained that Carolina Mountain Dermatology is seeking approval of a proposed office development under the vested rights procedure. The site is located on Long Shoals Road near Overlook Road and is within the designated watershed area. While the property and all surrounding lots are zoned R-4 Residential District, commercial development abuts the property on the north and west sides.

He said the development consists of two one-story office buildings totaling 6,900 square feet. The proposed development meets or exceeds the minimum requirements of the Asheville Zoning Ordinance, including parking and landscaping.

Councilman Worley was assured that if this site plan approval came before the Council today, it would meet all of the current regulations.

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

Councilman Worley moved to establish a statutory vested right for a site specific plan of a proposed office development, located on Long Shoals Road near Overlook Road. This motion was seconded by Councilman Swicegood and carried unanimously.

B. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR THE WINSTON PULLIAM DEVELOPMENT

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

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

Mr. Tony Nicholson, Urban Planner, explained that approval of a site plan under the vested rights procedures gives the applicant the right to start construction of the development as approved within two years of approval, regardless of the subsequent adoption of ordinances which may affect the project. The State of North Carolina has required all cities to adopt Watershed Regulations by July 1, 1993, These new regulations will entail significant restrictions on new development within the watershed area.

He explained that Winston Pulliam is seeking approval of an office/retail development under the vested rights procedure. The site is located on Hendersonville Road near Oak Forest Subdivision and is within the designated watershed area. The property is zoned Commercial Highway and is bordered on the west by Hendersonville Road and on the north, south, and east by commercial development.

He said that Mr. Pulliam is seeking approval of two different schemes for the development. Scheme 1 consists of six, one-story office buildings totaling 23,868 square feet; while Scheme consists of a retail shopping center totaling 27,984 square feet. Both schemes meet or exceed the minimum requirements of the Asheville Zoning Ordinance, including parking and landscaping.

Councilman Worley was assured that if this site plan approval came before the Council today, it would meet all of the current regulations.

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

Vice-Mayor Ellison moved to establish a statutory vested right for a site specific plan of a proposed office/retail development, to be located on Hendersonville Road near Oak Forest Subdivision. This motion was seconded by Councilman Worley and carried unanimously.

C. PUBLIC HEARING RELATIVE TO CLOSING ATKINSON STREET, VIEW STREET AND HAZEL AVENUE

RESOLUTION NO. 93-71 - RESOLUTION CLOSING ATKINSON STREET, VIEW STREET AND HAZEL AVENUE

Mayor Michalove opened the public hearing at 4:30 p.m.

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

Public Works Director Jim Ewing stated that on April 27, 1993, the City Council adopted a resolution of intent to close Atkinson Street, View Street and Hazel Avenue and also requested the Housing Authority to consider changing the name of Atkinson Street to Carl Johnson Boulevard. This resolution will provide for the closing of those streets.

Mr. David Jones, Executive Director of the Housing Authority of the City of Asheville, said that he has sent a proposal to the residents at Hillcrest proposing the name change and has not received all responses yet. He did, however, foresee no problem with changing the street name.

Mayor Michalove closed the public hearing at 4:33 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. 93-71. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 199

D. PUBLIC HEARING RELATIVE TO ZONING SECTION I AT BRAESIDE TO R-1 RESIDENTIAL DISTRICT, SUBJECT TO THE WATERSHED PROTECTION OVERLAY DISTRICT

ORDINANCE NO. 2027 - AN ORDINANCE PROVIDING FOR THE ZONING OF SECTION I OF BRAESIDE AT BILTMORE PARK LOCATED ON OVERLOOK ROAD

Mayor Michalove opened the public hearing at 4:34 p.m.

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

Mr. Verl Emrick, Planning Executive Assistant, said that the owners of Braeside I Subdivision have petitioned the City to annex the area located off Overlook Road. Annexation of the area is underway in accordance with the wishes of the owners.

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He said the City's ordinances require that zoning be assigned to all annexed areas. On May 5, 1993, the Asheville Planning and Zoning Commission met and recommended that the R-1 Residential District zoning classification be assigned to the area. The vote was unanimous and there was no opposition from the public.

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

Mayor Michalove stated that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 2027. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2027 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2027. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2027 passed on its second reading.

E. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ADOPT WATERSHED PROTECTION REGULATIONS FOR THE CITY OF ASHEVILLE

ORDINANCE NO. 2028 - ORDINANCE AMENDING APPENDIX A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO INCLUDE WATERSHED PROTECTION REGULATIONS

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

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

Mr. Paul Benson, Urban Planner, stated that North Carolina General Statute sec. 143-214.5 requires local governments to develop water supply watershed protection programs; that the programs be implemented, among other ways, by a local ordinance; and that the N. C. Environmental Management Commission adopt rules for the classification of water supply watersheds and to establish minimum state-wide water supply watershed protection requirements. The Water Supply Rules adopted by the N.C. Environmental Management -6-

Commission on February 13, 1992, require that municipalities with a population greater than 5,000, whose corporate limits include a water supply watershed, to adopt water supply protection management plans and ordinances by July 1, 1993. He then summarized the basic requirements.

Mr. Benson answered questions of Councilman Swicegood as to how the boundary lines were drawn.

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

Mayor Michalove stated that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2028. This motion was seconded by Councilman Peterson.

On a roll call vote of 6-0, Ordinance No. 2028 passed on its first reading.

F. PUBLIC HEARING RELATIVE TO THE 1993-94 ANNUAL OPERATING BUDGET

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

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

City Manager Bean stated that the proposed General Fund budget is in the amount of \$43,526,791 for 1993-94, which includes a 2% pay adjustment for July 1, 1993, and a 3% performance pay plan. He said the budget is approximately \$70,000 out of balance but is keeping the tax rate at the current level of 60 cents per \$100 valuation. He further stated that staff is still working on the budget and plans to present the balanced budget to Council next week.

A representative of Kituwah urged the Council to support Kituwah in non-cash contributions; i.e., printing of posters and flyers, security during the event, closing a portion of Haywood Street during the event, special street vendor restrictions during the event, and assistance from Parks and Recreation with truck and manpower during the Monday and Thursday of Kituwah week.

Mayor Michalove instructed the City Manager to review the request and find out exactly what the City might offer in lieu of funds.

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Mr. Scott Hughes, representing the Council of Independent Business Owners, presented Council with a memo which he summarized several areas of cost containment as follows: (1) Support pay raises for staff making less than \$35,000 per year in base salary, and suggest that higher staff salaries be frozen for fiscal year 1993-94; (2) Sale of the renovated facility housing the Downtown Development Department be sold generating significant revenue; (3) Increase the efficiency of the concessions operations at the Civic Center or perhaps seek private bids for their operation; (4) Further analysis for possible reduction in staff in the Planning Department; and (5) Acceleration of the privatization of sanitation services.

Mr. Michael Knisely, Firefighter and President of the Asheville Firefighters Association, passed out an analysis concerning the pay of City employees. He urged the Council to consider employees as a high priority when considering the budget.

Councilman Worley felt that the entire Council was committed in bringing the pay back in line with what it should be but stated it would have to be brought back step by step.

Vice-Mayor Ellison stated that the Council was trying to get as much done with the money is has available and still not raise taxes.

Councilman Peterson felt that the City was top heavy in management and supported some type of plan to raise salaries for the lower paid workers.

At this time (5:30 p.m.), Vice-Mayor Ellison and Councilman Worley asked to be excused from the meeting to attend graduation ceremonies. Councilman Worley did state that he would listen to the tape to hear the remainder of this meeting. Councilman Peterson moved to excuse Vice-Mayor Ellison and Councilman Worley.

This motion was seconded by Councilwoman Field and carried unanimously.

Mr. Glen Holbert, Captain in the Fire Department and Secretary-Treasurer of the Asheville Firefighters Association, urged Council to raise employee salaries.

Mayor Michalove closed the public hearing at 5:34 p.m.

Upon inquiry of Mayor Michalove, City Manager Bean said that for a 1% salary increase, the cost would be \$194,000 and that is for the employees in the General Fund only.

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Mayor Michalove stated that the Council will take into consideration all the statements made and incorporate them before the adoption of the budget on June 15, 1993.

G. PUBLIC HEARING RELATIVE TO ZONING PROPERTY OF THE NORTH CAROLINA ABC BOARD LOCATED AT WESTRIDGE MARKET PLACE

ORDINANCE NO. 2029 - AN ORDINANCE PROVIDING FOR THE ZONING OF THE NORTH CAROLINA ABC BOARD LOCATED AT WESTRIDGE MARKET PLACE (PIN 9617-13-13-4943)

Mayor Michalove opened the public hearing at 5:36 p.m.

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

Mr. Verl Emrick, Planning Executive Assistant, said that the North Carolina ABC Board petitioned the City to annex their property located at Westridge Market Place. City Council has annexed the area in accordance with the wishes of the owners. He said the ABC store, which is a retail package store, is allowed in Commercial Highway districts as a conditional use.

He said the City's ordinances require that zoning be assigned to all annexed areas. On May 5, 1993, the Asheville Planning and Zoning Commission met and recommended that the CH Commercial Highway zoning classification be assigned to the area. The vote was unanimous and there was no opposition from the public.

Mayor Michalove closed the public hearing at 5:38 p.m.

Mayor Michalove stated that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2029. This motion was seconded by Councilman Peterson.

On a roll call vote of 4-0, Ordinance No. 2029 passed on its first reading.

H. PUBLIC HEARING RELATIVE TO THE TRANSIT OPERATING ASSISTANCE GRANT

RESOLUTION NO. 93-72 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

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Mayor Michalove opened the public hearing at 5:39 p.m.

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

Mr. Carl Ownbey, Transit Planner, said that the City annually applies for financial assistance under the Section 9 program to aid in transit operations. He said the project will be for the period of July 1, 1993, through June 30, 1994. He estimated the net project cost at \$1,504,900. The federal share is estimated at \$702,641 and the City's share is estimated at \$802,259. The Biltmore Square route has been cut for this period.

Mayor Michalove closed the public hearing at 5:43 p.m.

Mayor Michalove stated that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-72. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 201

I. PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL

RESOLUTION NO. 93-73 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE GREENLEAF CIRCLE PROJECT BEGINNING AT THE INTERSECTION OF GREENLEAF CIRCLE WITH BEAVER LAKE HEIGHTS ROAD AND ENDING AT THE DEAD END

Mayor Michalove opened the public hearing at 5:43 p.m.

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

City Attorney Slawter said that this resolution would confirm the preliminary assessments made in the Greenleaf Circle Project. The total cost of the project, including labor, materials, equipment and the cost of publication of notice is \$17,033.11. By prior resolution, Council has determined to assess benefited property owners 58% of the total cost (\$9,940.15).

Mayor Michalove closed the public hearing at 5:45 p.m.

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

Councilman Swicegood moved for the adoption of Resolution No. 93-73 on June 8, 1993, at 5:45 p.m. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 203

J. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR WESTLAND SUBDIVISION

Mayor Michalove opened the public hearing at 5:46 p.m.

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

Ms. Mary Weber, Urban Planner, said that the applicant is subdividing a .36 acre lot into two parcels. The site is located on Salola Street near Sand Hill Road. In 1991, the applicant went before the Board of Adjustment and obtained a variance from the minimum lot size requirement. Later, he obtained a building permit and began building the house. When he went to record the subdivision, the Register of Deeds sent him to the Planning Department to approve the

subdivision.

She said that subdivisions that are smaller than two acres which are divided into not more than three lots do not have to go through the formal review process if they meet or exceed the standards of the municipality. One requirement is that all lots abut a public street. A public street is one which is built to City standards and maintained by the City. One lot abuts a public right-of-way which currently serves a neighboring house but is not built to City standards or maintained.

She said the applicant is requesting a variance from the requirement to abut a public street because it would create a hardship to widen and build the road to City standards in an existing developed neighborhood and because he had already obtained a building permit.

At their April 7, 1993, the Asheville Planning and Zoning Commission recommended approval of the variance request.

Mayor Michalove closed the public hearing at 5:48 p.m.

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Councilman Swicegood moved to approve a variance from the requirement to abut a public street, as required by the subdivision regulations, in the Westland Properties Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL OF VALLEY VISTA SUBDIVISION

Ms. Mary Weber, Urban Planner, said that Valley Vista Subdivision will be located in Oakley at Oteora Boulevard and Floyd Drive in the City's extra-territorial jurisdiction. The site is 9.5 acres of gently sloping wooded terrain.

The site is being subdivided in two phases. The first phase will consist of five lots with a typical lot size of .5 acres. Later, the site will be further subdivided to have a total of 13 lots.

Access will be off of Floyd Drive which is a state-maintained road which NCDOT plans to widen and pave this summer. Adequate water supply and fire protection will serve the site. The subdivision is too far from any sewer lines, so the houses will use septic systems. The Health Dept. has done a preliminary assessment of the site and said it appears to be suitable for septic systems.

At their June 2, 1993, meeting, the Asheville Planning and Zoning Commission recommended approval of the preliminary plat.

Councilwoman Field moved to approve the preliminary plat of Valley Vista Subdivision. This motion was seconded by Councilman Swicegood and carried unanimously.

B. MOTION AUTHORIZING THE CITY MANAGER TO SIGN AN ENCROACHMENT AGREEMENT WITH CARL AND ELIZABETH M. PEVERALL FOR PROPERTY ON WEST STREET

Public Works Director Jim Ewing explained that an encroachment agreement has been requested by Mr. Jan Grimes on behalf of his clients, Carl and Elizabeth

Peverall. The Peverall's house encroaches upon the right-of-way of West Street. He said the encroachment has existed for a period of over 30 years and this encroachment agreement will allow for maintenance of the Peverall home. He said that the encroachment upon the right-of-way on West Street creates no undesirable or hazardous conditions.

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Councilman Swicegood moved to authorize the City Manager to sign an encroachment agreement with Carl and Elizabeth M. Peverall for property on West Street. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION NO. 93-74 - RESOLUTION ESTABLISHING ELIGIBILITY AND COST FOR RETIREE HEALTH BENEFITS UNDER THE CITY OF ASHEVILLE SELF-INSURED HEALTH PLAN

City Manager Bean said that the City of Asheville has provided health insurance for its employees, retiree, and their families since 1964 and has been self-insured since 1983. Because of changes in federal law and in the City's plan for benefits, the need has arisen to establish new procedures and eligibility requirements for continuing health benefits following retirement from the City. In order to accomplish this, the four resolutions currently in effect must be rescinded and a new one effected. There will be no additional cost to the City and will save the City up to \$471,000 over seven years.

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

Councilwoman Field moved for the adoption of Resolution No. 93-74. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 208

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 18, 1993.

B. RESOLUTION NO. 93-75 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE APPLICATION FOR A TRAFFIC ENFORCEMENT UNIT GRANT WITH THE NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM

Summary: At the present time, with a police department the size of Asheville's, we are doing almost nothing with our traffic needs in the City. It is a haphazard method by using the officers on the beat whenever they can break free. The traffic enforcement unit will be able to obtain a great deal of special training that they can share with the other officers. The equipment will not cost the City anything -13-

during the life of this grant and probably for a period of at least 4-5 years. This grant will be of a tremendous benefit to the citizens of Asheville and also an opportunity to add to the strength of the department in a very meaningful way. The matching part of grant is \$46,500.

RESOLUTION BOOK NO. 20 - PAGE 212

C. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, RELATIVE TO AN AMENDMENT TO THE CIVIL SERVICE RULES AND REGULATIONS (RULE 3)

D. MOTION FOR FILING APPLICATION TO THE JUNIOR LEAGUE OF ASHEVILLE FOR ASHEVILLE'S URBAN TRAIL

Summary: The application seeks volunteer and financial support for parts of the Urban Trail.

E. RESOLUTION NO. 93-76 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND WASV-TV INC.

Summary: WASV-TV Inc. previously entered into a lease agreement with the City for the purpose of leasing space at the City's premises at White Fawn Reservoir, which lease agreement expired on or about November 1, 1989. The City has been negotiating with WASV-TV over the terms of a new lease agreement and an agreement for renewal has been reached.

RESOLUTION BOOK NO. 20 - PAGE 213

F. RESOLUTION NO. 93-77 - RESOLUTION REQUESTING MSD TO REHABILITATE THE SEWER LINE SERVING 16 WOODCREST ROAD AND 519 NORTH GRIFFING BOULEVARD

Summary: As part of the MSD agreement with the City dated November 21, 1989, MSD shall spend up to \$200,000 in any one fiscal year for the take over and rehabilitation of private sewer systems. Projects will be addressed by MSD on a first come, first serve basis each year.

RESOLUTION BOOK NO. 20 - PAGE 214

Councilman Swicegood moved to adopt the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

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A. CLAIMS

City Manager Bean said that the following claim was received by the City during the week of May 17-21, 1993: Southern Bell (Water).

He said the following claims were received by the City during the week of May 24-28, 1993: Al Powers (Sanitation) and Lydia Friedman (Streets).

He said the following claims were received by the City during the week of May 30 - June 4, 1993: Ray Gene Rector (Water), Jerry McKinney (Water), Grace Lindsey (Water), and Kathleen Ashley (Water).

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

B. GROUP AGAINST SMOKERS' POLLUTION

Mr. Michael Overman and Ms. Sheila Pratt, Coordinators of the Western North Carolina Group Against Smokers' Pollution, presented the Council with a smoking pollution control ordinance and asked that the ordinance be adopted prior to October 1, 1993. They presented the proposed ordinance in order to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air should have priority over the desire to smoke.

The Coordinator of Project ASSIST (Americans Stop Smoking Intervention Study) also urged the Council to adopt the smoking pollution control ordinance, to be in effect prior to October 1, 1993.

Councilwoman Field spoke in support of the ordinance.

Mayor Michalove instructed the City Attorney to look at the proposed ordinance for possible adoption.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:12 p.m.

CITY CLERK MAYOR
