

Tuesday - August 3, 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

Vice-Mayor Ellison gave the invocation.

I. PROCLAMATIONS: None

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 720 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove opened the public hearing at 4:07 p.m.

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

Ms. Carol Pennell, Urban Planner II, said that this lot, located one block east of Hendersonville Road, has access only off of Reed Street. The subject property shares a property line to the north with the McClain property recently rezoned from R-3 Residential District to CH Commercial Highway District (except for one foot parallel to Reed Street).

On July 7, 1993, the Planning and Zoning Commission reviewed and recommended approval of the rezoning of 720 Reed Street from R-3 Residential District to CH Commercial Highway District.

Mr. Tom Cooke, owner of 717 Reed Street, questioned the use of the property but did not object to the rezoning.

Mr. Rodney Leftwich, owner of 720 Reed Street, spoke in support of the entire lot being rezoned (not leaving a one foot parallel to Reed Street as was done with the McClain rezoning). He stated that he would like to set up a pottery business in his home at 720 Reed Street. He explained that if the Council rezoned his property CS Commercial Service -2-

except for the one foot parallel to Reed Street, he would not be able to use his property as CS Commercial Service because he would not have any access from Reed Street. He urged the Council to rezone the entire lot and felt that Reed Street already has a lot of commercial traffic on it and his access would not cause much more.

Upon inquiry of Councilwoman Field, Ms. Pennell stated that Mr. Leftwich had no appeal to the Board of Adjustment.

Council explained to Mr. Leftwich that when it recently adopted the Hendersonville Road Corridor Plan amendment to the 2010 Plan, the amendment included trying to keep commercial traffic off of Reed Street through the use of a one foot R-3 Residential District buffer parallel to Reed Street.

Therefore, they told Mr. Leftwich that his proposal would be inconsistent with their recently adopted Corridor Plan.

Councilwoman Field moved to continue the public hearing until August 17, 1993, without further advertisement, in order to give the Council an opportunity to tour the area and find possible alternatives to Mr. Leftwich's problem. This motion was seconded by Councilman Worley and carried unanimously.

B. GUEST

At this time, Mayor Michalove recognized the Mr. Johnson, Mayor of Stanton, Tennessee, who is visiting Asheville.

C. PUBLIC HEARING TO PARTIALLY REZONE TWO PROPERTIES ON PINEY MOUNTAIN DRIVE FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2043 - ORDINANCE AMENDING ZONING OF TWO PROPERTIES ON PINEY MOUNTAIN DRIVE FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

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

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

Ms. Carol Pennell, Urban Planner II, said that the site is located in the northeast quadrant of the intersection of I-240 and Chunn's Cove Road. The total acreage of the two parcels is 42.4 acres; however, a partial rezoning of 16.102 -3-

acres is sought from R-2 to OI. In general, the site is located on the western slope of Piney Mountain. The area of specific concern is a relatively level area located on the western 1/4 of the property. This portion was reportedly used as a disposal area for shot rock during the construction of the I-240 cut through Beaucatcher Mountain in 1980. More recently, additional soil was placed on the site during construction of the nearby Wal-Mart store.

On July 7, 1993, the Planning and Zoning Commission reviewed and recommended approval of the rezoning of two properties on Piney Mountain Drive from R-2 Residential District to OI Office Institutional District.

Mr. Danie Johnson, representative of R. L. Coleman Sr. and R.B.R. & S.T. AN.C Limited Partnership, spoke in support of the rezoning stating several reasons why the area was unique. He explained why it should not be considered illegal spot zoning and why the 2010 Plan should not apply in this situation. He stated that the owner and Mountainbrook Homeowners Association have entered into a legal binding document which addresses any concerns the Association may have had. He stated that the Association has no objections to the proposed partial rezoning and endorses the change.

Mr. Harvey Scheviak, representative of the Mountainbrook Homeowners Association, spoke in support of the partial rezoning and stated that the Association supported the office park to be developed on the site.

City Attorney Slawter said that the Council would be considering the partial rezoning based on all the uses allowed in the OI Office Institutional District.

Councilman Worley commended the parties involved for working out their differences to bring about a proposed rezoning.

Mr. Johnson clarified some concerns raised by Ms. Jane Hildebrand.

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

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

Vice-Mayor Ellison moved for the adoption of Ordinance No. 2043. This motion was seconded by Councilman Worley.

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On a roll call vote of 6-0, Ordinance No. 2043 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 9

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT

Vice-Mayor Ellison moved to continue this matter until October 26, 1993, due to a pending lawsuit. This motion was seconded by Councilman Worley and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 93-112 - RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT AND RELATED DOCUMENTS FOR THE INSTALLMENT PURCHASE OF TWO FIRE TRUCKS

City Manager Bean said that on January 5, 1993, City Council approved the purchase of one 50 foot aerial fire truck and one 75 foot aerial fire truck. The acquisition of these fire trucks via installment purchase has been contemplated in the City's Capital Improvement Program. This resolution would authorize execution of a contract and related documents necessary to accomplish the installment purchase of the trucks.

After some discussion on the "not to exceed" figure in the resolution, Vice-Mayor Ellison moved to amend the resolution to authorize the Mayor to execute any and all documents related to or necessary for funding the purchase of the two fire trucks for a principal purchase amount of \$607,289, plus issuance costs. This motion was seconded by Councilwoman Field and carried unanimously.

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

Councilman Ellison moved for the adoption of Resolution No. 93-112, as amended. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 77

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B. RESOLUTION NO. 93-___ - RESOLUTION AWARING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 10) TO APAC-CAROLINA, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

Mayor Michalove stated that this item would be postponed until August 17, 1993.

However, Mr. H.R. Edgerton, who was awarded the bid for the brick sidewalk in Biltmore Village, spoke about the matter being postponed so often. He felt that the postponing of this item was costing his business a tremendous amount of money.

City Manager Bean explained that the bonds were just sold last week and as a result of that bond sale, funds were now available for Contract No. 10.

C. BIDS RELATIVE TO PURCHASE OF ONE FIRE PUMPER WITH A 55 FOOT AERIAL AND ONE FIRE TRUCK WITH A 75 FOOT AERIAL

Fire Chief John Rukavina said that sealed bids were invited to furnish the Fire Department with one fire pumper with 50 foot aerial and one fire truck with 75 foot aerial as budgeted in the Capital Improvement Program (CIP) for purchase in Fiscal Year 1993.

Bids were received and subsequently awarded by City Council to Slagle Fire Equipment/KME, Cayce, S.C., on January 5, 1993, for the purchase of one 1993 KME "Renegade" cab and chassis with a KME 174 Streamline Aerial body and a KME 55 foot "FireStik" aerial in the amount of \$824,028 including options, and one 1993 KME "Renegade" MFD cab and chassis with a KME 177 Streamline Aerial body and a KME 75 foot "FireStik" aerial in the amount of \$323,261 including options.

In view of the fact that the Fire Department had identical equipment in the CIP for purchase in Fiscal Year 1994, provisions were included in the invitation for bids issued in Fiscal Year 1993 requesting bidders to submit bids based on the purchase of either one fire truck or two fire trucks of the same type.

Slagle Fire Equipment/KME offers an extension of firm pricing through August 31, 1993, for acquisition of two fire trucks included in the Fiscal Year 1994 CIP. Therefore, it is recommended that City Council approve the purchase of one 1993 KME "Renegade" cab and chassis with a KME 174 Streamline Aerial body and a KME 55 foot "Firestik" aerial -6-

in the amount of \$284,028, and one 1993 KME "Renegade" MFD cab and chassis with a KME 177 Streamline Aerial body and a KME 75 foot "Firestik" aerial in the amount of \$323,261 from Slagle Fire Equipment/KME, Cayce, S.C.

Funds for the lease/purchase of this equipment are budgeted in the Fire Department's CIP.

Upon inquiry of Councilman Swicegood, Fire Chief Rukavina stated that the average life of a fire truck is approximately 17 years and felt that with an on-going maintenance program, the life expectancy could be more.

District Chief Randy Bryant, Chairman of the Equipment Committee for the Fire Department, explained the process the Equipment Committee goes through in order to keep the equipment running properly.

Upon inquiry of Councilman Peterson, City Manager Bean said that there will be only 3 more replacement vehicles needed in the next 5 years for the Fire Department.

Vice-Mayor Ellison moved to awarded the bid of one 1993 KME "Renegade" cab and chassis with a KME 174 Streamline Aerial body and a KME 55 foot "Firestik" aerial in the amount of \$284,028, and one 1993 KME "Renegade" MFD cab and chassis with a KME 177 Streamline Aerial body and a KME 75 foot "Firestik" aerial in the amount of \$323,261 to Slagle Fire Equipment/KME, Cayce, S.C. This motion was seconded by Councilman Worley and carried unanimously.

D. ORDINANCE NO. 2044 - ORDINANCE AMENDING PROVISIONS OF THE CITY CODE RELATED TO HEATING AND AIR CONDITIONING CODE

Fire Chief John Rukavina said that on July 1, 1993, the City resumed responsibility for delivery of mechanical inspection services by the City's Building Safety Division, pursuant to City Council authorization. Since Article 3, Chapter 4 of the City's Code reflects the earlier contract with WNC Air Pollution, Chapter 4 (Section 4-102) needs to be amended to reflect the City Council's action.

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

Councilman Worley moved for the adoption of Ordinance No. 2044. This motion was seconded by Councilwoman Field.

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On a roll call vote of 2044, Ordinance No. 2044 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 13

E. CONSIDERATION OF PURCHASE OF PROPERTY FOR A SOUTH ASHEVILLE BALLFIELD

City Manager Bean said that City Council tentatively agreed to move forward developing baseball fields on the property owned by the City schools in the Oakley area. The County Commissioners have agreed to provide the funds to the City of Asheville to purchase the property and the School Board will be considering this offer on August 5, 1993. The City has a preliminary indication from the Board of Education that they will sell the property for the amount of money that they previously paid when they purchased the property and will allow the City to buy it over a 3 year period. The total purchase price will be \$335,734 - 100% of the cost being paid by Buncombe County. The City has already begun surveying and developing a grading plan since the property will need to be graded and seeded no later than September in order to be ready for the spring baseball season. He said funds for the development of the property are in the Capital Improvements Program.

Mr. Johnny Wells, Coach, urged the Council to do whatever they could to be ready for the spring baseball season.

Mr. Roy Harris spoke in favor of the ballfield in Oakley, but hoped the Council would not forget the children who live in central Asheville.

Ms. Leni Sitnick, spoke in support of baseball activities and was assured that this purchase was not in lieu of the site located in east Asheville.

Vice-Mayor Ellison moved to authorize the City Manager to offer to purchase the Oakley property over a 3 year period from the Board of Education in the amount of \$335,734. This motion was seconded by Councilman Peterson and carried unanimously.

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 20, 1993.

B. RESOLUTION NO. 93-113 - RESOLUTION AMENDING RULE 23 OF THE RULES OF PROCEDURE FOR THE ASHEVILLE CITY COUNCIL

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Summary: With the adoption of the legislation eliminating the requirement for three votes on ordinances, a resolution needs to be adopted amending Rule 23 of the Rules of Procedure for the City Council.

RESOLUTION BOOK NO. 21 - PAGE 78

C. RESOLUTION NO. 93-114 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE A LOT LOCATED ON SAND HILL ROAD

Summary: The City owns a lot on Sand Hill Road. Mr. Jerry Eury has made an offer for the purchase of this property in the amount of \$7,000, which said offer being accompanied by 5% bid deposit received by the City Clerk. This resolution will direct the Clerk to advertise a notice which shall contain a general description of that property, the amount and terms of the offer and a notice that within 10 days any person may raise the bid by not less than 10% of the first \$1,000 and 5% of the remainder of the offered price of \$7,000.

RESOLUTION BOOK NO. 21 - PAGE 80

D. RESOLUTION NO. 93-115 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE A LOT LOCATED OFF MT. CARMEL ROAD

Summary: The City owns a lot off of Mt. Carmel Road. Mr. and Mrs. Winston Martin have made an offer for the purchase of this property in the amount of \$10,000, which said offer being accompanied by 5% bid deposit received by the City Clerk. This resolution will direct the Clerk to advertise a notice which shall contain a general description of that property, the amount and terms of the offer and a notice that within 10 days any person may raise the bid by not less than 10% of the first \$1,000 and 5% of the remainder of the offered price of \$10,000.

RESOLUTION BOOK NO. 21 - PAGE 81

E. RESOLUTION NO. 93-116 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE SKYLAND FIRE DEPARTMENT FOR JOINT PURCHASE AND MAINTENANCE OF A FIRE TRUCK

Summary: In 1988, the City and the Skyland Volunteer Fire Department Inc. entered into a contract for fire services in a substantial part of Skyland's fire district that had been annexed by the City. The 1988 agreement provided for joint purchase of firefighting equipment as Skyland's equipment aged to the point of replacement.

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In 1991, City Council approved CIP funding for up to half the cost of replacing Engine 21, the primary fire rig operated at Skyland's Station 21 by Asheville firefighters. Since that time, Skyland Fire Department has ordered this fire truck. It is slated for delivery within the next two weeks. Skyland and City staff recommend an agreement between the City and Skyland that spells out ownership, maintenance and disposition responsibilities for the City and Skyland.

Funds for the City's share of this purchase (\$123,404) are budgeted in the Fire Department's CIP.

RESOLUTION BOOK NO. 21 - PAGE 82

F. RESOLUTION NO. 93-117 - RESOLUTION APPOINTING J. RANDOLPH FLUHARTY JR. TO THE TOURISM DEVELOPMENT AUTHORITY

Summary: The term of Steve Miller will expire on August 30, 1993. This resolution will appoint J. Randolph Fluharty Jr. to serve a 3 year term, term expiring August 30, 1996, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 87

G. RESOLUTION NO. 93-118 - RESOLUTION APPOINTING MEMBERS TO THE CITY OPERATIONS ADVISORY COMMISSION

Summary: Resolution No. 92-174 dated December 8, 1992, and amended on July 27, 1993, established the City Operations Advisory Commission. This resolution will appoint the following members: Tim Amos, Chairman; Skip Pearlman, Vice-Chairman; James P. Chakales; Will Creed; Mike Hunter; Charles Lawrence; and Wilma Sherrill.

RESOLUTION BOOK NO. 21 - PAGE 88

H. RESOLUTION NO. 93-119 - RESOLUTION REQUESTING ACCESS BY THE ASHEVILLE TRANSIT AUTHORITY TO A DESIGNATED BUS STOP ON THE BILTMORE SQUARE MALL PROPERTY

Summary: Closer bus service to the mall facility will greatly benefit mall workers and shoppers. The Transit Authority wishes to provide closer access to the mall entrance for its bus riders. The City has dedicated additional funding to maintain daily bus service to the Biltmore Square Mall for fiscal year 1994. This resolution will request access by the Transit Authority to a designated bus stop on the Biltmore Square Mall property. -10-

RESOLUTION BOOK NO. 21 - PAGE 89

Councilman Worley moved to approve the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. TONY PONDER

Mr. Tony Ponder, questioned an item questioned the Council about an intake on the South French Broad River.

City Manager Bean said that there is no final decision on that intake and that it is only one of many proposed sites.

B. CLAIMS

City Manager Bean said the following claims have been received by the City of Asheville during the week of July 12-16, 1993: Geraldine Edgerton (Streets); Southern Bell (Water); Alan O'Donnell (Police); Carroll Williams (Water); NC DOT (Streets); Charles Beaver (Water) and Teresa Nelson (Streets).

He said the following claims have been received by the City during the week of July 19-23, 1993: William J. Miller (Streets); Elaine Brandau (Streets); Bobby W. Bane (Streets); and Glenn Shelton (Water).

He also said that the following claims have been received by the City during the week of July 26-30, 1993: Kristin Grady (Water); Mike Burnette (Streets); William Eubanks (Water); Taneqwa Williams (Parks); Don Hess (Water); River

Ridge Mall (Police); Doris W. Loftis (Police); Barlow Service Co. (Sanitation); Wolfgang Reinert (Water); M. B. Haynes (Water); and Elbert Davis (Streets).

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

C. LAWSUITS

City Manager Bean said that the City was served with the following lawsuits on July 12, 1993: Bobby W. Bane (negligence, unlawful construction, public nuisance) and APAC-Carolina, Inc., Asheville Division (breach of contract).

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He said these lawsuits have been referred to the appropriate legal counsel for action.

At this time (6:42 p.m.), the Council recessed until 7:00 p.m. at the Civic Center in the Banquet Room.

VI. OTHER BUSINESS: Continued

PRESENTATION REGARDING ESTABLISHMENT OF A STORMWATER DRAINAGE UTILITY

Mayor Michalove opened the meeting up at 7:00 p.m. Vice-Mayor Ellison arrived at the meeting at 7:50 p.m. and Councilman Moore was out of town.

City Manager Bean made a presentation relative to the stormwater issue. He explained several items while showing slides which outlined (1) the history of the stormwater issue; (2) the 34 Stormwater Advisory Committee information meetings; (3) the current situation; (4) public need; (5) private need; (6) the stormwater utility contract; (7) the street and sidewalk bond program cost distribution by type of construction; (8) drainage projects and estimated costs; (9) levels of effort regarding the collection system; (10) stormwater control division's five year budget; (11) a revenue analysis; (12) explanation of the utility fee; (13) an annual stormwater utility revenue potential; (14) a comparison of actual values (ERU charge/assessment valuation); (15) EPA regulations; and (16) a summary as follows: (a) currently the City only maintains that 20% of the stormwater system that is located in public rights-of-way; (b) the City system is part of a total system that includes both point and non-point discharges; (c) except for erosion control measures, all stormwater controls, construction and maintenance on private property (80%) is the responsibility of private land owners; and (d) is the responsibility for stormwater systems a public or private good to be funded individually or collectively?

Mr. Robert Weaver, representative of the Crowfields Community Association, read a prepared statement soliciting Council's affirmative vote for the passage of a stormwater ordinance for the City of Asheville.

Mr. Tracy McFarlan, President of Crowfields, used a map to explain the stormwater problems at Crowfields and echoed Mr. Weaver's comments which supported a stormwater ordinance.

Mr. Edward Rutkowski, a resident at Crowfields, spoke in support of a stormwater ordinance.

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Ms. Barber Melton, representing the Coalition of Asheville Neighborhoods, spoke

in support of a utility fee being established.

Councilmembers discussed at length the options available to them which included bringing a bond referendum to the public, the collection of revenue by either adoption of a utility fee or collection through property taxes, or a combination thereof.

Vice-Mayor Ellison moved to authorize the City Manager to (1) identify the City's worst stormwater problem areas, (2) determine the amount of money it would take to fix those problem areas; (3) develop a program, in preparation of a bond referendum, to address those problem areas; and (4) work on developing controls to guide developers in creating stormwater drainage systems. This motion was seconded by Councilman Peterson and carried unanimously.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 9:10 p.m.

CITY CLERK MAYOR
