

Tuesday - November 9, 1993 - 4:00 p.m.

Banquet Room - Asheville Civic Center

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Peterson gave the invocation.

RECOGNITION OF NEWLY ELECTED OFFICIALS

Mayor Michalove recognized the newly elected officials who were present at the meeting.

I. PROCLAMATIONS:

A. RECOGNITION OF ADAM COX AS "VOLUNTEER HONORARY DRUG ABUSE RESISTANCE EDUCATION OFFICER"

Mayor Michalove recognized Adam Cox as "Volunteer Honorary Drug Abuse Resistance Education Officer" and acknowledged his efforts in educating young people about the hazards of drug abuse.

B. PRESENTATION OF QUARTERLY B*E*S*T AWARD TO DAVID MILLER, PUBLIC WORKS DEPARTMENT

City Manager Bean presented David Miller with the quarterly B*E*S*T award. He said that David was nominated by Hall Fletcher Elementary School for helping them remove several large piles of branches and other materials on their clean-up day so their campus would look good for the beginning of the school year. He said that David had a very good attitude in helping and worked beyond closing and he is very deserving of thanks and praises.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING SECTION 30-9-10B OF APPENDIX A OF THE CODE ORDINANCES REGARDING NONCONFORMING SIGNS

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Mayor Michalove announced that this public hearing has been canceled due to the Planning and Zoning commission's tabling of consideration of the ordinance amendment until January, 1994.

B. PUBLIC HEARING RELATIVE TO AMENDING SECTION 30-9-3D.6. OF THE CODE ORDINANCES REGARDING POLITICAL SIGNS

Mayor Michalove announced that this public hearing has been canceled due to the Planning and Zoning commission's tabling of consideration of the ordinance amendment until January, 1994.

C. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH 22 OLIVE STREET

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

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

Mr. Jeff Trantham, Assistant Director of Building Safety Division, said that on April 7, 1992, and August 3, 1992, the Inspections Division inspected 22 Olive Street and found it was unfit for human habitation. He showed Council a video tape of the house. He said that inspections revealed that the roof system is in advance disrepair, floors in bad shape, broken windows throughout, electrical panel needs replaced, plumbing system in disrepair and water is off, furnace is missing, exterior chimney is falling away from house, handrails are missing, front porch has holes, lot is overgrown and is very unsanitary. The cost of

repairing the structure amounts to more than 60%

of the value of the property.

Concern was expressed that someone may be living in the home, although the water and electricity have been disconnected. Upon inquiry of Councilman Chris Peterson about if there was furniture in the home, Mr. Trantham stated that he was not certain. He said legally all items of value must be removed, including fixtures, etc.

Vice-Mayor Ellison inquired if there was a master list of structures within the city limits awaiting demolition. Mr. Robert Hixson, Director of Inspections, advised there is a list, but it is not all inclusive.

The Vice-Mayor expressed concern about demolition if someone is living in the structure.

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When asked if any non-profit groups had expressed an interest in refurbishing the structure, Mr. Hixson advised they had not. The Vice-Mayor recommended a review of the demolition process be completed to prevent similar situations.

Councilman Moore expressed concern for the welfare of the individual who may be living at 22 Olive Street should the structure not be torn down.

Mayor Michalove acknowledged the demolition process is lengthy and arduous. Such demolitions can better a community by encouraging neighbors to better their properties. Mayor Michalove advised he was in favor of voting today. Councilman Swicegood also was in favor of voting during the meeting if the City of Asheville would not be held legally responsible.

Vice-Mayor Ellison recommended further discussion be held on this matter at the next Council meeting, and that the Housing Authority be involved. Should someone be found to be living at 22 Olive Street, that individual would be placed at the top of the Housing Authority's list for housing.

Mayor Michalove closed the public hearing at 4:40 p.m.

Vice-Mayor Ellison moved to consider demolition of 22 Olive Street on November 16, 1993. This motion was seconded by Councilman Swicegood and carried unanimously.

D. PUBLIC HEARING RELATIVE TO REZONING PORTIONS OF A LOT LOCATED AT 1899 HENDERSONVILLE ROAD FROM R-2 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT AND FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2058 - ORDINANCE REZONING PORTIONS OF A LOT LOCATED AT 1899 HENDERSONVILLE ROAD

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

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

Ms. Carol Pennell, Urban Planner II, said that the Asheville Planning and Zoning Commission on October 6, 1993, reviewed and recommended approval of rezoning a portion of 1899 Hendersonville Road (PIN No. 9655-13-14-3658) from R-2 to CH and a portion from R-2 to OI, as surveyed.

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The subject lot fronts on Hendersonville Road and slopes to the west with a single family detached structure and outbuildings on 1/3 of the lot. The remaining 2/3 of the lot are vacant and wooded. It is currently split zoned: Commercial Highway (CH) on eastern portion fronting Hendersonville Road and the western portion (back to Blake Mountain Estates subdivision) zoned Residential 2 (R-2).

Petitioner is asking for current CH line to be extended back to the west to match adjoining property CH line (1.29 acres of R-2 to be changed to CH); that 3.34 acres west of the proposed CH area be rezoned Office Institutional (OI) and 0.69 acre of R-2 be retained.

2010 Plan shows commercial land use along Hendersonville Road and medium density residential adjoining to the west.

One reason for the Planning staff's disapproval was that the rezoning was not felt to be in accordance with the 2010 Plan. However, the Planning and Zoning Commission approved the request based on Ray Anders' survey, which was submitted to legal staff. The vote was 4-2 for the rezoning.

Councilwoman Field stated that she, too, was concerned that the trees and residential setting of the back portion of the parcel be preserved.

Ms. Jane Gianvito Mathews, member of the Planning and Zoning Commission, advised Council of her reasoning for voting against the request for rezoning.

Mr. Harold Cagle, who owns 11.2 acres nearby, indicated he supported the rezoning.

Mr. Richard Green also expressed his approval for the rezoning.

Mr. Craig Justice, attorney representing the petitioners, spoke in favor of the rezoning and distributed maps of the parcel to Council. Due to the bottle-shaped configuration of the land, development of portions of the land will be difficult. He advised Council that the status of the trees cannot be guaranteed. He said that the requested office institutional zoning of a portion of the land will provide a buffer to the residential areas located nearby.

When Councilman Moore asked if there were buyers lined up for this property, Mr. Justice said that there were not.

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Mr. Justice indicated he was not certain if the 2010 Plan actually applied to the parcel in question. Mayor Michalove asked Ms. Pennell to review with Mr. Justice the 2010 Plan as it relates to the property.

Ms. Laurel Eide, representative of the Blake Mountain Homeowners Association, expressed opposition to the rezoning, believing it will lower their property value and adversely affect their quality of life. She distributed photos of her home as it relates to the wooded buffer in the parcel under consideration.

Mr. Jarle Eide also spoke reiterating the Homeowners' opposition to the rezoning request, especially in light of their possibly losing the wooded buffer that currently exists.

Upon inquiry of Councilwoman Field about the rezoning being changed to a lesser classification, City Attorney Slawter advised that this could be done.

Councilman Peterson inquired as to whether there was a conflict of interest in his voting on this matter due to the fact that both he and Councilman Swicegood own property near the land in question. City Attorney Slawter advised he saw no conflict of interest in this matter.

Vice-Mayor Ellison discussed the possibility of adding another 50 feet to the already existing 100 foot buffer.

Councilman Swicegood moved for the adoption of the ordinance. This motion was seconded by Councilman Peterson.

Vice-Mayor Ellison asked if he could amend the above motion to add 50 feet to the wooded buffer, making a buffer of 150 feet. Councilman Swicegood and Councilman Peterson accepted the amendment to their motion.

Councilman Moore asked if actions taken today could affect the legal actions which may be taken by the Eides as they believe they were misled in terms of the zoning of their lot upon purchase. City Attorney Slawter advised it would not.

Mayor Michalove closed the public hearing at 5:24 p.m.

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

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On a roll call vote of 4-3, Ordinance No. 2058 passed on its first reading, with Councilwoman Field, Councilman Moore and Mayor Michalove voting "no".

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. SPECIAL PERMIT FOR REMODEL OF 77 CHURCH STREET, ASHEVILLE, N.C.

Mr. Bob Hixson, Director of Building Safety Division, said that the applicant wishes to repair a Type VI (wood frame structure) at 77 Church Street (inside the fire district) and intends to convert the existing single family dwelling into a business occupancy. State law requires City Council approval and subsequent approval by the North Carolina Department of Insurance.

This application has been reviewed and approved by the Building Inspector, the Fire Inspector, and the Director of Building Safety Division.

Councilwoman Field moved to approve the special permit for 77 Church Street. This motion was seconded by Councilman Worley and carried unanimously.

B. BUDGET AMENDMENT RELATIVE TO RISK MANAGEMENT FUND

City Manager Bean requested this item be postponed until a later date.

C. ORDINANCE NO. 2059 - BUDGET AMENDMENT RELATIVE TO ANNUAL APPROPRIATIONS FOR STREETS AND SIDEWALKS INCLUDING DEBT SERVICE AND APAC-CAROLINA INC. CONTRACT NO. 10

City Manager Bean explained that this budget amendment, in the amount of \$6,622,073, sets up the annual appropriations for Fiscal Year 1993/94 required in the street and sidewalk fund.

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

Councilwoman Field moved for the adoption of Ordinance No. 2059. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2059 passed on its first and final reading.

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ORDINANCE BOOK NO. 14 - PAGE 56

D. ORDINANCE NO. 2060 - BUDGET AMENDMENT RELATIVE TO CONTINUATION OF THE DIESEL FUME EXHAUST SYSTEM PROJECT FOR THE FIRE STATIONS

Mr. Robert Griffin, Executive Assistant in the Fire Department, explained that this budget amendment, in the amount of \$30,000, moves the revenue from the General Fund Capital Improvement to the Capital Project Fund. This is a continuation of the Diesel Fume Exhaust System Project for the fire stations. The project is in the Capital Improvement Program. The project began with one station in Fiscal Year 1991 and is scheduled for completion in Fiscal Year 1995 for existing stations not scheduled for relocation. The EPA has determined that diesel fume exhaust is a carcinogen and this system does meet the OSHA regulations for the removal of diesel fume exhaust.

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

Councilwoman Field moved for the adoption of Ordinance No. 2060. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2060 passed on its first and final reading.

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F. ORDINANCE NO. 2061 - BUDGET AMENDMENT RELATIVE TO THE PURCHASE OF 800 Mhz RADIO COMMUNICATION SYSTEM

City Manager Bean explained that this budget amendment, in the amount of \$500,000, is to complete the final phase of implementation of the radio system.

The radios will be for Water, Public Works and Parks.

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

Councilwoman moved for the adoption of Ordinance No. 2061. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2061 passed on its first and final reading.

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V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 26, 1993

B. BIDS RELATIVE TO 26 POLICE VEHICLES

Summary: Recommendation for award of three bid items to Matthews Ford Inc., Asheville, NC, in the amount of \$323,670 and another bid item to Parkway Chevrolet Inc., Asheville, NC, in the amount of \$56,448. A copy of the bid summary is attached hereto as Exhibit "A".

Councilman Swicegood inquired as to the cost of the 26 motor vehicles for the Asheville Police Department. Acting Police Chief Jay Breedlove advised the cost of each vehicle includes the necessary police equipment, which is approximately \$2,200 over the base vehicle price. Mr. Norwood Dunn, Purchasing Director, advised the specifications for the vehicles were formulated jointly by Fleet Management and the Police Department. Councilman Swicegood recommended looking into the option of using one-color cruisers to save revenues. Acting Police Chief Breedlove advised a drawback to this suggestion is that as old vehicles were rotated out and new one-color vehicles were rotated in, the cars would not match.

Councilman Moore asked about the reliability of Cameros for police work. Acting Police Chief Breedlove advised the vehicles are very helpful in traffic control, they stand up to heavy use, and are quite maneuverable.

C. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 30, 1993, RELATIVE TO THE ADOPTION OF THE STORMWATER DEVELOPMENT REGULATIONS

D. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 30, 1993, RELATIVE TO REZONING 15 OVERBROOK PLACE FROM R-2 RESIDENTIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT

E. RESOLUTION NO. 93-166 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF ASHEVILLE, FEDERAL HIGHWAY ADMINISTRATION, NORTH CAROLINA HISTORIC PRESERVATION OFFICER AND ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR THE PURPOSE OF INSURING THAT THE REPLACEMENT OF THE MCDOWELL STREET VIADUCT IS IN ACCORDANCE WITH THE NATIONAL HISTORIC PRESERVATION ACT

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Summary: The Memorandum for the procedures and actions to be taken by the Federal Highway Administration State Historic Preservation Office, Advisory Council on Historic District is not adversely affected by the replacement of the McDowell Street viaduct. The City of Asheville will be responsible for

maintenance and utility bill payments for the lighting fixtures other than the Evaston type lighting fixtures. There will be approximately 35 fixtures on the bridge. Electrical and maintenance cost for these fixtures calculates to be \$10,000 per year. Should other type fixture be required other than the Evaston, additional cost would need to be determined upon selection of the other fixture.

RESOLUTION BOOK NO. 21 - PAGE 168

F. RESOLUTION NO. 93-167 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CITY'S GROUP LIFE INSURANCE POLICY

Summary: The City Council approved the current contract for term life insurance coverage in September of 1992. Renegotiations have resulted in lower premiums.

RESOLUTION BOOK NO. 21 - PAGE 169

Councilman Swicegood moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 93-168 - RESOLUTION APPOINTING CHRIS PETERSON TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Mayor Michalove explained that the term of Norma Price, as a member on the Water Authority, expired on September 30, 1993. He read the resolution appointing Councilman Chris Peterson as a member of the Asheville-Buncombe Water Authority for a term of three years, term to expire September 30, 1996, or until his successor has been duly appointed and qualified.

He explained that Councilman Charles Worley will continue to serve on the Water Authority after his term as Councilman has ended. He said the individuals who have been interviewed for this vacancy will be asked to remain on the resource list for the next vacancy.

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Vice-Mayor Ellison moved for the adoption of Resolution No. 93-170. This motion was seconded by Councilman Swicegood and carried unanimously.

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B. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of October 25-29, 1993: Rosalite Vance (Police), Georgia Ruth Edmonds (Water), Charlotte Homsher (Water), Judy Romick (Water), Dave Campbell (Water), John Klatz (Water), Brenda Campbell (Water), Ruth Bowden (Water), James Wolfe (Water), Phyllis Powell (Water), Ralph B. Brown Sr. (Water), and Diana Morris (Water).

He also said that the following claims were received during the week of November 1-5, 1993: Gail Elmore (Streets), John Rogers (Water), Ruth Ledford (Water), Kaki Roberts (Water), and Veronica Sulkowski (Traffic Engineering).

He said that these claims would be referred to the appropriate insurers for investigation.

C. MOTION TO APPROVE DOWNTOWN STREETSCAPE PLAN

Councilman Worley moved to approve the Downtown Streetscape Plan. This motion was seconded by Councilman Moore and carried unanimously.

D. MOTION RELATIVE TO THE HAYWOOD STREET SIDEWALKS

Councilman Worley moved to excuse Councilwoman Field from voting due to a conflict of interest. This motion was seconded by Councilman Moore and carried unanimously.

Councilman Moore moved that the City reconstruct the Haywood Street sidewalks at such time as the owner of the old Biltmore Hotel completes 50% of their renovation work and that the funding for the project come from the streetscape project. This motion was seconded by Councilman Worley and carried on a 5-1 vote with Councilman Swicegood voting "no".

D. EXECUTIVE SESSION

City Manager Douglas Bean distributed a memo to Council members concerning outside employment by a member of the Water Department. He gave background on the situation. -11-

Vice-Mayor Ellison and Councilman Peterson advised they had been contacted by the media about the situation. Due to the fact that this was a personnel matter, Vice-Mayor Ellison moved to go into Executive Session at 5:50 p.m. This motion was seconded by Councilman Peterson and carried unanimously.

VII. ADJOURNMENT:

After coming out of executive session, Mayor Michalove adjourned the meeting at 6:20 p.m.

CITY CLERK MAYOR
