

Tuesday - December 7, 1993 - 4:00 p.m.

ORGANIZATIONAL SESSION:

Mayor-elect Russ Martin welcomed everyone to the organizational session and introduced Reverend O.T. Tomes, Mt. Olive Baptist Church, who gave the invocation.

The Honorable Robert Orr, North Carolina Court of Appeals Judge, administered the Oath of Office to the following:

Mayor Russell M. Martin

Councilwoman Barbara Field

Councilman Gary McClure

Councilman Chris J. Peterson

Councilwoman Leni Sitnick

Councilman Joseph Carr Swicegood

Councilman Herbert J. Watts

Councilwoman Field moved to recess the Council meeting for approximately 20 minutes and reconvene at the Asheville Civic Center in the Banquet Room. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION NO. 93-178 - RESOLUTION OF APPRECIATION FOR MAYOR KENNETH M. MICHALOVE

Mayor Martin read the resolution.

Upon motion of Councilwoman Field, seconded by Councilman Watts, Resolution No. 93-178 was unanimously adopted.

Mayor Martin presented Mr. Michalove with the resolution, a plaque and his name plate.

Mr. Michalove thanked the City Council and City staff for their help over the years. He then spoke in support of City Manager Doug Bean. He stated reasons why he felt that Mr. Bean was a professional City Manager. He recommended that the Council have the opportunity to tell Doug what they want and if he doesn't respond within a reasonable period of time (3-6 months), then make their decision regarding his continued employment as City Manager.

RESOLUTION BOOK NO. 21 - PAGE 184

RESOLUTION NO. 93-179 - RESOLUTION OF APPRECIATION FOR VICE-MAYOR EUGENE W. ELLISON

Mayor Martin read the resolution.

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Upon motion of Councilwoman Field, seconded by Councilman Peterson, Resolution No. 93-179 was unanimously adopted.

Mayor Martin presented Mr. Ellison with the resolution, a plaque and his name plate.

Mr. Ellison spoke about the great responsibility it takes to become a Councilmember. He stated that he enjoyed serving the citizens and that all his decisions were for the best interest of all the citizens of Asheville. He challenged the new Council to think of Asheville's future and to take Asheville forward.

RESOLUTION BOOK NO. 21 - PAGE 185

RESOLUTION NO. 93-180 - RESOLUTION OF APPRECIATION FOR COUNCILMAN WILLIAM G. MOORE

Mayor Martin read the resolution.

Upon motion of Councilwoman Field, seconded by Councilwoman Sitnick, Resolution No. 93-180 was unanimously adopted.

Mayor Martin presented Mr. Moore with the resolution, a plaque and his name plate.

Mr. Moore felt that City officials should answer straightforward questions about legitimate matters of the City.

RESOLUTION BOOK NO. 21 - PAGE 186

RESOLUTION NO. 93-181 - RESOLUTION OF APPRECIATION FOR COUNCILMAN CHARLES R. WORLEY

Mayor Martin read the resolution.

Upon motion of Councilwoman Field seconded by Councilwoman Sitnick, Resolution No. 93-181 was unanimously adopted.

Mayor Martin presented Mr. Worley with the resolution, a plaque and his name plate.

Mr. Worley said that it was great honor to serve as a member of Council over the past two years. He passed on some advice to the new Council by saying that you have to -3-

listen a lot, try and develop all the facts and then make intelligent decisions. He urged them to do what is in the best interest of the City and said that Doug Bean has earned his deep respect and admiration as Asheville's City Manager.

RESOLUTION BOOK NO. 21 - PAGE 187

ELECTION OF VICE-MAYOR

Councilwoman Field nominated Councilwoman Sitnick as Vice-Mayor of the City of Asheville. Mayor Martin seconded that nomination.

Councilman Swicegood nominated Councilman Peterson as Vice-Mayor of the City of Asheville. Councilman Watts seconded that nomination.

Councilwoman Field moved that the nominations be closed. This motion was seconded by Councilman Swicegood and carried unanimously.

On a vote of 4-3, Councilman Peterson was elected as Vice-Mayor, with Councilmen McClure, Peterson, Swicegood and Watts voting for Councilman Peterson and Mayor Martin and Councilwomen Field and Sitnick voting for Councilwoman Sitnick.

Vice-Mayor Peterson stated that he will do the best job he can for the citizens of Asheville.

Mayor Martin announced that a recess would be held for approximately 10 minutes.

REGULAR MEETING:

INVOCATION

The invocation was given by Mayor Martin.

I. PROCLAMATIONS: None.

II. PUBLIC HEARINGS: None.

III. UNFINISHED BUSINESS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 30, 1993

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Councilman Swicegood moved for the adoption of the November 30, 1993, minutes. This motion was seconded by Councilman McClure and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 93-189 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT SEPARATION AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND DOUGLAS O. BEAN

Vice-Mayor Peterson moved to go into executive session for the purpose of discussing a personnel matter. This motion was seconded by Councilman Swicegood and carried unanimously.

After coming out of executive session, Councilman Swicegood moved to adopt a resolution authorizing the Mayor to execute an employment separation agreement by and between the City of Asheville and Douglas O. Bean. This motion was seconded by Vice-Mayor Peterson.

Councilwoman Sitnick stated that Council's job as leaders is to find out facts, take time in which to do that and then base votes on what we know to be the truth. She stated that she would not be responsible for the firing or accepting the resignation of anyone without documentation. She respected Council's opinions but stated that she would not base hers on theirs. She stated that we all want to make Asheville a good City working government. She suggested an independent audit of the City Manager, all the departments and personnel. Then, the Council should take steps to implement the recommendations of that study and conduct a review after 6 months to make sure the process is working. She stated that since we are all in this together, lets find clear and lasting ways to make things better.

Councilman Watts cleared the record by saying that he was not influenced by Vice-Mayor Peterson or Councilman Swicegood. He said that being a City employee for 25 years, he worked under five City Managers, all who contributed a great

deal to Asheville. He stated that Doug has been outstanding but he promised the people that he would listen to them and he felt that it would be in the City's best interest to change.

Councilman McClure said that he makes his decisions based on facts as he perceives those facts. He stated, in knowing Doug personally, that he is a fine man and has served the City well. However, during the campaign, change in the City was brought up. He stated that unfortunately a bad situation has gotten worse and has drug a man's career -5-

through the dirt. He felt that it is time for the City to make the change and not subject Doug Bean to any more pressures. He stated that the City will not be dismantled nor will the Council-Manager form of government be changed. He stated that we needed to work together in order for the City to move forward.

Councilwoman Field stated that she was very concerned that the four new members on Council have not had the chance to work with Doug Bean, one of the finest persons she has ever met. She stated that during the campaign trail, not a single person ran on the platform to change the City Manager nor were they elected to change the City Manager. She was committed to listening to the community and to do what is best for Asheville. She totally supported Doug Bean and would not accept his resignation.

Councilman Swicegood stated that he was elected to do what he felt was right for Asheville. After listening to the people for two years he felt he was doing the best for Asheville. He said that since legally it is Doug Bean that is in control of the City, through the Council, that there needed to be a change made and he wanted the people to realize there was not a conspiracy on his part against Doug Bean. He felt like a change would be good for Asheville.

Mayor Martin said that he served as a Councilman two years ago and has found Doug Bean to be competent, well-meaning, in control of the situation and a very hard working man. He said that Doug is recognized by his peers as far above average in the function of his job. He said that it is detrimental to the well-being of our city for a new council, with people who have not previously served on council, to be thrown into this without a competent City Manager. He read a letter from David E. Reynolds, Executive Director of the North Carolina League of Municipalities, which praised Doug Bean's management skills and reputation. He urged Council to give Doug Bean a chance to work with this Council. He questioned how the new Councilmembers could come up with a logical and valid reason for saying that Doug Bean was not doing a good job.

The following persons spoke supporting change of the City Manager:

Jerry Hobbs - Old Toll Road

Bill Fishburne

Lewis Green - Editor of the Independent Torch

Hayes Martin - North Asheville resident

Sherry Morrow - Asheville resident

Carroll Williams - City Water Department employee

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The following persons spoke in support of City Manager Doug Bean:

Charlotte Tell - West Asheville resident

Bob Douglas - Stratford Road

John Legerton - Kenilworth resident

Hazel Fobes - Asheville resident

Pat Whalen - Glen Falls Road

Richard Wood - Former Mayor

Jim France - Vice-President & General Manager of Grove Park Inn

Jane LaFerla - North Asheville resident

Mike Lewis - 48 Gracelyn Road

Steve Buey - Horizon Hill Road

Joe Adams - North Asheville resident

George Groome - 58 Robinhood Road

Carolyn Wallace - Asheville resident

Jimmie Lockman - 120 Norwood Avenue

Barry Olen - Kenilworth resident and owner of downtown
business

The following persons spoke as to the process of this issue:

Mike Faulkner - Owner of downtown business

Jim Skalski - Kenilworth resident

Laurie Masterton - North Asheville resident and owner
of downtown business

Ernie Thurston - Former Montford resident

Max Haner - Asheville resident

Wally Bowen - Kenilworth resident

John Redmond - Asheville resident

Gene Ochsenreiter - Letter read by Ken Michalove

Ken Michalove - Stratford Road

Minnie Jones

Various comments were expressed by:

Kim McGuire - Norwood Park

Joe Adams - North Asheville resident

Joe Pless - South Asheville resident

Jesse Ray - Asheville resident

Councilman Peterson stated he previously discussed management style concerns with Doug Bean and felt that affluent neighborhoods were getting special attention. His concern was that the City's money was not spread out evenly throughout Asheville.

Councilman Swicegood reiterated his prior motion to adopt a resolution authorizing the Mayor to execute an -7-

employment separation agreement by and between the City of Asheville and Douglas O. Bean. This motion was seconded by Vice-Mayor Peterson. On a voice vote of 4-3, Resolution No. 93-189 was adopted, with Mayor Martin and Councilwomen Field and Sitnick voting "no".

City Manager Bean read his letter of resignation effective December 31, 1993, as City Manager of the City of Asheville. He summarized several specific achievements. He summed his comments by thanking past City Councils for their leadership, and the most professional and dedicated public employees with whom he has had the pleasure to serve for their commitment. He also expressed gratitude to his family, especially Karen, for her steadfast support.

Councilman Swicegood moved to accept the resignation of Douglas O. Bean as City Manager of the City of Asheville effective December 31, 1993. This motion was seconded by Vice-Mayor Peterson and carried on a 4-3 vote, with Mayor Martin and Councilwomen Field and Sitnick voting "no".

Councilwoman Sitnick stated that it is important to keep in mind that we all care about Asheville and want to do what is right for Asheville. All citizens need to maintain their guard, stay involved and demand answers to questions. She was still uncertain as to the charges against Doug Bean and if they warranted this type of action.

Councilwoman Field stated she too had not seen any charges against Doug Bean.

Mayor Martin stated that Doug Bean should be proud of what he has done for Asheville in the last seven years and will be sorely missed.

The motion accepting Douglas O. Bean's resignation effective on December 31, 1993, carried on a 4-3 vote, with Mayor Martin and Councilwomen Field and Sitnick voting "no".

Mayor Martin called for a five minute recess.

At this time, Councilman Watts left the meeting unexcused.

B. FINAL PLAT APPROVAL FOR WEST PARK SUBDIVISION

Mr. Gerald Green, Senior Planner, said that FFC Limited Partnership has submitted a plat for the subdivision of lot 1 of West Park Subdivision, located on Smoky Park Highway adjacent to the Holiday Inn. The plat shows the division of the 2.5 acre lot into two lots. The two lots will be 1.2 -8-

acres and 1.3 acres. Access to the lots will be provided by Spartan Drive, a new city street constructed as part of the development of West Park Subdivision. The Asheville Planning and Zoning Commission reviewed the

preliminary plat on December 1, 1993 and approved it. The final plat meets all requirements established by the Subdivision Regulations and other regulations of the City of Asheville. City Council acceptance of the final plat is requested.

Councilwoman Field moved to approve the final plat of West Park Subdivision. This motion was seconded by Councilman McClure and carried unanimously.

C. MOTION TO SET PUBLIC HEARING TO REZONE 840 EMMA ROAD

Councilman Swicegood moved to set a public hearing on December 21, 1993, to rezone 840 Emma Road from R-2 Residential District to NC Neighborhood Commercial District. This motion was seconded by Councilwoman Field and carried unanimously.

D. MOTION TO SET PUBLIC HEARING FOR A VARIANCE REQUEST FOR NORBURN PARK SUBDIVISION

Councilman Swicegood moved to set a public hearing on December 21, 1993, relative to a variance request for Norburn Park Subdivision. This motion was seconded by Councilman McClure and carried unanimously.

E. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on December 1, 1993:

GROCE UNITED METHODIST CHURCH

Mr. Green said that the Groce United Methodist Church is proposing the addition of new fellowship hall and classrooms to the existing church located at 954 Tunnel Road. The property is contained within the R-3 residential zoning district and is surrounded by office and single-

family residential uses. The proposed addition meets the minimum requirements of the zoning ordinance, including parking and landscaping.

At their November 15, 1993 meeting, the Board of Adjustment granted a conditional use permit to the church which included a reduction of 15 feet in the width of the buffer required between the parking lot and the property line.

At their December 1, 1993 meeting, the Planning and Zoning Commission voted to recommend approval of the addition with one condition: (1) the church must obtain approval for availability of services from the Water Authority and Metropolitan Sewerage District.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

FIRST BAPTIST CHURCH

Mr. Green said that the First Baptist Church is proposing an addition and a renovation of the day care facilities located at the church at Five Oak Street. The improvements will include a 25,500 sq. ft. renovation and a three-story 16,000 sq. ft. addition. The property and all surrounding lots are zoned CBD.

The proposal meets the minimum requirements of the Zoning Ordinance and is in compliance with the Downtown Design Review Guidelines.

At their December 1, 1993 meeting, the Planning and Zoning Commission voted to recommend approval of the addition/renovation with one condition: (1) The church must obtain approval for the availability of services from all utilities and the Fire Department.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

MALVERN HILLS COMMONS

Mr. Green said that the property for the proposed Malvern Hills Commons is located off of Smoky Park Highway across from the Asheville School in the city's extraterritorial jurisdiction. The property is bordered on the north and northwest by Old Haywood Rd. The proposal is to develop approximately 19 acres of the 32.53 acre site for a 70,500 square foot shopping center. Access to the shopping -10-

center would be provided by the creation of a new street which would bisect the property and run between Smoky Park Highway and Old Haywood Road. To facilitate access from Smoky Park Highway, a bridge will be widened at the developers expense. The site's terrain varies from gently sloping to relatively steep. The site is zoned Commercial Service (CS) and the adjacent zoning is Commercial Service (CS) to the east and south and R-3 elsewhere. The remainder of the site will be developed in the future and will go through the Group Development and/or Subdivision process at that time.

It appears that the project does meet the city's requirements for Group Developments although a detailed landscape plan still must be submitted and approved. At their December 1, 1993, meeting, the Asheville Planning and Zoning Commission voted 4-3 to recommend approval of Malvern Hills Commons with the following conditions:

1. Approval from NCDOT must be obtained for the driveways, and for the bridge widening.
2. Approval from Southern Railroad for driveway construction and grading in the railroad right-of-way.
3. Submittal of a detailed landscape plan.
4. That approvals be obtained for fire protection and water availability.

Notifications were sent to surrounding property owners. Approximately 68 individuals called the Planning Department requesting additional information about the project. At the Planning and Zoning Commission meeting, several individuals expressed concern about the future development of the remainder of the site.

Mr. Green answered various questions from members of Council relative to tabling the action or setting a public hearing.

Mr. Kenneth Panko, Panko Engineering, told Council about the difficulties encountered on this project. He urged Council to approve this project.

Councilwoman Field moved to set a public hearing on this issue on January 11, 1994. This motion was seconded by Councilwoman Sitnick and carried unanimously.

V. CONSENT: None

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VI. OTHER BUSINESS:

A. COMMENTS BY COUNCILWOMAN SITNICK

Councilwoman Sitnick requested Council and staff to look into the possibilities of meeting with the County Commissioners in order to find a way to have our meetings, or at least some of them, not in conjunction with each other.

Vice-Mayor Peterson echoed Councilwoman Sitnick's comments.

B. COMMENTS BY VICE-MAYOR PETERSON

Vice-Mayor Peterson said that he would bring up at another time a motion that the Council, as a whole, set the agenda so that any project the Council wishes can be put on the table.

Mayor Martin said that any member of Council can elect to put something on the agenda at any time. He said that the Mayor presides over the meeting and that's why the Mayor sits down with the City Manager to prepare the agenda. He encouraged all Council members to participate in the agenda scheduling process.

C. COMMENTS BY COUNCILMAN SWICEGOOD

Councilman Swicegood wanted to follow up on taking the Council meetings into the neighborhoods.

D. COMMENTS BY CHRIS JOHANSEN

Mr. Chris Johansen, resident of Asheville, brought to Council's attention three items: (1) a procedural question relative to election of the Vice-Mayor; (2) a procedural question relative to approval of the minutes; and (3) the unexcused absence of Councilman Herb Watts after acceptance of the City Manager's resignation.

City Attorney Slawter addressed the comments of Mr. Johansen.

E. ELECTION RESULTS

Attached hereto and made a part hereof are the abstract of votes for the Mayor and City Council primary on September 21, 1993, and the Mayor and City Council general election on November 2, 1993.

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VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:33 p.m.

CITY CLERK MAYOR
