

Tuesday - February 27, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor

William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton (However, Councilman

Bratton voted on the Chestnut/Liberty Historic District matter by speaker telephone)

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced that approval of the minutes

of the February 20, 1990 meeting is being withheld

until next week.

I. PROCLAMATIONS:

B. Resolution No. 90-24 - Resolution recognizing recent retiree, Dillard Searsey.

Mayor Michalove read the resolution which stated that

Dillard Searsey retired as Firefighter III in the Asheville Fire Department effective December, 1989 and this resolution recognizes him for his years of service

to the City.

Upon motion of Councilman Ellison, seconded by

Councilman Price, Resolution No. 90-24 was unanimously adopted.

Resolution Book 18 - Page 84

C. Resolution No. 90-25 - Resolution of the Council of the

City of Asheville, North Carolina extending an invitation to the City of Ordzhonikidze, Russia, to become a Sister City and inviting the people of Ordzhonikidze, Russia to participate in the program.

Kitty Boneski presented members of Council with

literature about Ordzhonikidze, Russia. She said Sister Cities International is helping with the Sister City connection. She said a group of Ashevilleians will be traveling to Ordzhonikidze, Russia in September.

Laurie Masterson shared the itinerary for the trip to Ordzhonikidze, Russia in September, 1990.

Mayor Michalove read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 90-25 was unanimously adopted.

Resolution Book 18 - Page 85

II. PUBLIC HEARINGS:

A. Appeal of James F. S. Whitworth from the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

SUMMARY: James F. S. Whitworth has appealed the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

*** Mayor Michalove said this appeal is being postponed for two weeks at the petitioners request.

III. OLD BUSINESS:

A. Ordinance No. 1824 - Second reading of an ordinance rezoning property located on Piedmont Avenue - Thompson.

Mayor Michalove said the Asheville Planning and Zoning

Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 9, Sheet 6, Lots 41 from R-3 Residential District to CH Commercial Highway. This

ordinance was read on first reading on February 20, 1990.

Mayor Michalove said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1824 passed on second reading.

B. Ordinance No. 1825 - Second reading of an ordinance

rezoning property located on Haywood Road - Smith.

Mayor Michalove said the Asheville Planning and Zoning

Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 6, Sheet 9, Lots 19-3/4 and 20 from R-3 Residential District to CS Commercial Service. This ordinance was read on first reading on February 20, 1990.

Mayor Michalove said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1825 passed on second reading.

C. Ordinance No. 1827 - Third reading of an ordinance

amending Section 8-2 of the Code of Ordinances of the City of Asheville (modifying Fire District 5 and deleting District 2, 3 and 4)

Mayor Michalove said this ordinance will modify Fire

District 5; delete Fire District 2, 3, and 4 (present Fire Districts were created in 1946; this is the first in a series of proposed changes based on review of all Fire Districts. This ordinance was read on first and second readings on February 20, 1990.

Mayor Michalove said this ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1827 passed on third reading.

Ordinance Book No. 12 - Page 83

IV. NEW BUSINESS:

A. Ordinance No. 1830 - Budget amendment to closeout East

End/Valley Street Neighborhood Improvement Project.

Mayor Michalove said the budget amendment will provide

\$415 to cover the cost overrun in the East End/Valley Street Neighborhood project. The amendment will also appropriate \$25,000 for a property management account for management cost of property owned by the Housing Authority.

Mayor Michalove said members of Council were previously

furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No.

1830. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1830 passed on

first and final reading.

Ordinance Book 12 - Page 86

B. Ordinance No. 1831 - Ordinance amending Section 25-16 of

the Code of Ordinances of the City of Asheville (Parade Permits).

The City Manager said at a recent City Council meeting,

an anti-abortion group made a presentation regarding recommended changes in the parade permit ordinance. The Police Department and the City Attorney have reviewed this ordinance and recommend the amendment in order to address two of the concerns raised by that group. The other changes requested by the group were not included in the ordinance amendment as drafted.

The City Attorney said the ordinance amendment addresses

the size of signs that can be carried and allows handles on the signs as requested by the group. He said the ordinance does not address the waiving of the permit fee, changing of amount of notice required, or the 15 foot spacing rule. He said the Chief of Police feels these provisions are necessary.

Meredith Hunt, 209 Riddle Road, Swannanoa, representing

the Pro-Life Organization said he felt a 6 foot spacing rule would be less restrictive and the 72 hours advance

notice requirement is an infringement on free speech rights. He said he would also like justification for a \$10.00 permit fee.

Mayor Michalove said members of Council were previously

furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No.

1831. This motion was seconded by Councilman Ellison.

On a roll call vote of 6-0, Ordinance No. 1831 passed on

first reading.

C. Ordinance No. 1832 - Budget amendment to appropriate funds for the Rental Rehabilitation Program.

The City Manager said the City has received funding

approval of \$147,000 from HUD through the Rental Rehabilitation Program. The Budget Ordinance will appropriate the funds into the City Budget. The program is subcontracted with the Housing Authority for administration.

Ralph Bishop requested a copy of the ordinance. The City Manager furnished him a copy.

Councilman Frank moved for the adoption of Ordinance No.

1832. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1832 passed on first and final reading.

Ordinance Book No. 12 - Page 88

D. Resolution No. 90-26 - Resolution establishing the

Downtown Loan Fund Committee.

Mayor Michalove read the resolution establishing the

Downtown Loan Fund Committee and appointing **Alfred J. Whitesides, Jr., Chairman; Raymond E. Daly, III, Robert D. Martel, Wanda Henry-Coleman - for two (2) year terms and Jim F. Hughes, Brady M. Blackburn, and D. Michael**

Silver for one (1) year terms.

Mayor Michalove also summarized the goals and the guidelines for the Downtown Loan Fund Committee.

Mayor Michalove said Councilman Ellison would be the

Council liaison to the Committee; Leslie Anderson, Director of Downtown Development would be the staff contact; and Bill Slawter, City Attorney would provide legal advice to the Committee.

Mayor Michalove said the City is reserving the dollar

amount to be allocated to the Committee until a later date. He said the City Manager will be looking at the overall goals for using Community Development Block Grant funds for the program.

Jim Barrett, Attorney with the Pisgah Legal Services,

read a prepared statement stating that there is a vast need for using Community Development Block Grant funds for housing in the City of Asheville. He said Community Development Block Grant should be used for low income families.

Mr. Barrett said the Building and Housing inspectors do

not follow up on their inspections of dwellings. He said if more inspectors are needed then the City should address this problem.

Councilman Frank said she would like a report on the

inspectors not following up on inspections.

Mayor Michalove said members of Council were previously

furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Vice-Mayor

Moore, Resolution No. 90-26 was unanimously adopted.

Resolution Book No. 18 - Page 86

G. 2010 Comprehensive Plan Update

Resolution No. 90-27 - Resolution adopting a 1989

addendum to the Comprehensive Plan for the City of Asheville entitled the 2010 Asheville City Plan.

Mike Moser, Chairman of the Asheville Planning and

Zoning Commission, said the 2010 Asheville City Plan provides for a review and update every two years.

He said the 2010 Update Steering Committee appointed by

the Mayor in August held three public hearings in September to solicit new ideas for inclusion in the update. The Committee met weekly during the month of October and reviewed all comments, visited the French Broad Urban Riverfront and voted to recommend additions to the Plan. The report submitted to City Council by the Steering Committee recommends new objectives and strategies in the form of an addendum to the Plan Management and Implementation Chapter. Also included in the 2010 Update Report are selected demographic projections and revised maps.

Mr. Moser highlighted the recommended report.

Richard Matthews, 12 The Circle, Vice-Chairman of the

Historic Resources Commission, spoke in favor of the draft report particularly the need for a study of the economic and social impact for historic districts.

June Grant agreed with Mr. Matthews to the effect that

there should be a study of the economic and social impact of historic districts within the City.

Mayor Michalove said the 2010 Plan is an important

document to the City of Asheville. He said it is a community guide for the City.

Mayor Michalove said members of Council were previously

furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman

Frank, Resolution No. 90-27 was unanimously adopted.

Resolution Book No. 18 - Page 87-88

H. Discussion relative to Globe Furniture on Broadway.

The City Manager said negotiations on the Globe

Furniture Building which would retain the facade will require \$3500 in order to get a perpetual easement. The Downtown Commission feels retention of the facade is important to the downtown.

Bob Carr, Chairman of the Downtown Commission, said the

Globe Furniture Building burned in December, 1986. He said at the encouragement of the Downtown Commission, negotiations have taken place with several owners since then to keep the facade intact rather than demolishing it. He said this position was instigated by the realization that costs to demolish the facade were close to those to reinforce it. He said retention of the facade is critical to the downtown for continuity, the importance of this block of Broadway to the downtown, the possibilities of creative uses while retaining the facade, and contextual qualities of the building. He said the present owner is willing to grant the City a perpetual easement on the facade if the City will spend \$3,500 for stabilizing it.

Kent Newell, Director of Historic Resources Commission,

said the perpetual easement will allow the City determine the future appearance of the facade. He said the owner will receive tax credits for granting the easement.

Mr. Carr showed a video of the property in question.

Vice-Mayor Moore said in his opinion the facade is not worth saving.

After considerable discussion, Councilman Ellison moved

to reconsider the action relative to the Globe Furniture Building facade until March 13, 1990. This motion was seconded by Councilman Price and carried unanimously.

I. Report on Swannanoa Interceptor

The City Manager said the City was served with a Notice

of Violation from the State of North Carolina, Department of Environment, Health, and Natural Resources, relative to unpermitted Wastewater Discharges

to Surface Waters -South Swannanoa Interceptor. The notice requested that the City take all reasonable and proper steps to immediately cause wastewater flows to this line to be reduced to the level that overflows cease. He said the notice stated that no new building taps or increase in volume of existing waste flows to the line are to be authorized until the matter is resolved and a replacement sewer constructed.

He said the South Swannanoa Interceptor was turned over

to the Metropolitan Sewerage District under the recently adopted Consolidation Agreement.

He said the City has met with representatives of the

Division of Environmental Management and the Metropolitan Sewerage District. He said tentative approval from the Metropolitan Sewerage District has been received for the expenditure of funds to build a new interceptor and it is anticipated that the South Swannanoa Interceptor project can be completed by

December, 1990.

V. CONSENT:

A. Bids for Street Flusher and Trash Handling System.

SUMMARY: Award to low bidder, A.E. Finley & Associates,

Charlotte, N. C., for a 1990 "Etnyre" Model NS/H-2200 Flusher mounted on a 1990 "FORD" model C8000 Cab and Chassis in the amount of \$60,688.00 and award to low bidder, Cavalier Equipment, Roanoke, Virginia, for a "Peterson" TL3 model TDB-18-24 Trash Handling System mounted on a 1990 GMD model C7HO42 Cab and Chassis in the amount of \$56,280.00.

B. Resolution No. 90-28 - Resolution dissolving the Asheville-Buncombe Insurance Advisory Committee.

SUMMARY: The hiring of a risk manager has eliminated

the need for the Office of the Asheville-Buncombe Insurance Advisory Committee. This resolution will dissolve that Committee, effective upon the adoption of a similar resolution by the Buncombe County Board of Commissioners. The Committee will be authorized to continue to maintain its office

for so long as shall be necessary in order to wind up its business affairs, not to exceed January 1, 1991.

Resolution Book No. 18 - Page 89

C. Scheduling public hearing relative to rezoning property

located on Glendale Avenue for March 13, 1990.

SUMMARY: The Asheville Planning and Zoning Commission

on February 7, 1990, voted to recommend the rezoning of Lots 16, 17, 131, 132, 247, Sheet 16, Ward 7 from R-3 Residential District to LI

Light Industrial.

D. Scheduling public hearing relative to an UMTA Grant

Amendment for March 27, 1990.

SUMMARY: This grant application amendment is for

funding of the Skyland experimental transit route which occurred July 1, 1989 through December 31, 1989. The grant amendment will also include additional funding for the

increased cost of the 504 Handicapped Program.

Upon motion of Vice-Mayor Moore, seconded by Councilman

Ellison, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Recycling Document

The City Manager advised that the Recycling Document will

be presented at the Vance School Auditorium, at 7:00 p.m. on March 6, 1990. He said the Pack Library and Quality Forward have a copy of the document and notices are being

placed at all the centers.

B. Sanitation Routes

The City Manager announced that sanitation routes are being changed and that notices are being posted on door knobs to this effect.

C. Report - Sign Survey Update

The City Manager reported that the Sign Survey is on schedule with the North section being completed on February 6, 1990 and the East and South section completed on February 9, 1990.

D. Decision - Chestnut/Liberty Historic District Appeal

Councilman Bratton joined the Council meeting discussion via conference telephone.

Mayor Michalove said the Court of Appeals recently

decided that the Chestnut/Liberty Historic District is not a valid historic district. He said this decision took effect on February 26, 1990. He said the residents of the Chestnut/Liberty Historic District had requested a joint venture with the City to appeal this decision. He said the City Attorney filed a "Petition for Writ of Supersedeas under Rule 23 and Motion for Temporary Stay" on February 26, 1990 to avoid the possibility of anyone coming in for a building permit prior to a decision being made whether or not to appeal the Court of Appeals decision. He said Council now needs to decide whether or not to proceed with the neighborhood to appeal the decision.

Several members of Council noted that this action was not

on whether or not there should be a Chestnut/Liberty Street Historic District but only whether to appeal the Court of Appeals decision.

Vice-Mayor Moore moved to discontinue any legal actions

or appeals to the Supreme Court relative to the Chestnut/Liberty Street Historic District. This motion was seconded by Councilman Bratton and carried unanimously.

Upon inquiry of Albert Sneed, Attorney for Mr. Unruh, the

City Attorney said the Supreme Court would be notified of Council's action.

Jean Warner presented several letters appealing that the Chestnut/Liberty Street Historic District be reestablished.

Dorothy Arrowood, 126 Vance Crescent Street, thanked

members of Council for their action on the Chestnut/Liberty Street Historic District.

E. Claims - Claude Pitts (Water) - Bonita Shipley

(Water) - Mitchell Stevens (Water) - William McGehee (Water) - Tom Tarrant (Streets)

The City Manager said claims were received from Claude

Pitts, Bonita Shipley, Mitchell Stevens, William McGehee, and Tom Tarrant.

Mayor Michalove referred the claims to the City Attorney

for investigation and recommendation.

F. Ralph Bishop - Rights to Seek Redress from Council

Ralph Bishop spoke to members of Council relative to his

right to seek redress from members of Council.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:35 p.m.

MAYOR CITY CLERK
