

Tuesday - August 21, 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, Wilhelmina Bratton, 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:

### **INVOCATION**

The invocation was given by Mayor Michalove.

### **Resolution No. 90-116 - Resolution in memory of Robert**

#### **Stringfield Swain**

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Mayor Michalove read a resolution in memory of Robert

Stringfield Swain, North Carolina Senator, who recently passed away.

Upon motion of Councilman Price, seconded by Councilman

Frank, Resolution No. 90-116 was unanimously adopted.

### **Resolution Book 18 - Page 197**

### **APPROVAL OF MINUTES**

Mayor Michalove announced the approval of the minutes

of the August 14, 1990 meeting as submitted.

### **I. PROCLAMATIONS:**

#### **A. Proclamation - "Goombay! Festival Days" -**

##### **August 24 and August 25, 1990**

Mayor Michalove proclaimed August 24 and August 25, 1990

as "Goombay! Festival Days". He presented the proclamation to Wanda Henry Coleman with the YMI

Cultural Center.

### **II. PUBLIC HEARINGS:**

#### **A. Public hearing relative to amending Chapters 26 and 30**

**of the Code of Ordinances of the City of Asheville (Hillside Development Requirements).**

Mayor Michalove opened the public hearing at 4:14 PM

The City Clerk presented the notice to the public

setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner from the Planning

Department, gave a brief history of the current Hillside Development Ordinance. He said the ordinance was originally adopted to protect the steeper slopes in the City.

He said after reviewing site plans for projects subject

to the Hillside Development Ordinance regulations, the Asheville Planning and Zoning Commission directed staff to develop amended wording which would require developers to distribute graded areas throughout the project site. Staff was also directed to make the regulations applicable to subdivision development. The proposed amendments call for graded areas to be distributed throughout the site rather than permitting one portion of the site to be completely graded. The proposed amendment extends the Hillside Development regulations to subdivision development, but not to construction on individual lots. After reviewing the proposed ordinance amendments, the Asheville Planning and Zoning Commission voted to approve them.

He said as requested a copy of the proposed amendments

and the hearing notice was sent to CIBO, Board of Realtors, Chamber of Commerce and the Home Builders Association.

Mr. Green answered general questions from members of

Council relative to the amendments.

After discussion, Councilman Ellison said he was sure

the developers in the City have interest in this particular ordinance and moved that the public hearing be continued until October 30, 1990, without further advertisement, and that every effort be made to notify the developers that Council will be considering these amendments on that date. This motion was seconded by Councilman Price and carried unanimously.

## **B. Continuation of a public hearing relative to closing a portion of Beaver Drive.**

Mayor Michalove said a petition signed by all property

owners along the unopened portion of Beaver Drive has been received. There would be no adverse effects from closing the right of way. The Lakeview Park Commission has been notified of the proposed closing. A public hearing was held on this matter on August 7, 1990 and

continued until August 21, 1990.

Jim Ewing, Director of Public Works, said the public

hearing was continued in order to provide language in the resolution that would allow Mrs. McCracken utilization of her driveway which accesses Beaver Drive. He said after discussing the matter with Mrs. McCracken it appears that she is satisfied with closing a portion of Beaver Drive as recommended by the Public Works Department.

Mrs. McCracken requested that the entrance to her

property remain open in order for her to continue to keep this area beautified.

Mr. Lamy, adjoining property owner, said he would have

no objections to this area remaining open.

The City Attorney indicated leaving this small portion

open might pose a problem for the City in the future. He suggested that Mrs. McCracken and Mr. Lamy come to an agreement on this area and that Mr. Lamy quitclaim deed this area to Mrs. McCracken.

After discussion, Mayor Michalove closed the public

hearing at 4:35 PM

Mayor Michalove said action on the resolution would be

postponed until September 11, 1990 giving the property owners an opportunity to prepare the quitclaim deed to

Mrs. McCracken.

### **III. OLD BUSINESS:**

#### **A. Report - Sign Ordinance Revision Committee**

Vice-Mayor Moore, Chairman of the Sign Ordinance

Revision Committee, highlighted the proposed Sign Ordinance amendments recommended by the committee. He said most of the amendments are of a procedural or technical nature.

A copy of the proposed sign ordinance amendments is on

file in the Office of the City Clerk.

He said a public hearing relative to readopting the Sign

Ordinance with amendments is scheduled for August 28, 1990. He said the committee is recommending the readoption of the ordinance with the proposed amendments.

A lengthy discussion was held relative to signs deemed

historically, culturally or artistically significant being grandfathered. It was determined that strict criteria should be provided for these signs and that a review process developed.

Mayor Michalove requested that the Sign Ordinance

Revision Committee come up with a recommendation for

dealing with these types of signs.

#### **B. Hendersonville Road Report**

Mayor Michalove said Council has been considering the

dead-ending of Academy and Center Streets in connection with the Hendersonville Road Widening Project. A public hearing was held on August 14, 1990 and action on the resolution has been postponed until August 28, 1990. Members

of Council had several questions relative to the resolutions.

Charles Penny, Assistant City Manager, reported that he

had met with Gene Edmonds with the North Carolina Department of Transportation regarding Council's request for a stop light at West Chapel Road. He said Mr. Edmonds indicated that the state at this time can not commit to installing a light at West Chapel Road; however, he feels that when the project is complete traffic counts will warrant a stop light at West Chapel Road.

Mr. Penny presented a map for the proposed dead-ending of Center Street showing a "T" turn around at the end of Center Street.

He said a request was received from the owners of the

Christmas Shop for a driveway entrance into their business off Hendersonville Road at the dead-ending of Center Street. He said the City would not recommend this entrance due to local residents using it to access their property.

Mayor Michalove noted that the state could look at

several alternatives. He suggested that the state consider dead-ending Center Street at the bottom of the hill with the state purchasing one vacant lot to use as a turn around for local traffic.

#### **IV. NEW BUSINESS:**

##### **A. Resolution No. 90-116 - Resolution appointing member to the Planning and Zoning Commission.**

Mayor Michalove said this resolution will appoint

Barbara Melton as a member of the Planning and Zoning Commission to serve a two (2) year term, term expiring August 14, 1992, or until her successor is duly appointed and qualified.

Mayor Michalove said members of Council were previously presented copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 90-116 was unanimously adopted.

##### **Resolution Book No. 18 - Page 196**

##### **B. Report on Insurance Proposals.**

The City Manager said the city staff has been working

for sometime on the annual renewal of the city's insurance policies. He said most all coverages expire September 1.

Dick Ackerman, Risk and Asset Managers, Consultant for

Risk Management, said the City initiated a competitive process in March of this year with several objectives to be met. He said these objectives were: 1) To secure the best coverage from the best qualified broker available to the City of Asheville; and 2) To assure that the price for the premiums to be paid is competitive with prevailing market rates. He said these objectives have been achieved through the competitive process.

Mr. Ackerman highlighted the attached report regarding

recommendations for property, casualty, and liability coverage renewals on September 1, 1990.

A discussion was held relative to "excess" insurance

coverage and the amount the City needs to carry. It was decided that this "excess" amount would be determined at a later date.

Mr. Ackerman said he was concerned that the City does

not have insurance on the North Fork or Bee Tree Dam. He said insurance on dams is difficult to obtain. He said the Office of Risk Management is looking into this matter.

Upon inquiry of Mayor Michalove, the City manager said

the recommended \$664,254 is within budget. Mr. Ackerman said prior liability from previous companies is also covered in the recommendations.

Vice-Mayor Moore moved to accept the recommendations,

outlined by Mr. Ackerman, for insurance coverages for the City of Asheville. This motion was seconded by Councilman Bratton and carried unanimously.

Mayor Michalove requested a one page summary of the

City's accomplishments regarding insurance policies within the past three (3) years.

## **V. CONSENT:**

## **VI. OTHER BUSINESS:**

### **Claims - Ann Peterson (Sanitation) - Taurus Cave (Water) - Motorola (Downtown Development)**

The City Manager presented claims received from Ann

Peterson, Taurus Cave, and Motorola.

Mayor Michalove referred the claims to the City Attorney

for investigation and recommendation.

### **Disability Review Board Appeals - Findings of Fact and Conclusions of Law**

#### **A. Findings of Fact and Conclusions of Law - Jackie Vaughn**

**Babb**

The City Attorney presented the Findings of Fact and

Conclusions of Law regarding the Disability Review Board Appeal of Jackie Vaughn Babb.

Since Mayor Michalove was involved in the Board's ruling

regarding Jackie Vaughn Babb, Councilman Ellison moved to excuse Mayor Michalove from participation and vote

regarding the Findings of Fact and Conclusions of Law regarding Jackie Vaughn Babb. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Ellison moved to accept the City Attorney's

Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Jackie Vaughn Babb and based upon the findings of fact and conclusions of law, the determination of the Disability Review Board be affirmed. This motion was seconded by Councilman Frank and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is

attached to these minutes.

### **B. Findings of Fact and Conclusions of Law - James Randall**

The City Attorney presented the Findings of Fact and

Conclusions of Law regarding the Disability Review Board Appeal of James Randall.

Since Mayor Michalove was involved in the Board's ruling

regarding James Randall, Councilman Ellison moved to excuse Mayor Michalove from participation and vote regarding the Findings of Fact and Conclusions of Law regarding James Randall. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Ellison moved to accept the City Attorney's

Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of James Randall and based upon the findings of fact and conclusions of law, the decision of the Disability Review Board of January 11, 1990, denying Mr. Randall's request for reconsideration, be affirmed. This motion was seconded by Councilman Price and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is

attached to these minutes.

### **C. Findings of Fact and Conclusions of Law - James F. S.**

#### **Whitworth**

The City Attorney presented the Findings of Fact and

Conclusions of Law regarding the Disability Review Board Appeal of James F. S. Whitworth.

Since Mayor Michalove was involved in the Board's ruling

regarding James F. S. Whitworth, Councilman Ellison moved to excuse Mayor Michalove from participation and vote regarding the Findings of Fact and Conclusions of Law regarding James F. S. Whitworth. This motion was seconded

by Councilman Frank and carried unanimously.

Councilman Ellison moved to accept the City Attorney's

Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of James F. S. Whitworth and that based upon the findings of fact and conclusion of law, that the City Council reverses its earlier decision and reverse rather than affirm the decision of the Disability Review Board, denying Mr. Whitworth's application for supplemental benefits. This motion was seconded by Councilman Price and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is attached to these minutes.

#### **D. Findings of Fact and Conclusions of Law - Charles Thomas**

##### **Parker**

The City Attorney presented the Findings of Fact and

Conclusions of Law regarding the Disability Review Board Appeal of Charles Thomas Parker.

Since Vice-Mayor Moore was involved in the Board's

ruling regarding Charles Thomas Parker, Councilman Ellison moved to excuse Vice-Mayor Moore from participation and vote regarding the Findings of Fact and Conclusions of Law regarding Charles Thomas Parker. This motion was seconded by Councilman Estes and carried unanimously.

Councilman Ellison moved to accept the City Attorney's

Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Charles Thomas Parker and that based upon the findings of fact and conclusions of law, the decision of the Disability Review Board, denying Mr. Parker's application for supplemental benefits, be reversed. This motion was seconded by Councilman Frank and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is attached to these minutes.

#### **E. Findings of Fact and Conclusions of Law - Dillard**

##### **Searsey**

The City Attorney presented the Findings of Fact and

Conclusions of Law regarding the Disability Review Board Appeal of Dillard Searsey.

Since Vice-Mayor Moore was involved in the Board's

ruling regarding Dillard Searsey, Councilman Ellison moved to excuse Vice-Mayor Moore from participation and vote regarding the Findings of Fact and Conclusions of Law regarding Dillard Searsey. This motion was seconded by Councilman Estes and carried unanimously.

Councilman Ellison moved to accept the City Attorney's

Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Dillard Searsey and that based upon the findings of fact and conclusions of law, the decision of the Disability Review Board, denying Mr.

Searsey's application for supplemental benefits, be reversed. This motion was seconded by Councilman Frank and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is attached to these minutes.

**Ralph Bishop - Lottery Sales**

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

**VII. ADJOURNMENT.**

Mayor Michalove adjourned the meeting at 6:20 PM

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**MAYOR CITY CLERK**

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