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Tuesday - January 22, 1991 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor William G. Moore, Presiding; 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: Mayor Kenneth M. Michalove (illness)

### **INVOCATION**

The invocation was given by Councilman Price.

### **APPROVAL OF MINUTES**

Mayor Michalove announced the approval of the minutes

of the January 15, 1991 meeting as submitted.

### **I. PROCLAMATIONS:**

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

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

#### **A. Ordinance No. 1888 - Second reading of an ordinance**

#### **updating the provisions regarding the regulation of pawnbrokers.**

Vice-Mayor Moore noted that the second reading of this

ordinance would be postponed until February 12, 1991 giving the City staff an opportunity to meet with local pawnbrokers and receive input into the regulations.

#### **B. Ordinance No. 1889 - Second reading of an ordinance**

**amending Sections 28-81.2, 28-81.3, and 28-81.4 of Article IV, Speed Regulations of Chapter 28 of the Code of Ordinances of the City of Asheville. (Speed Limit Reduction on Aurora Drive, Lakewood Drive, Wyoming Road, and Forest Hill Drive)**

Vice-Mayor Moore noted that this action will reduce

speed limits as follows:

Aurora Drive - 25 mph to 20 mph

Lakewood Drive - 35 mph to 25 mph

Wyoming Road - 35 mph to 30 mph

Forest Hill Drive - 30 mph to 25 mph

Barbara Penland, with the Kenilworth Residents

Association, read a letter from the Association stating that the majority of the residents support adoption of the ordinance. She said the Association has also requested that Council include the posting of a 25 mph limit on Castle Street and post a "Children Playing" Sign on Forest Hill Drive 200 yards from the intersection of Castle Street as you drive from Biltmore Avenue.

Peter Lowell, Lakewood Drive, also spoke in support of the ordinance.

The City Manager said the City staff would look into the request to reduce the speed limit on Castle Street and the posting of a "Children Playing" Sign on Forest Hill Drive.

Vice-Mayor Moore said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1889 passed on second reading.

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

##### **A. Resolution authorizing the City Manager to enter into**

**an agreement with Marshall and Stevens, Inc. for providing a property valuation survey of all City-owned properties and facilities.**

Upon inquiry of Councilman Ellison, the City Manager

said following a two-year consultant review of the City's Risk Management needs, it was determined that current stated values to insurers for buildings were of questionable origin and accuracy. He said upon renewal of property coverage on September 1, 1991, the City's new carrier was advised of that and agreed to insure with the understanding that the City would develop accurate values as soon as possible.

The City Manager said Marshall and Stevens performed a

similar appraisal for the City approximately sixteen years ago but values were not updated for inflation and increased construction costs. He said the proposal would give current market values for "new for old" replacement and for the City Hall Building an additional value for "reproduction/as is" cost.

A lengthy discussion was held relative to local

appraisers being given an opportunity to submit a proposal on the property valuation survey.

After discussion it was the consensus of Council to

defer action on this resolution for two (2) weeks.

##### **B. Ordinance No. 1890 - Budget ordinance amendment for**

**Downtown Development Fund Streetscape Plan.**

The City Manager said the uncommitted balance of

\$320,107 in the Downtown Development Fund has been reserved for streetscape improvements in the City's Capital Improvement Plan. He said this action appropriates the reserve funds for the following:

Streetscape 90 78 Grates \$26,000

25 Benches 10,000

20 Trash Receptacles 8,000

6 Tree Guards 2,000

Trees 1,500

Planters 1,500

60 Biltmore Streetscape \$12,000

Patton Avenue Corridor Design 60,000

Patton Avenue Corridor Streetscape

Urban Trail 5,000

Decorative Lighting Collar 12,000

Broadway 50,000

(assumes PW bond money for street/sw)

Rankin Planters 4,000

Haywood Street Decorative 25,000

(assumes PW bond money for street/sw)

Walnut Street Planting/Landscape 10,000

Public Information Signage 20,000

Pritchard Park Renovation 72,607

Vice-Mayor Moore said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1890. This motion was seconded by Councilman Ellison.

On a roll call vote of 6-0, Ordinance No. 1890 passed on first and final reading.

**Ordinance Book No. 12 - Page 312**

**C. Resolution No. 91-6 - Resolution authorizing City**

**Manager to enter into a contract for fire protection services for the VA Medical Center.**

The City Manager said the City of Asheville has been

providing fire protection to the Veterans Administration Medical Center since 1976. This contract charges the VA approximately the same rate for all buildings not within the City. The present contract expires on January 31, 1991. He said the proposed contract is for a three (3) year period and the City will charge \$106,000 to provide fire protection services through September 30, 1991.

Jim Christian with the VA Medical Center said they

concur with the provisions in the proposed contract. He said he hoped that within the next three (3) years the City will consider annexation of this property.

Vice-Mayor Moore said copies of the resolution had

previously been distributed to Members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Price, seconded by Councilman Ellison,

Resolution No. 91-6 was unanimously adopted.

**Resolution Book No. 18, Page 325.**

**D. Ordinance amending Chapter 17A (Massage Parlors and Health Studios) of the Code of Ordinances of the City of Asheville.**

Vice-Mayor Moore said Section 17A-16 of the Code of

Ordinances of the City of Asheville requires any person seeking to engage in the trade or profession of masseur or masseuse in the City of Asheville to first submit a \$1,000 bond payable to the City before a license to engage in such profession is issued. This ordinance amendment would allow any person desiring to engage in the trade or profession of masseur or masseuse to post a \$1,000 bond or maintain liability insurance in minimum amount of \$100,000 to \$300,000.

The City Attorney said the massage therapists have

requested several amendments to the Massage Parlor Ordinance and a meeting is scheduled for the therapists and the City Staff to discuss these proposed changes. He said the therapists have requested that this proposed amendment be deferred until after the meeting.

Craig Ellis, Massage Therapist, reiterated the comments

of the City Attorney, emphasizing the need to update the current ordinance.

Vice-Mayor Moore said the proposed ordinance would be

deferred until further recommendations are received from the City Attorney.

**E. Ordinance No. 1891 - Ordinance prohibiting structures within the public rights-of-way.**

The City Attorney said this ordinance will repeal

Section 25-17 (Encroachment Agreements) of the Code of Ordinances of the City of Asheville and substitute new language prohibiting and/or regulating structures within the public rights-of-way. He outlined the new regulations.

Vice-Mayor Moore said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1891. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1891 passed on first reading.

## **V. CONSENT:**

### **A. Resolution No. 91-7 - Resolution authorizing the Mayor to execute a right-of-way agreement with Roger Eugene Pinner and wife, Wanda B. Pinner.**

SUMMARY: Roger Eugene Pinner and wife, Wanda B. Pinner

are the owners of certain lands located in Limestone Township, Buncombe County, North Carolina, said property being described in deeds recorded in Deed Book 1173 at Page 442 and Deed Book 1302 at Page 771 of the Buncombe County Registry. The City is the owner of certain lands that lie to the north and east of the property of the Pinner. The Pinner have agreed to sell a portion of their property (9.894 acres) to the City for the Asheville Regional Airport. As part of the consideration for the sale, the Pinner have requested that the City convey to them a nonexclusive road right-of-way across the lands of the City for access to their remaining property. This resolution would authorize the Mayor to execute that right-of-way agreement.

### **Resolution No. 18 Page No. 326**

### **B. Rescheduling of public hearing relative to Hillside**

#### **Development Regulations Ordinance for March 26, 1991.**

SUMMARY: On October 30, 1991, the public hearing on

the Hillside Development Regulations Ordinance was continued until December 18, 1990. The public hearing was again postponed

to be heard on January 29, 1991. It was Council's desire to have this public hearing when they consider street grade regulations. The City Council will not meet on January 29, 1991; therefore, this public hearing needs to be continued again without further

advertisement.

### **C. Scheduling of public hearing relative to expansion**

#### **proposal - extraterritorial zoning jurisdiction of the**

#### **City of Asheville - West Area - for February 19, 1991.**

SUMMARY: The Asheville Planning and Zoning Commission

has recommended that the area specified as the "West Area" be included in the City's extraterritorial zoning jurisdiction and that specific zoning classification be assisted to

the property included in the proposal.

Upon motion of Councilman Frank, seconded by Councilman

Bratton, the consent agenda was unanimously approved.

## **VI. OTHER BUSINESS:**

### **A. ABC Local Government Opinion Form Approval - Gold Rock**

#### **Ventures, Inc., Comfort Inn; 800 Fairview Road; Asheville, N. C. - Permanent Special Occasion Permit**

City Manager Doug Bean presented an ABC Local

Government Opinion Form Approval for Gold Rock Ventures, Inc., Comfort Inn, 800 Fairview Road; Asheville, N. C. for a "Permanent Special Occasion

Permit."

Mr. Bean said after researching the matter it was

determined that the N.C. General Statutes require local governing board approval and the authority can not be delegated. He said Council only needs to take action if they wish to deny a permit - no action indicates approval.

Council took no action thereby approving the ABC Local

Government Opinion Form Approval for Gold Rock Ventures, Inc., Comfort Inn, 800 Fairview Road; Asheville, N. C. for a "Permanent Special Occasion Permit."

### **B. ABC Local Government Opinion Form Approval - J & J**

#### **Corner Store, (Jasper Vonzo Plemmons, Applicant), 704 Riverside Drive, Asheville, N. C. - "Off Premises" Beer/Wine Permit.**

City Manager Doug Bean presented an ABC Local

Government Opinion Form Approval for J & J Corner Store (Jasper Vonzo Plemmons, Applicant) - 704 Riverside Drive - Asheville, N. C. for an "Off Premises" Beer/Wine Permit.

Mr. Bean said after researching the matter it was

determined that the N.C. General Statutes require local governing board approval and the authority can not be delegated. He said Council only needs to take action if they wish to deny a permit - no action indicates approval.

Mr. Bean said staff recommends disapproval based on

Police Department's investigations.

Councilman Price moved to recommend that the N. C.

Alcoholic Beverage Control Commission disapprove the application for J & J Corner Store (Jasper Vonzo Plemmons, Applicant) - 704 Riverside Drive - Asheville, N. C. for an "Off Premises" Beer/Wine Permit. This motion was seconded by Councilman Bratton and carried unanimously.

**C. Council Meeting - January 29, 1991 - No Meeting**

Vice-Mayor Moore announced that the regular meeting

scheduled for January 29, 1991 has been cancelled. He said Council will be holding their Annual Retreat on January 29th and 30th at Highland Lake Inn in Hendersonville, North Carolina.

**D. Indemnification Agreement - Training Equipment -**

**Firemen's Self-Contained Breathing Apparatus**

At the request of the City Attorney, Councilman Price

moved to authorize the City Manager to sign an indemnification agreement in favor of National Draeger Company related to the use of training equipment for the self-contained breathing apparatus for the Fire

Department personnel. This motion was seconded by

Councilman Bratton and carried unanimously.

**E. Claims - Leona Robinson (Water) - Emily Pomfrey (Civic**

**Center) - Steve McCandless (Water Engineering) - Dorothy Isaacs (Sanitation) - Leland & Nora Jones**

**(Streets)**

The City Manager said claims were received from Leona

Robinson, Emily Pomfrey, Steve McCandless, Dorothy Isaacs, and Leland and Nora Jones.

Vice-Mayor Moore said these claims have been referred

to the appropriate insurers for investigation.

**F. Lawsuits - John F. Tyndall, et al. (Challenge to**

**annexation of West II annexation area) - Thomas L. Thrash, et al. (Challenge to annexation of West II annexation area)**

The City Manager said on January 17, 1991 the City was

served with a lawsuit involving John F. Tyndall, et al and Thomas L. Thrash, et al. relative to challenge to annexation of West II annexation area.

Vice-Mayor Moore said this lawsuit has been referred to

the appropriate legal counsel for action.

**VII. ADJOURNMENT.**

Vice-Mayor Moore adjourned the meeting at 5:15 p.m.

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MAYOR CITY CLERK

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