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Tuesday - February 19, 1991 - 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; Acting Corporation Counsel Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk

William F. Wolcott, Jr.

Absent: Corporation Counsel William F. Slawter

### **INVOCATION**

The invocation was given by Councilman Frank.

### **APPROVAL OF MINUTES**

Mayor Michalove announced that approval of the minutes was being postponed until next week.

### **I. PROCLAMATIONS:**

#### **A. Resolution No. 91-13 - Resolution expressing appreciation to John Hillyer - for carving the City Seal.**

Mayor Michalove said John Hillyer is a known and talented

wood-carver and a member of the Wood-carvers' Club which meets regularly at the Harvest House Recreation Center. He graciously agreed to carve a replica of the Seal of the City of Asheville which will be mounted in the City Council Chambers of the City Hall Building.

Mayor Michalove read the resolution expressing appreciation to Mr. Hillyer for the carving.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 91-13 was unanimously adopted.

#### **Resolution Book No. 18 - Page 332**

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

#### **A. Public hearing relative to rezoning property located at 23 and 17 Eloise Street and 136 Merrimon Avenue - Petitioners - Deal Buick.**

#### **Ordinance No. 1894 - An ordinance amending the Zoning**

**Ordinance and the zoning map of the City of Asheville to rezone property located near the intersection of Holland Street and Eloise Street (identified on the Buncombe County Tax Maps as Ward 2, Sheet 5, Lots 56, 57 and a portion of**

**Lot 64).**

Mayor Michalove opened the public hearing at 4:10 PM.

The City Clerk presented the notice to the public setting

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

Carol Alberice, with the Planning Department said, at their

meeting January 9, 1991 the Asheville Planning and Zoning Commission considered the request to rezone properties located at 136 Merrimon Avenue, 23 Eloise Street, and 17 Eloise Street from R-3 Residential to CH Commercial Highway. The property is surrounded by commercial properties and adequate infrastructure is in place to serve the needs of commercial development. The property is

designated as commercial by the Asheville City Plan 2010.

A neighboring property owner spoke in opposition

to the rezoning at the Planning and Zoning Commission meeting, expressing concerns regarding traffic which would be generated by the commercial use of the property. The attorney for one of the owners spoke in favor of the rezoning. After hearing the staff recommendation and the public comments, the Planning and Zoning Commission voted unanimously to recommend

approval of the rezoning.

Mayor Michalove closed the public hearing at 4:16 PM.

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.

1894. This motion was seconded by Councilman Ellison.

On a roll call vote of 7-0, Ordinance No. 1894 passed on

first reading.

**B. Public hearing relative to amending Article 7, Chapter 30 of the Zoning Ordinance relative to Conditional Use Permits.**

**Ordinance No. 1895 - An ordinance amending Section 30-7-1**

**of the Code of Ordinances of the City of Asheville**

**(Conditional Use Permits)**

Mayor Michalove opened the public hearing at 4:17 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, said Section 30-7-1 of the

Code of Ordinances currently stipulates that all conditional uses shall be approved by the Board of Adjustment. However, the Code of Ordinances also identifies certain conditional uses for which permits are to be approved by the City Council. These conditional uses include conservation overlay districts and limited light manufacturing uses in the Central Business District. The proposed amendment would provide City Council with authority to grant conditional use permits for certain

uses.

Mayor Michalove closed the public hearing at 4:20 PM.

Mayor Michalove 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.

1895. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1895 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1895. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1895 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1895. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1895 passed on third and final reading.

**Ordinance Book No. 12 - Page 317 - 330**

**C. Public hearing relative to amending Ordinance No. 1172, the Flood Plain Regulations of the City of Asheville.**

**Ordinance No. 1896 - An Ordinance amending Chapter 12A of the Code of Ordinances of the City of Asheville with regard**

**to Flood Plain Regulations.**

Mayor Michalove opened the public hearing at 4:22 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, said the Federal Emergency

Management Agency and the State Emergency Management Agency are requiring certain amendments to the City's ordinance to bring it into compliance with federal and state guidelines.

Upon inquiry of Council, Mr. Green said no survey was taken

on buildings that would be affected by these new regulations. He said, however, that existing manufactured homes will be grandfathered.

Mayor Michalove closed the public hearing at 4:28 PM.

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

Councilman Price moved for the adoption of Ordinance No.

1896. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1896 passed on first reading.

**III. OLD BUSINESS:**

**IV. NEW BUSINESS:**

**A. Resolution No. 91-14 - Resolution stating the intent of the**

**City of Asheville to consider the annexation of an area known as the Haw Creek Area and fixing the date of a public**

**hearing on the question of annexation for April 9, 1991.**

Patty Tallerday, from the Planning Department, said the

North Carolina General Statutes provides that any municipal governing board desiring to annex territory under the provisions of GS 160A-49 shall first pass a resolution stating the intent of the municipality to consider annexation.

Ms. Tallerday outlined the specifics of the proposed

annexation stating that there is approximately 400 acres; 564 people and 239 housing units. She said the land use is

multifamily and churches.

Mayor Michalove 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 Vice-Mayor Moore, seconded by Councilman

Price, Resolution No. 91-14 was unanimously adopted.

**Resolution Book No. 18, Page 333 - 334**

**B. Resolution No. 91-15 - Resolution authorizing the**

**negotiation of an installment purchase agreement and directing the publication of notice with respect thereto and**

**related matters.**

The City Manager said this resolution makes the required

findings in the form and manner directed by the City's Bond Counsel authorizing the negotiation of an Installment Purchase Agreement, directing the publication of the notice of public hearing with respect thereto and filing of the required application with the Local Government Commission regarding financing the City's Public Works Facilities.

Mayor Michalove 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 Vice-Mayor Moore, seconded by Councilman

Frank, Resolution No. 91-15 was unanimously adopted.

**Resolution Book No. 18, Page 335 - 337**

**V. CONSENT:**

**A. Resolution No. 91- 16 -Resolution of intent to close Post**

**Street between North French Broad and Otis Streets and**

**calling a public hearing on the question for March 19, 1991.**

SUMMARY: A petition to close Post Street between North

French Broad and Otis Streets has been received from the United States of America General Services Administration. GSA is the owner of all property adjoining the street petitioned to be closed with the exception of one lot which they are in the process of purchasing but which has not been consummated at this point in time. The closing of Post Street will allow for the construction of the new Federal Building Project. All public utility companies have been requested to provide information for utility easements which may need to be retained.

**Resolution Book No. 18 - Page 338**

**B. Resolution No. 91-17 - Resolution of intent to close an**

**unnamed public alley between Otis Street and Patton Avenue and calling a public hearing on the question for March 19,**

**1991.**

SUMMARY: A petition to close an unnamed public alley

between Otis Street and Patton Avenue has been received from the United States of America General Services Administration. GSA is the owner of all property adjoining the street petitioned to be closed with the exception of one lot which they are in the process of purchasing but which has not been consummated at this point in time. The closing of this unnamed public alley will allow for the construction of the new Federal Building Project. All public utility companies have been requested to provide information for utility easements which may need to be retained.

**Resolution Book No. 18 - Page 339**

**C. Bids for annual contract for bituminous contract materials  
(asphalt).**

SUMMARY: Award of term purchase contract to furnish the

City's annual requirement for Bituminous Concrete Materials (Asphalt) to the only bidder, APAC-Carolina, Inc., Asheville, North Carolina for a

total of \$182,925.00.

**D. Scheduling public hearing relative to rezoning property on  
Deaverview Road for March 5, 1991.**

SUMMARY: The Asheville Planning and Zoning Commission on

February 6, 1991, reviewed and recommended

approval of rezoning Ward 6, Sheet 21, Lots 32 and 96 located at 482 Deaverview Road from R-3 Residential District to CG Commercial General

District.

Upon motion of Councilman Bratton, seconded by Councilman

Frank, the consent agenda was unanimously approved.

**VI. OTHER BUSINESS:**

**A. Cancellation of public hearing relative to Lakeview Mobile**

**Home Park (Resubmittal) scheduled for March 5, 1991.**

SUMMARY: All property owners in the area of the Lakeview

Mobile Home Park must be notified and this matter will be brought back to Council in the near future.

Vice-Mayor Moore moved to cancel the public hearing

scheduled for March 5, 1991 relative to Lakeview Mobile Home Park (Resubmittal). This motion was seconded by Councilman Frank and carried unanimously.

### **B. Council Members - Four Year Staggered Term**

Patsy Brison, Acting City Attorney, reviewed the following memorandum:

MEMORANDUM TO: Ken Michalove, Mayor, and Members of the

Asheville City Council

FROM: Bill Slawter, City Attorney

DATE: February 18, 1991

SUBJECT: Four Year Staggered Terms

I have spoken with Bill Campbell and David Lawrence at the Institute of Government regarding the best procedure to make the change to four year staggered terms. In addition, I have reviewed the Charter provisions of several cities that had a similar change made as a part of a rewriting of their City Charter by the state legislature. Three alternatives were suggested:

1. Have the three persons receiving the highest number of

votes in the 1991 election be elected to four year terms, with the next three highest vote-getters receiving two year terms. Thereafter, three members would be elected each two years to serve four year terms. This procedure was followed in all of the Charter provisions enacted by the state legislature.

2. Designate each of the six seats by number, and in 1991 have

three of the seats elected for two year terms and three of the seats elected for four year terms. Thereafter, beginning in 1993, three members would be elected each two years, to serve four year terms.

3. Draw straws or numbers at the organizational meeting of the

City Council in order to determine which three members are to serve four year terms beginning in 1991, and which three members are to serve two year terms beginning in 1991. Thereafter, the procedure would be the same as with the other alternatives.

With regard to the question mentioned in my February 8 memo regarding whether a council member serving a four year term must resign from his seat in order to run for the position of Mayor two years into his four year term, there is a controlling state law. N. C. Gen. Stat. sec. 163-125, adopted in 1989, would require that a

council member resign from his or her seat before running for Mayor midway through a four year term.

BS:msb

Councilman Ellison said district elections should be

considered at the same time as staggered terms. He requested

that the City Attorney address this issue.

A discussion was held whether or not to consider this change for the upcoming election in November, 1991.

**C. Unified Development Ordinance meeting**

Councilman Frank reminded members of Council of the Unified Development Ordinance Committee meeting on February 20, 1991.

**D. Claims - Catherine Scott (Water) - City of Asheville (City vehicle damaged) - City of Asheville (City vehicle damaged)**

The City Manager said claims were received from Catherine Scott and the City of Asheville.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

**VII. ADJOURNMENT**

Mayor Michalove adjourned the meeting at 5:00 PM.

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MAYOR CITY CLERK

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