

Tuesday - June 4, 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, and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Councilmen Eugene W. Ellison

**INVOCATION**

The invocation was given by Councilman Bratton.

**APPROVAL OF MINUTES**

Mayor Michalove announced the approval of the minutes of the May 21, 1991 meeting as submitted.

**I. PROCLAMATIONS:**

A. Proclamation - "Race Unity Day" - June 8, 1991

Mayor Michalove proclaimed June 8, 1991 as "Race Unity Day" and presented a copy of the proclamation to Mary Ritter, YWCA Director of Public Support.

B. Resolution No. 91-82 - Resolution in memory of Morton S. Cohn.

Mayor Michalove read the resolution in memory of Morton S. Cohn.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 91-82 was unanimously adopted.

**Resolution Book No. 18 - Page No. 426**

C. Resolution No. 91-95 - Resolution in memory of Floyd B. McKissick, Sr.

Mayor Michalove read the resolution in memory of Floyd B. McKissick, Sr.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 91-95 was unanimously adopted.

**Resolution Book No. 18 - Page No. 439**

D. Proclamation - "Chronic Fatigue and Immune Dysfunction Syndrome Awareness Month" - June, 1991

Mayor Michalove proclaimed June, 1991 as "Chronic Fatigue and Immune Dysfunction Syndrome Awareness Month" and presented a copy of the proclamation to Pat Richie, member of the WNC Chronic Fatigue and Immune Dysfunction Syndrome Support Group.

E. Presentation by Housing Authority - Payment in lieu of taxes.

Peggy Shook, Chairman of the Housing Authority of the City of Asheville, presented the Mayor with a check in the amount of \$33,115.48 as payment in

lieu of taxes for the fiscal year ending September 30, 1990.

F. Resolution No. 91-83 - Resolution of appreciation to the J. C. Bradford Company for donations of bicycles to the Asheville Police Department

Mayor Michalove read the resolution of appreciation to the J. C. Bradford Company.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 91-83 was unanimously adopted.

### **Resolution Book No. 18 - Page No. 427**

G. Proclamation - "Dairy Month" - June, 1991

Mayor Michalove proclaimed June, 1991 as "Dairy Month".

### II. PUBLIC HEARINGS:

A. Public hearing relative to City of Asheville

Annual Budget for 1991-92.

Mayor Michalove opened the public hearing at 4:32 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said the City of Asheville Fiscal 1991/92 Annual Operating Budget has been presented to City Council for consideration pursuant to N.C.G.S. 159. The budget includes a recommended Ad Valorem Tax levy of 60 cents per \$100 assessed valuation for fiscal year 1991/92. A public hearing is required before the adoption of a budget ordinance. He said the budget is balanced and provides for a tax rate of 60 cents. He said the staff is still waiting for the State to make a decision on their budget relative to state shared revenues.

Harold Holcombe, officer with the Council of Independent Business Owners, spoke to members of Council relative to the budget. He questioned what it cost the City to obtain a GFOA Award for the budget; what it cost to provide a Fourth Annual Report and does the City need it; and the expense it took to do the history of the City/County form of government.

He also presented information to Council indicating that in his opinion the City could save funds by privatization of several services provided by the city, including sanitation services and park maintenance.

Mayor Michalove commented that previous Council members dealt with privatization of sanitation pick up and the current Council has not discussed this issue but it could be discussed at a later date. He said the City currently has private contract for several services such as school crossing.

Mayor Michalove closed the public hearing at 4:42 p.m. and said the budget ordinance would be considered on June 18, 1991.

### III. OLD BUSINESS:

A. Resolution No. 91-84 - Resolution amending the report of plans for extension of City services into the Haw Creek II Area proposed for annexation.

The City Attorney said this amendment reflects a new effective date for the annexation ordinance and the deletion of a lot on New Haw Creek Road.

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 Bratton, Resolution No. 91-84 was unanimously adopted.

**Resolution Book No. 18 - Page No. 428**

B. Resolution No. 91-85 - Resolution amending the report of plans for extension of City services into the Brevard Road Area proposed for annexation.

The City Attorney said this amendment reflects a new effective date for the annexation ordinance and the deletion of several lots, mostly in the vicinity of PharMor Pharmacy.

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. 91-85 was unanimously adopted.

**Resolution Book No. 18 - Page No. 429**

C. Ordinance No. 1907 - Third reading of an ordinance to extend the corporate limits of the City of Asheville to an area known as the Haw Creek II Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1907 passed on third and final reading.

Ordinance Book No. 12 - Page 346-349

D. Ordinance No. 1911 - Third reading of Ordinance to extend the Corporate Limits of the City of Asheville to an area known as the Brevard Road Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Councilman Frank moved to amend Ordinance No. 1911 to change the effective date of the ordinance and to delete several lots from the annexation area, as reflected in the revised description attached to the ordinance as Exhibit "A". This motion was seconded by Councilman Price and carried unanimously.

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

Helen Reed spoke in opposition to the annexation. She said the residents would be paying taxes before they received any services.

Debra Bridges, 683 Brevard Road, presented a petition opposing the annexation and said the residents will fight its enactment with all legal means.

On a roll call vote of 6-0, Ordinance No. 1911 passed on third and final reading.

Ordinance Book No. 12 - Page 359 - 362

E. Ordinance No. 1916 - Second reading of an ordinance amending the Zoning Ordinance and the zoning map of the City of Asheville to rezone property located at 265 Charlotte Street (Manor Inn Property) and identified as Ward 2, Sheet 15, Lots 98 and 100 of the Buncombe County Tax Maps to CU Conditional Use District.

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

On a roll call vote of 6-0, Ordinance No. 1916 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1916. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1916 passed on third and final reading.

Ordinance Book No. 12 - Page 368

F. First reading of Ordinance amending Chapters 25 and 26 of the Code of Ordinances of the City of Asheville (Street Grades).

G. First reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Street Grade Requirements).

H. Second reading of Ordinance amending Chapters 26 and 30 of the Code of Ordinances of the City of Asheville (Hillside Development Requirements).

It was the consensus of Council to postpone action on the above three items pending further recommendation from the Planning and Zoning Commission.

I. Ordinance No. 1917 - Second reading of an ordinance amending Section 30-1-3 of the Code of Ordinances of the City of Asheville (Territorial and Extraterritorial Jurisdiction of Zoning Ordinance).

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

On a roll call vote of 6-0, Ordinance No. 1917 passed on second reading.

J. Reconsideration of motion approving the Beaver Lake Heights Subdivision.

The City Manager said at the meeting of April 23, 1991 a motion was made to approve the Beaver Lake Heights Subdivision subject to 1) The proposed street be constructed to City standards and be dedicated to the City once completed; 2) The developer installs a 6 inch water line for 900' to tie into the existing city water system and that the developer and the Water Authority work out an agreement whereby the cost of the water line is shared and the water lines within the subdivision meet all state and local requirements; 3) That approval is contingent upon the Water Authority approving and moving ahead with the installation of the 6" water line along Merrimon Avenue to increase the pressure and quantity of the water in the area; 4) The project shall comply with the City's Erosion Control Ordinance.

He said at the Water Authority meeting this morning, June 4, 1991, the Water Authority agreed to replace 300 - 400 feet of existing 6" water line and that the developer extend 400 feet of 2" line; however the 2" line can not extend more than 1,00 feet.

Larry Bucker, developer, said this was the first he had heard that the Water Authority took action this morning. He said he would accept that recommendation

and requested that Council amend their motion to approve the subdivision based on the Water Authority's recommendation.

Mike Holcombe, with the Water Department, said the installation of the 6" line along Merrimon Avenue is in progress and should be completed by the end of this month.

After discussion, Vice-Mayor Moore moved to amend the motion for approval of the Beaver Lake Heights Subdivision subject to the following contingencies: 1) The proposed street be constructed to City standards and be dedicated to the City once completed; 2) The developer be responsible for installing a 2 inch water line for a distance to meet his needs but in no case shall the line be extended more than 1,000 feet in order to tie into the existing city water system and the water lines within the subdivision meet all state and local requirements; 3) That each house be installed with sprinklers; 4) That approval is contingent upon the Water Authority approving and moving ahead with the installation of the 6" water line along Merrimon Avenue to increase the pressure and quantity of the water in the area; 5) The project shall comply with the City's Erosion Control Ordinance. This motion was seconded by Councilman Price and carried unanimously.

Ted Orr with the Home Builders Association said there is nothing in the North Carolina State Building Code that would require the developer to install sprinklers and he asked Council not to set a precedent for other developments.

A resident of Greenleaf Circle asked if the development would be meeting MSD standards. Mr. Sherrill with the Planning Department said the Beaver Lake Heights Subdivision received approval from MSD.

#### IV. NEW BUSINESS:

##### A. Approval of Asheville-Buncombe Water Authority Budget for 1991-92.

The City Manager said the Water Agreement requires that the City of Asheville, the County of Buncombe, and the Asheville-Buncombe Water Authority approve the Water Authority Budget each year. He said a recent presentation was made to members of Council relative to the Asheville-Buncombe Water Authority.

Mike Holcombe, with the Water Department, said the Budget for 1991-92 is \$15,170,860 and it has been approved by the County of Buncombe and the Asheville-Buncombe Water Authority.

Vice-Mayor Moore moved to approve the Asheville-Buncombe Water Authority budget for 1991-92 as submitted. This motion was seconded by Councilman Frank and carried unanimously.

##### B. Subdivision Review - Highland Gate Subdivision - off Vance Gap Road.

Don Sherrill, Urban Planner, said the Highland Gate Subdivision is a 16 lot subdivision approved by City Council in October of 1987. The subdivision is zoned R-1 and is located off Vance Gap Road. The road constructed within the subdivision exceeds the City street grade maximum of 12%.

After the approval of the subdivision the developer thought the roadway had been approved as a private street. The City's subdivision ordinance requires that all lots in a subdivision abut a public street. However, the roadway grade exceeds the maximum grade allowed for a City street and will require a variance. The developer has been working with the Public Works Department and the Planning Department on the outstanding issues regarding the roadway.

After discussion, Councilman Price moved to approve the subdivision plat for Highland Gate Subdivision off Vance Gap Road subject to the following conditions: 1) The developer will maintain the roadway for the next five (5) years and obtain a performance bond to ensure maintenance for this period of

time; 2) The City will inspect the roadway before the five (5) year maintenance period ends. Based on the inspection of the street, the developer will repair areas of the roadway that show signs of disrepair that are beyond the normal wear and tear of roadway usage; 3) The developer will maintain the streets as public streets. This motion was seconded by Councilman Price and carried unanimously.

A discussion was held relative to the developer being allowed to maintain a gate at the entrance to the subdivision to be used at night for security purposes. It was determined that the developer would not be allowed to maintain a gate but if a problem developed because a gate is not allowed he could come back before Council to get his problem resolved.

#### V. CONSENT:

A. Resolution No. 91-86 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement with McGill Associates, P.A. for engineering services for Street and Sidewalk Improvement and Rehabilitation Projects.

Resolution Book No. 18 - Page 430

B. Resolution No. 91-87 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville addendum 2 and addendum 3 to Contract 7 with Vaughn & Melton for engineering services for Street and Sidewalk Improvement and Rehabilitation Project.

Resolution Book No. 18 - Page 431

C. Resolution No. 91-88 - Resolution accepting a deed from the Housing Authority of the City of Asheville for property for the Public Works Facilities Project.

Resolution Book No. 18 - Page 432

D. Resolution No. 91-89 - Resolution authorizing William F. Slawter, as Trustee for three Deeds of Trust for the Pack Plaza Project, to execute an easement agreement for the Pack Place Project.

Resolution Book No. 18 - Page 433

E. Approval of bids - Trucks for Parks and Recreation Department.

Award of Bid Request No. 382-91 - Bid Item A, One (1) crew cab and chassis with Dump body to Matthews Ford, Inc. (\$41,276.00); Bid Item B, One (1) One-Ton Cab and Chassis with Dump body to Ken Wilson Ford, Inc. (\$18,448.00).

A copy of the bid summary is on file in the Office of the City Clerk and is hereby attached to these minutes.

F. Resolution No. 91-90 - Resolution authorizing the Purchasing Director to dispose of approximately 15 tons of scrap metal by sealed bid.

Resolution Book No. 18 - Page 434

G. Resolution No. 91-91 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a modified Grant Agreement from the North Carolina Department of Transportation - Project No. 9.9584900 for the Asheville Regional Airport Authority.

Resolution Book No. 18 - Page 435

H. Resolution No. 91-92 - Resolution authorizing the City Manager to execute an amendment to Land of Sky Regional Council Transportation Contract 88-84.

Resolution Book No. 18 - Page 436

I. Scheduling public hearing relative to amendment to Chapter 30 of the Code of Ordinances of the City of Asheville (standards for placing manufactured homes on individual lots) for June 18, 1991.

Upon motion of Vice-Mayor Moore, seconded by Councilman Estes, the consent agenda was unanimously approved.

#### VI. OTHER BUSINESS:

A. Resolution No. 91-93 - Resolution authorizing the City Manager to sign on behalf of the City of Asheville an amendment to the Fire Protection Contract with Haw Creek Volunteer Fire Department, Inc.

The City Manager said the state law requires that Asheville offer a five-year fire protection contract to a department whose service area is reduced by annexation. He said this amendment will change parts of the contract with Haw Creek Volunteer Fire Department, Inc. due the annexation of the Haw Creek II Annexation Area.

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 Price, Resolution No. 91-93 was unanimously adopted.

#### **Resolution Book No. 18 - Page No. 437**

B. Resolution No. 91-94 - Resolution authorizing the City Manager to execute a contract with the Beaverdam Volunteer Fire Department, Inc. for Fire Suppression Services to the Beaverdam Annexation Area

The City Manager said the state law requires that Asheville offer a five-year fire protection contract to a department whose service area is reduced by annexation. He said this contract will provide for fire suppression services to the Beaverdam Annexation Area.

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 Price, Resolution No. 91-94 was unanimously adopted.

#### **Resolution Book No. 18 - Page No. 438**

C. 32 Broadway - Demolition or Stabilization

Mayor Michalove read the following letter from Jim Samsel, from the Preservation Society, Revolving Loan Fund.

"Please review the attached cost/benefit considerations regarding the City of Asheville's efforts to control the public safety hazards at 32 Broadway.

The City stands to loose considerable tax revenue if the building is demolished and the property stands vacant - approximately \$5,000 over a 10-year period.

The City will also be required to invest additional staff time (estimated at \$3,200) into the project before a resolution with the current owner is reached. If forced demolition is required, it is unclear whether the City could place a lien against the property for the demolition costs.

As an alternate to continuing the arduous legal/administrative process, the Preservation Society urges the City to reallocate its resources and join us in stabilizing the building. We believe that the property can be marketed to a private developer and fully rehabilitated within 3 years.

Prior to marketing, however, the building needs selective demolition, structural stabilization and a roof. The Preservation Society is prepared to invest \$25,000 beyond the acquisition cost. We request that the City match us on a 1:5 ratio with \$5,000 grant for demolition and hazardous material abatement.

If we are correct, the \$5,000 investment will net the City \$3,200 or more over a ten-year period. More importantly, this project will demonstrate the potential of a "partnership" between the City and a non-profit corporation that may prove to be a useful model for similar projects in the future.

Thank you for your consideration. Time is of the essence in our negotiations and the City's attorneys are beginning another round of costly activities - a prompt response is appreciated."

After a brief discussion, Mayor Michalove said this item was given to members of Council as information today and the matter will be placed on the June 18, 1991 City Council agenda.

**D. CLAIMS - Freda S. Mulvaney (Police) - JoAnn Thompson (Water) - Connie Stewart (Water) - Roger Kanupp (Water)**

The City Manager said claims were received from Freda S. Mulvaney, JoAnn Thompson, Connie Stewart, and Roger Kanupp.

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

**E. LAWSUITS - Asheville Oil Co., Inc., et al. (Challenge to sign ordinance) - Robert Lee Hood (Suit for damages for illegal arrest)**

The City Manager said the City was served with a lawsuit on May 28, 1991 and May 29, 1991, respectively, involving Asheville Oil Co., Inc., et al relative to a challenge to the sign ordinance and another involving Robert Lee Hood relative to a suit for damages for an illegal arrest.

**F. Conditional Use Permit - Manor Inn**

Councilman Price moved to approve a Conditional Use Permit for the Manor Inn Apartments subject to the following conditions: 1) The multifamily residential density shall not exceed 55 units; 2) Parking areas may remain gravel; 3) Landscaping be provided in compliance with the Historic Resources Commission guidelines; and 4) The buildings be provided and remain as shown on the plan dated April 1, 1991 and revised April 18, 1991. This motion was seconded by Vice-Mayor Moore and carried unanimously.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:10 p.m.

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**MAYOR CITY CLERK**



