

Monday - July 9, 1991 - 4:00 p.m.

## Regular Meeting

Present: Vice-Mayor William G. Moore, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Eugene W. Ellison; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Mayor Kenneth M. Michalove and Councilman William W. Estes.

Mayor Michalove voted by telephone on several items as indicated in the minutes.

## INVOCATION

The invocation was given by Councilman Ellison.

## APPROVAL OF MINUTES

Vice-Mayor Moore announced the approval of the minutes of the June 18, 1991 and June 25, 1991 meetings as submitted.

### I. PROCLAMATIONS:

A. Resolution No. 91-110 - Resolution recognizing employees transferred to MSD.

Vice-Mayor Moore read the resolution stating that as a part of the consolidation agreement between MSD and the City of Asheville, 32 employees from the City of Asheville's Wastewater Collection Division were transferred to MSD on July 1, 1991.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 91-110 was unanimously adopted.

Vice-Mayor Moore presented the resolution to Tom Tarrant.

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B. Presentation of "Certificate of Achievement for Excellence in Financial Reporting."

The City Manager said the Government Finance Officers Association has awarded the City of Asheville a "Certificate of Achievement for Excellence in Financial Reporting" for the Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 1990. The Association has awarded the "Financial Reporting Achievement" to Larry Fisher. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by the government and its management.

He said this was the eleventh year the City of Asheville Finance Department has received this award.

He presented the certificate to Larry Fisher, Director of Finance.

C. Resolution No. 91-111 - Resolution of appreciation to the Land-of-Sky Regional Council.

Vice-Mayor Moore read the resolution commending the Land-of-Sky Regional Council for their 25 years of accomplishment for this region providing expanded population and economic base and Bob Shepherd personally for his excellent and constructive contributions to the region and its citizens.

Upon motion of Councilman Price, seconded by Councilman Ellison, Resolution No. 91-111 was unanimously adopted.

Vice-Mayor Moore presented the resolution to Bob Shepherd, Executive Director of the Land of Sky Regional Council.

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D. Resolution No. 91-112 - Resolution of appreciation to Jake Wicker.

Vice-Mayor Moore read a resolution commending Jake Wicker on his retirement from the Institute of Government UNC-Chapel Hill.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 91-112 was unanimously adopted.

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### III. OLD BUSINESS:

A. Ordinance No. 1923 - Second reading of Ordinance amending Chapters 25 and 26 of the Code of Ordinances of the City of Asheville (Street Grades).

Vice-Mayor Moore said this ordinance establishes a maximum grade of 12% for subdivision and group development streets without a variance and authorizes City Council to grant variances for grades of 12.1% to 15% and authorizes the Board of Adjustment to grant variances for grades in excess of 15%. This ordinance passed on first reading on June 18, 1991.

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

On a roll call vote of 4-1, Ordinance No. 1923 passed on second reading with Vice-Mayor Moore voting "no".

B. Resolution No. 91-114 - Resolution approving the bids for the construction of the Public Works Complex.

Mayor Michalove joined Council, by telephone, to vote on this issue.

The City Manager said on June 6, 1991, separate bids were received for the general work, electrical wiring and installation, plumbing and gas fittings and accessories and heating, ventilating, air conditioning and accessories components for construction of the Public Works Complex.

He said three (3) bids were not received for each of the plumbing and gas fittings and accessories, and heating, ventilating, air conditioning and accessories components for the project.

He said the City therefore re-bid those components and those second bids were received on June 18, 1991.

He said Spaceplan Architects have reviewed the bids and has recommended that the bids be awarded for the combined projects to the lowest responsible bidders as follows:

## General Work

Argo Construction Co., Inc. \$3,248,000  
Greenville, South Carolina

## Plumbing and Gas Fittings and Accessories

Price Piping Co., Inc. 263,220  
Asheville, North Carolina

Heating, Ventilating, Air Conditioning  
and Accessories

Pyatt Heating and Air Conditioning 327,213  
Contractor, Marion, North Carolina

## Electrical, Wiring and Installations

Haynes Electrical Construction Co. 423,000  
Asheville, North Carolina \_\_\_\_\_

TOTAL \$ 4,261,430

The City Manager said the facility will be financed with Certificates of Participation. He said these certificates are being priced today and they will be sold tomorrow. He said the closing will be on July 18, 1991 and funds for the project will be in hand at that time. He said a budget amendment appropriating these funds will be brought to Council after July 18, 1991.

Upon inquiry of Councilman Frank, the City Manager said Marilyn Bass, Minority Business Coordinator, has been in contact with the contracts and they have agreed to comply with meeting the 10% goal for using minority subcontractors.

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

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 91-114 was unanimously adopted.

### **Resolution Book No. 18 - Page No. 459-460**

C. Resolution No. 91-120 - Resolution authorizing the Mayor to execute an amendment to the Supplemental Water Agreement

The City Attorney outlined the resolution stating that this resolution authorizes an amendment to the Supplemental Water Agreement regarding the calculation of the formula for reimbursement to the City and other municipalities within Buncombe County under the Law Enforcement formula. It will also provide that ownership of McCormick Field remain with the County so long as there remains any outstanding bonded indebtedness for improvements to that facility.

Mayor Michalove also participated in this discussion and vote by telephone.

Ralph Bishop commented on Council powers to regulate funds for Buncombe County law enforcement.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 91-120 was unanimously adopted.

Resolution Book No. 18 - Page 466

## II. PUBLIC HEARINGS:

A. Public hearing relative to the rezoning of 466 Swannanoa Road from LI Light Industrial District to CS Commercial Service District and rezoning of 456 Swannanoa Road CH Commercial Highway to CS Commercial Service District.

Ordinance No. 1929 - Ordinance amending Zoning of Property located at 466 and 456 Swannanoa River Road and identified as Ward 8, Sheet 15, Lots 65 and 65-1/4 of the Buncombe County Tax Maps

Vice-Mayor Moore opened the public hearing at 4:36 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.

Gerald Green, Senior Planner, said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of rezoning 466 Swannanoa Road (Ward 9, Sheet 15, Lot 65) from LI to CS zoning and 456 Swannanoa Road (Ward 8, Sheet 15, Lot 65-1/4) from CH to CS zoning.

466 Swannanoa Road is currently split-zoned LI and CS. The petition requests that both properties owned by them be rezoned to CS.

He said Smoky Mountain Petroleum is requesting this rezoning in order to expand their current facilities.

Vice-Mayor Moore closed the public hearing at 4:45 p.m.

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. 1929. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1929 passed on first reading.

B. Public hearing relative to the rezoning of a portion of Lot 16-1/4 located on Leicester Highway and County Home Road from R-5 Residential District to CS Commercial Service District.

**Ordinance No. 1930 - An Ordinance amending zoning of property located on Leicester Highway and County Home Road and identified as Ward 6, Sheet 13, Lot 16-1/4 of the Buncombe County Tax Maps**

Vice-Mayor Moore opened the public hearing at 4:47 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.

Gerald Green, Senior Planner, said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of a split rezoning of a portion of Ward 6, Sheet 13, Lot 16-1/4. The Commission recommended shifting the dividing zoning line to the west leaving only 35 feet of Residential 5 zoning along County Home Road. On July 8, 1991, a public hearing was held, and this ordinance passed on first reading. This ordinance passed on second reading on July 23, 1991.

Subject property was split-zoned from Commercial Service to a combination of Commercial Service zoning along Leicester Highway and Residential 5 zoning along County Home Road by the Asheville City Council in 1982.

Vice-Mayor Moore Michalove closed the public hearing at 4:50 p.m.

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

Councilman Frank moved for the adoption of Ordinance No. 1930. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, Ordinance No. 1930 passed on first reading.

C. Continuation of public hearing relative to the adoption of an Ordinance amending Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for Designating Historic Signs).

Ordinance 1931 - Ordinance amending Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for designating Historic Signs)

Vice-Mayor Moore said this public hearing was continued from the June 18, 1991 meeting.

Gerald Green, Senior Planner, said as requested by Council during the public hearing several individuals were notified of the proposed amendment. He said owners of the Mountaineer Inn, Forest Manor Motor Lodge, Harry's Cadillac, and the Fine Arts Theater were notified.

Mr. Green again outlined the standards recommended by the Planning and Zoning Commission.

Upon inquiry of Councilman Price, Mr. Green said there is a difference between historic and landmark signs and new criteria would have to be established for landmark signs.

Lloyd Kirk, Forest Manor Motor Lodge, spoke in favor of the ordinance but said the provision that a sign must have existed at its original location for not less than forty (40) years should be changed.

Chris Moutos with the Mountaineer Inn also spoke in favor of the designation of historic signs. He said the sign at his business has been used in movies and in national magazines.

Vice-Mayor Moore closed the public hearing at 5:07 p.m.

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. 1931 changing the recommendation of the Planning and Zoning Commission that a sign must have existed at its original location for not less than forty (40) years to **twenty-five (25) years**. This motion was seconded by Councilman Price.

On a roll call vote of 4-1, Ordinance No. 1931 passed on first reading, with Vice-Mayor Moore voting "no".

### III. OLD BUSINESS:

B. Ordinance No. 1924 - Second reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Street Grade Requirements).

Vice-Mayor Moore said this ordinance provides for street grade requirements to be applicable to group developments.

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

On a roll call vote of 4-1, Ordinance No. 1924 passed on second reading.

C. Ordinance No. 1922 - Second reading of Ordinance amending Chapter 30 of the

Code of Ordinances of the City of Asheville (Standards for placing Manufactured Homes on Individual Lots).

Vice-Mayor Moore said the Manufactured Housing Subcommittee has, for the past year and a half, been examining the role of manufactured housing in meeting the needs of City residents for affordable housing. Several tasks have been completed by the task force, including an overview of the need for affordable housing and an investigation of manufactured housing construction. Standards for manufactured homes which are to be placed on individual lots were developed by the Subcommittee to assure compatibility of manufactured homes with stick-built homes. These standards would apply to manufactured homes to replace existing mobile homes in the R-1 through R-4 Residential Districts and to all manufactured homes in the R-5 Residential District.

The proposed standards were reviewed by the Asheville Planning and Zoning Commission at their meeting on May 1, 1991. After discussing the standards, the Commission recommended their adoption. A public hearing was held and this ordinance passed on first reading on June 18, 1991 and on second reading on July 8, 1991.

Barbara Melton, member of the Planning and Zoning Commission and Chairman of the Manufactured Housing Subcommittee said they have been reviewing these standards since January, 1990. He said the committee toured other cities, manufacturing plants, and educated themselves on manufactured housing. She recommended adoption of the ordinance and said any problems dealing with the ordinance in the future could be addressed at that time.

Councilman Price again expressed her concern regarding the provision that a manufactured house must be parallel to the street. It was noted that in hardship cases the matter could be taken to the Board of Adjustment for a variance.

Mike Marlowe, Carolina Manufacturing Company, spoke in support of the ordinance. e said He said this ordinance would help provide for affordable housing. He also requested that Council and the Planning and Zoning Commission look into the feasibility of standards for park developments.

Larry Tweed, Manufactured Housing Dealer and a member of the Subcommittee, also recommended adoption of the ordinance.

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

On a roll call vote of 5-0, Ordinance No. 1922 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1922. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1922 passed on third and final reading.

### **Ordinance Book No. 12 - Page 436-438**

D. Ordinance No. 1921 - Second reading of Ordinance to rezone a portion of property located at 1897 Hendersonville Road from R-2 Residential District to OI Office Institutional District.

Vice-Mayor Moore said this ordinance will tri-zone a rectangular lot along Hendersonville Road from

R-2 Residential District to OI Office Institutional District.

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

On a roll call vote of 5-0, Ordinance No. 1921 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1910. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1921 passed on third and final reading.

### **Ordinance Book No. 12 - Page 434-435**

E. Ordinance No. 1909 - Third and final reading of Ordinance amending Chapters 26 and 30 of the Code of Ordinances of the City of Asheville (Hillside Development Requirements).

Vice-Mayor Moore said this ordinance amends the Hillside Development Requirements as set forth in Ordinance No. 631. The proposed amendments would assure that graded areas are distributed throughout the site and extend the Hillside Development Regulations to Subdivisions. This ordinance passed on second reading on June 18, 1991.

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

On a roll call vote of 5-0, Ordinance No. 1909 passed on third and final reading.

### **Ordinance Book No. 12 - Page 351-354**

F. Further discussion relative to demolition or stabilization of 32 Broadway.

Resolution No. 91-113 - Resolution authorizing the Mayor to execute an agreement with the Preservation Society of Asheville and Buncombe County, Inc. regarding 32 Broadway.

The City Attorney said the Preservation Society of Asheville and Buncombe County has made a proposal for the preservation of the building at 32 Broadway. He said this resolution will authorize the execution of an Agreement with the Preservation Society of Asheville and Buncombe County, Inc. and all necessary related documents for the purpose of facilitating the investment by the City of up to \$5,000.00 toward the stabilization of the structure in a joint undertaking with the Preservation Society, with the Preservation Society to invest up to \$25,000.00 for that purpose.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 91-113 was unanimously adopted.

### **Resolution Book No. 18 - Page No. 457 - 458**

#### IV. NEW BUSINESS:

A. Approval of site plan for the Cohen Subdivision.

Don Sherrill, Urban Planner, said the owner of the subject property is proposing to divide the 10-acre tract into two, 5-acre lots. The property is located at the end of Keasler Road in Haw Creek. The land lies outside of the

City limits, but within the City's extraterritorial zoning jurisdiction. Water, sewer, and fire protection services are available to the site. The owner requests the approval of the final plat for this subdivision.

Councilman Ellison moved for the approval of the final site plan for the Cohen Subdivision. This motion was seconded by Councilman Frank and carried unanimously.

#### V. CONSENT:

A. Scheduling public hearing relative to rezoning of property located on W. T. Weaver Boulevard for August 6, 1991.

B. Scheduling public hearing relative to zoning of Beaverdam annexation property for July 23, 1991.

C. Resolution No. 91-115 - Resolution authorizing the City Manager to enter into a lease agreement for the City for use of the Asheville Catholic Community School Athletic Field and Playground.

Resolution Book No. 18 - Page 461

D. Resolution No. 91-116 - Resolution authorizing the City Manager to make application for and enter into an agreement with the Land-of-Sky Regional Council for Senior Citizen Grant Funds to provide outreach services for senior citizens.

Resolution Book No. 18 - Page 462

E. Resolution No. 91-117 - Resolution authorizing the Mayor to execute a FAA Grant Agreement for Project No. 3-37-0005-12.

Resolution Book No. 18 - Page 463

F. Resolution No. 91-118 - Resolution authorizing the City Manager to execute an amendment to the Lease by and between the City of Asheville and Wall Street Limited Partnership for the retail space of the Wall Street Parking Garage

Resolution Book No. 18 - Page 464

G. Resolution No. 91-119 - Resolution authorizing the Mayor to enter into an easement agreement with the Daniel Boone Council, Inc., Boy Scouts of America.

Resolution Book No. 18 - Page 465

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

#### VI. OTHER BUSINESS:

A. Asheville-Buncombe Development Corporation - Financing of Capital Projects

Councilman Price moved to authorize the City Manager to execute a contract with the Asheville-Buncombe Development Corporation in connection with the City's financing of several capital projects including the Public Works Facility. This motion was seconded by Councilman Frank and carried unanimously.

B. Resolution No. 91-121 - Resolution authorizing the Asheville Housing Authority to acquire an easement across property owned by Elijah Jones



The City Attorney presented the resolution which stated that the City of Asheville Engineering Division has prepared plans for the installation of a storm sewer to alleviate private property damage at 9 West Chapel Circle. The improvements will require that an easement be obtained across the property owned by Elijah Jones. Funding for the improvements include a \$50,000 Community Development Block Grant. The resolution will authorize the Asheville Housing Authority to acquire, by condemnation, if necessary, an easement across the property owned by Elijah Jones for the purpose of making said storm drainage improvements.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 91-121 was unanimously adopted.

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#### C. 1991 Bele Chere Festival

Councilman Bratton moved that the City Manager be authorized to sign all necessary documents necessary to carry out the 1991 Bele Chere Festival. This motion was seconded by Councilman Ellison and carried unanimously.

**D. Claims - Richard Stiles (Water) - Susan Reddick (Parks) - Ralph Haney (Water) - Elizabeth Jolliff (Water) - Edna R. Carter (Water) - Jerry Yates (Streets) - Garland Brothers (Water) - Bill Craft (Water) - Arthell Goforth (Sanitation) - Ann Williams (Police) - Dorothy McMenemy (Water) - Rick Greenwood (Water) - Mrs. M.A. Fishburne (Water) - Duane Holden (Water) - Jerry Nanney (Water) - Thomas A. Readling, Jr. (Parks) - Tawanda Tucker (Water) - Bruce Ponder (Water)**

The City Manager said claims were received from Richard Stiles, Susan Reddick, Ralph Haney, Elizabeth Jolliff, Edna R. Carter, Jerry Yates, Garland Brothers, Bill Craft, Arthell Goforth, Ann Williams, Dorothy McMenemy, Rick Greenwood, Mrs. M. A. Fishburne, Duane Holen, Jerry Nanney, Thomas A. Readling, Jr., Tawanda Tucker, and Bruce Ponder.

Vice-Mayor Moore said the claims have been referred to the appropriate insurers for investigation.

#### **E. LAWSUITS - Allen Roth (Small claims action - money owed by 1990 Bele Chere Festival)**

The City Manager said the City was served with a lawsuit on June 25, 1991 relative to small claims action for money allegedly owned by 1990 Bele Chere Festival.

Vice-Mayor Moore said the lawsuit has been referred to the appropriate legal counsel for action.

#### VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 5:55 p.m.

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**MAYOR CITY CLERK**

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