

Tuesday - August 20, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Assistant City Attorney Patsy Brison; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott

Absent: Councilman Norma T. Price; City Manager Douglas O. Bean; and City Attorney William F. Slawter.

INVOCATION

The invocation was given by Vice-Mayor Moore.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the August 6, 1991 and August 13, 1991 meetings as submitted.

I. PROCLAMATIONS:

A. Resolution No. 91-141 - Resolution of appreciation to retiring employee, Robert Holmes.

Mayor Michalove read the resolution which stated that Mr. Holmes has been with the City for 23 years as a Fire Captain in the Fire Department and retired in May, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-141 was unanimously adopted.

Mayor Michalove presented the resolution to Robert Holmes.

Resolution Book No. 18 - Page 488

B. Resolution No. 91-142 - Resolution of appreciation to retiring employee, Rayburn Whitt.

Mayor Michalove read the resolution which stated that Mr. Whitt has been with the City for 28 years as a District Fire Chief in the Fire Department and retired in May, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-142 was unanimously adopted.

Mayor Michalove presented the resolution to Rayburn Whitt.

Resolution Book No. 18 - Page 489

C. Resolution No. 91-143 - Resolution of appreciation to retiring employee, James Carson.

Mayor Michalove read the resolution which stated that Mr. Carson has been with the City for 19 years as a Firefighter Sr. in the Fire Department and retired in May, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-143 was unanimously adopted.

Mayor Michalove presented the resolution to James Carson.

Resolution Book No. 18 - Page 490

D. Resolution NO. 91-144 - Resolution of appreciation to retiring employee, Dan Worley.

Mayor Michalove read the resolution which stated that Mr. Worley has been with the City for 14 years as a Plumbing Inspections Specialist in the Fire Department and retired in June, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-144 was unanimously adopted.

Resolution Book No. 18 - Page 491

E. Resolution No. 91-145 - Resolution of appreciation to retiring employee, Jack Taylor.

Mayor Michalove read the resolution which stated that Mr. Taylor has been with the City for 24 years as a Fire Captain in the Fire Department and retired in May, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-145 was unanimously adopted.

Mayor Michalove presented the resolution to Jack Taylor.

Resolution Book No. 18 - Page 492

F. Resolution No. 91-146 - Resolution of appreciation to retiring employee, Larry Bradley.

Mayor Michalove read the resolution which stated that Mr. Bradley has been with the City for 13 years as a Fire Captain in the Fire Department and retired in July, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-146 was unanimously adopted.

Mayor Michalove presented the resolution to Larry Bradley.

Resolution Book No. 18 - Page 493

G. Proclamation proclaiming September 14 - 22, 1991 as "French Broad River Week".

Mayor Michalove read the proclamation and presented it to Janie Wilson with Quality Forward.

I. Proclamation proclaiming August 30 and 31, 1991 as "Goombay Festival Days."

Mayor Michalove read the proclamation and presented it to Margaret Fuller with the YMI Cultural Center.

II. PUBLIC HEARINGS:

A. Public hearing relative to an amendment to revised site

plan for Pinecliff Condominiums.

Mayor Michalove opened the public hearing at 4:22 p.m.

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

Jim Ewing, Director of Public Works, said a meeting was held on August 16, 1991 with the developer, Larry Traber and Gerald Green, Senior Planner, to discuss proposed revisions to the development's road system. He said as a result of this meeting the following improvements are recommended: 1) Reconstruction of the intersection east of buildings J and K to provide a section of road with a grade not to exceed 13%. The cross slope of this section of road shall not exceed 8%. This section of road shall be used to provide access from the lower portion of the development to the upper portion; and 2) Designation of a parking area north of building P, currently used for visitor parking, as a no parking area between the hours of 7 AM and 4 PM. This area would be used as a turn around area for garbage trucks and other service vehicles. He said with these improvements garbage service can be provided to the development.

John Rukavina, Fire Chief, said, in his opinion, the recommendation of the Public Works Director is the best solution that can be arranged for the project's road system.

Jerry Crow, Attorney for the developer, said his client would accept the recommendation of the Public Works Director.

Patsy Brison, Acting City Attorney, reminded members of Council that at one time the project had some erosion control problems that have been corrected with new erosion control measures. However, she said Council should be aware of the outstanding civil penalties with regard to the erosion control problems.

Councilman Ellison moved to approve the amendment to the revised site plan for Pinecliff Condominiums subject to the recommendation of the Public Works Director as follows: 1) Reconstruction of the intersection east of buildings J and K to provide a section of road with a grade not to exceed 13%. The cross slope of this section of road shall not exceed 8%. This section of road shall be used to provide access from the lower portion of the development to the upper portion; and 2) Designation of a parking area north of building P, currently used for visitor parking, as a no parking area between the hours of 7 AM and 4 PM. Further, not to be included as a stipulation for approval of the amendment to the site plan, the City Council would like to see the outstanding civil penalties imposed as a result of the erosion control problems resolved prior to the issuance of any more building permits for the Pinecliff Condominiums Project. This motion was seconded by Councilman Frank and carried unanimously.

Presentation of resolution of appreciation to retiring employee, Howard Stamey

Mayor Michalove said a resolution of appreciation for retiring employee, Howard Stamey was adopted several weeks ago and Mr. Stamey was unable to attend the meeting at that time.

Mayor Michalove then publicly presented the resolution to Mr. Howard Stamey.

B. Continuation of public hearing relative to a proposed wording amendment to the Zoning Ordinance
- Neighborhood Parks.

Councilman Bratton moved to continue the public hearing relative to Neighborhood Parks until September 10, 1991 without further advertisement. This motion was seconded by Councilman Estes and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1935 - Third reading of an ordinance relative to rezoning property located on W. T. Weaver Boulevard (portions of Ward 2, Sheet 8, Lots 3 and 105 and a portion of Lot 94) from R-3 Residential District to OI Office Institutional District.

Mayor Michalove said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of rezoning Ward 2, Sheet 8, Lots 3 and 105 and that portion of Lot 94 which is shown as Lot 19 on the plat recorded in Plat Book 13 at Page 100 of the Buncombe County Registry. This public hearing was scheduled at the July 8, 1991 meeting. On July 23, 1991, a public hearing was held and this ordinance passed on first reading. This ordinance passed on second reading on August 6, 1991.

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. 1935 passed on third and final reading.

Ordinance Book No. 12 - Page 471

B. Ordinance No. 1936 - Third reading of an ordinance relative to the partial rezoning of property located at 6 Clairmont Avenue from R-3 Residential District to CH Commercial Highway District (Petitioner, Groce Properties).

Mayor Michalove said the Asheville Planning and Zoning Commission on July 3, 1991, reviewed and recommended approval of only rezoning a portion of Ward 9, Sheet 6, Lot 36 (Pin #974018414861000) from R-3 Residential District to CH Commercial Highway District, leaving a 10-foot strip along Clairmont Avenue zoned R-3. This public hearing was scheduled at the July 23, 1991, meeting but was continued until August 6, 1991. On August 6, 1991, the public hearing was held, and this ordinance passed on first reading. This ordinance passed on second reading on August 13, 1991.

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

Rendall Davis submitted the following letter on behalf of the Asheville Coalition of Neighborhoods:

"The Asheville Coalition of Neighborhoods requests City Council to table the action on rezoning the Groce property, numbers 4 and 6 on Claremont Street, pending the outcome of the UDO process.

The precedent for this is found in a similar action by the Planning and Zoning Commission which tabled the motion to rezone properties on Liberty Street in 1990, pending the development of the UDO. At the moment, the UDO committee and sub-committees are considering the definition of a North Asheville hub, and premature action by Council on the above issue may inappropriately influence the process.

This request of CAN was passed at its meeting on August 19, 1991."

Mayor Michalove said he felt the rezoning petition of Clairmont Avenue is different from the Liberty Street rezoning in that the Planning and Zoning Commission passed on to City Council a recommendation for rezoning the property on Clairmont Avenue.

Mike Lewis, 48 Gracelyn Road, strongly opposed the rezoning of the property in question on Clairmont Avenue.

Janie Wilson, 22 Maywood Road, spoke in opposition to the rezoning stating that the residential/business operation is not compatible in this particular area.

Merritt Mosely, 40 Gracelyn Road, spoke in opposition to the rezoning, stating that the rezoning would have a negative impact on the properties in the area.

Kevin McDonald, 11 Clairmont Avenue, spoke in opposition to the rezoning.

Carol Woodard spoke in opposition to the rezoning.

Jean Warner spoke in opposition to the rezoning and in support of the letter from the Asheville Coalition of Neighborhoods.

Mayor Michalove noted that the Planning and Zoning Commission unanimously recommended rezoning of the property as requested.

Larry McDevitt, Attorney for the petitioner, spoke in support of the rezoning.

On a roll call vote of 5-1, Ordinance No. 1936 passed on third and final reading, with Vice-Mayor Moore voting "no".

Ordinance Book No. 12 - Page 472

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

Patty Tallerday, Acting Director of Planning, said the Planning and Zoning Commission at its August 6, 1991 meeting suggested that the ordinance be amended to provide that grades on local residential streets shall not exceed fifteen percent (15%) unless the Planning and Zoning Commission determines that a modification should be allowed due to topographical or other conditions peculiar to the subdivision site. Appeals could be made to the City Council.

Assistant City Manager Charles Penny suggested that the ordinance include language that the standard for measuring street grades shall be the current standards for the American Association of State Highway Transportation Officials ("AASHTO"), or its successor organization.

After discussion, Councilman Ellison moved to amend Ordinance No. 1923 to provide that grades on local residential streets shall not exceed fifteen percent (15%) unless the City Council determines, after recommendation by the Planning and Zoning Commission, that a modification should be allowed due to topographical or other conditions peculiar to the subdivision site. Further, that the ordinance provides that standards for measuring street grades shall be the current standards for the American Association of State Highway Transportation Officials ("AASHTO"), or its successor organization. This motion was seconded by Councilman Estes.

Vice-Mayor Moore made a motion to amend Councilman Ellison's motion to provide that grades on local residential streets shall not exceed 15% and the Planning and Zoning Commission shall have the authority to grant street grade modifications from 15% to 18%, and all street grade modifications above 18% must be approved by City Council.

Acting City Attorney Patsy Brison said she would not recommend the adoption of an ordinance that has two different levels of approving authority. She said it is very likely that the two approving authorities would have different guidelines for approving modifications. She said standard guidelines could be established, however, and those guidelines should be made available to the developers.

After discussion, Vice-Mayor Moore withdrew his motion.

Councilman Frank made a motion to amend Councilman Ellison's motion to provide that the grades on local residential streets shall not exceed twelve percent (12%). This motion was seconded by Councilman Bratton, which motion failed on a voice vote of 4-2 with Councilman Frank and Councilman Bratton voting "aye".

On a voice vote of 6-0, Councilman Ellison's motion to amend Ordinance No. 1923 was unanimously adopted.

On a roll call vote of 6-0, Ordinance No. 1923, as amended, passed on third and final reading.

Ordinance Book No. 12 - Page 439-442

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

Mayor Michalove said this ordinance provides for street grade requirements to be applicable to group developments. This ordinance passed on first reading on June 18, 1991 and on second reading on July 8, 1991. On July 23, 1991 the third reading was postponed until August 6, 1991 and then postponed again until August 20, 1991.

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. 1924 passed on third and final reading.

Ordinance Book No. 12 - Page 443

E. Ordinance No. 1929 - Third and final reading of an ordinance relative to the rezoning of 466 Swannanoa Road from LI Light Industrial District to CS Commercial Service District and rezoning of 456 Swannanoa Road from CH Commercial Highway to CS Commercial Service District.

Patty Tallerday, Acting Director of Planning, said they had received notice from the petitioner, Mr. Wes Morgan, relaying his decision to withdraw his rezoning request of 466 and 456 Swannanoa River Road. Because of the suggestion that he do just that by Council, he will not longer pursue the third and final reading on this matter.

She said at the request of the City Manager, the Planning Department staff and City Attorney's Office are currently reviewing amended draft language prohibiting bulk gas and gasoline storage in the Commercial Service District.

Mayor Michalove said since the petitioner withdrew his request for rezoning no other action would be taken on this ordinance.

F. Ordinance No. 1931 - Second reading of an ordinance 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).

Kent Newell, Executive Director of Historic Resources Commission, reviewed the following memorandum to members of Council relative to Historic Signage:

"TO: City Council
Doug Bean, City Manager
Patsy Brison, Assistant City Attorney

FROM: Kent R. Newell

SUBJECT: Historic Signage

DATE: August 16, 1991

On July 23, 1991 the Asheville City Council considered an ordinance amending Article 9 of Chapter 30 regarding the standards for designating historic signs. After review of Section 30-9-3C as recommended by the Planning and Zoning Commission, City Council amended item 12.a of Section 30-9-3c so that signage of 25 years or older would be eligible for designation. The City Council passed the ordinance as amended on the first reading.

After receiving the information regarding Council's action, the Historic Resources Commission is concerned that:

- a) the amendment to Section 30-9-36-12.a does not accurately reflect a period of historical, cultural, or architectural development within the City of Asheville.
- b) the protection of a sign as a cultural artifact should be contextual to a period in American history that represents an identifiable/distinct cultural tradition, exhibits craftsmanship of the period, or is unique to the cultural tradition of the community.
- c) signs threatened due to nonconformance with the Asheville Sign Ordinance would not be altered until the expiration of the amortization period on August 22, 1995. Therefore, any suggestions for age limitations should be considered from that point forward.
- d) the strength of the ordinance lies in the justification of criteria. An established limit on the age of a sign should be historically contextual.

As a result of these concerns, the HRC further investigated historic signage issues and would make the following recommendations:

1. although the HRC would recommend a sign be in existence for 50 years as per the criteria established by the National Register of Historic Places, a limit of 40 years could be justified based on other accepted standards.
2. an identifiable shift in cultural patterns, circa-1955 have been recognized on local and national levels. Circa-1955 could be initially established as a cut-off point. If we consider the expiration of amortization in 1995, a 40-year provision would be most appropriate.
3. a survey of other historic sign ordinances have provided for age limits set between 35-50 years. If this does not seem reasonable, then age limitations should not be established and strict interpretation of other provisions in the ordinance be provided for.
4. for those signs and structures that would not meet the criteria established under the "Standards for Designating Historic Signs", we may want to consider a Landmark Signage Provision.

Mayor Michalove said property owners interested in historical signs should be informed of what Council is considering and said the second reading of this ordinance would be postponed, without further advertisement, until September 10, 1991.

Councilman Ellison requested that the staff check with the National League of Cities and the North Carolina League of Municipalities to see if they have any information on other cities establishing standards for designating historic

signs. He said it was his understanding that the City of Raleigh had considered a similar ordinance but did not adopt it. He requested that staff check with the City of Raleigh to see why they did not adopt the ordinance.

IV. NEW BUSINESS:

A. Semi-Annual report relative to 2010 Plan.

Mike Moser, Chairman of the Planning and Zoning Commission, highlighted a semi-annual report on the 2010 Plan. (A copy of the report is on file in the Office of the City Clerk)

B. Report by Mike Moser - UDO - Update

Mike Moser said the Asheville Planning and Zoning Commission and the Planning Department staff have been working on the preparation of a Unified Development Ordinance since January 1991. He said at this time the Commission and staff are basically on schedule with this major undertaking. He said one of the first actions taken in this process was the formation of the UDO Committee, composed of all members of the Planning and Zoning Commission, two members of the City Council, and one member of the Board of Adjustment. He outlined the accomplishments of the UDO Committee and of the Planning Department staff. (A copy of the status report is on file in the Office of the City Clerk)

C. Motion to approve final plat for the Thornridge II Subdivision located on Haw Creek Road.

Don Sherrill, Planning Department, said the Asheville Planning and Zoning Commission reviewed and approved the preliminary plat for the Thornridge Phase II Subdivision on March 7, 1990, and affirmed that approval on August 7, 1991, recommending that City Council grant a variance (modification) on the street width, thereby allowing a street width of 45' for a 35' section of the road near the entrance to the subdivision. The six (6) lot subdivision is located on Old Haw Creek Road near its intersection with Keasler Road. In lieu of installing utility improvements and constructing the required street, the developer has provided a letter of credit to guarantee the construction of all improvements. The form of this letter of credit has been approved by the City Attorney's Office and the amount approved by the Public Works Department.

Mr. Sherrill reviewed the location and the particulars for this subdivision. He said the developer is requesting a variance (modification) in the required right-of-way width for a 35' section of the roadway at the entrance. He said a 60' right-of-way is required and if the variance (modification) is granted the first 35' section of the entrance into the subdivision would be 45'.

After discussion, Councilman Estes moved to approve the final plat for the Thornridge Phase II Subdivision including the requested variance (now "modification") in the required right-of-way width for a 35' section of the roadway at the entrance to the subdivision, said right-of-way to be 45' for this 35' section. This motion was seconded by Councilman Ellison and carried unanimously.

D. Discussion relative to new parking meters for the downtown.

The Assistant City Manager said the Downtown Commission has recommended that 297 parking meters in the Downtown area be replaced with the following specifications: 1) \$.25 per hour with maximum of two (2) hours (partial time, i.e., \$.05 for 12 minutes is possible); 2) Double headed meters on post, where possible; 3) Multiple coin apparatus only; 4) Where advantageous, program meters for free grace period of 20 minutes at the beginning of meter time. He

said the current meter revenue is: Budget: 90-91 \$18,000.00 - Actual: 90-91 \$19,812.50. He said the projected meter revenue if all 297 meters are converted to \$.25 would be converting \$95,000.00. He said the estimated capital cost of converting 297 meters, at \$81.01 for conversion kits, is \$24,060. He said funds in the amount of \$30,000 have been appropriated in the C.I.P. Budget for this expenditure.

Upon inquiry of Council, Leslie Anderson, Downtown Development Director, said the double headed meters on posts would improve the appearance downtown. She said this method has been used in other cities with no confusion.

Chris Peterson, owner of two restaurants and one night club downtown, said no one has asked the downtown business owners their opinions about the parking meters and increased rates. He said some individuals and businesses downtown are very discouraged over the proposed increased parking rates. He said the City could save money by just leaving the meters like they are or phasing in the new meters. He suggested that a survey be taken of the businesses downtown in order to receive their input. He said this proposal may hurt the downtown businesses.

Barbara Field, Downtown Commission member, said notices were sent to downtown businesses about this proposal and they were invited to attend a meeting of the Downtown Commission to discuss the parking meter proposal.

Chris Johansen, 33 Haywood Street, presented a written statement to members of Council relative to the replacement of parking meters. He said if there are to be changes he would suggest that this be accomplished in phases with the first phase to address existing meters; the second would be to install additional meters in a small area of Battery Park, where the merchants have requested them, after reconfirming those requests, and the third, if and only if the Battery Park test were adjudged to be a success and desirable, would be to install meters downtown generally.

Mr. Johansen said replacement of existing meters with new, multi-coin heads, 25 cents per hour, seems to be the best course to take at this time because many units need repair now, money is already set aside, one rate increase in twenty years is not unreasonable, multi-coin heads would still accept nickle coins (for twelve minutes -- presently, parkers having coins but not nickles at hand are inconvenienced), the new units are re-programmable, and this decision can be made with just a feeling for policy direction while work on a complete parking policy is still underway.

Harold Garland said he had personally taken a survey of downtown businesses to get their feelings on this matter. He said most downtown businesses are opposed to the parking meter proposal. He said they also said they were not invited to a meeting of the Downtown Commission regarding the parking proposal. He said the new proposal includes a lot of unnecessary costs.

Councilman Ellison suggested that a public hearing be held relative to the parking proposal in order to give everyone an opportunity to be heard on the matter. He said the parking meters serve the businesses downtown and these business owners should have an opportunity to express their opinion.

Councilman Bratton said she had not received any comments regarding the parking proposal and the matter had been well published by the news media and she did not feel a public hearing was necessary.

Councilman Estes said he felt the cost for the new meters should be investigated.

Ralph Bishop spoke in opposition to the parking proposal stating that increasing the parking fees downtown would hurt the downtown businesses.

After considerable discussion, Councilman Ellison said he was concerned that there had been no public notice about Council considering this parking proposal, that no survey was taken of the downtown businesses to receive their input, that some of the businesses downtown were not informed of this matter and he felt a part of the population was being left out of the process. He said individuals directly affected should be notified of this matter.

Don Martell, Chairman of the Downtown Commission, said he did not feel a public hearing would be necessary. He said the Downtown Commission thoroughly reviewed the parking proposal and all meetings of the Downtown Commission are open to the public. He suggested that Council accept the recommendation of the Downtown Commission.

After further discussion, Councilman Bratton moved that the City move ahead with the purchase of 297 parking meters with the following specifications: 1) \$.25 per hour with maximum of two (2) hours (partial time, i.e., \$.05 for 12 minutes is possible); 2) Double headed meters on post, where possible; 3) Multiple coin apparatus only; 4) Where advantageous, program meters for free grace period of 20 minutes at the beginning of meter time. This motion was seconded by Councilman Frank, which motion carried on a voice vote of 4-2, with Councilman Ellison and Councilman Estes voting "no".

PARKING GOAL STATEMENT

Councilman Frank and Councilman Bratton presented members of Council with the following Parking Goal Statements:

"It is the goal of the City of Asheville to make certain that adequate parking downtown is provided for all our citizens at a fair cost.

We think that as the City continues to develop in the future the three City garages - Civic Center, Rankin and Wall Street - should continue to operate as an Enterprise Fund, and as surplus in fee should be applied to supplement the Capital Improvement Fund which is being used to amortize the debt service on the Rankin and Wall Street garages."

"To progressively market and systematically manage parking in the central downtown core in order to accomplish economic growth, firm yet sensitive enforcement and a break-even position in the Parking Enterprise Fund (balancing revenue with operations, small capital and general maintenance)."

E. Approval of "Permit to Repair or Alter a Type VI Building in the Fire District." - 12 Ravenscroft Drive.

John Rukavina, Fire Chief, said the applicant, Trinity Episcopal Church, is requesting a permit to repair or alter a Type VI building in the Fire District. Section 303.4 of the N.C. State Building Code states: "No type VI Building or structure shall be erected, repaired, moved into the Fire District, or addition thereto except upon the permit of the Local Inspections Department approved by the City Council, and approved by the Commissioner of Insurance or his designee."

Chief Rukavina said Trinity Episcopal Church is proposing to remodel 12 Ravenscroft Drive for Trinity Place Runaway Shelter. He said the Building Inspections Division reviewed the plans and has determined that the building will be safer.

Councilman Estes moved to approve a "Permit to Repair or Alter a Type VI Building in the Fire District" at 12 Ravenscroft Drive. This motion was seconded by Vice-Mayor Moore and carried unanimously.

F. Ordinance No. 1941 - Budget Ordinance amendment appropriating funds for the After School Program.

The Assistant City Manager said this budget amendment in the amount of \$36,400 is to appropriate funds for the new After School Program at Isaac Dickson School.

Mayor Michalove 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. 1941. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 6-0, Ordinance No. 1941 passed on first and final reading.

Ordinance Book No. 12 - Page 477

G. Resolution No. 91-147 - Resolution identifying area as being under consideration for annexation.

Patty Tallerday, Acting Planning Director, said on August 28, 1991, the current City of Asheville resolution which identifies area under consideration for annexation remains effective until Midnight August 28, 1991, pursuant to N. C. Gen. Stat. sec. 160A-49 (i). A new resolution of consideration adopted before that date which covers the same area will relate back to the date of the previous resolution, being August 29, 1989.

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. 91-147 was unanimously adopted.

Resolution Book No. 18 - Page No. 494

H. Ordinance No. 1942 - Ordinance amending Section 28-81.3 and Section 28.81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Charles Penny, Assistant City Manager, said a request was received by the City Manager's office for a speed limit investigation on Oakland and Hibernia Roads. Also, the Traffic Division received a request for a speed limit investigation on Pinehurst Road. This request was made by Mr. William Barley of the Beverly Hills Homeowners Association. Following an investigation on each of these street, it is recommended that speed limits be changed as follows:

Oakland Road - from 35 mph to 30 mph
 Hibernia Road - from 35 mph to 30 mph
 Pinehurst Road - from 35 mph to 25 mph

He said this recommendation is based on actual radar surveys and SPEEDCALC program findings.

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

Councilman Estes moved for the adoption of Ordinance No. 1942. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1942 passed on first reading.

Councilman Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1942. This motion was seconded by Councilman Ellison and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1942 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1942. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1942 passed on third and final reading.

Ordinance Book No. 12 - Page 478 - 479

V. CONSENT:

A. Schedule public hearing relative to amending Chapter 30 of the Code of Ordinance of the City of Asheville to provide for Zoning Vested Rights for September 10, 1991.

B. Resolution No. 91-148 - Resolution authorizing the City Manager to execute two addendum schedules to the Unisys Surety Service Support Agreement Number 89060195 to provide computer hardware and software services.

Resolution Book No. 18 - Page 495

C. Resolution No. 91-149 - Resolution authorizing the Purchasing Director to sell surplus motor vehicles, equipment, and other surplus property at Public Auction.

Resolution Book No. 18 - Page 496

D. Resolution No. 91-150 - Resolution authorizing the Purchasing Director to dispose of surplus property consisting of Air Packs from the Asheville Fire Department.

Resolution Book No. 18 - Page 497

E. Resolution No. 91-151 - Resolution calling for a public hearing for the adoption of an ordinance directing the Building Inspections to demolish the dwelling located at 83 Michigan Avenue for September 17, 1991

Resolution Book No. 18 - Page 498

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

VI. OTHER BUSINESS:

A. Resolution No. 91-152 - Resolution authorizing the settlement and/or initiation of litigation regarding overpayments of supplemental benefits to retired firefighters.

At the request of the Assistant City Attorney, Councilman Ellison moved for the adoption of Resolution No. 91-152. This motion was seconded by Councilman Bratton and carried unanimously.

Resolution Book No. 18 - Page 499

B. Resolution No. 91-153 - Resolution adopting a policy for mutual assistance with other law enforcement agencies.

At the request of the Police Department, Councilman Frank moved for the adoption of Resolution No. 91-153. This motion was seconded by Councilman Ellison and carried unanimously.

Resolution Book No. 18 - Page 500

C. Authorization for City Manager to execute rental agreement for the Big Burley Tobacco Warehouse for a Public Auction on September 21, 1991.

At the request of the Assistant City Attorney, Councilman Frank moved to authorize the City Manager to execute, on behalf of the City of Asheville, a rental agreement for the Big Burley Tobacco Warehouse, 157 Craven Street on Saturday, September 21, 1991 for a public auction to sell personal property. This motion was seconded by Vice-Mayor Moore and carried unanimously.

D. Report of Group Development Actions by Planning and Zoning Commission

Patty Tallerday, Acting Planning Director, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on August 7, 1991.

(1) 58 Broadway Lofts - Renovation Project

The Asheville Planning and Zoning Commission on August 7, 1991, reviewed and approved the site plan of 58 Broadway Lofts Renovation Project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

(2) 33 Broadview Duplexes

The Asheville Planning and Zoning Commission on August 7, 1991, reviewed and approved the site plan of 33 Broadview Duplexes with the following conditions:

1. Conveyance of a recorded document showing the sewer line extension to the site; and
2. The developer comply with State requirements regarding the landfill.

She said there was a great deal of opposition to the project expressed at both Planning and Zoning Commission meetings.

Councilman Ellison moved to schedule a public hearing relative to the site plan for 33 Broadview Duplexes for September 10, 1991, at the Civic Center Banquet Room. This motion was seconded by Councilman Frank and carried unanimously.

E. CLAIMS - Freddie Mitchell (Streets) - Mike Lewis (Water)

The Assistant City Manager said claims were received from Freddie Mitchell and Mike Lewis.

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

F. LAWSUITS - George Kushner and wife, Madeline Kushner and Lord George Inc. (Appeal from Board of Adjustment decision (Santa Claus sign))

The Assistant City Manager said the City was served with a lawsuit on August 14, 1991 involving George Kushner and wife, Madeline Kushner and Lord George, Inc. relative to appeal from Board of Adjustment decision (Santa Claus sign).

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 7:55 p.m.

MAYOR CITY CLERK
