

Tuesday - March 17, 1992 - 4:00 p.m.

Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Moore gave the invocation.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the March 3, 1992, City Council minutes, as amended.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 1992 AS "WOMEN'S HISTORY MONTH"

Mayor Michalove read a proclamation proclaiming the month of March 1992 as "Women's History Month" and presented it to Ms. Julia Reeves, President of the Western Carolina Women's Coalition.

B. PROCLAMATION PROCLAIMING APRIL 1992 AS "CHILD ABUSE PREVENTION MONTH"

Mayor Michalove read a proclamation proclaiming the month of April 1992 as "Child Abuse Prevention Month" and presented it to Ms. Cassie Pavone with the Family Services Center.

C. PROCLAMATION PROCLAIMING MARCH 20, 1992, AS "VEGETARIAN EDUCATION DAY"

Mayor Michalove read a proclamation proclaiming March 20, 1992, as "Vegetarian Education Day" and presented it to Ms. Kayla Rosko, Asheville Chapter Coordinator for the NC Network for Animals.

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II. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO CLOSING A 15-FOOT ALLEY OFF HAMPDEN ROAD IN THE CITY OF ASHEVILLE, NORTH CAROLINA

RESOLUTION NO. 92-25 - RESOLUTION TO CLOSE 15 FOOT ALLEY OFF HAMPDEN ROAD IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 4:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, stated that a petition to close the

15-foot alley off Hampden Road between Hampden Road, Kensington Road and Beverly Road was received by the Public Works Department. He said that the Public Works Department has reviewed the petition to close the alley and found that it would have no detrimental effects upon City operations. He said that each utility provider has been contacted and as a result of those contacts, the closing is subject to the retention of easements extending the full length and width of said alley by (1) Carolina Power & Light Company for the installation and maintenance of an electrical distribution line and (2) Metropolitan Sewerage District for the installation and maintenance of a wastewater line.

Mayor Michalove closed the public hearing at 4:16 p.m.

Mayor Michalove stated that members of Council have received copies of the resolution prior to the meeting and it would not be read in its entirety.

Councilman Worley moved for the adoption of Resolution No. 92-25. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 128

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1963 RELATIVE TO THE REZONING OF 750 BILTMORE AVENUE, 762 BILTMORE AVENUE, 760 BILTMORE AVENUE, 6 BRYSON STREET, 10 -3-

BRYSON STREET, AND THE WESTERN PORTION OF 766 BILTMORE AVENUE FROM HI HEAVY INDUSTRIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT; AND REZONING THE EASTERN PORTION OF 766 BILTMORE AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT.

Mayor Michalove said that members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1963 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 35

IV. NEW BUSINESS:

A. RESOLUTION NO. 92-26 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A JOINT COOPERATION AGREEMENT ESTABLISHING THE ASHEVILLE-REGIONAL HOUSING CONSORTIUM

City Manager Bean stated that at the March 3, 1992, Council meeting, the members of Council had some questions relative to the HOME consortium and he summarized the concerns as follows:

1) Who would be the lead agency? The City of Asheville would be the lead agency. In accordance with the Federal regulations a governmental agency needs to be the lead agency. It has been suggested among the various members that the City of Asheville assume this role due to our technical expertise in administering community development programs.

2) What role can the Land-of-Sky Regional Council play? Since the Land-of-Sky is not a governmental entity it can not serve as the lead agency. The Land-of-Sky could, however, provide technical assistance to each of the other units of government that do not have staff available for making application and could implement programs on a contractual basis for the other governmental units.

3) Who would be assuming the financial responsibility to HUD for Consortium funds? Should the City of Asheville be the lead agency we would be -4-

responsible to HUD for the proper expenditure of all the funds. The funds would be received by the City and dispersed to the Consortium and the other governmental entities.

4) Who is responsible for making assurances that Federal regulations will be followed? The City of Asheville is ultimately responsible to HUD for compliance with all Federal regulations.

5) Who is responsible for subsequent monitoring of the program? The City of Asheville as lead agency would be responsible for monitoring all of the sub-recipients uses of funds.

6) How long of an obligation would there be for the Consortium? There is an obligation on the part of the Consortium members for a three year period of time. The acceptance of grant funds would be on an annual basis. The City of Asheville's responsibilities, however, would not end for 20 years. Monitoring would have to take place for all projects and the longest period for which there is a legal responsibility is for rental rehab projects over \$25,000 per unit. For these particular grants the City would be responsible to HUD for the 20 year period.

7) Throughout the existence of the Consortium and the subsequent years of responsibility, who is accountable to HUD for making sure that all Federal regulations continue to be met? The City of Asheville is responsible to HUD and should there be any violation of regulations or repayment of funds, HUD will look to the City of Asheville for these funds.

8) Can the City of Asheville pass along its obligations to other Consortium members? The City of Asheville cannot pass along its role as lead agency that it has with HUD. The City can contractually, through the attached agreement, assign responsibilities to each of the Consortium members to abide by Federal regulations. It would be up to the City to monitor these governmental entities and to make sure the regulations are being met. The Consortium and its members have no responsibility to HUD and only to the City of Asheville. Should a dispute occur between the City and the Consortium members, and should it -5-

require a court to settle these disputes, they would be heard in the County of the receiving agency.

9) Is there a match required this year? Initially the Consortium would be applying for State funds that require no match. Also, we would be applying for Federal funds next year which require a match in the area of 25 to 30% of total funds received.

10) Who would be responsible for paying the match? The way the agreement is currently drafted each of the receiving agencies would pay their own match.

11) Who would be responsible for administrative costs? The administration of the program would be paid by each of the Consortium members and it is estimated to be 10% of the total funds available.

12) Is this a Federal or a State program? HUD currently provides a direct allocation to consortiums as an entitlement grant. By forming a Consortium with either Buncombe County or all of the surrounding government, money would come directly from the Federal government to the Consortium. There is also a second source of funds available through the State. Individual units of government that do not form a consortium can apply to the state on an annual basis for

funding for individual projects.

13) What happens if we do not form a Consortium? If a Consortium is not formed, each governmental unit, including the City of Asheville, can apply to the state for funding on an annual basis. Each unit would therefore be totally responsible to the state for complying with Federal regulations and for the appropriate expenditure of their funds.

14) Should Asheville and Buncombe County form a Consortium, what will happen to the other governmental units in Western North Carolina? There would remain the option for these units to form a Consortium of adjoining counties or for those that do not participate in the Consortium to apply to the State for an annual appropriation.

Councilman Moore recognized the need for new housing but felt that the City should enter a consortium with only -6-

Buncombe County for the three year period of time with the understanding that City staff monitor the progress of the program as it applies to the City of Asheville and all across the country. He felt that they should report the progress to the Council at regular intervals and perhaps with some recommendations.

Councilman Worley did not feel comfortable with the agreement as presented to the Council. He felt the agreement did not fully protect the City (as lead entity) if regulations were violated by the other entities caused by no fault of the City. He felt that it would be better to enter into a consortium with Buncombe County only due to the short timeframe (by March 31 to HUD) within which the staff has to work up a suitable agreement.

Tom Elmore, representative of the Land-of-Sky, said that although the Land-of-Sky cannot serve as the lead agency, it could, however, provide technical assistance on a contractual basis.

It was the consensus of Council to amend the resolution and agreement to provide that the consortium be limited to Buncombe County and that the final terms of the agreement be approved by the Mayor, Vice-Mayor, City Manager and City Attorney.

Mayor Michalove stated that members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved to adopt Resolution No. 92-26, as amended. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 130

B. RESOLUTION NO. 92-27 - RESOLUTION CALLING FOR A PUBLIC HEARING FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 18 IVEY STREET

Bob Hixson, Director of Inspections, stated that 18 Ivey Street is a two-story burned structure. He said that an administrative housing hearing was held on July 17, 1991, and the owners of the structure were present. He said the owners stated that they did not have the money to demolish it themselves. He said all proper notices have been given to make the property owner and all parties in interest aware of the Order finding that 18 Ivey Street, in its present condition, is an imminent threat to life and property.

Upon request of Councilman Peterson, Mr. Hixson said that he would have estimates on the cost to tear the dwelling down by the public hearing date of March 31, 1992.

Mayor Michalove stated that members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Councilwoman Field moved for the adoption of Resolution No. 92-27 setting a public hearing on March 31, 1992, at 4:00 p.m. in the Asheville Civic Center Banquet Room, for the adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling located at 18 Ivey Street. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 132

V. CONSENT:

A. RESOLUTION NO. 92-28 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE CONTRACT WITH DAP SECURITY INC. FOR SCHOOL CROSSING GUARDS ON BEHALF OF THE CITY OF ASHEVILLE

Summary: In 1989, the City of Asheville felt that it would be more cost effective and productive to contract all school crossing guard positions to private security due to the significant negative impact on police services. At that time, three proposals were received to provide school crossing guard services and staff recommended the acceptance of DAP Security Inc. Since 1989 DAP Security has provided the City with school crossing guard services and has been dependable. Currently DAP Security provides school crossing guard services to the City at an annual cost of \$64,411. DAP Security has proposed to continue to provide said services to the City for the next two years with no increase in the annual cost. City staff has recommended that the City renew the contract with DAP for a one year period.

RESOLUTION BOOK NO. 19 AT 134

B. RESOLUTION NO. 92-29 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL BRIDGE AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR REPLACEMENT OF THE GLENDALE AVENUE BRIDGE OVER THE SWANNANOA RIVER

Summary: This resolution is required to set the Glendale Avenue Bridge Replacement Project up under the Federal Highway Administration off system Bridge Replacement -8-

Program. Once the agreement is executed, the City will be able to receive reimbursement of 80% of allowable cost of the Bridge Replacement Project.

RESOLUTION BOOK NO. 19 AT PAGE 136

C. RESOLUTION NO. 92-30 - RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN INDEMNIFICATION AGREEMENT WITH NATIONAL DRAEGER INC. FOR THE USE OF A FIREFIGHTER TRAINING CENTER TRAILER

Summary: Draeger, USA, the manufacturer of the Fire Department's self-contained breathing apparatus (SCBA) makes available to its SCBA purchasers the use of a special "training trailer" for firefighter training at no cost. The only requirement is execution of an indemnification letter between the City and Draeger.

RESOLUTION BOOK NO. 19 AT PAGE 137

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

Mr. Gerald Green, Senior Planner, 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. He said in accordance with this 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. He said the following action was taken by the Planning and Zoning Commission on March 4, 1992:

SEVIER APARTMENTS

Mr. Green said that CC&J Enterprises, developers, are proposing the construction of a four-unit apartment building to be located on Sevier Avenue adjacent to the UNC-A campus. The proposed building will be Phase III of the apartment complex, which currently consists of three buildings. A single family home located on the portion of the site where the proposed building will be constructed is used as manager's residence.

He said all utilities are available for the project and adequate fire protection is available. The project complies with all requirements of the Asheville zoning ordinance. After reviewing the site plan, the Asheville Planning and Zoning Commission recommended approval of the project.

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

B. TRAFFIC PROBLEMS ON PATTON AVENUE

Upon inquiry of Vice-Mayor Ellison relative to traffic problems on Patton Avenue, City Manager Bean said that one lane of traffic is open continuously and regular meetings are held with property owners affected along Patton Avenue.

C. RALPH BISHOP

Mr. Ralph Bishop suggested Council hold a regular Council meeting at the J.B. Plemmons' property where he alleges Mr. Plemmons is selling lottery tickets.

D. PETITION RELATIVE TO CITY SCHOOLS

Ms. Victoria Angelis read a statement relative to the lack of quality education for all students at City schools. She stated that she had a petition with over 500 signatures on it demanding the Superintendent of City School, Doug Pearson, to resign. She stated that she also had a petition demanding resignation of the School Board members. She stated that they want an elected School Board.

City Attorney Slawter stated that the School Board, not the City Council, has the power to hire and fire a superintendent. He said to hire and fire a superintendent is beyond the scope of City Council's authority. He said that although the City Council appoints the School Board members, they cannot remove them because their four-year terms were set by the General Assembly. He stated that the City Council can request the local legislative delegation to change the terms if they wish.

Councilman Peterson said he supported making board memberships an elected

position.

Mr. Bob Brown stated that three years ago he gave the City a petition with 859 signatures on it asking the City Council to request our local delegation amend the laws to provide for an elected School Board.

Vice-Mayor Ellison felt that once districts are established for the City Council, then it would be easy to draw wards for the elected School Board.

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Councilman Moore supports the idea of the City Council elected by districts and stated that he would vote for the overall quality of education.

Councilwoman Field said that she was very much concerned about the education of the students.

Councilman Worley also was very much concerned about the education of the students and stated that goals have been set by the Council to further dialogue with the School Board. He felt that through community involvement, improvements can be made.

Councilman Swicegood said that the Council needs to work for the best education system possible and one way is to meet regularly with the School Board.

Mr. Joe Bly spoke about the School Board meetings being closed and statistics of drop out ratios.

Ms. Sophia Dixon stated that if Asheville went to an elected School Board there would be no minority representation.

Rev. Calhoun hoped that more people would volunteer in the school system and hoped that the community would work together to make a difference.

Mr. Albert Sneed said that he took both of his children out of the public school system and felt that his children would have been slighted because of him taking a stand about the quality of education in the schools. He asked that everyone keep the pressure on this situation.

Mr. David Thompson spoke in support of the petition asking Superintendent Pearson to resign. He felt that the school system is not operating properly and the system does not meet the children's needs.

Ms. Amelia Taylor felt that there was no support in the classrooms and that no one wants to be held accountable for the lack of quality education.

Mr. Chris Wren spoke about the problem of support and felt that \$150,000/year for rent for the administrative offices and \$93,000/year salary for Superintendent Pearson were exorbitant.

Ms. Pat Warlick said that teachers are required to teach without adequate materials and she stated that something had to be done to alleviate this problem.

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Mr. Bob Douglas spoke in support of the Superintendent stating that he is trying to identify many tough issues and that it is unfair to lay all the years of neglect on Pearson's shoulders.

Ms. Minnie Jones did not support the elective School Board and felt that something needed to be done about the current situation within the boundaries of the law.

Mr. Harold Holcombe passed out a letter to the Council members stating that the Council needs to become involved in some fashion with the situation.

Mr. Hayes Martin felt that it was time the City Council assumed the role of responsibility in the School Board issue.

Mr. Nilous Avery felt that what the schools need now is stability at all levels.

Mr. Tom Leslie stated that he had lost all confidence in the school system and was very much concerned for the safety of the children.

Mr. Clarence Benton stated that he has found the Superintendent willing to listen and felt that everyone should try to work with and for the school system, not against it.

A woman stated that the parents need to work together and was concerned about the state of the school system.

Mr. Bob Brown voiced concern about the amount of rent that the administrative offices are paying and urged the Council to give the local delegation information relative to an elective School Board.

Mr. Larry Holt suggested dissatisfied parents volunteer to help instead of criticize.

Ms. Cheryl Warren, Haw Fletcher Assistant Principal, felt that spirits were the highest in years and there are adequate supplies for the children.

Mr. Bob Smith spoke in support of an elective School Board and felt that accountability was a key issue to be looked at.

Mayor Michalove thanked the audience for all comments and stated that the School Board is an issue the present Council wants to work on. He said that he would take into -12-

account all that has been said. He did, however, feel that the issues are old and it is going to take a lot of help from everyone to try to deal with them. He stated that he is in favor of the appointed School Board.

Councilman Peterson felt that the School Board meetings should be opened to the public and hoped that all residents of the City would feel comfortable in coming to the City Council to voice their concerns.

Vice-Mayor Ellison hoped that regardless of the obstacles, we need to get the message to the kids to find a way to succeed.

Councilwoman Field stated that she would be happy to help in any way she can to alleviate the problems in the school system.

Councilman Swicegood suggested people contact Mr. David Hillier directly to voice their concerns.

E. CLAIMS

City Manager Bean said that the following claims were received during the week

of March 2-6, 1992: Elizabeth Buchanan (Water) and Bryan Styles (Police).

He stated that for the week of March 9-13, 1992, the following claims were received: Evelyn Hood (Streets); Melissa Carpenter (Police); Charles Emery (Water); and Laurie Chandley (Water).

He said that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:35 p.m.

CITY CLERK MAYOR
