

Tuesday - April 7, 1992 - 4:00 p.m.

Asheville Civic Center - Banquet Room

Regular Meeting

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

Absent: Mayor Kenneth M. Michalove and Councilman Charles R. Worley

Councilman Moore moved to excuse Mayor Michalove from the meeting due to his being away on business. This motion was seconded by Councilwoman Field and carried unanimously.

INVOCATION

Vice-Mayor Ellison gave the invocation.

APPROVAL OF MINUTES

Vice-Mayor Ellison announced the approval of the March 31, 1992, City Council minutes.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 12-18, 1992, AS "PUBLIC SAFETY TELECOMMUNICATOR WEEK"

Vice-Mayor Ellison read the proclamation and presented it to Ms. Nanci Farmer, Telecommunicator for the Asheville Police Department.

B. PROCLAMATION PROCLAIMING THE MONTH OF APRIL, 1992, AS "FAIR HOUSING MONTH"

Vice-Mayor Ellison proclaimed the month of April, 1992, as "Fair Housing Month" in the City of Asheville.

C. RECOGNITION OF JOHN P. MIALL JR. AS RECEIVING THE INSURANCE INSTITUTE OF AMERICA'S ASSOCIATE IN RISK MANAGEMENT DEGREE

City Manager Bean recognized Mr. John P. Miall Jr. as having been awarded the Associate in Risk Management (ARM) designation and diploma by the Insurance Institute of America for successfully completing three national examinations that test for the person's knowledge of risk management, loss control, and risk financing principles and practices.

-2-

D. PRESENTATION OF QUALITY FORWARD

Ms. Susan Roderick, Quality Forward representative, gave a brief presentation of all the activities Quality Forward is involved with.

Councilman Swicegood stated that the City needed to cooperate as much as possible to alleviate the litter problems in the City.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ANNEXATION OF THE BEAVERDAM RUN AREA

Vice-Mayor Ellison opened the public hearing at 4:07 p.m.

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

City Manager Bean stated that on March 23, 1992, the City staff held a meeting with the residents of Beaverdam Run at the Club House in the condominium development. City staff reviewed the services that would be made available to the residents. He felt that it was an excellent meeting with a good discussion about what can and cannot be provided to the area upon annexation. He said that since that meeting, staff has met on one other occasion with representatives of the Beaverdam Run Homeowners Association and have identified several issues that need to be discussed further. He said that additional meetings would be held and hoped to have a report to the City Council as the readings of the ordinance proceed.

Ms. Patty Tallerday, Senior Planner, described the boundaries of the area proposed to be annexed. She said that the area is contiguous in that at least one-eighth of the aggregate boundary coincides with the present City of Asheville boundary. The aggregate external boundary line of the area to be annexed is approximately 8,403 feet, of which approximately 2,545 feet or 30.3% coincides with the present City of Asheville boundary.

The area to be annexed is developed for urban purposes as defined by N. C. Gen. Stat. sec. 160A-48 (c) (1) in that the area contains a total resident population equal to 2.395 persons per acre.

Major City services will be provided to persons living within the annexed area on substantially the same basis and -3-

in the same manner as such services are provided within the rest of the municipality prior to annexation. These include police protection, fire protection, street maintenance services of public streets, sanitation collection services and water and sewer services.

On and after the effective date of the annexation, the full range of police services will be provided to the area on the same basis and manner as provided within the rest of the City. These services include regular patrol, criminal investigations, community relations/crime prevention, law enforcement and traffic control. The Police Department will increase its patrol forces by one sworn officer.

The Beaverdam Run area, proposed for annexation, includes an area within the Beaverdam Fire Service District.

The City is prepared to make a good faith offer to negotiate a five-year contract, or an amendment to its current contract with the Beaverdam Volunteer Fire Department Inc. (hereinafter "Beaverdam VFD") for a new five-year term, to pay annually the amount of money that the tax rate in the district would generate, based on the property values on January 1 of each year in the area to be annexed. A letter has been received from Paul Hampton, President of the Beaverdam VFD requesting such a contract. In the event an amendment is entered into between the City and the Beaverdam VFD, fire protection service to the annexation area will be provided by both Reems Creek Volunteer Fire Department Inc. (hereinafter "Reems Creek VFD") (through its agreement with Beaverdam VFD) and the City. Response will be made by Reems Creek VFD (through its agreement with Beaverdam VFD) from its location on Beaverdam Road; primary response from the City will be from Asheville Fire Station No. 7, located on Larchmont Drive,

off of Merrimon Avenue.

A private solid waste collection firm is presently providing solid waste collection services in a portion of the area proposed for annexation along Sunnyside Lane. The City will provide solid waste collection service to this area on substantially the same basis and in the same manner as is provided within the City on the date of annexation. The current level of service provides for a collection of residential refuse on a weekly basis at the curb of a public street. Each residence is allowed up to six approved containers per pick-up. Special "set-out" service to curb-side is available for qualified elderly and handicapped individuals upon request. Special collections of loose leaves and tree and shrubbery trimmings placed at curb-side are made periodically, when placed for collection in accordance with the sanitation code of the City.

-4-

Street improvements and maintenance will be provided to the approximately .2 miles of State system streets that will be annexed into the City and will be maintained on the same level provided to existing City streets. The activities include street resurfacing of public streets, scraping, stoning, and paving of unpaved public streets, pothole repairs on public streets, snow and ice control, trimming of vegetation on public rights-of-way, shoulder cut and fill maintenance on public rights-of-way, maintenance of sidewalks which are on public rights-of-way, and maintenance of street drainage structures which are on public rights-of-way.

Street lights are installed approximately every 250 feet along public streets.

An analysis of the existing water lines in the proposed Beaverdam Run annexation area indicates that Beaverdam Run condominiums are served through a six inch master meter located on Beaverdam Road, which is connected to an eight inch water line on Beaverdam Road. Improvements to the Beaverdam Run annexation area will include approximately 400 linear feet of six inch water line, a fire hydrant and approximately 350 feet linear feet of two inch water line along Sunnyside Lane to improve water service and provide adequate fire protection service.

The Beaverdam Run annexation area currently has access to sanitary sewer service. Beaverdam Run condominiums are served by a network of sanitary sewer lines connected to the eight inch collector sewer adjacent to Beaverdam Creek. Properties on Sunnyside Lane have access to this same existing collector sewer at Beaverdam Creek. There are no sanitary sewer system improvements proposed for the Beaverdam Run annexation area.

Mr. Kempton Roll, President of Beaverdam Run Homeowners Association, stated some concerns relative to how the benefits of the City would relate to condominium owners, concern where the boundary line is drawn, since 8 additional units will be built above the proposed line, and concerns about the population calculations.

City Attorney Slawter stated that the boundary line is drawn where it is to comply with statutory requirements and to ensure compliance with the urban development requirements. He stated that the population calculations comply with the statutory authority which authorizes the City to use the census data information, which is commonly done in annexations.

-5-

Mr. Jerry Crow, attorney representing the Beaverdam Run Homeowners Association,

asked the City Council to give consideration to (1) his concern relative to the drawing of the boundary line, (2) the use of the census data relative to population calculations; and (3) possible violation of the Voting Rights Act of 1965.

In response to Mr. Crow's statement that the proposed annexation area does not meet the statutory requirements for density, in that it does not have a population of at least two persons per acre, City Attorney Slawter requested that Mr. Crow make the City Council aware at the public hearing of any information to substantiate that assertion. No such information was provided.

Upon inquiry of Councilman Peterson relative to whether the residents of the proposed annexation area were in favor of annexation into the City, Mr. Roll stated that although the residents do realize the benefits of being next to the City of Asheville, he felt the majority were not in favor of the annexation because they live in a unique condominium community and they don't need the kinds of services the City has to offer.

Vice-Mayor Ellison closed the public hearing at 4:34 p.m.

IV. NEW BUSINESS:

A. SEMI-ANNUAL AFFIRMATIVE ACTION REPORT

Ms. Roxie Wynn, Assistant Personnel Director, stated that the City Affirmative Action Plan was adopted on June 22, 1988, and that Plan provides for semi-annual and annual reports. She summarized the report, which includes the status of the City's employment goals for the first six months of Fiscal Year 1991-92, stating that employment decisions were consistent with the Civil Service Law and the City's Affirmative Action Plan.

She said females represented 22.8% of the City's workforce in July of 1991, however, 32% of the City's appointments from July - December 1991 were women. This is partly due to the fact that more women are entering the workforce and seeking employment in all EEO job categories. The City was therefore successful in recruiting, training and appointing women to both traditional and non-traditional positions.

-6-

She said minorities represented 14% of the City's workforce in July of 1991. Although only 12% of the City's appointments from July - December 1991 were minorities, this is partly attributed to the Civil Service Law's promotional policy and "rule of three." The City was also, however, not as successful in recruiting minorities. As a result, fewer minorities were referred or eligible for consideration.

B. RESOLUTION NO. 92-47 - RESOLUTION AUTHORIZING THE CITY MANAGE TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT WITH COMPLUS DATA INNOVATIONS INC.

City Manager Bean stated that the City's automated parking citation program was written in-house in 1977. He said that our present parking citation system is outdated and acceptance of the COMPLUS agreement will provide a more extensively automated system and increase the collection rate from 45% to 89% (approximately \$110,000 increase). He said that all references for this company were excellent. He said the amount COMPLUS receives is based upon how much they collect (from 14.5% up to 20%).

Councilman Moore moved the adoption of Resolution No. 92-47. This motion was seconded by Councilwoman Field.

At the request of Vice-Mayor Ellison, Councilman Moore amended his motion to including a clause in the contract which states that if COMPLUS does not bring in more money than the City is currently collecting that the percentage COMPLUS receives will be lower. This was agreed to by Councilwoman Field.

Due to some questions relative to liability, Councilman Moore again amended his motion to have the contract subject to City Attorney review. This was agreed to by Councilwoman Field.

After some discussion relative to the City being bound to COMPLUS for three years, Councilman Moore agreed to amend his motion to have the City Attorney negotiate a termination clause, after one year, if COMPLUS is not performing up to the City's standards. This was agreed to by Councilwoman Field.

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

The motion, with all the amendments, was unanimously adopted.

-7-

RESOLUTION BOOK NO. 19 - PAGE 158

C. RESOLUTION NO. 92-48 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF PROPERTY LOCATED AT 2310 HENDERSONVILLE HIGHWAY PURSUANT TO N. C. GEN. STAT. SEC. 160A-58.2 (ASHEVILLE OIL COMPANY INC.)

City Manager Bean said that N. C. Gen. Stat. sec. 160A-58.2, requires that upon the certification of the sufficiency of a petition for a non-contiguous annexation, the City Council shall fix a date for a public hearing on the annexation. He said the certification by the City Clerk as to the sufficiency of said petition has been made. He said the property to be considered for annexation is located at 2310 Hendersonville Highway and is owned by Asheville Oil Company Inc.

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

Councilman Moore moved to adopted Resolution No. 92-48 and set a public hearing on the question of annexation of property located at 2310 Hendersonville Road for May 5, 1992. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 159

D. RESOLUTION NO. 92-49 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SECURE COVERAGE FROM THE PROVIDENT LIFE AND ACCIDENT COMPANY FOR A LONG-TERM DISABILITY PLAN FOR EMPLOYEES OF THE CITY OF ASHEVILLE

Mr. John Miall, Director of Risk Management, stated that since 1976 the City has carried a long-term disability program for the benefit of its employees with less than five years of creditable service under the Local Governmental Employees Retirement System through the Crown Life Insurance Company. He said that in 1989 Crown Life sold part of its account to Great West Life. Since that time, the City has had numerous problems in administering claims and negotiating changes to our program. Repeated efforts to resolve these problems with the incumbent carrier have been unsuccessful. For the past year numerous agents have attempted to place this coverage elsewhere to no avail. Insurance Service of Asheville has now secured a competitive quote from Provident Life and Accident Company and he recommends the purchase of that coverage at this

time.

-8-

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

Councilman Moore moved for the adoption of Resolution No. 92-49. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 161

D. RESOLUTION NO. 92-50 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH DELOITTE & TOUCHE FOR AUDITING SERVICES FOR THE FISCAL YEAR ENDING JUNE 30, 1992

City Manager Bean said that N. C. Gen. Stat. sec. 159-34 requires an annual independent audit. As a result of a comprehensive Request for Proposals and selection process in April and May of 1990, Deloitte & Touche were selected to perform the City's 1990 audit. The firm was reappointed for the Fiscal Year 1991 audit. Staff unanimously recommends the reappointment of the firm for the Fiscal Year 1992 audit in the amount of \$49,000. Although the standard contract to audit accounts is a one-year contract, because of the nature of audit work, it is the City's practice to reappoint auditors for a period of three to five years as long as the audit work is progressing satisfactorily.

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

Councilman Moore moved for the adoption of Resolution No. 92-50. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 162

V. CONSENT: NONE

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 -9-

schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission on April 1, 1992:

INGLES - HENDERSONVILLE ROAD

Mr. Green said that Ingles Markets, Incorporated, is proposing the redevelopment of an existing 6.75 acre shopping center located on Hendersonville Road. The existing shopping center, which is zoned CH, contains an Ingles grocery store, a vacant Sky City store, and other retail space.

He said plans presented by the developer call for the demolition of the Sky City store and construction of a new 40,000 square foot Ingles grocery store, demolition of all or a portion of the existing Ingles store and construction of

retail space. Approximately 19,000 square feet of new retail space will be constructed as part of the project. The existing Eckerd's Drug Store will remain.

He stated that utilities and fire protection are available at a level adequate to meet the needs of the proposed development. The developer will provide new utility service lines and will abandon sections of storm drainage lines located under buildings, replacing them with new lines. The site will be improved with landscaping as required to comply with the ordinances of the City of Asheville. Variances are being requested by the developer to permit a reduction in the width of a portion of the landscape strip located along the street frontage of the site and to permit a reduction in the number of required parking spaces.

He said that after reviewing the site plan, the Planning and Zoning Commission recommended approval with the following contingencies:

1. Street trees must be spaced at least 15 feet apart;
2. City Council grant a variance to permit a reduction in width from 10 feet to 5 feet for the portion of the landscaping strip beginning at the north end of the site and ending at the planting island located in front of the 4,900 square foot retail shop;
3. City Council grant a variance to permit a reduction in the number of required parking spaces from 283 to 270; and

-10-

4. The developer must provide a revised site plan showing the proposed changes in the parking and the landscaping strip.

He said that because of the variances requested, a public hearing will need to be set.

Councilman Moore moved to schedule a public hearing on the final plat approval for the Ingles on Hendersonville Road for May 5, 1992. This motion was seconded by Councilman Peterson and carried unanimously.

B. REQUEST BY COUNCILMAN SWICEGOOD

Councilman Swicegood asked the City Manager to take a closer look at the ordinance regulating privilege license fees as it relates to people who come into Asheville and sell for one day.

C. PETITION - SHILOH COMMUNITY

Ms. Shannon Adell presented a petition to the City Council with over 200 signatures on it relative to problems the Shiloh community has been encountering and spoke in detail about the problems. The petition reads as follows:

"We, the undersigned are and have been for sometime, subjected to late night noise, litter, drug traffic, sale of alcoholic beverages, gambling, fights, desecration of church property, including the church cemetery, disrespect for individuals and general disrespect as a result of people congregating in the streets at and around the Shiloh Center and Shiloh Methodist Church, as well as other areas of our community. Therefore, we respectfully request the leadership of the City of Asheville, specifically the Police Department, Asheville Parks and Recreation Department and City Council to take the action necessary to get rid of the blight and restore some normalcy to the community."

Vice-Mayor Ellison stressed that the Police Chief has been trying to solve the problems at Shiloh, in particular the drug traffic, and felt that the people in the community needed to support the Police Department, no matter how drastic the measures are to accomplish this goal. He understood that the Buncombe County Drug Commission has been granted \$375,000 in federal funds to spend over a five year period of time and suggested the Shiloh community make a presentation similar to this to the Drug Commission in hopes that they might be able to use some of those funds to relieve some problems, i.e., educate the young, etc. He -11-

suggested some members of the Shiloh community might be interested in attending an academy that the Police Department sponsors.

Councilman Peterson assured the community that he would do all he could to help solve some of their concerns.

Councilman Swicegood echoed Councilman Peterson's statement and felt that drugs just create crime and the Council needed to take whatever action they could.

Councilman Moore spoke about the need for additional jail space that would enable the offenders to spend more time in jail.

Chief of Police Gerald Beavers spoke about the problems the police encounter when dealing with the drug trafficking. He asked for support and commitment from the community.

Ms. Mabel Hopkins asked for Council to initiate the anti-loitering ordinance, even if it was a short-term one, to help the elderly people in the community who are being held hostage because of the problems mentioned. She suggested the high visibility of the police in the community and if additional police would be required, hire them.

Councilman Peterson suggested the formation of a task force to work with the community and find solutions to the problems that they are encountering.

D. CLAIMS

City Manager Bean stated the following claims were received by the City of Asheville during the week of March 30 - April 3, 1992: H. Michael Higgins (Parks), two Southern Bell claims (Water); and Martha Linsley (Sanitation).

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

VII. ADJOURNMENT.

Vice-Mayor Ellison adjourned the meeting at 6:10 p.m.

CITY CLERK MAYOR
