

Tuesday - June 16, 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

Vice-Mayor Ellison gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the June 2, 1992, City Council minutes as submitted.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-71 - RESOLUTION OF APPRECIATION TO THE ASHEVILLE SPORTS COMMITTEE AND THE ASHEVILLE CIVIC CENTER STAFF FOR THEIR PARTICIPATION IN THE 1992 SOUTHERN BASKETBALL CONFERENCE

Mayor Michalove read the resolution of appreciation commending the Asheville Sports Committee and the staff of the Asheville Civic Center for going beyond the call of duty in showing the coaches, players, and fans of the Southern Basketball Conference the hospitality of the City of Asheville.

Mayor Michalove recognized the members present at the meeting - Chairman Lou Bissette, LaVerne Laney, Carolyn Ketchum, Fred Rutledge, Dave Hart, Richard Schumacher and Bill Murphy. He presented them with a shirt with the City of Asheville emblem on it and thanked them for their participation in the Committee.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-71. This motion was seconded by Councilman Moore and carried unanimously.

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B. PROCLAMATION HONORING DAVE HART

Mayor Michalove read the proclamation honoring Dave Hart for being selected for induction into the National Association of Collegiate Directors of Athletics Hall-of-Fame. On behalf of the City Council and all of Asheville's citizens, he extended best wishes to Dave.

C. PRESENTATION OF QUARTERLY B\*E\*S\*T AWARDS.

City Manager Bean said that on May 14, 1992, the B\*E\*S\*T Committee met and chose Joe Byrd and Verl Emrick as joint winners.

Mr. Byrd was nominated for helping a fellow City employee who discovered she had a dead battery when she was going home one evening. Joe stopped everyone in the parking lot to ask if they had jumper cables and stayed until the car was started.

Mr. Emrick was nominated for going above and beyond the call of duty by stopping to help victims of a car accident. Unfortunately, Verl was hit by another vehicle and he spent several days in the hospital and then in a leg cast.

City Manager Bean congratulated both employees and presented them a certificate.

#### D. PRESENTATION OF DISTINGUISHED BUDGET PRESENTATION AWARD

City Manager Bean presented the Government Finance Officers Association's Distinguished Budget Presentation Award to Robert G. Wurst, Audit/Budget Director. This award was presented to the City of Asheville for the fiscal year beginning July 1, 1991. He said this is the third straight year the City of Asheville has received this award.

#### E. RESOLUTION NO. 92-73 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE LARRY SMITH

Mayor Michalove read the resolution stating that Larry has been an employee for 26 years and has requested retirement from his position as Security Officer at the Civic Center. He expressed City Council's appreciation to Larry for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-73. This motion was seconded by Councilman Worley and carried unanimously.

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#### F. RESOLUTION NO. 92-74 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE JOE BRYANT

Mayor Michalove read the resolution stating that Joe has been an employee for 26 years and has requested retirement from his position as Park Warden with the Parks and Recreation Department. He expressed City Council's appreciation to Joe for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-74. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 199

#### G. RESOLUTION NO. 92-75 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE HAROLD TAYLOR

Mayor Michalove read the resolution stating that Harold has been an employee for 28 years and has requested retirement from his position as Motor Equipment Operator II with the Streets Division. He expressed City Council's appreciation to Harold for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-75. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 200

H. RESOLUTION NO. 92-76 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DAVID PRUETT

Mayor Michalove read the resolution stating that David has been an employee for 31 years and has requested retirement from his position as Manager in the Fleet Management Division. He expressed City Council's appreciation to David for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-76. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 201

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I. RESOLUTION NO. 92-77 - RESOLUTION IN MEMORY OF MAURICE LOCKHART

Mayor Michalove read a resolution in memory of Maurice Lockhart who served the City of Asheville as a Laborer in the Public Works Department. He expressed City Council's deep appreciation to his years of service and extended to his family their sincere sympathy upon his passing.

Mayor Michalove presented the resolution to Jim Ewing, Director of Public Works, who will in turn send the resolution to Mr. Lockhart's family who live out of town.

Councilwoman Field moved for the adoption of Resolution No. 92-77. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 202

J. PROCLAMATION PROCLAIMING THE WEEK OF JUNE 14-20, 1992, AS "NORTH CAROLINA FIRE COLLEGE WEEK"

Mayor Michalove proclaimed the week of June 14-20, 1992, as "North Carolina Fire College Week" in the City of Asheville and presented it to Chris Morgan, Fire District Chief.

## II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 40-1/2 RECTOR STREET

ORDINANCE NO. 1973 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 40-1/2 RECTOR STREET

Mayor Michalove opened the public hearing at 4:41 p.m.

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

Mr. Bob Hixson, Director of Building Inspections, said that this dwelling is partially burnt and is occupied by vagrants. He said the lot is overgrown and infested with rats. The owner has failed to take any action to correct or

demolish the dwelling. He said the estimated value of the house is \$15,000 and the repair cost is \$50,000. He then showed a video of the condition of the house.

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Vice-Mayor Ellison requested Habitat for Humanity and Mountain Housing Opportunities be contacted to see if they would be willing to rehabilitate the house prior to scheduling it for demolition by the City of Asheville. He asked that this procedure be followed for all future demolitions.

Vice-Mayor Ellison asked the City Manager to provide the Council, within approximately one month, how many demolitions have taken place by the City and how much money the City been reimbursed for these demolitions. He also asked that liens be established immediately after the demolitions take place and that the Tax Office move as quickly as possible in getting the City reimbursed.

Mayor Michalove closed the public hearing at 4:49 p.m.

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

Councilwoman Field moved for the adoption of Ordinance No. 1973. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1973 passed on its first reading.

Councilwoman Field moved to suspend the rules and proceed to the second reading of Ordinance No. 1973. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1973 passed on its second reading.

It was the consensus of Council, prior to the third reading of this ordinance, to request Habitat for Humanity and Mountain Housing Opportunities look at this house, as well as future houses, to see if they would like to rehabilitate them before demolition.

B. PUBLIC HEARING RELATIVE TO AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 34 HAZZARD STREET

ORDINANCE NO. 1974 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 34 HAZZARD STREET

Mayor Michalove opened the public hearing at 4:54 p.m.

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

Mr. Bob Hixson, Director of Building Inspections, said that this dwelling is dilapidated, unfit for human habitation and dangerous to the general public. He said they have had no response from the owner and has had to serve notice on her by publication. He said the estimated value of the house is \$19,200 and the repair cost is \$39,800. He then showed a video of the condition of the house. He stated that the Public Works Department would demolish the house for \$2,000.

As with the prior demolition, Vice-Mayor Ellison requested Habitat for Humanity and Mountain Housing Opportunities be contacted to see if they would be willing

to rehabilitate the house prior to third reading on this ordinance.

Mr. Hixson stated that just last week, Cindy Weeks with Mountain Housing Opportunities came in to his office and he gave her a list of all the houses the Inspections Division is working on relative to demolitions. He asked her to let him know if Mountain Housing Opportunities would be interested in any of them. To date he has not heard anything from her.

Mayor Michalove closed the public hearing at 4:57 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 1974. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 1974 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1974. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1974 passed on its second reading.

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C. PUBLIC HEARING RELATIVE TO A RESOLUTION DIRECTING THAT THE WOODLAND ROAD PROJECT BEGINNING AT THE INTERSECTION OF SCHOOL ROAD IN WEST ASHEVILLE WITH WOODLAND ROAD AND ENDING AT THE DEAD END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

RESOLUTION NO. 92-78 - RESOLUTION DIRECTING THAT THE WOODLAND ROAD PROJECT BEGINNING AT THE INTERSECTION OF SCHOOL ROAD IN WEST ASHEVILLE WITH WOODLAND ROAD AND ENDING AT THE DEAD END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

Mayor Michalove opened the public hearing at 4:59 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 has been received from at least a majority of all property owners on Woodland Road for the City to improve Woodland Road. The petitioning property owners represent at least a majority of the property owners and represent at least a majority of all the lineal feet of the frontage of the street. The petitioning property owners want to accomplish these improvements by using the special assessment process. The total amount of the project is \$13,896 and 50% of the total project cost will be assessed against the benefited property owners. The Street Division will supply the equipment and the labor for the project.

Mayor Michalove closed the public hearing at 5:02 p.m.

Mayor Michalove said members of Council have been previously furnished with copies of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 92-78. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 203

D. PUBLIC HEARING RELATIVE TO A RESOLUTION DIRECTING THAT THE GREENLEAF CIRCLE PROJECT BEGINNING AT THE INTERSECTION OF GREENLEAF CIRCLE AND BEAVER LAKE HEIGHTS AND ENDING AT THE DEAD END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

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RESOLUTION NO. 92-79 - RESOLUTION DIRECTING THAT THE GREENLEAF CIRCLE PROJECT BEGINNING AT THE INTERSECTION OF GREENLEAF CIRCLE AND BEAVER LAKE HEIGHTS AND ENDING AT THE DEAD END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

Mayor Michalove opened the public hearing at 5:03 p.m.

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

Mr. Harold Huff, Director of Water and Engineering, stated that a petition has been received from the property owners in Beaver Lake Heights and Greenleaf Circle for the extension of 950 lineal feet of 6-inch waterline. The property owners have agreed to pay 58% (\$15,550) of the project cost by special assessment. The total amount of the project is \$26,850.

Mayor Michalove closed the public hearing at 5:04 p.m.

Mayor Michalove said members of Council have been previously furnished with copies of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 92-79. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 205

III. OLD BUSINESS: NONE

IV. NEW BUSINESS:

A. ORDINANCE ADOPTING THE 1992-93 ANNUAL OPERATING BUDGET

Mayor Michalove stated that due to a matter of a legal nature, the City Council will not adopt the budget today. He stated that at the end of the meeting today, the Council will recess until June 17, 1992, at 5:00 p.m. in Room 623 of the City Hall Building, at which time adoption of the budget will be considered.

Ms. Eleanor Lloyd, Community for Economic Justice, asked the City Council to contribute \$3,000 for a feasibility study on the incubator program. She said that this \$3,000 is only 18% of the total cost of the study.

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Upon inquiry of Mayor Michalove, Ms. Lloyd said that if the City contributed \$3,000 for the feasibility study that in no way would be City be obligated to pay any more money if the feasibility study proved that an incubator program should be started.

Vice-Mayor Ellison felt that the City should not contribute the \$3,000 for the study but he would be willing to write a letter in support of the concept. He wondered if the Chamber of Commerce could update their 1985 feasibility study with some of the \$100,000 the City has budgeted to the Chamber.

Councilman Worley felt that the Chamber of Commerce's update would cost more than the \$3,000 asked to be contributed. He felt that the City needs to support economic development and he is in favor of contributing the \$3,000.

Mr. Mike Cheatham, member of the Board of Directors for Community for Economic Justice, urged the City Council to contribute \$3,000 for the feasibility study.

Mr. Albert Sneed, filling in for Scott Hughes of the CIBO Budget Committee, urged the City to 1) move forward on curb-side recycling, 2) move forward with privatization of sanitation services, 3) consider appointing a blue ribbon committee to investigate allegations on whether City departments are running efficiently; and 4) concentrate on building the tax base in the community.

B. MOTION FOR APPROVAL OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY BUDGET FOR 1992-93

Mayor Michalove stated that this item would be considered at the meeting on June 17, 1992, at 5:00 p.m. in Room 623 of the City Hall Building.

C. ORDINANCE NO. 1975 - AN ORDINANCE AMENDING SECTION 2-56 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (ASHEVILLE AREA CIVIC CENTER COMMISSION MEMBERSHIP)

City Attorney Slawter stated that this ordinance will expand the membership of the Asheville Area Civic Center Commission from 9 to 11 members and change the ex-officio membership. He said it will also amend the limitation on membership which is currently more restrictive than state law requires. State law allows a person to serve in one appointive or elective office in addition to being appointed -10-

to a commission such as the Civic Center Commission. The current ordinance prohibits a member of the Civic Center Commission from serving in any other elective or appointive office.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it will not be read.

Councilwoman Field moved for the adoption of Ordinance No. 1975. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1975 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1975. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1975 passed on its second reading.

Councilwoman Field moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1975. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1975 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 82

D. ORDINANCE NO. 1976 - BUDGET AMENDMENT FOR YEAR-END ADJUSTMENTS

City Manager Bean explained that this budget amendment does not appropriate any

additional funds not already in the budget and simply cleans up the accounting procedures.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it will not be read.

Councilman Moore moved for the adoption of Ordinance No. 1976. This motion was seconded by Vice-Mayor Ellison.

On a roll call vote of 7-0, Ordinance No. 1976 passed on its first reading and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 84

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V. CONSENT:

A. MOTION TO SET PUBLIC HEARING ON JUNE 30, 1992, TO CREATE NEW ZONING FOR 2310 HENDERSONVILLE ROAD.

Summary: The Asheville Planning and Zoning Commission on June 3, 1992, reviewed and recommended CH Commercial Highway zoning for 2310 Hendersonville Road.

B. RESOLUTION NO. 92-72 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

Summary: This resolution will reappoint Stephen W. Woody as a member of the Asheville Regional Airport Authority to serve an additional four year term, term expiring June 30, 1996, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 197

C. RESOLUTION NO. 92-80 - RESOLUTION APPOINTING MEMBERS TO THE CITIZENS/POLICE ADVISORY COMMITTEE

Summary: This resolution will reappoint A. Robert York, Andrea Purcell, Marvin Nockow and Logan Delany as members of the Citizens/Police Advisory Committee to serve two year terms, terms expiring May 1, 1994, or until their successors have been duly appointed and qualified.

This resolution will also appoint Shannon Adell for a two year term, term expiring May 1, 1994, or until her successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 207

D. RESOLUTION NO. 92-81 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: This resolution will reappoint Erline McQueen, Sharon Hulme and Jan Davis as members of the Asheville Area Civic Center Commission to serve three year terms, terms expiring June 30, 1995, or until their successors have been duly appointed and qualified.

This resolution will also appoint Barbara Halton to serve a three year term, term expiring June 30, 1995, or until her successor has been duly appointed and qualified and will appoint Hayes Martin to serve a two year term, term expiring June 30, 1994, or until his successor has been duly appointed and qualified.



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E. RESOLUTION NO. 92-82 - RESOLUTION APPOINTING MEMBERS TO THE CIVIL SERVICE BOARD

Summary: This resolution will reappoint Wade Thomas to serve a two year term, term expiring May 21, 1994, or until his successor has been duly appointed and qualified.

This resolution will also appoint Andy Brantley to a three year term, term expiring May 21, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 209

F. RESOLUTION NO. 92-83 - RESOLUTION APPOINTING MEMBERS TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: This resolution will reappoint Douglas Franklin, Dr. John Henderson and Ms. Phyllis Martin to serve additional two year terms, terms expiring July 19, 1994, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 210

G. RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

This item has been deleted from the agenda at this time.

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. CITY OF ASHEVILLE APPOINTMENTS ON THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

Mayor Michalove announced that Councilwoman Barbara Field has been appointed as Chairman of the Asheville Regional Housing Consortium. He said that the other City appointment is Tony Sayer from Affordable Housing Coalition.

B. UDO RECOMMENDATIONS

Councilman Moore reported on the following recommendations from the Mayor's UDO Committee:

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1. Send a letter of appreciation to the present UDO Committee with notification that the review of policy issues will be scheduled by Council in July and August. The UDO Committee should stand ready to be reconstituted when and if it is appropriate.

2. This Committee accepts the policy issues as defined by the UDO Committee with the exception of Downtown Design Review. We recommend that the following remaining issues be accepted by Council for review:

Speculative Grading

Grading in the Buffer Zones

Zero Run Off

Manufactured Housing

Group Development/Planned Unit Development

3. These remaining major policy issues should be republished in the "City Works" section of the Asheville Citizen Times with a final request for public additions and comment.

4. We direct the City Manager to complete the draft of the following sections of the zoning ordinance: Flood Plain, Subdivision, Erosion Control and the River District by September 1, 1992.

5. We recommend a "model" review process as follows:

A. A draft of the proposed UDO sections under consideration will be issued to the Planning and Zoning Commission (hereinafter "P&Z") and to the public for their review.

B. City Council will hold a public community work session for final community input.

C. P&Z will hold a public hearing.

D. P&Z will revise the proposed UDO sections based on the findings of the community work session and the public hearing.

E. P&Z will adopt each final UDO section or group of UDO sections and send it on to City Council.

F. City Council will hold a public hearing.

G. City Council will adopt the UDO section or group of sections.

6. At the next Council work session, the City Council will finalize the list of major policy issues concerning the UDO, prioritize them and set a schedule for addressing all those major public policy issues in July and August.

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Councilman Moore said that downtown design review was removed from the list of major public policy issues because it was felt that it is much more a state and federal proposition. He said that it is unlikely that the City will be able to do much with mandatory design review unless a historic district approach is taken and that such an approach has very little to do with planning and zoning.

Councilman Moore moved to accept the recommendations submitted by the Mayor's UDO Committee. This motion was seconded by Councilwoman Field and carried unanimously.

Due to Councilman Worley and Councilwoman Field being out of town for the next City Council worksession (July 21, 1992), the City Council will hold their worksession on this matter as soon as possible.

Ms. Carolyn Wallace asked that because of the broad range of issues, the time be extended for addressing all the major public policy issues.

C. GROUP DEVELOPMENTS

Mr. Tony Nicholson, Urban 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 June 3, 1992:

BUDWEISER (ADDITION)

Mr. Nicholson said that Hubie Wood, owner, is proposing a 8,600 square foot addition to the Budweiser Distribution Center located at the intersection of Sweeten Creek Road and Mills Gap Road. The area to be disturbed by the project is 15,300 square feet and is currently flat and paved. The site is contained within the Heavy Industrial Zoning District and is adjacent to lots zoned either Heavy Industrial or Light Industrial. The structure, which will be used as an Industrial Drive-Through/Warehouse, meets or exceeds all requirements of the Asheville zoning ordinance including parking and landscaping. In addition, all utilities and the Fire Department have approved the availability of services to the site. At their June 3, 1992, meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request for the Budweiser addition.

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

65 OLD HAW CREEK ROAD APARTMENTS

Mr. Nicholson said the group development request for 65 Old Haw Creek Road Apartments is a proposal to construct 20 residential apartments. The site is located on Old Haw Creek Road near the intersection of Weaver Hill Road and has an area of 1.34 acres. The site and the adjacent lots lie within the R-3 Residential Zoning District. The site, which is currently vacant, is generally flat, but moderately sloping downward at the back.

The site plan proposes two, two-story buildings each of which house 10 units. With a density of 14.9 units per acre, the project meets the R-3 density requirement of 16 units per acre. In addition, the proposal meets all parking, landscaping, and setback requirements. Access to the site is from a proposed driveway and requires a permit before construction. Water and sewer services are available to the site upon the condition that the developer substitute a 6" water line from the 2" water line as shown on the plan. Adequate water flow and pressure are available for fire protection.

Public contact with the Planning Department has consisted of three phone calls, one visit, and one letter from neighbors and other interested parties expressing concerns about increased traffic volumes and the proposed density of the project.

At their June 3, 1992 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request for 65 Old Haw Creek Road Apartments subject to one contingency:

1. The developer must submit a letter to the Planning Department stating that he will comply with the request of the Water Department and substitute a 6" water line for the proposed 2" water line from the water main to the site.

The developer has agreed to comply with the Water Department request and will

soon be submitting a letter as verification.

There was a very brief discussion relative to density requirements.

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

#### D. CLAIMS

City Manager Bean reported that the following claims were received by the City of Asheville during the week of June 1-5, 1992: Gregory Benton (Parks), Esfandiar Ostovar (Water), and Barbara J. Thomas (Water).

He said the following claims were received by the City of Asheville during the week of June 8-12, 1992: James Hyatt (Water), Roger Moore (Streets), Debbie Rice (Water), and Gina Golkiewicz (Streets).

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

#### E. LAWSUITS

City Manager Bean said that a lawsuit was served upon the City of Asheville on June 8, 1992, from Merrimon Avenue Baptist Church, Inc., relative to an appeal from a Board of Adjustment decision.

He also said that a lawsuit was served upon the City of Asheville on June 12, 1992, from Shoney's of Enka, Inc., d/b/a Sgibet's of Asheville, relative to an appeal from a Board of Adjustment decision.

He said these lawsuits have been referred to the appropriate legal counsel for action.

#### F. RALPH BISHOP

Mr. Ralph Bishop spoke about gambling taking place at J.B. Plemmons' establishment on Riverside Drive.

#### G. RECESS

At 6:00 p.m., Councilman Worley moved that the City Council go into executive session on a legal matter. This motion was seconded by Councilwoman Field and carried unanimously.

Councilman Worley then moved to recess the Council meeting until June 17, 1992, at 5:00 p.m. in Room 623 of the City Hall Building. This motion was seconded by Councilwoman Field and carried unanimously.

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Wednesday - June 17, 1992 - 5:00 p.m.

Room 623 - City Hall Building

Continuation of Regular Meeting of June 16, 1992

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

At 5:00 p.m. Councilman Worley moved to go into executive session on a legal matter. This motion was seconded by Councilwoman Field and carried unanimously.

At 5:48 p.m. Mayor Michalove reconvened the meeting.

ORDINANCE NO. 1977 - AN ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1992/93

Mayor Michalove stated that the matter regarding the CP&L franchise fee has been an issue long before the annexation of the power plant at Lake Julian approximately five years ago. CP&L has made a decision to pay the 1991-92 franchise fee in the amount of \$650,059.91 and the City Council has agreed to sit down with them between now and December 31, 1992, and discuss the issues that have been brought before the City Council regarding the franchise fee. The City Council understands that the City will receive that check between now and June 30, 1992, for the current year and the City still has in the budget the expected amount of \$650,059.91 for 1993. He said that with that understanding, the City Council will be able to consider the budget for fiscal year 1992-93.

In regard to the issue relative to the City contributing \$3,000 towards a feasibility study for an incubator program, Mayor Michalove stated that he is not in favor of funding the project. He did state, however, that he would be in favor of a resolution of support of the program.

Vice-Mayor Ellison stated that due to the initial cost of the City being the lead entity in the new HOME Program and because City residents pay County taxes, he would -18-

support a resolution of support for the program but not for funding \$3,000 to the program. He suggested that the County fund the additional \$3,000 if the City does not chose to fund the program.

Councilman Worley spoke in support of funding the \$3,000 for the study because he was concerned about economic development in the City. He said that the City was only being asked to fund \$3,000 for the study, when the County was paying \$7,000 along with another \$7,000 from private and other sources.

Councilman Swicegood did not support funding the feasibility study but did support a resolution of support for the program.

Councilman Moore and Councilwoman Field said that they were very much torn between funding the \$3,000 and not funding it because of the tight budget the Council is working with. Therefore, they were unable to support the funding.

Councilman Worley moved to fund \$3,000 for the feasibility study for the incubator program. This motion died for a lack of a second.

Councilman Moore moved to adopt a resolution of support for the incubator program. This motion was seconded by Councilwoman Field and carried unanimously.

Ms. Eleanor Lloyd was very disappointed that the City decided not to fund their share of the feasibility study and hoped that the consultant would not kill the program.

Vice-Mayor Ellison suggested that Ms. Lloyd ask the County or CIBO to fund the \$3,000 or perhaps ask the consultant if he would be willing to reduce the cost by \$3,000.

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

Councilman Moore moved for the adoption of the 1992/93 annual operating budget. This motion was seconded by Vice-Mayor Ellison and it carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no."

ORDINANCE BOOK NO. 13 AT PAGE 100

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MOTION RELATIVE TO APPROVAL OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY BUDGET FOR 1992/93

Vice-Mayor Ellison was very much concerned that the Water Authority expected to automatically raise the water bills by 4% every year for the next several years. He felt the City Council needed greater input on the Water Authority issues.

Councilman Peterson was also very concerned over the automatic increases to the water bills and felt that the City Council needed to pay closer attention to the members appointed by the City to the Water Authority and make sure that the Authority is working the way it was set up to work.

There was some discussion about the Water Agreement and the Sullivan Act. It was stated that the Water Agreement deals with many other things other than just the water issue.

Mayor Michalove felt that the voters on the water bond issue were adequately notified that there were going to be automatic increases in the water bills.

Vice-Mayor Ellison stated that City Attorney Slawter will be providing the City Council with a history of the Sullivan Act and how it has affected the City and the County.

Councilman Worley stated that all City appointments to boards and commissions to be looked at closely.

Councilman Moore moved for the adoption of the Asheville-Buncombe Water Authority budget for 1992/93. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Peterson voting "no."

ADJOURNMENT

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

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CITY CLERK MAYOR

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