

Tuesday - August 11, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; Assistant City Attorney Patsy Brison; Assistant City Manager Charles W. Penny; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore; City Manager Douglas O. Bean; and City Attorney William F. Slawter

INVOCATION

Vice-Mayor Ellison gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the July 28, 1992, City Council minutes as submitted.

POSTPONEMENT OF AGENDA ITEMS

Mayor Michalove announced that the third reading of the demolition ordinance for 10 Sunset Summit and the second reading of the rezoning ordinance for five properties on Reed Street would be postponed until later dates.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-107- RESOLUTION OF APPRECIATION TO THOMAS C. POSEY FOR HIS SERVICE AS A MEMBER AND CHAIR OF THE CITY OF ASHEVILLE CIVIL SERVICE BOARD

Mayor Michalove read the resolution stating that Mr. Posey has served as a member of the Asheville Civil Service Board for a period of 21 years. The resolution provided that the Asheville City Council expressed its deep appreciation to Mr. Posey for his service rendered to the employees and citizens of the City of Asheville while serving as a member of the Asheville Civil Service Board.

Resolution No. 92-107 was adopted by acclamation.

RESOLUTION NO. 19 AT PAGE 236

B. PROCLAMATION PROCLAIMING AUGUST 13, 1992, AS "ASHEVILLE AREA CHAMBER OF COMMERCE DAY"

Mayor Michalove proclaimed August 13, 1992, as "Asheville Area Chamber of Commerce Day."

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C. PROCLAMATION PROCLAIMING THE WEEK OF AUGUST 10-14, 1992, AS "ASHEVILLE COMMUNITY THEATRE WEEK" AND AUGUST 15, 1992, AS "CHARLTON HESTON AND LYDIA CLARKE HESTON DAY"

Mayor Michalove proclaimed the week of August 10-14, 1992, as "Asheville Community Theatre Week" and August 15, 1992, as "Charlton Heston and Lydia Clarke Heston Day." He presented the proclamation to Charlie and Nancy David.

D. PROCLAMATION HONORING JUDY CULLOM FOR HER PARTICIPATION IN THE MIDNIGHT MADNESS PROGRAM

Mayor Michalove presented a proclamation to Judy Cullom, Director of Fitness and Family Programs at the YMCA, for her help, support and participation in the Midnight Madness Program.

E. PRESENTATION OF NORTH CAROLINA ASSOCIATION OF ZONING OFFICIALS, ZONING ENFORCEMENT OFFICER OF THE YEAR AWARD TO SHARON E. ALLEN OF THE PLANNING DEPARTMENT

Ms. Julia Cogburn, Planning Director, said that Sharon Allen, Development Code Enforcement Administrator for the City, was recognized on August 4, 1992, at the Annual Conference of the N.C. Association of Zoning Officials as the Zoning Enforcement Officer of the Year for the State of North Carolina. This award, presented for the first time by the Association, is presented annually to a zoning official demonstrating professionalism, dedication to the job, exceptional knowledge of the ordinance she is responsible for enforcing, and leadership.

Mayor Michalove was pleased to present the award to Ms. Allen.

II. NEW BUSINESS:

A. PRESENTATION BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Ms. Annette Coleman, Chairman of the Housing Authority, was pleased to announce three awards of merit the Housing Authority recently received. These awards are for Flexible Affordable Inclusive Rehabilitation (FAIR), Transitional Shelter for the Homeless, and Renovations and Design at Hillcrest. She then introduced members of the Housing Authority and also the staff present from the Housing Authority.

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Ms. Mabel Hopkins, member of the Board of Directors of the Housing Authority, stated that at the Southeastern Conference held in July, the Housing Authority received two other awards, those being 1st Place for FAIR and 3rd Place for Renovations to Hillcrest Apartments.

Ms. Coleman then presented the City Council with a check in the amount of \$31,771 as payment in lieu of taxes. She said that this check brings the total of the payments from the Housing Authority to the City to \$821,401.

On behalf of the City Council, Mayor Michalove thanked the Housing Authority for the fine work the Board and staff does and the progressive way they look at providing housing units.

B. PRESENTATION BY THE ASHEVILLE SCHOOL BOARD RELATIVE TO THE ACCELERATED LEARNING CENTER

Mr. David Hillier, Chairman of the Asheville School Board, and Dr. Doug Pearson, Superintendent of Asheville City Schools, gave an extensive presentation on the Accelerated Learning Center to be located at the vacant Aycock School. Among other things, they talked about the need for the Center, the teachers expectations and the students responsibilities, the temporary placement at the Center, the small teacher/student ratio and the student selection process.

Ms. Maryann Nunnally, principal of a similar type school in Wilmington, spoke

highly of success of the program in Wilmington. She stressed that the proposed Center fosters high achievement and feels that with the support of the City, Asheville's program can be as successful as the program in Wilmington.

Upon inquiry of Councilman Peterson about the City School Administrative Offices being located at Pack Plaza for an annual rent of \$165,000 when they could be located at some other locations free of rent, Dr. Pearson responded that the Asheville School Board made the decision to lease the space at Pack Plaza for an additional three year period.

Councilman Worley stated that the Center will fulfill a great need in the community.

Vice-Mayor Ellison spoke in support of the Center and hoped that resources would be made available to teachers and students alike.

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C. PRESENTATION BY THE SOLID WASTE TASK FORCE

Mr. Jan Davis, Chairman of the Solid Waste Subcommittee, outlined the following recommendations:

1. Build and/or contract for a clean Material Recovery Facility (MRF) for processing of source separated recyclables as soon as possible.
2. County Commissioners to dedicate \$150,000 per annum toward an overall solid and hazardous waste education program, financed by \$1.00 per ton out of the existing tipping fee to continue until the program is no longer needed.
3. Begin source separation and collection of recyclables.
 - A. A voluntary incentive based participation policy should be adopted and phased in over a period of months, beginning as soon as processing facilities are built. Participation may become mandatory over time.
 - B. Collection and processing could be done by either a public or private entity or a combination of both.
 - C. A three bag system (recyclables, compostables and non-processable materials) should be implemented as soon as processing facilities come on line.
 - D. Abolish free Saturday at the landfill with the exception of one Saturday semi-annually.
 - E. Deal with household hazardous waste separately. (Recommendations regarding hazardous waste collection are now being considered by the Hazardous Waste Committee.)
4. Build and/or contract for a source separated Municipal Solid Waste (MSW) composting facility as soon as possible.
 - A. Continue Buncombe County MSW pilot composting project to evaluate marketability and quality of product.
 - B. Evaluate co-composting (MSW and sludge) by utilizing the county compost project.

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C. Using information from the composting project, revisit technology and marketability on at least a semi-annual basis.

5. The site location for processing facilities should be at or near the existing landfill, if permittable.

6. Implement the Yard Waste Task Force Report.

A. Education, as addressed in Section 2, is also an essential component of yard waste management.

B. In the short term utilize existing county facilities to develop compost project and evaluate collection methods and reduce volume by producing a mulch.

C. Establish a yard waste processing facility, as needed.

7. Non-processable materials rejected to the landfill should be minimized to the greatest extent possible, consistent with production of high quality recyclables and compost.

8. The County should adopt a "no waste in, no waste out" policy with regard to the handling of municipal solid waste. Recyclables and compostables may be excluded from this policy if the importation or exportation of these components would be desirable to achieve optimum marketing economies of scale. It should be noted that special, hazardous, medical and radioactive wastes are not considered municipal solid waste.

9. The County should work with market experts, local Chamber of Commerce and similar agencies to foster the growth of entrepreneurial solutions to waste management issues and to reuse of the waste stream.

10. Construction demolition waste should be addressed separately per the N.C. Solid Waste Management Act (Senate Bill 111). The committee recommends minimizing the amount of material going into the demolition area with the emphasis on recovery and reuse of materials. Industrial and commercial wastes should be handled in a manner consistent with the policies set out in this document.

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11. The Solid Waste Committee encourages the Board of County Commissioners to evaluate continued operation of the transfer station as these new plans are adopted, and to consider the closing of the transfer station or any other facility which may become obsolete.

Upon inquiry of Councilman Peterson, Mr. Davis stated that the MRF would cost approximately \$2.5 Million which is a large portion of the overall component.

Mr. Hank Jackson, member on the Yard Waste Task Force of the Subcommittee, spoke about the need for yard waste management.

Mr. Hyder, Hyder Waste Containers Inc., stated that they are presently building a MRF.

Councilwoman Field spoke about the fine job the Solid Waste Subcommittee has done in presenting these recommendations.

Mr. Albert Sneed, representative of Council of Independent Business Owners (CIBO), urged the City Council to take a serious look at privatization of solid waste collection services, which would save the City a lot of money and result

in recycling starting immediately.

Ms. Carolyn Wallace, representative of Citizens for Quality Development, read the following report relative to privatization of garbage collection and recycling:

"We are encouraged by some of the recommendations of the Solid Waste Committee of the Environmental Affairs Board to the County Commissioners today. We are encouraged because these recommendations hold the promise of source-separated recycling (separated at home or business), a clean Materials Recovery Facility, and county-wide composting in the near future. We support the city in moving forward to further (sic) the goals of reduction, reuse, and source-separated recycling in as timely a manner as possible.

"In regard to the issue of privatization, we agree with the Council of Independent Business Owners that privatization of some areas of city government should be actively explored. Looking at the privatization of garbage collection and recycling in particular, any municipal solid waste privatization plan should be carefully coordinated with plans developed by the County Commissioners, who are responsible to the State for reducing the solid waste stream by 25% by January 1, 1993.

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"The rest of our comments are based on the assumption that this cooperation and coordination will occur.

"The potential benefits of this privatization are fairly simple to describe: increased efficiency and cost-effectiveness, maybe even a very substantial cost savings. The potential problems, however, that inadequately planned

and poorly executed waste handling privatization may bring can be very difficult, if not impossible, to control once the process reaches a certain point. Following are some examples:

- poor service
- accountability problems
- unfair treatment of labor force (poor wages and benefits, discrimination, (sic) diminished job security, etc.)
- bid-rigging
- price-gauging (sic)
- growth of monopolies (which bring a myriad of problems)
- displacement of local businesses by larger, non-locally owned companies that can underbid the local ones, take control, and raise rates
- hindrance of local, entrepreneurial (sic) solutions to dealing with waste

"CQD feels strongly that any initial steps toward privatization of waste collection in our city must be measured by the degree to which they prevent the larger problems that can accompany privatization. Such steps can help to ensure our ability to garner the full benefits that privatization promises.

"Five critical tools which can help safeguard this process are:

1. a "bad actor" ordinance which prohibits contracting with companies that have a history of environmental and/or other convictions
2. a division of the city into a minimum of three collection districts to ensure competition, encourage local business participation, and prohibit the growth of a monopoly
3. a requirement of contractors to hire their fair share of otherwise displaced city employees at equal or better wages and benefits than they currently receive
4. an agreement and contract in writing that contractors will not discriminate against employees on the basis of race, sex, sexual orientation, or national origin

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5. a careful ongoing monitoring and evaluation of performance standards with clear legal recourse written into the contracts to ensure quality control of service (If you ask a person on the

street what they get for their city taxes, most will say, "Garbage pick-up." Therefore, we would anticipate that quality control and accountability will be uppermost in many city residents' minds in evaluating the success of such a program.

"In closing: CQD has done enough research to clearly report that many cities in this country are enmeshed in horrendous problems as a result of not getting into place some of the safeguards we are calling for. We are confident that the research your staff has already done supports this assertion. We will be glad to share with you any of the materials we have used in studying this issue.

"PLEASE: Put adequate safeguards in place so we can really test the potential benefits of privatization, rather than experiencing the nightmares inadequate safeguards will invite."

Ms. Spike Graham, representing the Buncombe County Waste Watchers, read the following statement:

"As a group of citizens concerned with the natural environment in the Asheville area, we want to recommend that the City of Asheville support and strengthen where possible the recommendations from the Solid Waste Sub-Committee of the Buncombe County Environmental Affairs Board. We bring this to City Council because we know you are looking at privatization of garbage and recycling pick-up.

"We have serious concerns regarding the move to privatize public services and want to urge the City Council to act cautiously and with careful deliberation.

"In general, we feel that it is very important to keep public services in public hands. While privatization may be attractive in some respects, there are dangers and problems that need to be addressed before embarking on a precedent setting policy. Specially, we urge that the City Council carefully consider the following:

- 1) Any city privatization of garbage pick-up and recycling must fit into the Buncombe County plan, and these programs need to be coordinated and integrated.
- 2) The city pass a "Bad Actor" ordinance. There are serious problems with unscrupulous vendors -9-

obtaining contracts and causing difficulties later for public agencies by performing illegal acts. A performance record is a good indication of future activities. There are serious liability concerns for contractual malfeasance. We ask city employees for character references, why not vendors? Models are available.

3) There are labor concerns regarding the displacement of city employees. How long must contractors employ displaced city employees? What about their pension and health care plans? How do we safeguard fair labor practices, including minority hiring?

4) How do we develop anti-monopolistic safeguards? There is a clear trend in private industry for the "big fish" to swallow up the "little fish." Should the city contract any services, there should be a provision for a minimum of two or three different vendors.

5) If efficiency is a motive, perhaps the city could contract with private companies for advice. If private companies with a profit motive can outbid the city for a service, then the city needs to look at its operations for efficiency.

6) If the city should move towards privatization, what does it do with its invested equipment? At what point does it divest itself of that capital, and then what are its options once that the equipment is gone?

7) We must be aware of what is happening in other places in this country (and around the world), in order to not be misled. There are enormous financial pressures for large urban centers to dispose of their wastes elsewhere as they are running out of landfill space nearby. It is not uncommon for trains and barges of garbage to roam the country looking for a place to dump. With I-26 shortening the way from the Ohio Valley to our community, we stand the distinct risk of attracting considerably more than tourists. The US Supreme Court has recently ruled that it is unconstitutional for states to prohibit the transport of waste, so we should develop public policies to discourage imported waste. Whether utilizing private waste haulers will encourage or discourage imported waste will be a question the -10-

council will have to decide and develop appropriate safeguards for the public interest.

"In general, local communities having the responsibility of their own waste promotes sensible stewardship. Keeping public services in public hands is a safeguard against abuse and opportunism for personal gain."

Ms. Leni Sitnick stated that this is a wonderful opportunity for the business community and the environmental community to prove that a clean environment and jobs are mutually supportive of each other.

Mr. Barry Carlyle encouraged the City and County to work together towards privatization.

Mr. Mike Griffin, Hyder Waste, spoke in support of privatization of sanitation services in the City.

Mr. Ralph Bishop felt that if the sanitation services were inadequate, the City should look at the officials in charge of those services.

At this time, 6:00 p.m., it was the consensus of Council to take a five minute break.

III. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 19-23 (KNOWN AS THE WESTRIDGE MARKET PLACE PROPERTY)

Mayor Michalove opened the public hearing at 6:07 p.m.

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

Ms. Patty Tallerday, Senior Planner, summarized the Standards and Services Report for the Noncontiguous Annexation of Westridge Market Place property as follows:

She stated that a petition for the annexation of a noncontiguous area located on US Highway 19/23 was received on July 1, 1992, and that the property is owned by the Westridge Market Place Associates, Inc.. She further stated that the property for which annexation is being requested is an out parcel of the retail center, with the out parcel containing approximately 1.27 acres.

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The noncontiguous area proposed for annexation meets all of the requirements of N. C. Gen. Stat. sec. 160A-58 as follows:

1. The nearest point on the proposed satellite corporate limits is not be more than three miles from the primary corporate limits of the annexing city in that the subject property is approximately 1.7 miles from the closest point of the existing corporate limits line.
2. No point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area is situated so that the City of Asheville will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

Fire Protection - The Asheville Fire Department's investigation states that the property proposed for annexation is situated approximately 3.8 miles from Asheville Fire Department Station #6 on Haywood Road. The City has been informed that the Enka-Candler Fire and Rescue Board of Directors will meet on August 18, 1992, to decide whether to enter into a contract with the City of Asheville to provide fire protection service to the property proposed for annexation on a first response basis in case of an emergency. While a joint response from the Asheville Fire Department and Enka-Candler Fire and Rescue Department would be the most efficient level of fire protection, the City of Asheville can provide fire protection to the satellite annexation area on the same basis and manner as provided in the rest of the City.

Police Protection - The Asheville Police Department reports that the Buncombe County Sheriff's Department, has agreed to continue to provide patrol and initial response services to the property proposed for annexation. The Police Department will be responsible for any follow-up investigations. There are no additional costs to the City of Asheville to provide law enforcement services.

Water & Sewer Services - During the construction of the Westridge Market Place, provisions for water and sanitary sewer service were made for the parcel which is proposed for annexation. The property proposed for annexation is presently

served by an 6 " public water main located along U.S. Highway 19/23 which is maintained by the Asheville/Buncombe Water Authority. The property proposed - 12-

for annexation is also served by a 8" public sewer line owned and maintained by the Metropolitan Sewage District of Buncombe County. There will be no additional cost to the City of Asheville to provide water or sewer services.

Street Maintenance and Street Lights - The area proposed for annexation is serviced by U.S. Highway 19/23 and therefore would remain the N.C. Department of Transportation's responsibility to maintain. Maintenance of private roads and lighting on private property are the owner's responsibility. The entrances to the property and the parking lot are private, therefore they will be maintained by the owner. There will be no additional cost to the City.

Solid Waste Collection - The property proposed for annexation is a vacant parcel of the Westridge Market Place retail center and no solid waste collection services are needed at this time. The Public Works Department reports that when the parcel is developed as a commercial use, under current City policy the responsibility for making arrangements with a private solid waste collector for service will rest with the property owners. There will be no impact on the Public Works Department's budget as a result of this annexation.

The area proposed for annexation is not a subdivision or a portion thereof.

The area within the proposed satellite limits, when added to the area within all other satellite corporate limits, does not exceed 10% of the area within the primary corporate limits of the annexing city.

The Westridge Market Place parcel is approximately 1.27 acres. The total of the land area of all current satellite areas in the City of Asheville is approximately 11.18 acres. Upon annexation of the Westridge Market Place property the combined land area for all satellite areas of the City of Asheville would be 12.45 acres. The total land acreage of the City of Asheville is approximately 36.12 square miles. Ten percent of the area of the city is 3.61 square miles or 2,310.40 acres.

The real property tax value of the property under consideration for annexation is \$100,000. The 1992-93 ad valorem revenues, based on the City's tax rate of \$.60 per \$100.00 valuation, would be \$600. The property proposed for annexation is under consideration for a State of North -13-

Carolina Alcoholic Beverage Control retail store. While the State of North Carolina does not pay local property tax, the City of Asheville is entitled to a share of the revenues from sale of alcoholic beverages sold in the County.

Based on a valuation of \$100,000 at the present fire district tax rate of \$.05 per \$100.00 valuation, the annual compensation to the Enka-Candler Fire and Rescue Department would equal \$50.00.

Upon inquiry of Mayor Michalove, Ms. Tallerday stated that the reason that 4 out of the 5 satellite annexations were requested was to sell liquor by the drink at their establishments. One of the annexations was the Ramada Inn in the Enka-Candler area. It was also noted that the City has never turned down a request for satellite annexation of a restaurant so it could serve liquor by the drink.

Upon inquiry of Vice-Mayor Ellison, Ms. Tallerday stated that there are already 3 businesses that sell alcohol at the Westridge Market Place Shopping Center.

She also stated that the Enka Lake Club has a permit which allows patrons to bring alcoholic beverages in a brown bag.

Mr. Frank Worley, Chairman of the Alcoholic Beverage Control Board, stated that alcohol has been sold in Asheville since 1947. They are requesting to provide a service and revenue to the City and County from the legal sale of a legal substance (alcoholic beverages). He stated that the location meets all state statutory requirements.

Mr. Worley addressed questions from various Council members. In response he stated that: 1) he anticipates customers coming from the west Buncombe County area to the store and they now either go to Canton or to the Patton Avenue/Louisiana Avenue store; 2) the existence of an ABC store does not affect consumption; 3) the amount of revenue to the City would be approximately \$30,000 annually; 4) ABC stores in North Carolina are prohibited from advertising; and 5) the local Board has looked at two locations and after weighing the pros and cons, they have determined that the Westridge Market Place is the best location for this store.

Upon inquiry of Mayor Michalove, Ms. Tallerday stated that the annexation of the Enka-Candler area is presently stayed, pending court decisions. If the annexation of this area takes place, the ABC store will be a compatible use since it is in a commercial area.

Mr. Frank Griffin, resident on Asbury Road, spoke against the proposed satellite annexation. Among other -14-

things, he stated that the ABC Store will be on Asbury Road (not Highway 19-23) and that Asbury Road leads up to Enka Middle School. He expressed concerns about increased traffic and the increased availability of alcohol which will insure more drunkenness on the roads. He feels that the revenue the City receives from the ABC store will be nothing compared to lives lost by drunk drivers. He presented the City Council with a petition with 75 signatures in opposition to this satellite annexation and an additional 150 letters in opposition.

In response to a question from Mayor Michalove about access to the store by Mr. Griffin, Ms. Tallerday stated that the ABC Store will have access from both Highway 19-23 and Asbury Road.

Vice-Mayor Ellison stressed that the ABC Store is a business that has the same rights as other businesses in the area. He could not justify why it would be okay for the City to approve some businesses and disapprove others.

Mr. Worley responded to Mr. Griffin's statement about increased traffic. He said that a traffic count was conducted by the North Carolina Department of Transportation and there would be no additional traffic as a result of this ABC store being built.

Mr. Bennie Reese, resident in the Enka-Candler area, spoke in opposition to the satellite annexation. He was very much concerned about the availability of alcohol and how it related to problems in families.

Mr. Max Queen, representative of the Enka-Candler Fire and Rescue Department ("Department"), stated that the people who have signed the petition opposing the satellite annexation represent the backbone of the Enka-Candler community and their financial support (through their tax dollars) helps keep the Department in operation. If the annexation occurs, then the Board of Directors of the Department will need to make the decision on whether or not to contract with the City for fire protection services. If the contract is executed, the

Department will maintain a positive relationship with the City, but will appear to turn its back on the population that supports them. If the contract is not executed, the Department would then seem to turn its back on its fellow firefighters. He feels that they are in a very difficult situation.

Asheville Fire Chief John Rukavina stated that the City of Asheville standard for fire protection is based on a maximum response distance of five road miles. He also -15-

described factors they take into consideration in determining how to provide fire protection services. He said that in this area, fire protection from the City to this location is consistent with similar situations inside the City limits. He said they would be able to provide the ABC Store with adequate protection without the first response contract with the Department if they chose not to contract with the City. He did state, however, that he felt confident that if the City arrived on the scene and asked for help, the Department would come to their aid through the mutual aid request.

Upon inquiry of Vice-Mayor Ellison relative to liability the City would be exposing itself to if a contract were not entered, Assistant City Attorney Brison said that the City has some sovereign immunity in the area of firefighting.

Mr. Jerry Watts, resident of the Enka-Candler area, spoke in opposition of the satellite annexation. He was concerned about the proximity of Enka Middle School to the store and felt that the citizens of the area had rights too, just like the businesses.

Mayor Michalove closed the public hearing at 7:10 p.m.

Mayor Michalove stated that 416 letters in opposition to this satellite annexation have been presented to the City Council on July 28, 1992; 4 letters in opposition have been received in the Mayor's Office; 1 letter with a resolution has been received from Buncombe County requesting denial of the annexation petition; 102 signatures on a petition in opposition was presented to the City Council on July 28, 1992; and 1,540 signatures on a petition in opposition was presented to the City Council on July 14, 1992.

Mayor Michalove suggested the City Council take no action today and consider the information presented.

At the suggestion of Assistant City Attorney Brison on the proper procedure to continue this matter to a later date, Mayor Michalove reopened the public hearing at 7:12 p.m.

Mayor Michalove asked Mr. Frank Worley if the City Council postponed this action until September 29, 1992, if the option to purchase this property would still be in effect. Mr. Worley responded that there should be no problem in this postponement.

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Mayor Michalove asked that the petitioners who are requesting this satellite annexation be present when the public hearing continues.

Councilman Peterson moved to continue the public hearing until September 29, 1992, without further advertisement. This motion was seconded by Councilwoman Field and carried unanimously.

At 7:15 p.m., Councilman Peterson moved to excuse Councilman Swicegood (due to

a prior commitment). This motion was seconded by Councilman Worley and carried unanimously.

IV. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA

Vice-Mayor Ellison moved to continue the third reading of Ordinance No. 1958 until October 13, 1992, without further advertisement. This motion was seconded by Councilman Worley and carried unanimously.

B. SECOND READING OF ORDINANCE NO. 1980 - AN ORDINANCE AMENDING ZONING OF FIVE PROPERTIES LOCATED ON REED STREET

Vice-Mayor Ellison moved to continue the second reading of Ordinance No. 1980 until August 25, 1992, without further advertisement. This motion was seconded by Councilwoman Field and carried unanimously.

I. PROCLAMATIONS: (Continued)

A. RESOLUTION NO. 92-108 - RESOLUTION DEPLORING HATE CRIMES AND ENDORSING THE INTENT OF THE STATE LAWS ON ETHNIC ANIMOSITY

Mayor Michalove read the resolution stating that the City Council deplores hate crimes and pledges its support of the intent of North Carolina's hate crime laws. The resolution also provides that the City Council redouble their commitment to the elimination of hate crimes in Asheville and urge all citizens of Asheville, Buncombe County and Western North Carolina to join with them in this important cause.

Mayor Michalove, on behalf of the City Council, asked the Citizens/Police Advisory Committee to look into the hate -17-

crime kinds of incidents in the community and provide the City Council with their thoughts about what is taking place, the number of incidents, etc.

Councilwoman Field moved for the adoption of Resolution No. 92-108. This motion was seconded by Councilman Worley and carried unanimously.

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II. NEW BUSINESS: (Continued)

D. ORDINANCE NO. 1981 - AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING PARKING PENALTIES

Assistant City Manager Penny stated that pursuant to a report relative to parking regulations presented to the City Council on July 28, 1992, an ordinance was prepared increasing the civil penalty for overtime parking. This ordinance will increase the penalty for overtime parking from \$3.00 to \$5.00 and increase the penalty for a second or subsequent violation at the same location within a twenty-four (24) hour period from \$5.00 to \$8.00.

Assistant City Attorney Brison stated that the ordinance sent out to the Council previously had two typographical errors in it. She pointed out the errors and asked that Council change their ordinances according to the provisions set forth in the paragraph above.

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

Councilman Peterson moved to amend the ordinance as requested by Assistant City Attorney Brison. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1981. This motion was seconded by Councilman Worley.

On a roll call vote of 5-0, Ordinance No. 1981 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1981. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1981 passed on its second reading.

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E. RESOLUTION NO. 92-109 - RESOLUTION ESTABLISHING REVISED RATES TO BE CHARGED IN CITY PARKING LOTS

Assistant City Manager Penny stated that this resolution also was prepared pursuant to a report relative to parking regulations presented to the City Council on July 28, 1992. This resolution will establish revised rates to be charged in City parking lots as follows:

Rankin Deck \$.50 per hour

2.50 per day maximum

30.00 per month

Wall Street Deck \$.50 per hour

2.50 per day maximum

30.00 per month

Civic Center Deck \$.50 per hour

2.50 per day maximum

20.00/mo roof top

24.00/mo group rate

(10 or more)

28.00/mo individual rate

Lot 3 - Multi-coin meters

Biltmore at Aston

Lot 21 - Multi-coin meters

Lexington Avenue

Lot 24 - \$15.00 per month

Aston at S. Lexington

Lot 13 - \$15.00 per month

Rankin Avenue

Lot 5 - Terminate the lease

Grove Street

Lot 12 - Multi-coin meters

Grove Street

Lot 29 - \$ 1.00 per day

Grove Street 10.00 per month

Lot 2 - City Employees Only

Marjorie Street

Lot 22 - \$15.00 - 32 monthly patrons

Davidson Street City employees primarily

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

Councilwoman Field moved for the adoption of Resolution No. 92-109. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 239

F. SUPPORT OF UPGRADING US 23

Vice-Mayor Ellison moved to support the upgrading of US Highway 23 into Johnson City, Tennessee, keeping in mind the concerns about development and the environment. This motion was seconded by Councilwoman Field and carried unanimously.

G. ORDINANCE NO. 1982 - BUDGET AMENDMENT APPROPRIATING 18TH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT

Vice-Mayor Ellison said that this budget ordinance amendment represents funding for the 18th year of the CDBG program. Funding for the previous year was \$1,214,000. The City has therefore received an increase of 10.5%. Two years ago the program was funded at \$975,000. Allocation of the 18th year funding was approved by the City Council on May 19, 1992, after a citizen participation process that included two public hearings.

The following breakdown includes budget totals by activity:

Hill/Cherry St. Area (Head of Montford) \$ 405,500

Housing Rehab - City-wide 265,650

Neighborhood Housing Services 125,000
Mountain Housing Opportunities 115,000
Habitat for Humanity 15,000
Women's Transitional House 27,000
Hillcrest Enrichment Program 30,000
Community Relations Council 14,500
South Pack Square Redevelopment 114,500
Disparity Study 45,000
Comprehensive Planning 30,000
Minority Business Program 44,000
Community Development Administration 149,400
Total Budget \$1,380,550

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

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Councilman Worley moved for the adoption of Ordinance No. 1982. This motion was seconded by Councilwoman Field.

On a roll call vote of 5-0, Ordinance No. 1982 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 112

H. ORDINANCE NO. 1983 - BUDGET AMENDMENT TO ADMINISTER A DEPARTMENT OF INTERIOR HISTORIC PRESERVATION FUND GRANT - EAGLE/MARKET STREET FACADE STUDY

Mr. Kent Newell, Historic Resources Commission Director, stated that this budget ordinance amendment in the amount of \$8,000 is to develop a facade design guidebook for the Eagle/Market Street area for use by property owners. It is hoped this effort will stimulate interest in the preservation and rehabilitation of individual facades.

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

Councilman Worley moved for the adoption of Ordinance No. 1983. This motion was seconded by Councilman Peterson.

On a roll call vote of 5-0, Ordinance No. 1983 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 114

I. ORDINANCE NO. 1984 - BUDGET AMENDMENT TO ADMINISTER A DEPARTMENT OF CULTURAL RESOURCES CLG GRANT PROJECT: HILLSIDE/MT. CLARE HISTORIC RESOURCE INVENTORY

Mr. Kent Newell, Historic Resources Director, stated that this budget ordinance amendment, in the amount of \$4,750, is for the Hillside/Mt. Clare Historic Resource Inventory Project. The Project is twofold:

1. Identification of cultural resources: The Hillside/Mt. Clare neighborhood is one of the only remaining unsurveyed areas adjacent to downtown Asheville. Nestled among three National Register Historic Districts, this area is rich in resources and is endangered by eminent road widening projects.

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2. Training volunteers for future surveys: Volunteers from the Asheville/Buncombe County Preservation Society will be trained by the consultant and by Preservation Society staff in North Carolina survey methodology. This will provide self-sufficiency, minimizing future grant requests.

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

Councilwoman Field moved for the adoption of Ordinance No. 1984. This motion was seconded by Vice-Mayor Ellison.

On a roll call vote of 5-0, Ordinance No. 1984 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 116

V. CONSENT:

A. CERTIFICATION OF THE PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A NONCONTIGUOUS AREA ON U.S. HIGHWAY 25 (KNOWN AS THE ROBERT LEWIS PROPERTY)

RESOLUTION NO. 92-110 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF PROPERTY LOCATED ON U.S. HIGHWAY 25 PURSUANT TO N. C. GEN. STAT. SEC. 160A-58.2 (ROBERT LEWIS PROPERTY) FOR AUGUST 25, 1992

Summary: Certification by the City Clerk as to the sufficiency of said petition has been made. 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. The resolution sets the public hearing for August 25, 1992. The property to be considered for annexation is located on U.S. Highway 25.

RESOLUTION BOOK NO. 19 AT PAGE 241

B. RESOLUTION NO. 92-111 - RESOLUTION REQUESTING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO REMOVE CERTAIN STREETS IN THE HAW CREEK II ANNEXATION AREAS FROM THE STATE STREET SYSTEM SO THAT THEY MAY BE PLACED UPON THE CITY STREET SYSTEM

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Summary: The Haw Creek II annexation area became a part of the City on June 30, 1992. Certain streets in the area need to be taken off the State Street System and placed on the City Street System. The streets can be claimed on the City's street mileage report for 1992 and will receive Powell Bill funds from the state.

RESOLUTION BOOK NO. 19 AT PAGE 243

C. RESOLUTION NO. 92-112 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH WHEELER CONSTRUCTION COMPANY, INC., FOR THE PROJECT KNOWN AS BEAVERDAM AREA ANNEXATION - CONTRACT TWO (EIGHT INCH SEWER LINE PROJECT)

Summary: This project involves the installation of approximately 6,300 linear feet of 8" sanitary sewer pipe, 650 linear feet of 4" sanitary sewer pipe, 50 manholes and related sewer appurtenances. Sealed bids were opened on July 27, 1992, with Wheeler Construction Company, Inc., being the lowest responsible bidder at \$258,640.

It is anticipated that construction will begin in approximately 4 weeks and that the project will be completed by January, 1993. A complete summary of the bids are attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 19 AT PAGE 245

D. RESOLUTION NO. 92-113 - RESOLUTION CALLING FOR A PUBLIC HEARING ANNOUNCING THE COMPLETION AND TOTAL COST OF THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY

Summary: A public hearing is set for August 25, 1992, to announce the completion and determine the total cost of the Azalea Avenue Project

RESOLUTION BOOK NO. 19 AT PAGE 246

E. RESOLUTION APPOINT MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: The terms of Rev. Lacy Haith, Mr. Bruce Johnson and Ms. Cathy Smart Butler expired on July 1, 1992. This resolution will reappoint Mr. Johnson for a three year term (term expiring July 1, 1995, or until his successor has been duly appointed and qualified), and appoint Mr. John Fisher to serve a three year term (term expiring July 1, 1995, or until his successor has been duly appointed and qualified).

RESOLUTION BOOK NO. 19 AT PAGE 247

F. MOTION SETTING PUBLIC HEARING FOR SEPTEMBER 15, 1992, FOR THE FILING OF A GRANT APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR FISCAL YEAR 1993 TRANSIT OPERATING ASSISTANCE

G. MOTION SETTING PUBLIC HEARING FOR AUGUST 25, 1992, RELATIVE TO GROUP DEVELOPMENT/PLANNED UNIT DEVELOPMENT POLICY ISSUE FOR THE UNIFIED DEVELOPMENT ORDINANCE

H. MOTION SETTING PUBLIC HEARING FOR AUGUST 25, 1992, TO CONSIDER A REQUEST FOR A VARIANCE TO ALLOW A PRIVATE STREET INSTEAD OF A PUBLIC STREET, AS REQUIRED BY THE SUBDIVISION REGULATIONS, IN HEATH RIDGE ACRES SUBDIVISION

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

VI. OTHER BUSINESS:

A. COMMENTS RELATIVE TO HATE CRIMES

Ms. Leni Sitnick expressed her feelings of dissatisfaction about the long wait

the PRIDE group encountered in order to make a presentation to the City Council.

Mayor Michalove, along with Vice-Mayor Ellison, assured her that even though the agenda was altered, it had nothing to do with the presentation relative to hate crimes.

Mr. Joe Webster summarized the following actions they request the City Council to implement in order to counteract hate crimes:

1. Teach tolerance in our schools
2. Require community relations training for police
3. Trace hate crimes in our community
4. Report hate crimes to City Council and public
5. Require tolerance training for hate crime offenders
6. Pass an anti-discrimination ordinance

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He stated that the members of PRIDE are willing to assist the City Council in any way they can.

By use of a chart, Mr. Bob Warren showed how Asheville is surrounded by organizers of white supremacist groups. He mentioned several survivalist camps and survivalist workshops in the immediate area and told of marches by Ku Klux Klan sympathizers.

Because the Asheville-Buncombe County Community Relations Council is 1) designed to deal with these type issues; 2) has direct contact with State organizations, and 3) this issue is much broader than the Asheville area, Mayor Michalove asked Mr. Webster to present this information to them and to the Citizens/Police Advisory Committee.

Ms. Irmgard Gordos, resident of Bingham Heights, spoke about problems she has encountered since moving to Bingham Heights. Mayor Michalove stated that he would have someone contact her to see what kind of help she could be given.

Ms. Charlotte Goedsche stated that the resolution did not include hate crimes directed at gays and lesbians.

Ms. Carolyn Wallace stressed that PRIDE is willing to help in any way they can and asked that the community take a very strong stand against hate crimes.

Vice-Mayor Ellison hoped that PRIDE is contacting our legislators with this information so that they will be in a better position to address the issue.

Ms. Sue Walton echoed Ms. Wallace's comments and stressed that hate crimes will not be tolerated in Asheville.

Ms. Mary Heuer asked the City Council to take a stand against hate crimes.

B. CLAIMS

Assistant City Manager Penny said that the following claims were received by the City of Asheville for the week of July 13-17, 1992: William F. Ball

(Water); Ron Waters (Water); Marcus Chatfield (Water); John J. Meeker Sr. (Streets); Dennis Young (Water); and Chris King (Streets).

He stated that the following claims were received for the week of July 27-31, 1992: Greg Walker (Traffic Engineering); Bridgett Garrison (Streets); Nancy Treadway (Streets); Mary Heath (Streets); Kenneth Lee (Police); Michael Grooms (Water); and Renee Swayngim (Water).

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

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 8:35 p.m.

CITY CLERK MAYOR
