

Tuesday - September 1, 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; 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: Councilman Chris J. Peterson

INVOCATION

Councilman Worley gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the August 25, 1992, City Council minutes as submitted.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 13-19, 1992, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Michalove proclaimed the week of September 13-19, 1992, as "Minority Enterprise Development Week" in the City of Asheville. He presented it to Dr. Charles Lawrence, President of Black Business and Professional League, who gave a brief overview of all activities taking place during that week.

B. PROCLAMATION PROCLAIMING FRIDAY, SEPTEMBER 11, 1992, AS "NATIONAL FEDERATION SECTION III DAY"

Mayor Michalove proclaimed Friday, September 11, 1992, as "National Federation Section III Day" in the City of Asheville.

C. PROCLAMATION PROCLAIMING SEPTEMBER 17-23, 1992, AS "CONSTITUTION WEEK"

Mayor Michalove proclaimed the week of September 17-23, 1992, as "Constitution Week" in the City of Asheville. He presented it to Ms. Ruth Parsons.

D. PROCLAMATION PROCLAIMING SEPTEMBER 10-11, 1992, AS "NORTH CAROLINA MINORITY/WOMEN BUSINESS ENTERPRISE COORDINATOR'S NETWORK DAYS"

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Mayor Michalove proclaimed September 10-11, 1992, as "North Carolina Minority/Women Business Enterprise Coordinator's Network Days." He presented the proclamation to Ms. Marilyn Bass who outlined the activities which will take place.

E. RESOLUTION NO. 92-119 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE CAROL HENSLEY

Mayor Michalove read the resolution stating that Carol Hensley has been an employee for 26 years and has requested retirement from her position as Deputy City Clerk. He expressed City Council's appreciation to Carol for her service

to the City of Asheville and its citizens.

Councilman Moore moved for the adoption of Resolution No. 92-119. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 256

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING RELATIVE TO ANNOUNCING THE COMPLETION OF THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY, AND COUNCIL'S INTENT TO DETERMINE THE TOTAL COST OF THE AZALEA AVENUE PROJECT

RESOLUTION NO. 92-120 - RESOLUTION FINDING THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY COMPLETED AND ASSESSING THE TOTAL COST

Mayor Michalove stated that this public hearing was continued from August 25, 1992, due to some concerns mentioned by Mr. Bob Alexander, a property owner in the area.

City Manager Bean said that the total cost of the Azalea Avenue Project was \$6,484.76 and he then gave a brief report of the concerns of Mr. Alexander:

1. A manhole was paved over - At the time of resurfacing, it was more expeditious to simply pave the street rather than adjusting the manholes prior to final grade being laid on the street. The manhole is on the schedule to be raised to grade. There will be no additional charge for this.

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2. Manhole lids were changed - Metropolitan Sewerage District ("MSD") is in complete control of the structure design and maintenance of all sanitary sewers. MSD changed the lids from perforated to solid lids without informing anyone of the change. Once the City raises the covered manhole, that lid will also be changed to a non-perforated cover. MSD is doing this in an attempt to reduce inflow into the sanitary system, which they control.

3. Mr. Alexander said a curb had been destroyed when a water line was installed - that curb was a small barrier of asphalt on the edge of the road placed there to curtail stormwater from draining onto the properties on the low side of the road. This would have created a water problem. During the resurfacing of Azalea, some grade changes were made in anticipation that the curb would no longer be necessary. Public Works will monitor the drainage in the area and if the low side curb is necessary to control drainage, Public Works will install that curb at no cost to the property owner.

4. Mr. Alexander said he did not know he was not getting curb and gutter - All residents on Azalea Avenue were given the detailed estimate for constructing that portion of Azalea Avenue which clearly showed only road paving for the project.

Mayor Michalove closed the public hearing at 4:32 p.m.

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

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-120. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 257

RESOLUTION NO. 92-121 - RESOLUTION DIRECTING THE CITY MANAGER TO PREPARE A PRELIMINARY ASSESSMENT ROLL REGARDING THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY

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

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Councilman Moore moved for the adoption of Resolution No. 92-121. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 259

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1985, AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED AT 2323 HENDERSONVILLE HIGHWAY (ROBERT LEWIS PROPERTY)

Mayor Michalove said the public hearing on this item was held on August 25, 1992. The ordinance passed on its first and second reading also on that date.

Mr. Ralph Bishop commented about the City annexing in Buncombe County for liquor sales.

On a roll call vote of 6-0, Ordinance No. 1985 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 118

B. THIRD READING OF ORDINANCE NO. 1986, AN ORDINANCE AMENDING ZONING OF 8 CLAIRMONT AVENUE

Mayor Michalove said the public hearing on its item was held on August 25, 1992. The ordinance passed on its first and second reading also on that date.

On a roll call vote of 6-0, Ordinance No. 1986 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 121

IV. NEW BUSINESS:

A. SEMI-ANNUAL REPORT ON THE 2010 PLAN

Dr. Albert Anderson, Chairman of the Planning and Zoning Commission, highlighted the Summer 1992 Monitoring Report of the 2010 Plan.

Vice-Mayor Ellison suggested the following four items be inserted in a supplement to the 2010 Plan:

1. In the Asheville City School Board section - The creation of a new learning center.

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2. In the Asheville City School Board section - The communication aspect between the public and the Asheville School Board.

3. In the Historic Resources Commission section - Possible Eagle/Market Street Historic District.

4. In the Police Department section - The addition of 15 police officers which includes a new task force to provide greater assistance to the Housing Authority and people living in public housing.

Upon inquiry of Councilwoman Field, Ms. Patty Tallerday, Senior Planner, stated that the next round of hearings on the 2010 Plan would start sometime in 1994.

B. FINAL PLAT APPROVAL OF OAKWOOD SUBDIVISION

Ms. Mary Weber, Urban Planner, stated that on November 6, 1992, the Planning and Zoning Commission approved the final plat of Oakwood Subdivision. She stated that Oakwood Subdivision is located off of Wood Avenue in Oakley. This is a Habitat for Humanity project which will consist of 21 lots on a 6.3 acre tract. The lots vary in size from 9,260 square feet to 19,477 square feet. The site and all adjacent properties lie within the R-3 medium density residential zoning district. The site is wooded and has gently rolling terrain. Infrastructure improvements have been installed, including a new street.

Ms. Lois Miller on Cedar Street spoke about the traffic congestion already in that area.

Mayor Michalove stated that the Public Works Department will be addressing the traffic concerns.

Councilwoman Field moved for the approval of the final plat of Oakwood Subdivision. This motion was seconded by Councilman Moore and carried unanimously.

C. ORDINANCE NO. 1987 - BUDGET AMENDMENT RELATIVE TO APPROPRIATIONS FOR CAPITAL PROJECTS

City Manager Bean stated that this budget amendment is to transfer 1992/93 appropriations for approved capital projects from the General Capital Fund to the General Projects Fund.

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

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Councilman Moore moved for the adoption of Ordinance No. 1987. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 1987 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 123

V. CONSENT AGENDA:

A. MOTION SETTING PUBLIC HEARING FOR SEPTEMBER 15, 1992, RELATIVE TO CHANGING A STREET NAME IN OAKWOOD SUBDIVISION

Summary: A request has been made to change the name of the street in Oakwood

Subdivision from Happy Road to Homewood Drive. Although Happy Road has never been used as an address, it appears on the final plat of the existing homes and must be formally changed in order to meet the requirements of the Asheville subdivision regulations.

B. RESOLUTION NO. 92-122 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE SKYLAND VOLUNTEER FIRE DEPARTMENT TO PROVIDE FIRE PROTECTION SERVICE TO THE NEWLY ANNEXED NON-CONTIGUOUS AREA LOCATED AT 2323 HENDERSONVILLE ROAD (ROBERT LEWIS PROPERTY)

Summary: The City of Asheville Fire Department has determined that the most efficient fire protection service to the area proposed for annexation can be provided by the Skyland Volunteer Fire Department.

RESOLUTION BOOK NO. 19 AT PAGE 261

C. RESOLUTION NO. 92-123 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Summary: The term of Richard A. Wood expires on September 30, 1992. This resolution will appoint Charles R. Worley for a term of 3 years, term expiring September 30, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 265

D. RESOLUTION NO. 92-124 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

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Summary: There is a vacancy on the Historic Resources Commission. This resolution will appoint Millard "Mitty" Owens for a 3 year term, term expiring July 1, 1995, or until his successor has been duly appointed and qualified. This resolution will also appoint Dr. Pamela Nickless, effective July 1, 1993 (or whenever the next City vacancy occurs), to serve a 3 year term, term expiring July 1, 1996, or until her successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 266

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

At this time (5:00 p.m.), the Council recessed until 7:00 p.m.

VI. OTHER BUSINESS:

A. PUBLIC HEARING REGARDING THE ESTABLISHMENT OF A STORMWATER DRAINAGE UTILITY

Mayor Michalove opened the public hearing at 7:02 p.m.

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

Mr. George Jensen, Chairman of the Stormwater Advisory Committee, spoke about the current stormwater management in Asheville. By use of a slide program, he spoke about flooding of rivers and streams, drainage into inlets and sewer pipes, erosion and water quality. He said that according to inventory results, 10% of the sewers were found to be performing as designed and the remaining 90%

were in some state of disrepair. He said 15% didn't work at all. The inventory also indicated drainage or erosion problems due to a lack of sewers were at a rate of about 20 problems per square mile.

In 1989 the City Council created the Stormwater Advisory Committee to provide a forum for feedback from the community and from groups active in the community on the topic of stormwater management. The Committee would like to present the City Council with four recommendations:

1. The City should act now to begin an expanded stormwater management program. The federal government, under the Clean Water Act, will -8-

require the City and Buncombe County to implement stormwater quantity and quality management programs by about 1995.

2. The stormwater management program should be funded through user fees. A stormwater utility where properties are assessed a stormwater fee according to their runoff potential provides a fair way of allocating costs to those who are most responsible for the additional runoff.

3. The stormwater utility should operate as an enterprise fund within the City government. The Public Works Department would execute the program as part of the City's infrastructure management.

4. Stormwater fees should be set at a rate that would be high enough to cover the program costs in the foreseeable future.

The Committee looked at several funding options for the stormwater program. The two obvious choices were a stormwater utility funded by user fees and a tax increase where the City would pay for the program out of the general fund. Disposing of stormwater runoff is a public service, much like the disposal of wastewater. The difference is that up until now the City has provided this service with limited funding from the general tax revenues and no direct billing for the service. Under the stormwater utility, all properties within the City that generate stormwater runoff (that is, all properties) would participate in the funding of the program. All properties would be assessed a fee under the stormwater utility program, just as they now pay for water and wastewater disposal.

A stormwater utility fee is a fair allocation of costs because the assessment charged to each property would be proportional to the runoff produced. For residential properties, the rate would be a flat \$5.00 per month per dwelling unit. Non-residential properties would pay proportionately higher rates, depending on the ground cover of those properties.

One of the most important advantages of the stormwater utility is that the revenue will be used only for the stormwater management program. The funds will not be in the general pool for use on other City needs and stormwater improvements will not be diminished by competing interests for the City's general fund.

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Over 400 properties are tax-exempt and would not contribute if the program were funded through taxes. These parcels represent between 5-10% of stormwater utility billings, which would otherwise be distributed to the rest of the City. Under a tax increase, the fee for stormwater services would be based on the value of the property, not on the runoff potential.

Mayor Michalove said that any written comments will be considered up until Noon

on September 15, 1992.

Mr. Rick Coleman, representing R.L. Coleman & Company, spoke in opposition of the stormwater utility which would be funded wholly by the collection of \$4.3 million annually from the residences, businesses, schools and churches located in the City limits.

Mr. John Broadbooks stated that with regard to the setting of fees, it was unclear whether or not the extraordinary impact of development on steep mountainsides had been taken into account. He felt the fee would be an undue burden imposed on large size residential lots. He was concerned about the City using funds out of the general tax revenue. He hoped this would not develop into an authority or a metropolitan district because they seem to be insulated from the taxpayers by several layers of elected or appointed officials.

Mr. Mike Moser, representing the Chamber of Commerce, stated that in 1989 the Chamber opposed the establishment of a utility district for the stormwater system and stated that the implementation of the user fee was premature. It also went on record that funding for the completion of the inventory and development of a master plan for the stormwater system should be derived from existing revenue sources of the City of Asheville. He said that the Issues Committee of the Chamber is again evaluating this situation to see what has changed since 1989 and what effect this might have on our existing businesses and industry. He asked that the Council keep the Chamber informed and come to them for their input. He had several questions relative to the water from the stormwater drainage system. He hoped the Council would wait until closer to 1995 to put this program into effect.

Mr. George Beverly, Beverly-Hanks and Associates, stated objections to businesses and industries who installed their own stormwater system being taxed for this. He felt that this fee will hurt the chance to attract new businesses and industries to this area.

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Mr. Wayne Utley, representing the Manufacturers Executive Association, stated that the City might be premature in laying down guidelines that won't become effective until 1995. He stated that the tax was unfair to newer industries who have already implemented a number of stormwater drainage facilities. He felt that this program should not go into effect until rulings for "credits" can be included in the program plan. He echoed Mr. Beverly's concerns about attracting new businesses to this area. He hoped that the Stormwater Advisory Committee could be expanded to include potentially higher rate taxpayers so that their views could also be heard.

Ms. Karen Cragolin, Executive Director of RiverLink, stated that all the water flows into the French Broad River and hoped that the Council keeps in mind the future drinking water source for Asheville and Buncombe County.

Mayor Michalove closed the public hearing at 7:31 p.m.

Mayor Michalove again stated that written comments are welcome and will be considered up until Noon on September 15, 1992.

B. CLAIMS

City Manager Bean stated that the following claims have been received by the City during the week of August 17-21, 1992: Tim Reeves (Streets) and Southern Bell (Water).

He stated that the following claims were received by the City during the week of August 24-28, 1992: Susan Bowen (Civic Center), Mary Johnson (Streets), Edward Jordan (Street), Dora White (Water), Dee Green (Inspections) and Dino Zourzoukis (Streets).

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

C. LAWSUIT

City Manager Bean stated that the City received a lawsuit on August 26, 1992, from George and Harriet Miseyko (complaint for recovery of damages for taking of land).

He stated that this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 7:35 p.m.

CITY CLERK MAYOR
