

Tuesday - October 13, 1992 - 4:00 p.m.

Regular Meeting

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

Absent: None

INVOCATION

Councilman Peterson gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the September 29, 1992, City Council minutes as submitted.

I. PROCLAMATION:

A. Recognition of Quarterly B*E*S*T Award Winner

City Manager Bean presented Co-Wefa Lyda in the City's Infirmary with the quarterly B*E*S*T Award. He said that Co-Wefa helped a very sick and frightened employee to get medical attention. He refused Police or ambulance escort to the hospital. Co-Wefa's genuine concern for this employee allowed her to establish a trusting and positive relationship prior to this crises event. She spoke with him by telephone and he agreed to go to the hospital. She drove him to the emergency room in her personal vehicle and then remained with him at the emergency room until 7:30 p.m. because he was afraid and did not want to be alone.

B. PROCLAMATION PROCLAIMING OCTOBER 19-24, 1992, AS "NATIONAL BUSINESS WOMEN'S WEEK"

Mayor Michalove proclaimed the week of October 19-24, 1992, as "National Business Women's Week." He presented the proclamation to Ms. Mary Burrell, President of Asheville's Business and Professional Women's Club, who spoke about some activities that will take place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO DEAD-END MT. CLARE AT ITS INTERSECTION WITH BROADWAY AVENUE AND CHESTNUT STREET

-2-

Mayor Michalove opened the public hearing at 4:14 p.m.

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

City Manager Bean said that the City received a letter from Chief Engineer for Preconstruction J.T. Peacock Jr. regarding the east Mt. Clare Street/Broadway Avenue/ Chestnut Street intersection. In that letter, the North Carolina Department of Transportation ("NC DOT") has agreed to consider leaving the

intersection open, however, their plans will include acquiring necessary rights-of-way should the need arise to cul-de-sac Mt. Clare in the future.

All Council members spoke in support of leaving Mt. Clare open and was pleased that NC DOT agreed to leaving it open.

A resident in the area presented the Council with a petition containing 380 names which opposed the closing of Mt. Clare as it enters the intersection of Chestnut and Broadway.

Upon an inquiry from a resident if there would be any traffic lights installed for the streets that enter onto Broadway, Mayor Michalove said that the City would ask NC DOT to do a traffic count.

Mayor Michalove closed the public hearing at 4:26 p.m.

Vice-Mayor Ellison moved to take no action on the closing of Mt. Clare intersection. This motion was seconded by Councilman Moore and carried unanimously.

B. PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF ST. PAUL STREET BETWEEN SUMMIT STREET AND HENDERSONVILLE ROAD

RESOLUTION NO. 92-142 - RESOLUTION TO CLOSE A PORTION OF ST. PAUL STREET BETWEEN SUMMIT STREET AND HENDERSONVILLE ROAD IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 4:27 p.m.

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

Mr. Jim Ewing, Public Works Director, said that Mr. and Mrs. Ushakant Patel petitioned that St. Paul Street between Summit Street and Hendersonville Road be permanently closed -3-

to public use. The Patels own all property on both sides of St. Paul Street between Summit Street and Hendersonville Road. All utility companies have been contacted and there are no problems.

Upon inquiry of Councilman Moore, Mr. Patel stated that he has no immediate plans for the area but since the area is zoned Commercial Service District, he might build some type of commercial building in the future.

Mayor Michalove closed the public hearing at 4:30 p.m.

Mayor Michalove stated that members of Council have received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 92-142. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 294

C. PUBLIC HEARING RELATIVE TO ANNEXATION OF PROPERTY LOCATED NORTH OF OVERLOOK ROAD, PURSUANT TO N. C. GEN. STAT. SEC. 160A-31 (SECTION 1 OF BRAESIDE AT BILTMORE PARK)

ORDINANCE NO. 1995 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A CONTIGUOUS AREA LOCATED ON OVERLOOK

ROAD KNOWN AS SECTION I OF BRAESIDE AT BILTMORE PARK

Mayor Michalove opened the public hearing at 4:32 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, said that on September 29, 1992, the City received a petition from the owners of Section 1 of Braeside at Biltmore park requesting annexation into the City of Asheville. This property is comprised of 19 subdivided lots and is a portion of a new residential subdivision.

On September 29, 1992, the City Clerk certified that a petition for annexation signed by John F.A.V. Cecil, Vice President of Biltmore Dairy Farms Inc., was valid in that the petition was signed by the owners of the real property being requested for annexation and that the property was contiguous to the Asheville city limits.

-4-

Approximately 1,100 linear feet of 6-inch water line is being installed on Overlook Road and continues into the subdivision on Bent Oak Lane for a distance of approximately 1,500 linear feet. Fire hydrant and valve spacing along this waterline are consistent with Asheville-Buncombe Water Authority standards. Likewise, the sanitary sewer system being installed has been reviewed and approved by the Metropolitan Sewerage District ("MSD") and will ultimately be owned and maintained by MSD. This includes approximately 5,690 linear feet of 8-inch sanitary sewer.

Fire protection will be provided through a contract with the Skyland Volunteer Fire Department and the City of Asheville Fire Department.

The roads within Section 1 at Braeside are being constructed to NC DOT standards and are expected to be dedicated to the State for maintenance prior to the effective date of annexation. The City will assume maintenance of the NC DOT roads upon the effective date of annexation.

The City of Asheville will also provide solid waste collection services to individual residences according to the same policies in effect in the City at the time of annexation.

The petitioner is requesting adoption of the ordinance on all three readings at this meeting, with an effective date of April 13, 1993. The six month delay of the effective date is consistent with the statute requirements which allows the effective date to be set effective immediately upon adoption of an ordinance or any specified date within six months from the passage of the ordinance. The current estimated real property valuation is \$609,307 and the tax valuation based on \$.60/\$100 valuation will be \$3,656.

Mr. Cecil said that this area will be for residential development and asked the Council to consider passing this ordinance on all three readings today, with an effective date of April 13, 1993.

Mayor Michalove closed the public hearing at 4:37 p.m.

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

Councilman Worley moved for the adoption of Ordinance No. 1995. This motion was seconded by Councilwoman Field.

-5-

On a roll call vote of 7-0, Ordinance No. 1995 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1995. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1995 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance no. 1995. This motion was seconded by Councilman Worley and carried unanimously

On a roll call vote of 7-0, Ordinance No. 1995 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 151

III. 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

City Attorney Slawter said that the third reading of this ordinance has been postponed several times in order to allow the City to complete the tax foreclosure sale. He said that sale has now been completed and title to the property is held by Kenneth Maultsby. He said that since Mr. Maultsby has begun demolition of the structure he felt it would be appropriate to continue the third reading of the ordinance.

Mr. Kenneth Maultsby gave some background information and passed out photographs and a site plan to familiarize the Council with the structure located at 10 Sunset Summit. He said that they intend to demolish down to the foundation, salvage the foundation and then utilize the lower two floors of the present structure. He asked the Council to not table the ordinance but to allow him to receive a building permit which will allow them to start building onto the existing foundation.

Mayor Michalove explained that the City Council does not have the authority to issue building permits. The only authority that the Council has at this time is to either pass the ordinance on third reading or continue the third reading.

-6-

Mr. Bob Hixson, Director of Inspections, said that it was his understanding that if the City demolished the building, the City would have it demolished completely including the foundation. He said that if the property owner demolished the structure only to the foundation, which the property owner felt to be structurally sound, Mr. Maultsby would need a zoning permit prior to being issued a building permit.

Ms. Julia Cogburn, Planning Director, said that because of the variance granted to the prior owner, Mr. Maultsby would have to apply for a zoning permit and have a specific set of drawings showing exactly what he is proposing to do. She said that Planning Staff can make the decision about the zoning permit, but if a variance is requested, that will have to go before the Board of Adjustment for their consideration.

Mr. Harvey Heywood, resident of 12 Sunset Summit, stated that he bid on this structure at the tax foreclosure sale with the understanding that the structure had to be demolished totally, including the foundation. He said that had he known he would only have had to demolish down to the foundation, that might have influenced his bidding. He stated that the order issued from the Building Inspector was to tear it down, not partially. He spoke in opposition of anything other than a total demolition, including the foundation.

Vice-Mayor Ellison moved to continue the third reading of Ordinance No. 1958 until December 15, 1992, without further advertisement, in order to give Mr. Maultsby time to apply for a zoning permit and if a variance is needed, time for the Board of Adjustment to hear the issue. This motion was seconded by Councilman Moore and carried unanimously.

IV. NEW BUSINESS: NONE

V. CONSENT:

A. RESOLUTION NO. 92-143 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH CAROLINA POWER & LIGHT COMPANY RELATIVE TO THE WEST ASHEVILLE CONNECTOR PROJECT

Summary: The route chosen for the installation of the Asheville-Buncombe Water Authority's 24-inch West Asheville connector waterline in some locations is concurrent with an existing CP&L right-of-way. Although existing CP&L facilities will not be adversely affected by this waterline installation, an agreement to encroach onto CP&L's right-of-way is necessary.

-7-

RESOLUTION BOOK NO. 19 AT PAGE 296

B. RESOLUTION NO. 92-144 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AND OFF ROAD EQUIPMENT AT PUBLIC AUCTION

Summary: The Acting Fleet Management Manager has declared 60 surplus motor vehicles or off road equipment as surplus. The Purchasing Director is requesting to be authorized to dispose of this property by public auction. The estimated revenue from this auction will be approximately \$40,000.

RESOLUTION BOOK NO. 19 AT PAGE 297

C. RESOLUTION NO. 92-145 - RESOLUTION REAPPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Summary: This resolution will reappoint Russell M. Martin to serve an additional three year term, term expiring November 13, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 - PAGE 300

D. RESOLUTION NO. 92-146 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: The terms of Rosa Walker, William Neville, J. Lowell Orbison and Claude Haynes expired on August 1, 1992, and Rebecca Norris resigned in April of 1991. This resolution will reappoint William Neville for a 3 year term, term expiring August 1, 1995; reappoint J. Lowell Orbison to serve the unexpired term of Rebecca Norris, term expiring August 1, 1993; appoint Robert Fabrey for a 3 year term, term expiring August 1, 1995; and appoint Langdon Ammen for a 3

year term, term expiring 1, 1995. All terms are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 19 - PAGE 301

E. RESOLUTION NO. 92-147 - RESOLUTION REAPPOINTING A MEMBER TO THE WESTERN NORTH CAROLINA AIR POLLUTION CONTROL BOARD

Summary: This resolution will reappoint Rev. Nilous Avery for an additional six year term, term expiring June 15, 1988, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 - PAGE 302

-8-

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

VI. OTHER BUSINESS:

A. CP&L EASEMENT AGREEMENT

Councilman Moore moved to authorize the City Manager to sign a Supplemental Agreement with Cooper Construction Company and a letter of indemnification with CP&L relative to installation of water line across CP&L property, subject to prior approval of the City Attorney. This motion was seconded by Councilman Worley and carried unanimously.

B. CLAIMS

The City Manager said the following claims were received during the week of September 28-October 2, 1992: Wind in the Oaks (Water); Roy Rathbone (Fire); Allison's Flowers (Water); Frank Wright (Streets); and Robert Clark (Water).

He said the following claims were received during the week of October 5-9, 1992: Christine McCurry (Civic Center); Diana Harmon (Civic Center); Bernice Gough (Police); and Southern Bell (Water).

He said these claims would be referred to the appropriate insurers for investigation.

C. RALPH BISHOP

Mr. Ralph Bishop commented on gambling that is being conducted in the City of Asheville.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:25 p.m.

CITY CLERK MAYOR
