

Tuesday - December 15, 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 December 8, 1992, City Council minutes as submitted.

ANNOUNCEMENT RELATIVE TO ITEM REGARDING DEMOLITION OF 10 SUNSET SUMMIT

Mayor Michalove stated that it was the consensus of the City Council to table the third and final reading of an ordinance directing the Director of Building Inspections to demolish 10 Sunset Summit until January 19, 1993. He did state, however, that the Council would take comments from the public when the item appears further into the agenda.

I. PROCLAMATION:

A. RESOLUTION NO. 92-171 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ALVIN W. WHITTED

Mayor Michalove read the resolution stating that Alvin Whitted has been with the City for 18 years and has requested retirement from his position as Laborer Sr. in the Street Division of the Public Works Department. He expressed the City Council's appreciation to Alvin for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 92-171 was adopted by acclamation.

RESOLUTION BOOK NO. 19 AT PAGE 344

B. RESOLUTION NO. 92-184 - RESOLUTION OF APPRECIATION TO DORIS P. GIEZENTANNER, FORMER BUNCOMBE COUNTY COMMISSIONER

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Mayor Michalove read the resolution expressing the City Council's sincere appreciation and thanks to Doris Giezentanner for her distinguished service to the community, and highly commended her for the manner in which she carried out her duties and responsibilities as a former member of the Buncombe County Board of Commissioners.

Resolution No. 92-184 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 1

C. RESOLUTION NO. 92-185 - RESOLUTION OF APPRECIATION TO JESSE I. LEDBETTER, FORMER BUNCOMBE COUNTY COMMISSIONER

Mayor Michalove read the resolution expressing the City Council's sincere appreciation and thanks to Jesse Ledbetter for his distinguished service to the community, and highly commended him for the manner in which he carried out his duties and responsibilities as a former member of the Buncombe County Board of Commissioners.

Resolution No. 92-185 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 2

D. RECOGNITION OF ROBIN WESTBROOK, PUBLIC INFORMATION OFFICER

City Manager Bean recognized Mrs. Robin Westbrook who received an Award for Excellence in Public Relations. She won Second Place in Print Advertising in 1992 for her work with the City Works Page.

E. RECOGNITION OF ROBERT GRIFFIN, SENIOR OFFICER OF THE ASHEVILLE FIRE DEPARTMENT

City Manager Bean recognized Mr. Robert Griffin who, in 1991, was the City's loaned executive to United Way. This year Robert was asked, and he accepted, the challenge of "Pacesetter Chairman" - the "chief" loaned executive. While United Way as a whole did not meet this year's goal, United Way officials expect pledges to reach a new record - in excess of \$4 Million. As Pacesetter Chairman, Robert played a pivotal role in that success.

II. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO CLOSING AN UNOPENED PORTION OF CLOYES STREET

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RESOLUTION NO. 92-186 - RESOLUTION TO CLOSE THE UNOPENED PORTION OF CLOYES STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 4:16 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, stated that when the property in the Cloyes Street and Craggy Avenue area was subdivided, the original subdivision allowed for Cloyes Street to be connected to Craggy Avenue. In constructing the streets, the developer did not construct Cloyes Street all the way to Craggy Avenue. The portion that was never built is the portion being petitioned to be closed.

He said all the owners, with the exception of one, has signed the petition. The property owner who declined to sign the petition will still have public street access to their property from both Dysart Street as well as the opened portion of Cloyes Street. He said the natural lay of land along the unopened portion of Cloyes Street would make it quite difficult and expensive to construct a street within the right-of-way being petitioned for closing.

Upon inquiry of Councilman Worley on the reason why the one property owner did not sign, Mr. Ewing stated that because of the health of her mother (property owner), the daughter did not wish to sign the petition.

Mayor Michalove closed the public hearing at 4:19 p.m.

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

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-186. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 3

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

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Mayor Michalove stated that the first reading of this ordinance passed on January 7, 1992, and the second reading passed on January 21, 1992.

Councilwoman Field moved to table the third and final reading of Ordinance No. 1958 until January 19, 1993, and requested that the cost of demolition of the structure, at this stage, be made available to the Council. This motion was seconded by Councilman Worley.

Mr. Ken Maultsby, current owner of the house, passed around pictures of the structure taken two weeks ago. By the use of plans, he reviewed some statistics of the house. He stated that the crane is on its way to the property to begin the next stage of demolition; however, it is his desire not to do any further demolition, but complete construction of the residence using what is left of the current structure. He stated that the Zoning Administrator is currently reviewing new plans providing for further demolition of the front portion of the structure so that everything above ground, other than the driveway and its support, would be set back 35 from the street. He felt that if the City proceeds with the final reading of this ordinance today, the cost for demolition of the structure will be borne by the taxpayers. He said it was his intent to restore the site to its highest and best use - a single family dwelling.

Mr. Joe McGuire, attorney representing Mr. Myers, Mr. Haywood and the Sunset Mountain Homeowners Association, spoke in support of the total demolition of 10 Sunset Summit. He stressed that Mr. Maultsby knew when he purchased the house that there was a condition attached to it for total demolition of the structure. He said that other bidders bid with the understanding that the house would have to be totally demolished - not partially demolished. He said that had the other bidders known that only partial demolition would be acceptable to the City, Mr. Maultsby's bid would have perhaps been overturned. He felt that anything other than total demolition of the house would be extremely unfair to the other bidders. He urged the Council not to ignore 8 years of violation.

In response to Councilman Worley's question regarding if the property owners would have any problem with total demolition and then rebuilding on the same levels complying with all Code requirements, Mr. McGuire stated that he had not discussed this issue with his clients but felt that the agreement incorporated into the variance would prohibit rebuilding on the same levels.

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There was some discussion on the intent and purpose of the demolition order.

The motion above to table Ordinance No. 1958 until January 19, 1993, was carried unanimously.

B. THIRD READING OF ORDINANCE NO. 2000 - AN ORDINANCE AMENDING CHAPTER 18, SECTION 18-5 OF THE CODE OF ORDINANCES REGULATING BEGGING

City Attorney Slawter reviewed the current ordinance before the Council which makes it unlawful for any person to beg by (a) accosting another person or (b) forcing oneself upon the company of another. The ordinance will provide for a grace period of 30 days after date of final adoption and will thereafter provide for the following punishment: (a) payment of court costs only upon a first offense; (b) up to 5 days in jail and up to \$50.00 in fine for a second offense; and (c) up to 30 days in jail and up to \$500.00 in fine for a third or subsequent offense.

Upon inquiry of Mr. Ralph Bishop, City Attorney Slawter stated that it would be at the judge's discretion whether to impose a fine or perhaps impose community service upon the offender.

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

On a roll call vote of 7-0, Ordinance No. 2000 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 162

IV. NEW BUSINESS:

A. RESOLUTION NO. 92-187 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH RESEARCH AND EVALUATION ASSOCIATES, INC., TO CONDUCT A MINORITY BUSINESS DISPARITY STUDY

Ms. Marilyn Nason, member of the Minority Business Commission, said that in 1989 the Supreme Court determined that municipalities must document discrimination. The firm of Research and Evaluation Associates, Inc., is recommended by the Commission to conduct the study. This firm has a proposed fee of \$114,729 to conduct the study - \$83,637 from CDBG funds and \$31,092 from the Asheville-Buncombe Water Authority. This is based on the Water Authority annual budget (approximately \$16 million) as a percentage (27.1%) -6-

of the total budget of the City (approximately 59 million). He said this is subject to the CDBG allocation/budgeting process for next fiscal year. He said only \$45,000 is appropriated thus far from CDBG funds for the study.

Ms. Nason said the study will examine the City's records for the past 10 years to determine whether disparity exists in the award of City contracts. Remedies will be recommended by the consultant to overcome disparity if it exists. An assessment of the availability of minority businesses will be made and a profile developed. The City's current Minority Business Plan will be critiqued with respect to information gathered and a legal analysis will be conducted to ensure the City's plan meets the requirements. Interviews and surveys will be conducted with elected officials, department heads, technical assistance providers, minority and non-minority businesses. A public hearing will be conducted with respect to recommendations made by the consultant firm to amend the plan based on findings of the study.

Upon inquiry of Vice-Mayor Ellison, Mr. Ronald Blythe and Ms. Marilyn Bass explained that the reason why the Commission is recommending the second low bid on this study is because the price is low compared to the expertise of this

firm.

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

Councilman Moore moved for the adoption of Resolution No. 92-187. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 5

B. RESOLUTION NO. 92-188 - RESOLUTION TO ADOPT THE CONSOLIDATED COMPREHENSIVE HOUSING AFFORDABILITY STUDY

Mayor Michalove stated that the public hearing on this issue was held on December 8, 1992.

Mr. Marvin Vierra, Community Development Director,

said that the City of Asheville, as Lead Entity for the Asheville Regional Housing Consortium, is required to adopt the Comprehensive Housing Affordable Strategy (CHAS) to be eligible for funding under certain HUD programs. The CHAS identifies housing needs and analyzes institutional capacity -7-

and available resources to address the needs. The CHAS also contains five year priorities and a one year plan. The total housing needs within the region covered by the Consortium are 45,678 units. Priority for housing will be for low income rental units.

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

Councilman Moore moved for the adoption of Resolution No. 92-188. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 6

C. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH RESIDENTS OF THE CARTER COVE ROAD AREA

Councilman Moore moved to excuse Councilman Worley from participating in this issue due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

Mr. Charles Penny, Assistant City Manager, said that the property owners within the Carter Cove area desire to have the City construct a new bridge on Carter Cove Road and the City is agreeable to doing so, but it only able to fund the construction by delaying the construction of proposed sewer lines in the Carter Cove area as called for in the plan for extension of major municipal services into the Beaverdam Valley annexation area which was adopted by City of Asheville Resolution No. 88-132 on August 9, 1988.

He said the property owners within Carter Cove have agreed to forego the right to the proposed sewer lines until May 31, 1997, in exchange for the agreement of the City to bear the primary cost of the construction of a new bridge along Carter Cove Road crossing Beaverdam Creek. He said that the agreement calls for the property owners to pay \$12,500 and the City to pay the remainder of the cost of bridge construction. He said that the City's engineering staff estimated the construction cost to be approximately \$100,000.

Upon inquiry of Councilman Peterson, Mr. Penny said that there will be one lane

of the bridge open at all times for emergency vehicles.

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Upon inquiry of Vice-Mayor Ellison on why the City could not put a cap at this time on how much the City would have to expend on the bridge construction, Mr. Penny explained that the project has not yet been put out for bid and therefore only an estimated figure can be obtained.

Mr. Penny explained that the City needed to move quickly on this because if the project was not started on immediately, sewer line design and placement would have to be in place by May 31, 1993, to comply with the annexation statutes.

Councilwoman Field stated that from her experience in estimation of construction costs, she felt that if the engineering staff estimated \$100,000, it was very possible that construction not be much more than that, if any.

Vice-Mayor Ellison moved to approve the Mayor to execute agreements with the residents of the Carter Cove Road area, with the condition that the City not spend more than \$125,000 on the construction of the bridge. This motion was seconded by Councilwoman Field and carried unanimously.

Because of some concerns City Attorney Slawter expressed in relation to the agreement signed by the property owners, the motion to approve the Mayor to execute agreements with the residents of the Carter Cove Road area, with the condition that the City not spend more than \$125,000 on the construction of the bridge was withdrawn, along with the second by Councilwoman Field.

Vice-Mayor Ellison moved to submit this bridge construction project out for bid. This motion was seconded by Councilman Swicegood and carried unanimously.

D. RESOLUTION NO. 92-189 - RESOLUTION ESTABLISHING A DEFERRED COMPENSATION PLAN FOR CITY EMPLOYEES IN THE CLASSIFIED AND ADMINISTRATIVE SERVICE

Mrs. Pam McGrayne, Personnel Director, said that this resolution will establish a deferred compensation plan for City of Asheville employees that will serve the interests of the City enabling it to provide reasonable retirement security for those employees in the Classified and Administrative Service.

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

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Vice-Mayor Ellison moved for the adoption of Resolution No. 92-189. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 8

E. BUDGET ORDINANCE NO. 2003 - BUDGET AMENDMENT TO TRANSFER APPROPRIATIONS IN THE CAPITAL PROJECTS FUND FOR THE INSTALLATION OF THE DIESEL FUME EXHAUST SYSTEM FOR FIRE STATIONS 7 AND 9

Fire Chief John Rukavina said that this fiscal year's Capital Improvement Plan includes \$24,000 for installation of diesel exhaust ventilation systems at Fire Stations 7 (Larchmont) and 9 (Oakley). Installation of these systems will reduce firefighter exposure to diesel exhaust fume toxins in fire stations. The actual cost of these systems will exceed the budgeted amount of \$624. However, Buncombe County EMS will be soliciting capital funds in January to reimburse the City approximately \$4,500.

Upon inquiry of Councilman Peterson, Mr. Rukavina said that 4 or 5 more fire stations will need to have the systems installed.

Mayor Michalove stated 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. 2003. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2003 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 167

E. BUDGET ORDINANCE NO. 2004 - BUDGET AMENDMENT RELATIVE TO URBAN TRAIL STATIONS

City Manager Bean said that this budget amendment in the amount of \$18,000 is to budget for revenues received from sale of Downtown Urban Trail sites by Downtown Commission and to appropriate funds to pay for expenditures related to the Urban Trail Stations. He said that the goal is to have donors pay for all of the urban trails.

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

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Councilman Moore moved for the adoption of Ordinance No. 2004. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2004 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 169

G. BUDGET ORDINANCE NO. 2005 - BUDGET AMENDMENT TO SET UP HOME INVESTMENT TRUST FUND BUDGET

City Manager Bean said that this budget in the amount of \$843,686 is to set up the HOME Investment Trust budget. He said the City has recently received notification of approval of \$767,837 from the State of North Carolina through the HOME Investment Partnership Program for the Asheville Regional Housing Consortium. The City of Asheville, as Lead Entity of the Consortium, will administer the program through the Community Development Division. The allocation of these funds were approved by City Council on August 25, 1992, in Resolution No. 92-115.

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

Councilman Moore moved for the adoption of Ordinance No. 2005. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2005 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 171

V. CONSENT:

A. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, TO PARTIALLY REZONE 570-582 HENDERSONVILLE ROAD (ONE LOT) FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT.

B. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, TO PROPERTIES ON CROWELL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT.

C. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, RELATIVE TO A VARIANCE ON KENNETH HAIR APARTMENTS GROUP DEVELOPMENT.

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D. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, RELATIVE TO A VARIANCE OF THE SUBDIVISION REGULATIONS FOR HEATH RIDGE ACRES TO PERMIT THE CONSTRUCTION OF A PUBLIC, BUT PRIVATELY MAINTAINED ROAD.

E. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, TO AMEND THE GROUP DEVELOPMENT PROCEDURES SECTION OF THE ASHEVILLE ZONING ORDINANCE.

F. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, TO AMEND RESOLUTION NO. 92-132, A RESOLUTION TO CHANGE NAMES OF CERTAIN STREETS IN THE CITY OF ASHEVILLE

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

VI. OTHER BUSINESS:

A. GRANTEE PERFORMANCE REPORT

Vice-Mayor Ellison stated that he was pleased that the Grantee Performance Report indicated that Asheville was carrying out it's Community Development Block Grant program in a timely manner.

B. CLAIMS

City Manager Bean said that the following claims have been received by the City during the week of December 7-10, 1992: Dione Reese (Police), Joanne Baker (Parks), David Fletcher (Water), Roy Roberts (Water), Kathleen Lasher (Water), Mary Russell (Water), Dean Alspangtt (Water), Jack McIntyre (Police), and Albert Booker (Water).

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

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:50 p.m.

CITY CLERK MAYOR
