

Tuesday - April 6, 1993 - 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; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore (out of town) and City Attorney William F. Slawter (out of town)

INVOCATION

Vice-Mayor Gene Ellison gave the invocation.

I. PROCLAMATIONS:

A. CERTIFICATE OF APPRECIATION TO CAROLINA POWER & LIGHT COMPANY FOR ASSISTING THE CITY OF ASHEVILLE IN ITS EMERGENCY RESPONSE TO THE BLIZZARD OF 1993

Mayor Michalove presented Gary Ashburn and Kevin Butler with a certificate of appreciation expressing the City of Asheville's most heartfelt thanks to Carolina Power & Light Company for the invaluable assistance rendered during and immediately after the blizzard of 1993.

B. METRO SCHOOL

District Court Judge Rebecca Knight and Mr. Bill Sanowskis from the Juvenile Court, made a presentation to the City Council about the METRO School proposal. They explained that the school systems that serve Asheville and Buncombe County are generally unable to serve the educational needs of certain students who are found to be carrying weapons on school grounds. Due to the serious nature of such an offense the past pattern has typically involved suspension of the student from school for the remainder of the school year, regardless of when the incident occurs. Unfortunately, this leaves the juvenile "on the streets". Many times these children are first-time offenders and carry the weapons to school for what they believe is self-defense. Regardless of 1st or 10th offense, possession of any weapon on school property for any reason is not tolerable.

They explained the METRO School will be an alternative educational program that consists of a community service and -2-

an educational component. The maximum enrollment in the METRO School will be 8 students and acceptance will be part of a probationary sentence pursuant to a delinquency adjudication from Juvenile Court. Participation and compliance will be court ordered.

They said the formal school will be in the afternoon hours at an appropriate placement such as the Optional School. The morning segment will consist of community service. Hopefully, the community service will be performed in offices of City and County government and the Board of Education. Students shall wear appropriate business attire and be available to perform a variety of tasks such as answering the telephone, delivering materials to different offices, making photocopies, filing, etc. It is anticipated these individuals will contribute valuable service as well as observe quality role models performing public service functions in employment situations.

They asked the Council to support this program with the hope that a successful program will encourage private business and industry to accept students in the future.

It was the consensus of Council that a letter of endorsement be given to the METRO School Program.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO INCLUDE VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN THE COMMERCIAL GENERAL ZONING DISTRICT AND SET FORTH CONDITIONS

ORDINANCE NO. 2021 - ORDINANCE AMENDING CHAPTER 30 TO INCLUDE VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN THE COMMERCIAL GENERAL ZONING DISTRICT AND TO SET FORTH CONDITIONS

Mayor Michalove opened the public hearing at 4:44 p.m.

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

Ms. Julia Cogburn, Planning Director, said that veterinary hospitals and clinics with specific conditions would become an allowed conditional use in the Commercial General Zoning District. She said veterinary hospitals and clinics were now allowed as a conditional use in the Commercial Highway zoning district, and this ordinance would set forth the conditions required.

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Mayor Michalove closed the public hearing at 4:47 p.m.

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. 2021. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2021 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2021. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2021 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2021. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2021 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 210

B. PUBLIC HEARING RELATIVE TO REZONING 16 STERLING STREET FROM R-3 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2022 - ORDINANCE AMENDING ZONING OF PROPERTY LOCATED AT 16 STERLING STREET

Mayor Michalove opened the public hearing at 4:48 p.m.

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

Ms. Julia Cogburn, Planning Director, said that this request is in conformance with the 2010 Plan and the property is contiguous to other property zoned Office Institutional. She said new office development on Sterling Street reflects the change in appearance and zoning now established in this area. She said the Planning and Zoning Commission, at its March 3, 1993, meeting, reviewed and recommended approval of this rezoning.

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Mayor Michalove closed the public hearing at 4:51 p.m.

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. 2022. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2022 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2022. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2022 passed on its second reading.

C. PUBLIC HEARING RELATIVE TO A VARIANCE FOR CENTRAL METHODIST CHURCH GROUP DEVELOPMENT

Mayor Michalove opened the public hearing at 4:52 p.m.

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

Mr. Tony Nicholson, Urban Planner, said that the Central United Methodist Church is proposing the construction of a 5,050 square foot addition and the renovation of 21,350 square feet of the existing church. The site is located at 27 Church Street and is within the Central Business Zoning District. While the availability of adequate water and sanitary sewer services has been documented, the Fire Department has expressed concern about the availability of fire protection to the site. Although the North Carolina State Fire Code does not prohibit the project, the Fire Department has stated that the lack of nearby fire hydrants could cause difficulty in providing adequate fire protection to the existing building and the proposed addition.

The Church is requesting a variance of the street tree and planting strip requirements along Second Street and the alley abutting the north property line. Second Street extends to the church property from Buncombe Street and serves as the driveway to the adjacent parking areas. The alley along the north property line also serves as access to adjacent parking areas. With the exception of the variance request, the proposed addition/renovation meets or exceeds the requirements of the Asheville zoning ordinance.

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At their March 3, 1993, meeting, the Planning and Zoning Commission voted to

recommend approval of the site plan and the request for a variance.

Upon inquiry of Vice-Mayor Ellison about whether or not the Asheville Tree/Greenway Commission has approved this request for a variance, Assistant City Attorney Brison said that it has been the practice that a staff report from the Planning Department to be made at each Tree/Greenway Commission meeting apprising them of upcoming group developments. At that time, they would have an opportunity to comment.

Upon inquiry of Councilwoman Field about the lack of adequate fire protection in the area, Mr. Nicholson stated that the State Fire Code does not prohibit the project. He said the Water Department is aware of the inadequate pressure in the entire area and it is his understanding that the Water Department has this area on its Master Plan for upgrading water services.

Mayor Michalove closed the public hearing at 5:00 p.m.

Vice-Mayor Ellison moved to approve the site plan and approve the variance, subject to the variance being reviewed and approved by the Asheville Tree/Greenway Commission. This motion was seconded by Councilman Peterson and carried unanimously.

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2018 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 67 MT. CLARE AVENUE

Councilman Worley moved to postpone the third and final reading of Ordinance No. 2018 until April 27, 1993. This motion was seconded by Councilwoman Field and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION AWARDED THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 13) TO APAC-CAROLINA INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

Mayor Michalove stated that this item was deleted from the agenda.

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B. RESOLUTION NO. 93-46 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, AUTHORIZING THE CITY FINANCE DIRECTOR TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF THE CITY'S PROPOSED BOND FINANCING AND TO SUBMIT SUCH APPLICATION TO THE LOCAL GOVERNMENT COMMISSION

City Manager Bean said that the City's general obligation bond principal will have been reduced in the amount of \$2,025,000 during fiscal year 1993. The State statutes permit the issuance of general obligation bonds for two-thirds of the amount of principal reduced in the previous fiscal year. This resolution directs the Finance Director to make an application to the Local Government Commission for approval to sell two-thirds bonds for street and sidewalk improvements in the amount of \$1,300,000 for fiscal year 1993/1994.

Mayor Michalove said 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. 93-46. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 117

C. RESOLUTION NO. 93-47 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, DIRECTING THE PUBLICATION OF NOTICE OF INTENTION TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF BONDS

City Manager Bean said that the prior resolution directed the Finance Director to apply to the Local Government Commission for approval of \$1,300,000 Street and Sidewalk Bonds using the two-thirds rule. The public must be notified of the intention to apply. This resolution directs the publication of that notice.

Mayor Michalove said 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. 93-47. This motion was seconded by Councilman Worley and carried unanimously.

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D. RESOLUTION DIRECTING THE KITCHEN PLACE PROJECT BEGINNING AT ITS INTERSECTION WITH ANGLE STREET TO ITS INTERSECTION WITH BROOK STREET BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

E. - RESOLUTION DIRECTING THE BOSTON WAY PROJECT FROM ITS INTERSECTION WITH HENDERSONVILLE ROAD TO ITS INTERSECTION WITH ALL SOULS CRESCENT AT ITS WESTERN END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

Mayor Michalove said that these items were deleted from the agenda.

E. ORDINANCE NO. 2023 - ORDINANCE RELATIVE TO PARKING CAPITAL

City Manager Bean said that this budget amendment, in the amount of \$125,000, is to set up the appropriation for parking capital in the 34 parking capital fund. The initial appropriations were approved in the 10 and 66 general fund.

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. 2023. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2023 was adopted on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 214

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 30, 1993.

B. MOTION SETTING A PUBLIC HEARING FOR APRIL 27, 1993, FOR PROPOSED STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES.

C. MOTION SETTING A PUBLIC HEARING FOR APRIL 27, 1993, RELATIVE TO CHANGING ELK MOUNTAIN COURT TO ELK MOUNTAIN RIDGE.

D. RESOLUTION NO. 93-48 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE AND ACCEPT A PERMANENT MAINTENANCE AGREEMENT FROM THE PROPERTY OWNER OR LESSEE

OF SAM'S CLUB

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Summary: In March, 1993, the Asheville City Council approved the group development project for Sam's Club to be located on Patton Avenue. On March 29, 1993, the Asheville Board of Adjustment approved the construction of a culvert on Sam's Club site which is located within the regulatory floodway district. The Board's approval, however, among other things, required Sam's to execute a permanent maintenance agreement with the City of Asheville, the terms of which must be acceptable to the City Council of the City of Asheville prior to the issuance of a building permit. This resolution will authorize the City Manager, subject to the City Attorney's approval, to approve the terms and accept the maintenance agreement from Sam's Club.

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

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Bean said the following claims were received by the City during the week of March 29 - April 2, 1993: Tops for Shoes (Streets), Bingham Heights Baptist Church (Sanitation), Libby Harpe (Parks), Henry Southworth (Streets), Jeff Cordell (Streets) and Alan O'Donnell (Police).

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

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:10 p.m.

CITY CLERK MAYOR
