

Tuesday - May 18, 1993 - 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 Charles Worley gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 23-29, 1993, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Michalove proclaimed the week of May 23-29, 1993, as "Emergency Medical Services Week" and presented the proclamation to Fire Chief John Rukavina.

B. RECOGNITION OF RITA BROWN'S 7TH GRADE CLASS FROM ASHEVILLE MIDDLE SCHOOL

Mayor Michalove recognized a 7th grade class from Asheville Middle School and their teacher, Ms. Rita Brown.

C. RECOGNITION OF FIRE CAPTAIN TOMMY BROOKS FOR RECEIPT OF THE GEORGE MEANY MEDAL

Mayor Michalove recognized Fire Captain Tommy Brooks for receipt of the George Meany Medal.

Fire Chief Rukavina explained that Captain Brooks is very active in the Daniel Boone Council of Boy Scouts of America and recently he has been presented with the BSA's "Silver Beaver Award," a very high honor. He has most recently been named a recipient of the George Meany Medal (one of only 156 in the United States to date) for his combined roles of Asheville firefighter and Boy Scout leader.

II. PUBLIC HEARINGS: None

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ANNOUNCEMENT - SOUTHERN BASKETBALL CONFERENCE

Mayor Michalove announced that the City Council unanimously decided that the 1996 Men's Southern Conference Basketball Team be pursued by the Sports Committee. He said the City's provision is that no financial liability be on the City and the Mayor and the Sports Committee are authorized to negotiate that contract.

III. OLD BUSINESS:

A. SECOND READING OF ORDINANCE NO. 2025, AN ORDINANCE TO REZONE PROPERTY AT 570-582 HENDERSONVILLE ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove said that this ordinance passed on its first reading on May 11, 1993. He said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 5-2, Ordinance No. 2025 passed on its second reading, with Councilwoman Field and Councilman Moore voting "no."

Councilwoman Field explained that her negative vote was because the Hendersonville Road Corridor Plan has not yet been adopted.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2025. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 5-2, Ordinance No. 2025 passed on its third and final reading, with Councilwoman Field and Councilman Moore voting "no."

ORDINANCE BOOK NO. 13 AT PAGE 220

IV. NEW BUSINESS:

A. REPORT FROM CONSULTANTS ON THE DISPARITY STUDY

Research and Evaluation Associates, Inc., gave a brief presentation regarding the City's Minority Business Disparity Study, including, but not limited to, what a disparity study is, the components involved in a disparity study and the type of support and assistance needed from the City Council.

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Upon inquiry of Vice-Mayor Ellison, Dr. Peggy Richmond said that after the study is completed, recommendations will be presented to the City Council for possible revision to the Minority Business Plan. She stated that the plan is anticipated to be completed in September of 1993.

Dr. Chuck Lawrence, President of the Black Business and Professional League, spoke in support of the study stating that it would benefit the City as a whole.

Ms. Marilyn Bass, Minority Business Plan Coordinator, stated that two public hearings would be held for input into the study - June 8, 1993, at 7:00 p.m. (place unknown at this time), and June 29, 1993, at 7:00 p.m. in the Civic Center.

B. PRESENTATION OF THE 1993-94 ANNUAL OPERATING BUDGET AND SETTING A PUBLIC HEARING ON THE BUDGET FOR JUNE 8, 1993

City Manager Bean presented the 1993-94 Annual Operating Budget and summarized the following budget message:

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Councilman Peterson felt that the entire City needed to have a study done similar to the study done in the Water Department as it relates to salaries of the employees.

Upon inquiry of Vice-Mayor Ellison, City Manager Bean said that a full report regarding the 15% reserve issue will be provided to the Council at their next budget meeting.

Mayor Michalove stated reasons why he felt there might need to be a possible 3-5% tax increase.

Councilman Moore moved to set a public hearing on June 8, 1993, relative to the 1993-94 Annual Operating Budget. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION NO. 93-63 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF \$1,300,000 STREET AND SIDEWALK BONDS, SERIES 1993A AND \$500,000 STREET AND SIDEWALK BONDS, SERIES 1993B OF THE CITY OF ASHEVILLE, NORTH CAROLINA

City Manager Bean said that on April 6, 1993, City Council directed the Finance Director to apply to the Local Government Commission for the issuance of \$1,300,000 Street and Sidewalk bonds using the two-thirds rule. On April 13, 1993, the Local Government Commission gave conditional approval pending letters from paying agents verifying the principal payments on existing bonds during Fiscal Year 1993. On April 27, 1993, City Council approved a resolution calling for a public hearing regarding a Bond Order introduced that date. The public hearing was held on May 11, 1993. This resolution provides for the issuance of those bonds.

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Additionally, on September 23, 1986, the citizens of Asheville approved \$17,000,000 in Street and Sidewalk bonds. \$16,500,000 of those bonds have been issued to date. The authorization for those unissued bonds expires on September 22, 1993. This resolution provides for the issuance of the remaining \$500,000 unissued bonds.

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

Councilman Moore moved for the adoption of Resolution No. 93-63. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 171

D. RESOLUTION NO. 93-64 - AMENDED AND RESTATED RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF \$11,500,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 1993C OF THE CITY OF ASHEVILLE, NORTH CAROLINA

City Manager Bean said that City Council passed a resolution on November 3, 1992, providing for the issuance of these bonds. Since time has elapsed without issuance and since additional payments have been made on the bonds being refunded, it is necessary and desirable to amend and restate the original resolution.

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

Councilman Moore moved for the adoption of Resolution No. 93-64. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 182

E. RESOLUTION NO. 93-65 - RESOLUTION AUTHORIZING THE MAYOR TO NOTIFY THE WESTERN NORTH CAROLINA AIR POLLUTION CONTROL AGENCY OF THE CITY OF ASHEVILLE'S INTENTION TO TERMINATE AN AGREEMENT DATED JUNE 17, 1986, RELATING TO DELIVERY

OF MECHANICAL CODE ENFORCEMENT SERVICES IN THE CITY OF ASHEVILLE

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Assistant City Manager Charles Penny said that for a number of years Western North Carolina Pollution Control Agency (hereinafter "Agency") has provided mechanical code enforcement services for the City. But last year's "building permit process review committee" recommended that the City resume responsibility for mechanical code enforcement. This resolution requires 30 days' notice to the Agency and the adoption of this resolution would authorize that notice. Since the Agency's mechanical inspection program is fee-supported, the City would adopt the same fee system to support two mechanical inspectors and related costs.

Mr. Bob Welborn, representing the Agency, said that the "fee-supported" aspect is not quite accurate. He stated that in 1991, \$135,000 was brought in from mechanical inspections; however, \$275,000 was the amount needed to operate the program. He said that the Environmental Protection Agency picked up the difference.

Mr. Penny clarified that a number of issues needed to be worked out and he would present the details to the Council on June 8, 1993. He stressed that in order to give the 30 days' notice to the Agency prior to July 1, 1993, the resolution of intent to terminate must be adopted at this meeting (next Council meeting is not scheduled until June 8, thus not being able to meet the 30 days' notice requirement).

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

Councilman Moore moved for the adoption of Resolution No. 93-65. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 190

F. ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE, REGULATING STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

City Attorney Slawter said that this ordinance will authorize the City Manager, or his designee, to execute an encroachment agreement without complying with the provisions of the current encroachment ordinance when the structure is an existing structure and has been in existence within the public right-of-way for a period of at least 20 years prior to the date of adoption of this ordinance.

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After a brief discussion, it was the consensus of Council to review each individual case separately in order to determine whether or not to enter into an encroachment agreement with property owners for structures on the City's right-of-way.

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 11, 1993.

B. MOTION SETTING A PUBLIC HEARING ON JUNE 8, 1993, RELATIVE TO THE TRANSIT OPERATING ASSISTANCE GRANT.

C. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, RELATIVE TO THE ADOPTION OF THE BILTMORE VILLAGE DEVELOPMENT PLAN.

D. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, TO AMEND THE ZONING ORDINANCE TO ESTABLISH CONDITIONS FOR CHURCHES AS CONDITIONAL USES IN THE R-1, R-2 AND R-3 RESIDENTIAL DISTRICTS.

E. MOTION SETTING A PUBLIC HEARING ON JUNE 15, 1993, RELATIVE TO APPROVAL OF THE SOUTH PACK SQUARE REDEVELOPMENT PLAN.

F. RESOLUTION NO. 93-66 - RESOLUTION FINDING THE GREENLEAF CIRCLE PROJECT COMPLETED, ASSESSING THE TOTAL COST AND CALLING FOR A PUBLIC HEARING ON JUNE 8, 1993, ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL

RESOLUTION BOOK NO. 20 AT PAGE 191

G. RESOLUTION NO. 93-67 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXTEND THE DATE FOR ACCRUAL OF LATE PENALTIES FOR BEER AND WINE LICENSES DUE DURING THE PERIOD OF MAY 1, 1993, TO APRIL 30, 1994

Summary: North Carolina General Statute sec. 105-113.70 grants local governments the authority to issue a license for the sale of beer and wine provided the applicant qualifies for a State license. The license is issued for the period from May 1 to June 30. Late penalties begin to accrue on licenses not renewed within 30 days of the expiration date. Renewal notices were not mailed until -17-

April 30, 1993, (due to materials not received in a timely manner), therefore, late penalties for the license period May 1, 1993, to April 30, 1994, will not begin to accrue until June 1, 1993.

RESOLUTION BOOK NO. 20 AT PAGE 193

H. RESOLUTION NO. 93-68 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION FOR THE PURPOSE OF OBTAINING CERTAIN FEDERAL FINANCIAL ASSISTANCE UNDER THE DISASTER RELIEF FUND

Summary: This resolution will authorize the City Manager to execute documents necessary for application for and reimbursement from FEMA for snow cost.

RESOLUTION BOOK NO. 20 AT PAGE 194

I. RESOLUTION NO. 93-69 - RESOLUTION AUTHORIZING THE SALE OF FIVE SURPLUS PORTABLE RADIOS TO THE DANIEL BOONE COUNCIL, BOY SCOUTS OF AMERICA

Summary: In the course of making the transition from an old radio system to a new ultra-high-frequency radio system, the Asheville Fire Department identified five portable (hand-held) radios as surplus - they are in excess of 7 years old, and cannot be converted to continued use. The Daniel Boone Council has asked that these radios be donated for use for emergency at the Scouts' new camp, Camp Tatham.

RESOLUTION BOOK NO. 20 AT PAGE 196

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

VI. OTHER BUSINESS:

A. MOTION AUTHORIZING THE HOUSING AUTHORITY TO SELL DISPOSAL PARCELS 58 AND 60 IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

City Manager Bean said the proposed redeveloper is Julius Maxwell who owns the

property adjacent to the subject property and it is his intention to combine the subject property with the property where he lives and maintain it as yard space.

The established price for the disposal parcels is \$1,475 and that is the amount of Mr. Maxwell's bid. After advertisement in the paper, no upset bids were received.

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Vice-Mayor Ellison moved to authorize the Housing Authority to sell disposal parcels 58 and 60 in the East End/Valley Street Community Improvement Program. This motion was seconded by Councilman Moore and carried unanimously.

B. RALPH BISHOP

Mr. Ralph Bishop spoke about corruption in the Police Department and the continued gambling in the City.

C. CLAIMS

City Manager Bean said that the following claims were received by the City during the week of May 10-14, 1993: Bill Byrd/Heilig Meyers (Water), Carol Deutsch (Water) and Nancy Furr (Community Development).

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

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:40 p.m.

CITY CLERK MAYOR
