

Tuesday - June 29, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; 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: Vice-Mayor Eugene W. Ellison

INVOCATION

Councilman Peterson gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 93-96 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE HERBERT WATTS

Mayor Michalove read the resolution stating that Herb Watts has been an employee for 25 years and has requested retirement from his position as Sergeant in the Police Department. He expressed City Council's appreciation to Herb for his service to the City of Asheville and its citizens.

Resolution No. 93-96 was adopted by acclamation.

RESOLUTION BOOK NO. 20 - PAGE 331

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO LOCAL ENFORCEMENT OF HANDICAPPED PARKING

ORDINANCE NO. 2034 - ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO PROVIDE FOR REGULATION OF HANDICAPPED PARKING

ORDINANCE NO. 2035 - ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING STOPPING, STANDING AND PARKING OF MOTOR VEHICLES

ORDINANCE NO. 2036 - ORDINANCE AMENDING APPENDIX B, SCHEDULE OF CIVIL PENALTIES, SECTION A, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Mayor Michalove opened the public hearing at 4:04 p.m.

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

Major Jay Breedlove explained that the ordinances before the Council will amended the parking regulations to (1) regulate handicapped parking by enforcing violations thereof pursuant to a civil penalty; (2) allow persons designated by the City Manager to enforce handicapped parking; and (3) assess a \$100.00 civil penalty with a \$25.00 late penalty against violators.

Upon inquiry of Councilman Moore, Major Breedlove explained that all the volunteers will be trained and monitored.

Major Breedlove explained the scheduling of the operation and also the liability issue.

In response to Councilman Peterson's inquiry about enforcement on private property, Major Breedlove explained that the ordinances do apply to private property also.

Mr. Bob Brummond spoke in favor of the fine being increased to \$100 and the commitment to enforce the handicapped parking law. He expressed concern, however, that the volunteers are not paid.

Mr. Ed King spoke in favor of the proposed ordinances and urged the Council to adopt them.

An unidentified man spoke in favor of the proposed ordinances and hoped the Council would be able to find enough volunteers to enforce this law.

Mayor Michalove closed the public hearing at 4:18 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copies of the ordinances and they would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2034. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2034 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 2034. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2034 passed on its second reading.

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Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2034. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2034 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 324

Councilman Worley moved for the adoption of Ordinance No. 2035. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2035 passed on its first reading.

Councilwoman Field moved to suspend the rules and proceed to the second reading of Ordinance No. 2035. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2035 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2035. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2035 passed on its third and final

reading.

ORDINANCE BOOK NO. 13 - PAGE 326

Councilman Worley moved for the adoption of Ordinance No. 2036. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2036 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 2036. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2036 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2036. This motion was seconded by Councilwoman Field and carried unanimously.

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On a roll call vote of 6-0, Ordinance No. 2036 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 327

B. PUBLIC HEARING RELATIVE TO ADOPTION OF THE BILTMORE VILLAGE DEVELOPMENT PLAN
RESOLUTION NO. 93-97 - RESOLUTION ADOPTING THE BILTMORE VILLAGE DEVELOPMENT PLAN

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

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

Mr. Gerald Green, Senior Planner, briefly explained the report and said that the Historic Resources Commission of Asheville-Buncombe County and the N. C. Division of Archives and History funded the preparation of the Biltmore Village Development Plan at the request of merchants and property owners. A local consultant was hired to work with city staff in the preparation of the plan. A committee composed of Biltmore Village merchants and property owners oversaw the plan's preparation and was very involved in its preparation. The plan has been endorsed by the Biltmore Village Merchant's Association, the Village property owners, and the Historic Resources Commission. The Asheville Planning and Zoning Commission reviewed the plan and unanimously recommended approval of it at their May 5, 1993 meeting. No negative comments regarding the plan have been received.

Mr. Robert Griffin explained various questions raised by Councilman Swicegood concerning the Biltmore Village boundaries, the goal of the plan being more pedestrian oriented, traffic management and street lighting.

It was the consensus of Council that the plan presented was excellent and they congratulated the committee members.

Mr. Walter McGee, financial and business consultant, briefly summarized statistics of a business in the Biltmore Village area.

Mayor Michalove closed the public hearing at 4:40 p.m.

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

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Councilwoman Field moved for the adoption of Resolution No. 93-97. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 332

C. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ESTABLISH CONDITIONS FOR CHURCHES AS CONDITIONAL USES IN THE R-1, R-2 AND R-3 ZONING DISTRICTS

Mayor Michalove opened the public hearing at 4:41 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 churches are currently identified as conditional uses in the R-1, R-2, and R-3 Residential Districts. A minimum number of conditions which churches in these districts must meet are set forth in the existing Section 30-7-1.A. The conditions currently in use do not adequately address the issues confronting the development/expansion of churches in residential districts. Working with representatives of churches and residential neighborhoods, the Planning staff developed the revised conditions to address these issues. The draft ordinance has been reviewed by the Asheville Planning and Zoning Commission and unanimously recommended for adoption at their May 5, 1993 meeting. She then briefly reviewed the recommended changes in the ordinance.

There was some discussion relative to the 10 ft. versus 20 ft. setback.

Mr. Chuck Fuller, representative of Ralph Sexton Ministries, spoke concerning the 10 ft. setback issue and also stated that the public address system should not be part of the ordinance.

Ms. Cogburn answered questions relative to tent services and the public address system.

Mr. Gale Brown, representative of Buncombe Baptist Association, spoke in support of the 10 ft. setback issue and urged the Council to support it also.

Mr. Bill Horton stated some concerns regarding setback requirements for small churches and the public address system. He asked the Council not to pass the proposed ordinance until representatives of his church have had an opportunity to meet with City planners.

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Mr. Don Taylor suggested that the curb cut requirements and the grandfathering issues be more clearly spelled out in the ordinance.

Mr. Bill Mull spoke in favor of a 40 foot setback with a possible variance being granted if the church could show the need for additional parking and if the neighbors agree to the variance.

Mr. Alan Styles stated concerns regarding the minimum lot size, restrictions on churches vs. businesses, the Board of Adjustment being allow to require additional vegetation in the buffer area, and the 25% restriction of offices in the church. He urged the Council not to adopt this ordinance today.

Mr. Dick Dickson, 42 Salem Avenue, questioned who instigated the ordinance amendment. Ms. Cogburn explained that the Board of Adjustment requested the amendment.

An Associate Pastor of the Merrimon Avenue Baptist Church read a message from Pastor Billy Cline which outlined the achievements and services of the Church.

Mr. Everett Whitman spoke in support of the ordinance as proposed.

Ms. Leni Sitnick suggested parishioners walk or carpool to church to help alleviate parking problems. She felt that a 10 foot buffer leaves little or no protection to the neighbors.

Mr. Bobby Peek, representative of the Merrimon Avenue Baptist Church, spoke in support of the 10 foot setback requirement with adequate buffering and said that the neighbors had agreed to that setback.

Ms. Ella Bowman, spoke in support of the 10 foot setback requirement and stated examples where Merrimon Avenue Baptist Church has gone far beyond the legal requirements in their expansion plans.

Ms. Kathy Gleason, Mediator for the Merrimon Avenue Baptist Church and the surrounding neighborhood, explained the tentative agreement reached in May by the Church and surrounding property owners which agreement is pending until the outcome of Council's decision. She suggested some alternative language that might be satisfactory to each of the parties.

A resident in the neighborhood of the Merrimon Avenue Baptist Church spoke in support of a 20 or 40 foot setback.

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Ms. Betsy Murray spoke relative to the proposed ordinance.

A participator in the mediation process passed out an article entitled "Mega-churches overwhelm neighbors" and spoke about the 10 foot vs. 20 foot setback requirement.

Mr. Walter Glance, resident on Henrietta Street, spoke in favor of the 20 foot setback requirement with a good buffer.

Mayor Michalove closed the public hearing at 5:55 p.m.

Mayor Michalove suggested that due to the importance of this issue, the ordinance be delayed for approximately two weeks in order to give the Council an opportunity to review the information presented at this public hearing.

Councilman Moore stated that he would like a report from Planning Department on the role of the Board of Adjustment as it relates to this proposed ordinance and any legal implications surrounding this issue.

Councilman Worley stated that he would like to have more information on other conditional uses in other R-1, R-2 and R-3 residential districts with regard to buffering and consistency.

Councilman Worley moved to set the first reading on this proposed ordinance on August 17, 1993, without further advertisement. This motion was seconded by Councilman Moore and carried unanimously.

D. WINTER 2010 MONITORING REPORT

Dr. Albert Anderson, Chairman of the Planning and Zoning Commission, said that since the adoption of the 2010 Plan in 1989, the City staff has undertaken periodic surveys to monitor progress by the responsible agencies toward implementation of the goals and objectives contained within the Plan. He then summarized the plan.

He read a statement from the Planning Department which requests consent to reduce the monitoring report frequency to an annual basis versus a semi-annual basis.

Mayor Michalove thanked Dr. Anderson for the report and said that the Council would consider the request from the Planning Department.

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E. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR DEMETRIUS ANASTASAKIS DEVELOPMENT

Mayor Michalove opened the public hearing at 6:10 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, gave background information on the vested rights procedures and explained that approval of a site plan under the vested rights procedures gives the applicant the right to start construction of the development as approved within two years of approval, regardless of the subsequent adoption of ordinances which may affect the project. The State of North Carolina has required all cities to adopt Watershed Regulations by July 1, 1993, These new regulations will entail significant restrictions on new development within the watershed area.

Mr. Tony Nicholson, Urban Planner, explained that Demetrius Anastasakis is seeking approval of a proposed office/retail development under the vested rights procedure. The site is located at the southeast corner of Hendersonville Road and Blake Terrace, and is within the designated watershed area. While the property and all surrounding lots are zoned Commercial Highway, residential development abuts the property on the north and east sides.

He said the development consists of a one-story office/retail building totaling 5,000 square feet. The proposed development meets or exceeds the minimum requirements of the Asheville Zoning Ordinance, including parking and landscaping.

Councilman Worley confirmed that if this site plan approval came before the Council today, it would meet all of the current regulations.

Mayor Michalove closed the public hearing at 6:18 p.m.

Councilman Peterson moved to establish a statutory vested right for a site specific plan of a proposed office/retail development, located at the southeast corner of Hendersonville Road and Blake Terrace. This motion was seconded by Councilman Peterson and carried unanimously.

F. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR SWEETEN CREEK ANIMAL AND BIRD HOSPITAL

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Mayor Michalove opened the public hearing at 6:20 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, explained that Sweeten Creek Animal and Bird Hospital is seeking approval of a proposed veterinary hospital under the vested rights procedure. The site is located on Sweeten Creek Road near Rathfarnham Road and is within the designated watershed area. The property and all surrounding lots are zoned Commercial General.

He said the veterinary hospital consists of a one-story building totaling 2,730 square feet. The proposed development is currently being reviewed for compliance with the Asheville Zoning Ordinance.

Councilman Worley confirmed that if this site plan approval came before the Council today, it would meet all of the current regulations.

Mayor Michalove closed the public hearing at 6:21 p.m.

Councilman Peterson moved to establish a statutory vested right for a site specific plan of a proposed veterinary hospital, located on Sweeten Creek Road near Rathfarnham Road. This motion was seconded by Councilwoman Field and carried unanimously.

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

ORDINANCE NO. 2037 - 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 III OF BRAESIDE AT BILTMORE PARK

Mayor Michalove opened the public hearing at 6:22 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 June 9, 1993, the City received a petition from the owners of Section III of Braeside at Biltmore Park Subdivision -10-

requesting annexation into the City of Asheville. This property has been subdivided into 28 lots by plat recorded with the Buncombe County Register of Deeds on December 30, 1992.

On June 15, 1993, the City Clerk certified that the petition was valid in that it was signed by the owners of real property being requested for annexation and that the property was contiguous to the Asheville city limits as required by N. C. Gen. Stat. sec. 160A-31 (a).

Approximately 2,625 feet of 6-inch water line is being installed by the developer along Crocus Lane, Red Fox Circle and Conifer Court. These lines are being constructed to Asheville-Buncombe Water Authority standards and will be maintained by the Water Authority.

Approximately 2,180 feet of 8-inch sewer line is being installed by the developer along Crocus Lane, Red Fox Circle and Conifer Court. These lines are being constructed to MSD standards and will be maintained by MSD.

Fire protection will be provided by the City of Asheville Fire Department beginning on the effective date of annexation.

Police protection will be provided by the City of Asheville Police Department beginning on the effective date of annexation.

Streets are being constructed to NC DOT standards and are expected to be accepted by the State for maintenance prior to the effective date of annexation. The City will assume maintenance of the State maintained streets upon the effective date of annexation.

Solid waste collection services will be provided by the City 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 December 29, 1993. The current estimated real property valuation is \$1,057,000 which yields an annual property tax of \$6,340, based on the current City tax rate of \$.60/\$100 valuation.

Mayor Michalove closed the public hearing at 6:24 p.m.

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

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Councilman Peterson moved for the adoption of Ordinance No. 2037. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2037 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2037. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2037 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2037. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2037 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 329

H. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR HOMEWAY SUBDIVISION

Mayor Michalove opened the public hearing at 6:26 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 Gus Barlas is seeking preliminary plat approval of a subdivision to be located in West Asheville along Homeway Road. While a small portion of the property is located within the City, most of the property and all of a proposed street is located in the extra-territorial jurisdiction. The four acre property is to be subdivided into six lots. In order to provide access to three of the lots, the developer must extend Appalachian Way within its existing platted right-of-way. This will entail a 275-foot extension of Appalachian Way to be constructed to DOT

standards.

Although a 40 foot wide right-of-way exists for Appalachian Way, this portion of the street has never been constructed. While the developer has proposed to widen the right-of-way to 45 feet to meet DOT street standards, the Asheville Subdivision Ordinance requires a minimum width of 50 feet for subdivision streets. Therefore, a variance of 5 feet on the required right-of-way width is requested.

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The Asheville Subdivision Regulations authorizes the Planning and Zoning Commission to recommend and City Council to grant variances from the regulations when the developer can show that a provision should be modified due to topographical or other conditions peculiar to the site.

At their June 2, 1993 meeting, the Planning and Zoning Commission approved the preliminary plat with three conditions.

1. Availability of services must be approved by Asheville-Buncombe Water Authority and Metropolitan Sewerage District.
2. The proposed extension of Appalachian Way must be a public street and built to state standards.
3. The variance requests regarding setbacks must be granted by the Board of Adjustment.

The Planning and Zoning Commission also recommended approval of the variance request regarding the right-of-way width of Appalachian Way.

Councilman Moore questioned what kind of hardship there is to grant this variance.

Mr. Nicholson explained what the variance requests regarding setbacks were which must be granted by the Board of Adjustment.

Mr. Ernest Turbyfill, 208 Appalachian Way, stated that residents were not being informed at all on this project.

Ms. Peggy Gosnell, 57 Honeysuckle Lane, expressed concern over the developer's encroachment onto her water lines and access road.

Because of some issues addressed at this meeting, Councilman Moore moved to continue the public hearing until August 17, 1993, without further advertisement. This motion was seconded by Councilman Worley and carried unanimously.

I. PUBLIC HEARING RELATIVE TO AMENDING RULE 3 (i) OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE

RESOLUTION NO. 93-98 - RESOLUTION AMENDING RULE 3 (i) OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE

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Mayor Michalove opened the public hearing at 6:43 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 Civil Service Board adopted this rule change on May 4, 1993, and then explained the following two proposed amendments:

1. Test scores shall be ordered on the appropriate eligible list by whole numbers only. In the event a raw test score includes fractional points, raw scores shall be rounded to the nearest whole number as follows:

Fractional scores of .5 or above shall be rounded up to the nearest whole number; fractional scores less than .5 shall be rounded down to the nearest whole number.

2. Upon receiving an approved request to fill a vacancy, the names of the candidates holding the top 3 scores on the appropriate eligible list shall be referred to the department head for consideration. In the event more than 1 candidate has the same score, all candidates holding that score shall be referred.

Mayor Michalove closed the public hearing at 6:45 p.m.

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

Councilman Worley moved for the adoption of Resolution No. 93-98. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 1

At this time (6:45 p.m.), Councilwoman Field left the meeting unexcused, thus all her votes hereinafter will be counted as "yes".

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2028, RELATIVE TO AMENDING OF THE ZONING ORDINANCE TO ADOPT WATERSHED PROTECTION REGULATIONS FOR THE CITY OF ASHEVILLE

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Mayor Michalove said that the public hearing on this matter was held on June 8, 1993, at which time it passed on its first reading. The ordinance passed on its second reading on June 15, 1993.

Mayor Michalove said 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 6-0, Ordinance No. 2028, passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 228

B. THIRD READING OF ORDINANCE NO. 2029, RELATIVE TO ZONING OF THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL PROPERTY AT WESTRIDGE MARKET PLACE TO CH COMMERCIAL HIGHWAY

Mayor Michalove said that the public hearing on this matter was held on June 8, 1993, at which time it passed on its first reading. The ordinance passed on its second reading on June 15, 1993.

Mayor Michalove said 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 6-0, Ordinance No. 2029, passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 255

C. SECOND READING OF ORDINANCE NO. 2030, RELATIVE TO BINGHAM HEIGHTS/RICHMOND HILL EXPANSION INTO THE EXTRATERRITORIAL JURISDICTION AREA

Mayor Michalove said that the public hearing on this matter was held on June 15, 1993, at which time it passed on its first reading.

Mayor Michalove said 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 6-0, Ordinance No. 2030, passed on its second reading.

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IV. NEW BUSINESS:

A. ORDINANCE NO. 2038 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING THE BEAVERDAM RUN AREA

Mayor Michalove stated that the public hearing on this matter was held on June 15, 1993.

Councilman Peterson stated that if someone is willing to come into the City or wants to be annexed, he would vote "yes" on the annexation ordinance.

Mayor Michalove said 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. 2038. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2038 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 2038. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2038 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2038. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2038 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 332

B. RESOLUTION NO. 93-99 - RESOLUTION ESTABLISHING THE FILING FEE FOR CANDIDATES FOR THE ASHEVILLE CITY COUNCIL

City Attorney Slawter said that N. C. Gen. Stat. sec. 163-291 provides that the governing board has the authority to set the filing fee for City Council candidates at not less than \$5.00 nor more than one percent (1%) of the annual salary for members of the Council. A separate Charter provision has previously set the fee at \$10.00, thus

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precluding the necessity of any action by the Council. The current amendments before the North Carolina Legislature which would repeal this Charter provision, among others, will necessitate that the Council set the filing fee. The fee must be set "not later than the day before candidates are permitted to begin filing notices of candidacy." The filing period begins at 12:00 Noon on July 2, 1993. The Council may set the fee at any level desired by the Council, ranging from a minimum of \$5.00, to a maximum of one percent of the annual salaries of Council members.

As of this date, the repeal of Section 73, as well as the other Charter amendments which are pending in the Legislature have been passed by the House but not by the Senate. In the event of final passage of that legislation, this resolution is needed.

Councilman Swicegood moved to set the filing fee for City Council candidates, including candidates for Mayor, at \$5.00. This motion was seconded by Councilman Moore and carried unanimously.

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

Councilman Swicegood moved for the adoption of Resolution No. 93-99. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 3

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE JUNE 15, 1993, CITY COUNCIL MEETING.

B. BIDS RELATIVE TO ONE AIR COMPRESSOR/PURIFIER FOR THE FIRE DEPARTMENT.

Summary: The sole bid from Ingersoll-Rand, Pleasant Garden, North Carolina, has been reviewed for technical compliance to specifications by Chief Rukavina and Robert Griffin, Executive Assistant. Their detailed review confirmed that Ingersoll-Rand's proposal meets all requirements of our specifications and that the amount bid is fair, reasonable and within budget for this purpose. It is therefore recommended to proceed with the award of this bid to Ingersoll-and for the purchase and installation of the air compressor/purifier unit in the amount of -17-

\$29,666.50. A complete copy of the bid document is attached hereto as Exhibit "A".

C. RESOLUTION NO. 93-100 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF TWO SURPLUS FIRE TRUCKS BY PRIVATE SALE

Summary: Authorization to sell a 1960 Ford, 750 G.P.M. pumper for \$3,501 and a 1968 American LaFrance, 1000 G.P.M. pumper for \$450.00

RESOLUTION BOOK NO. 21 - PAGE 4

D. RESOLUTION NO. 93-101 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE TECHNICAL SERVICES CONTRACT WITH THE LAND-OF-SKY REGIONAL COUNCIL

Summary: The City of Asheville has agreed to contract with the Land-of-Sky Regional Council to provide transportation related planning services for the transportation program from July 1, 1993, through June 30, 1994.

Planning staff answered various questions raised by Councilman Swicegood.

RESOLUTION BOOK NO. 21 - PAGE 6

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

VI. OTHER BUSINESS:

A. ORDINANCE NO. 2039 - BUDGET AMENDMENT FOR POLLUTION CONTROL SERVICES

City Manager Bean said that this budget amendment, in the amount of \$95,731.53, is to pay for emergency removal of pollution contamination from damaged underground storage tank at the Reid Recreation Center.

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

Councilman Worley moved for the adoption of Ordinance No. 2039. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2039 passed on its first and final reading.

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ORDINANCE BOOK NO. 13 - PAGE 349

B. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick made several comments relative to the federal government's involvement in storage tank cleanups, street repair, speculative grading in buffer zones and meeting times for City Council and County Commissioners.

C. FINAL PLAT APPROVAL OF PHASE IV FOR FOREST LAKE SUBDIVISION

Mr. Tony Nicholson, Urban Planner, said that on February 14, 1990, the Planning and Zoning Commission granted preliminary plat approval for Forest Lake Subdivision, a 135 lot development located on Rock Hill Road. The Commission recommended approval of variances to permit a cul-de-sac right-of-way radius of 45 feet (rather than 50 feet) and to permit street grades in excess of 12%. The Asheville City Council granted these variances on March 13, 1990.

He said that on November 4, 1992, the Planning and Zoning Commission reaffirmed its February 1990 approval of the preliminary plat since the one-year period of validity for the plat and variances approval had expired. They recommended approval of the requested variance as follows: Permit a right-of-way radius of 45 feet at the cul-de-sac turnaround.

At the December 22, 1992, the City Council voted to approve the variance request.

In addition, the final plats for Phases I, II, III, and III-B have already been approved by City Council. The developers have submitted a final plat for Phase IV, containing 31 lots, to the Planning Department for review and approval. The final plat for Phase IV of the Forest Lake Subdivision complies with the City of Asheville's subdivision regulations. This section of the subdivision is located outside City limits in the City's extraterritorial jurisdiction. Improvements (streets, water, sewer, etc.) do not have to be constructed prior to final plat approval in subdivisions located outside City limits.

Councilman Worley moved to approve the final plat approval of Phase IV for

Forest Lake Subdivision. This motion was seconded by Councilman Peterson and carried on a 5-1 vote, with Councilman Moore voting "no."

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A. CLAIMS

City Manager Bean said that the following claims were received by the City during the week of June 14-17, 1993: Ann Sales (Civic Center), James Waters (Water) and James P. Stout (Water.)

He also said that the following claims were received by the City during the week of June 21-25, 1993: Mary B. Lewis (Streets), Southern Bell (Water), Bruce Parton (Police), Hyatt Electric (Water) and Peggy Shepherd (Streets).

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

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:15 p.m.

CITY CLERK MAYOR
