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Tuesday - January 9, 1990 - 4:00 P.M.

Regular Meeting

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

William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Eugene W. Ellison; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk

William F. Wolcott, Jr.

Absent: Councilman William W. Estes

### **INVOCATION**

The invocation was given by Councilman Price.

### **APPROVAL OF MINUTES**

Mayor Michalove announced the approval of the minutes of the December 19, 1989 meeting.

### **STUDENT REPRESENTATIVES FOR MONTH OF JANUARY, 1990**

Charles Penny, Assistant City Manager, introduced Nina

Kim and Diana Brock, student representatives from Asheville High School, who would be attending the Council meetings during the month of January, 1990.

### **I. PROCLAMATIONS:**

#### **A. Resolution NO. 90-1 - Resolution recognizing recent retiree, Charles Parker.**

Mayor Michalove read a resolution recognizing recent retiree, Charles Parker, Firefighter III, who retired December 1, 1989.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 90-1 was unanimously adopted.

#### **Resolution Book 18 Page 57**

The framed resolution will be presented to Mr. Charles Parker.

**B. Proclamation - "McGruff the Crime Dog" - Asheville's**

**Number One Crime Dog**

Mayor Michalove said this proclamation is to bring

public attention to the Police Department's efforts in Crime Prevention and to award Dog Tag No. 1 to McGruff, thus announcing the new 1990 dog tags.

Mayor Michalove said the proclamation would be presented

to Captain R. L. Carver at the Asheville Police Department.

**C. Proclamation - "Opticians Month" - January, 1990**

Mayor Michalove read the proclamation and presented it

to Jim McCall, President of the Western North Carolina Opticians Society.

**D. Proclamation - "Dr. Martin Luther King, Jr., Week" -**

**January 12 - 15, 1990**

Mayor Michalove said this proclamation recognizes the

special events planned for the celebration of Martin Luther King, Jr. Week and Martin Luther King, Jr. Holiday, the largest of which is the annual Martin Luther King, Jr. Prayer Breakfast. This is sponsored by the Asheville Parks and Recreation Department in conjunction with many other local agencies.

Mayor Michalove presented the proclamation to Oralene

Simmons who outlined the events taking place during Dr.

Martin Luther King, Jr., Week.

**II. PUBLIC HEARINGS:**

**A. Public hearing relative to designating property known as**

**the Public Service Building at 89-93 Patton Avenue as a local historic property.**

**Ordinance No. 1809 - Ordinance designating property**

**known as the Public Service Building at 89-93 Patton**

**Avenue as a local historic property.**

Mayor Michalove said the Historic Resources Commission

at the request of Southeastern Historic Properties, owner of the structure, has studied the Survey and Research Report as submitted by Southeastern Historic Properties' consultant and determined the building to be eligible for designation as a local historic property. The North Carolina Department of Cultural Resources concurs with the Historic Resources Commission's

nomination.

Mayor Michalove opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Kent Newell, Director of Historic Resources, said the

Public Service Building is located at 89-93 Patton Avenue and was constructed in 1929 by the architectural firm of Beecham and LaGrande to accommodate the needs of the Carolina Power and Light Company. This "Skyscraper" characterized one of the most popular American commercial architectural styles in the first quarter of the twentieth century. He said it is constructed on steel frame, red brick and glazed polychromatic terra cotta tiles were used to create a Neo-Spanish Romanesque office building. Eight stories in height, the structure contains low relief sculptural detail that are accented by colored detailed tiles. This architectural style was developed primarily by Chicago architect, Louis Sullivan. The Public Service Building is one of the last commercial buildings to be constructed during Asheville's pre-depression boom period.

Mr. Newell said the Historic Resources Commission at the

request of Southeastern Historic Properties, owner of the structure, has studied the Survey and Research Report as submitted by Southeastern Historic Properties' consultant and determined the building to be eligible for designation as a local historic property. The North

Carolina Department of Cultural Resources concurs with the Commission's nomination.

Mr. Newell said no opposition has been received relative

to this designation. He requested that Council hold three readings on the ordinance today in order to speed up the process for the owners to receive a local tax deferment of fifty percent (50%).

Upon inquiry of Ralph Bishop, Mr. Newell said all

properties requested to be designated as historic are first studied by the Historic Resources Commission.

Mayor Michalove closed the public hearing at 4:35 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No.

1809. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1809 passed on first reading.

Councilman Frank moved to suspend the rules and proceed

to the second reading of Ordinance No. 1809. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1809 passed on

second reading.

Mayor Michalove said the third reading of the ordinance would be scheduled for January 16, 1990.

**NOTE: Public hearing - designation of E. W. Grove Property as**

**Historic**

A public hearing was previously scheduled to consider an

ordinance designating the E. W. Grove Property as historic; however, it was determined that additional information relative to this designation was needed and

this public hearing will be held at a later date.

**B. Public hearing relative to adoption of an ordinance**

**directing the Director of Building Inspections to demolish the dwelling located at 10 Birch Street.**

Mayor Michalove said this ordinance will authorize the

Director of Building Inspections to demolish 10 Birch Street, Asheville, North Carolina.

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

The City Clerk presented the notice to the public

setting the time and date for the public hearing and the affidavit of publication.

John Rukavina, Fire Chief, gave a status report on the

condition of the dwelling located at 10 Birch Street. He said the dwelling is in very bad condition and all legal actions necessary for the demolition has been taken. He said the owner can not repair the dwelling and indicated that they are willing for the City to demolish the dwelling.

He said since the building is in a historic district he

had been in contact with the Historic Resources Commission and they have indicated a desire to remove certain components of the dwelling prior to demolition.

John Walsh, 26 Ivey Street, said there is a dwelling on

Chatam Avenue that also needs demolishing.

Minnie Jones said Council should receive written

verification from the owner that she is willing to have the dwelling demolished or at the least that she has been notified of this public hearing.

After discussion, Councilman Ellison moved to continue

the public hearing without further advertisement until January 16, 1990; further that the owner of the dwelling be served with a registered letter, return receipt requested, stating that this matter is being considered by Council; and that the owner be personally contacted if possible and that the property be posted with a notice that this matter is being

considered by Council. This motion was seconded by Councilman Price and carried unanimously.

**C. Public hearing relative to rezoning property located off**

**Rock Hill Road, petition of Charles Harrell, Harrell-Butler.**

**Ordinance No. 1810 - Ordinance amending Ordinance No.**

**322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Charles Harrell, Harrell-Butler, property located off Rock Hill**

**Road**

Mayor Michalove said the Asheville Planning and

Zoning Commission on December 6, 1989, reviewed and recommended approval of zoning Lot 14, Sheet 32 & 44, Ward 13, from LI Light Industrial District to

R-3 Residential District.

Mayor Michalove opened the public hearing at 5:04

p.m.

The City Clerk presented the notice to the public

setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department,

reviewed the rezoning request. She said the property contains 49.92 acres and is located off Rock Hill Road. She said the property is 60% pasture land and 40% wooded. She reviewed the surrounding zoning as being R-1 and R-2 Residential Districts. She said the rezoning would be in accordance with the Comprehensive Plan and is

compatible with other surrounding properties.

Mayor Michalove closed the public hearing at 5:12

p.m.

Mayor Michalove said members of Council were

previously furnished copies of the ordinance and it would not be read in its entirety.

For the record, Mayor Michalove said he had

consulted the City Attorney and it was determined that he would not have a conflict of interest in voting on this issue due to the fact that his son is employed by the petitioner.

Councilman Frank moved for the adoption of Ordinance

No. 1810. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1810

passed on first reading.

The petitioner requested that the ordinance be read on three readings at today's meeting due to a restricted time schedule.

Councilman Ellison moved to suspend the rules and

proceed to the second reading of Ordinance No. 1810. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1810 passed on second reading.

Mayor Michalove said the third reading of the ordinance would be held on January 16, 1990.

### **III. OLD BUSINESS:**

### **IV. NEW BUSINESS:**

#### **A. Ordinance amending Chapter 12, Fire Prevention and Protection of the Code of Ordinances of the City of Asheville.**

John Rukavina, Fire Chief, said the proposed ordinance

will delete Section 3-1.1.2 of Pamphlet No. 1, Fire Prevention Code, 1982 Edition. This ordinance will strengthen the requirement to report fires and add this requirement to report fire alarms.

The Fire Chief said the present fire code, N.F.P.A. 1,

Section 3-1.1.2 mandates the reporting of any unwanted fire. It does not clearly define "Unwanted Fire". Neither does the present code address the reporting of fire alarms where the presence or scope of a fire may take several minutes to determine.

He said the District Chiefs have reported several

instances where internal fire alarms have been activated and notification of the fire department has been delayed while the owner/occupant attempts to determine the cause of the alarm. In some cases these alarms, and even some relatively small fires are never reported. Occupancies such as hotels/motels, factories and high-rise mixed occupancy of office/restrained institutional are included in those failing to report. These circumstances are often contributing factors in serious fires. The danger to lives and buildings is significantly increased when delay of notification occurs.

He said the intent is to reduce the notification time

through education first and enforcement when education fails. Signs stating that it is unlawful to fail to report fires or activation of fire alarm systems when the alarm cannot quickly be determined to be false, will be required in the affected occupancies. It is imperative that this action be taken before Asheville joins other jurisdictions that have

experienced high life and property loss due to delay in notification.

Upon inquiry of Councilman Ellison, the City Attorney

said he felt the term "immediately" should be retained in the ordinance.

Mayor Michalove said members of Council were previously

furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance

No. 1811. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1811 passed

on first reading.

Councilman Ellison moved to suspend the rules and

proceed to the second reading of Ordinance No. 1811. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1811 passed

on second reading.

Councilman Price moved to suspend the rules and proceed

to the third reading of Ordinance No. 1811. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1811 passed

on third reading.

#### **Ordinance Book No. 12 - Page 56 - 57**

#### **B. Resolution No. 90-2 - Resolution awarding Contract No.**

**4 to Huntley Construction Company and authorizing the City Manager to execute on behalf of the City of Asheville the contract and any change orders within the budgeted amount with Huntley Construction Company of Asheville, North Carolina for the project known as**

#### **Street and Sidewalk Improvements Contract No. 4.**

The City Manager explained in detail that this contract

is for special projects in the Street and Sidewalk Improvement Program. He said Huntley Construction Company was lowest responsible bidder on Street and Sidewalk improvements Contract No. 4. The bids have been tabulated and reviewed by McGill Associates, P. A. Consulting Engineers and found to be in order. The recommendation of the Engineers and Public Works Department is that the contract be awarded to Huntley Construction Company. The bid was 7% below the

Engineers estimated project cost.

Upon motion of Vice-Mayor Moore, seconded by Councilman

Price, Resolution No. 90-2 was unanimously adopted.

**Resolution Book No. 18 - Page 58**

**C. Bids - 5/8 inch and 1 inch water meters for Central**

**Stores Inventory.**

The City Manager said this action is for the award of

contract to purchase 7500 each 5/8 inch water meters at \$20.75 each with trade in allowance for 6000 each old 5/8 inch water meters at (\$4.00) each and purchase 200 each 1 inch water meters at \$53.00 each with trade in allowance for 100 each old 1 inch water meters at (\$7.00) each to low bidder, Schlumberger Industries, Inc., Neptune Water Division, Tallassee, Alabama, in the net amount of \$141,525.

Vice-Mayor Moore moved to accept the recommendation to

award the bid to Schlumberger Industries, Inc. in the amount of \$141,525. This motion was seconded by Councilman Frank and carried unanimously.

**D. Resolution No. 90-3 - Resolution authorizing the City**

**Manager to execute a right-of-way encroachment agreement with Wachovia Bank and Trust Company, N.A., located at No. 1 Haywood Street.**

The City Manager said Wachovia Bank and Trust Company

has installed new doors leading into the underground parking at No. 1 Haywood Street. The bank wishes to place a card access reader to open the doors for employees entering the underground parking off the South side of College Street. The card access reader needs to be in the sidewalk of College Street and within the right-of-way of the street. This agreement will require Wachovia to be responsible for placing, removing and maintaining the card reader.

Upon motion of Councilman Ellison, seconded by Vice-

Mayor Moore, Resolution No. 90-3 was unanimously adopted.

**Resolution Book 18 - Page 59**

**V. CONSENT:**

**A. Resolution No. 90-4 - Resolution appointing member to the Asheville-Buncombe Water Authority.**

SUMMARY: This resolution will reappoint Norma Price as a member of the Asheville-Buncombe Water Authority.

**Resolution Book 18 - Page 60**

**B. Resolution No. 90-5 - Resolution appointing member to the Asheville-Buncombe County Community Relations Council.**

SUMMARY: This resolution will reappoint Edward Schell as a member of the Asheville-Buncombe County Community Relations Council.

**Resolution Book 18 - Page 61**

**C. Resolution No. 90-6 - Resolution appointing member to the Asheville Fair Housing Commission.**

SUMMARY: This resolution will reappoint Edward Schell as a member of the Asheville Fair Housing Commission

**Resolution Book 18 - Page 62**

**D. Resolution No. 90-7 - Resolution appointing member to the Asheville Transit**

**Authority**

SUMMARY: This resolution will reappoint Wanda Winslow as a member of the Asheville Transit Authority

**Resolution Book 18 - Page 63**

**E. Resolution No. 90-8 - Resolution appointing members to the Board of Adjustment.**

SUMMARY: This resolution will appoint John A.

Dusenbury as a regular member of the Board of Adjustment and reappoint Barney P. Woodard and Jeff Dave as alternate members of the Board of Adjustment.

**Resolution Book 18 - Page 64**

**F. Resolution No. 90-9 - Resolution appointing member to the Firemen's Relief Fund.**

SUMMARY: This resolution will reappoint Donald O.

Fowler as a member of the Firemen's Relief Fund

**Resolution Book 18 - Page 65**

**G. Resolution No. 90-10 - Resolution appointing member to the Metropolitan Sewerage District Board.**

SUMMARY: This resolution will reappoint Frank Smith as a member of the Metropolitan Sewerage District Board.

**Resolution Book 18 - Page 66**

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, the consent agenda was unanimously approved.

**VI. OTHER BUSINESS:**

**B. Group Development Actions by the Planning and Zoning**

**Commission**

Gerald Green, from the Planning Department, said the City

Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning

and Zoning Commission at their meeting on January 3, 1990.

**(1) Redwood Forest - Garden Apartments**

The Asheville Planning and Zoning Commission on January

3, 1990 reviewed and approved the site plan of the **Redwood Forest - Garden Apartments** subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; 2) Approval of Driveway Permit; and 3) Provide the required buffer of evergreen trees as called for by Section 30-3-14 of the Asheville Zoning Ordinance; and 4) The connections from the new fire hydrant to the existing water main be larger than 6" diameter.

Council accepted the recommendation of the Planning and

Zoning Commission for the site plan of the Redwood Forest - Garden Apartments, thereby indicating approval.

**(2) C & D Mini-Warehouses - Deaverview Road**

The Asheville Planning and Zoning Commission on January

3, 1990 reviewed and approved the site plan of the **C & D Mini-Warehouses - Deaverview Road** subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; and 2) Provide the development with adequate fire protection, as determined by the Asheville Fire Department, prior to construction; and 3) Present final drawings to the Planning Department for review prior to issuance of building permits.

The City Manager said the developer has questioned the

contingency to provide adequate fire protection and requested that the matter be considered by Council next week.

After discussion, Councilman Ellison moved that Council

continue the discussion relative to C & D Mini-Warehouses on January 16, 1990. This motion was seconded by Vice-Mayor Moore and carried on a voice vote of 5-1, with

Councilman Price voting "no."

**CLAIMS - DAVID A DUNCAN (WATER) - MARION OCHSENREITER (WATER) - STEVE KAYNE (WATER) - VICKI HALL MULL (WATER) - DAN PATTERSON (WATER) - RON SIMPSON (WATER) - BLANCHE KELLER (WATER) - WILLIAM CLINKSCALES (POLICE) - GEORGE WILLIAMS SR. (WATER) - GEORGE**

**WILLIAMS JR. (WATER)**

The City Manager presented claims received from David A.

Duncan, Marion Ochsenreiter, Steve Kayne, Vicki Hall Mull, Dan Patterson, Ron Simpson, Blanche Keller, William Clinkscales, George Williams, Sr., and George Williams, Jr.

Mayor Michalove referred the claims to the City Attorney

for investigation and recommendation.

**LAWSUIT - SHARON JEAN BISHOP AND PHILLIP W. BISHOP V. CITY**

**(PERSONAL INJURY)**

The City Manager said the City was served with a

lawsuit on December 27, 1989 involving Sharon Jean Bishop and Phillip W. Bishop v. City relative to personal injury and property damage from hitting raised

water meter.

**COUNCILMAN ELLISON - SPRINKLER SYSTEMS IN COMMERCIAL BUILDINGS**

Councilman Ellison requested that Council discuss the

feasibility of seeking an amendment to the North Carolina State Building Code to require sprinkler systems in all commercial buildings.

**MAYOR MICHALOVE - COMMENDATION TO STAFF DURING EXTREME COLD**

**WEATHER**

Mayor Michalove commended the Assistant City Manager and

the City staff for outstanding performance during the

recent extreme cold weather.

**CITY MANAGER - B.E.S.T. PROGRAM**

The City Manager explained to members of Council the

City's new B.E.S.T. Program. He said employees are nominated for B.E.S.T. Awards when they are noted for "extraordinary" performance. He said the employees are presented with balloons, a goody bag, and an invitation

to a B.E.S.T. Awards luncheon.

**VII. ADJOURNMENT.**

Mayor Michalove adjourned the meeting at 6:05 p.m.

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**MAYOR CITY CLERK**

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