

Tuesday - March 5, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Gordon Myers, Walter R. Boland, and Louis Bisette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma Price

INVOCATION

The invocation was given by Councilman Gordon Myers.

APPROVAL OF THE MINUTES - FEBRUARY 19, 1985 MEETING

1. Approval of the minutes of the February 19, 1985 meeting.

Council Boland noted a typographical error on page 44 of the February 19, 1985, minutes.

Mayor McDevitt announced the approval of the minutes of February 19, 1985 meeting with the change noted.

APPROVAL OF THE MINUTES - FEBRUARY 26, 1985 MEETING

2. Approval of the minutes of the February 26, 1985 meeting.

Councilman Frank noted a typographical error on page 47 of the February 26, 1985, minutes.

Mayor McDevitt announced the approval of the minutes of the February 26, 1985, meeting with the change noted.

PROCLAMATION - "VOLLEYBALL WEEK" - MARCH 4-10, 1985

Mayor McDevitt read a proclamation proclaiming March 4-10, 1985, as "Volleyball Week."

The proclamation was presented to Donny Luke, President of the Asheville Volleyball Club.

Ray Kisiah, Director of Parks, Recreation and Public Facilities, said the volleyball tournament to be held in Asheville this weekend is the biggest tournament in the United States, and would have an economic impact of over \$500,000 to the City of Asheville.

RESOLUTION NO. 85-16 - RESOLUTION OF COMMENDATION AND APPRECIATION TO WILLIAM "BILL" DEBRUHL

3. Consideration was given to a resolution of commendation and appreciation for William "Bill" DeBruhl.

Vice-Mayor Bratton noted that William "Bill" DeBruhl has served the citizens of Asheville as a dedicated City employee since January 20, 1960, and announced his retirement effective February 28, 1985.

Upon motion of Councilman Myers, seconded by Councilman Boland, Resolution No. 85-16 was unanimously adopted.

Complete text of Resolution No. 85-16 will be found in Resolution Book No. 15 at page 145.

ORDINANCE NO. 1501 - AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE

CITY

4. Consideration was given to an ordinance amending the Charter of the City of Asheville to provide for direct election of the Mayor by all the qualified voters of the City of Asheville.

Mayor McDevitt said Resolution No. 83-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than by the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. A public hearing was held on February 26, 1985, relative to this ordinance.

Mayor McDevitt said the proposed ordinance, as currently written, would provide for an effective date 10 days after the adoption of the ordinance. However, Council would have the opportunity to amend the ordinance on third reading to provide for an effective date after a referendum.

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

Councilman Frank said she had received a lot of input from the citizens of Asheville relative to the direct election of the Mayor. She said it has determined that there is a trend in the country that citizens want to be involved in the process for election of the Mayor.

Councilman Boland said there was of divisiveness associated with the present method of Council selecting the Mayor. He said the method of direct election of the Mayor would attract highly qualified candidates for Mayor. He noted that this change for electing the Mayor would not change the form of government for the City of Asheville.

Councilman Bissette said the direct election of the Mayor would be proper in our democratic society. He said the responsibility of a Mayor is more difficult than that of a Council member, and a lot more time and commitment is involved for the Mayor.

Ralph Bishop spoke in favor of the direct election of the Mayor.

Bob Smith spoke in support of the ordinance providing for the direct election of the Mayor.

Vice-Mayor Bratton said she was in favor of the direct election of the Mayor.

Mayor McDevitt said he had grave misgivings about the issue of direct election of the Mayor. He said the Mayor is only part of a complete team. He said there is a great deal of interest in a more open form of government, and he felt this would be a symbol of that perception. He said the direct election of a Mayor would increase public interest and participation.

Councilman Boland moved for the adoption of Ordinance No. 1501. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1501 passed on first reading.

RESOLUTION NO. 85-17 - RESOLUTION REQUESTING NORTH CAROLINA GENERAL ASSEMBLY APPROVAL OF ENABLING LEGISLATION IN SUPPORT OF A FAIR HOUSING ORDINANCE FOR ASHEVILLE

6. Consideration was given to a resolution requesting enactment of enabling legislation granting the City of Asheville the authority to enact a Fair Housing Ordinance.

Mayor McDevitt said the City of Asheville is committed to affirmative action programs that benefit the citizens of this community by supporting the goals set by the U. S. Department of Housing and Urban Development (HUD). It is in

the best interest of the citizens of the City of Asheville that a local fair housing ordinance be enacted. In order for the City of Asheville to have the authority to enact a local fair housing ordinance, the North Carolina General Assembly must enact enabling legislation granting that authority to the City.

Mayor McDevitt said the request of the General Assembly to enact such legislation was a part of the legislative package already presented to the local delegates.

Mayor McDevitt said members of Council were furnished copies of the resolution and it would not be read in its entirety.

At the request of Ralph Bishop, Mayor McDevitt briefly outlined the provisions in the proposed Fair Housing Ordinance.

Councilman Boland said the adoption of a Fair Housing Ordinance would allow local enforcement of problems dealing with apartment rentals.

Ralph Bishop spoke in opposition to the resolution stating that this would provide invasion of privacy for citizens.

Upon motion of Councilman Boland, seconded by Councilman Bissette, Resolution No. 85-17 was unanimously adopted.

Complete text of Resolution No. 85-17 will be found in Resolution Book No. **15** at page **146**.

SCHEDULING PUBLIC HEARING - PROPERTY ADJACENT TO ASHEVILLE MALL - R. L. COLEMAN COMPANY

7. Consideration was given to a motion scheduling a public hearing relative to rezoning property adjacent to Asheville Mall requested by R. L. Coleman for March 26, 1985.

Councilman Frank moved to schedule a public hearing relative to rezoning property adjacent to Asheville Mall requested by R. L. Coleman Company for March 26, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

APPROVAL OF CONSENT AGENDA

8. Mayor McDevitt said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 85-18 - Resolution directing the City Clerk to

advertise an offer for the purchase of City owned property on Roberts

Street.

HIGHLIGHTS: An offer has been received from Supply Specialities, Inc.,

to purchase City of Asheville property located on Roberts Street in

the amount of \$2,613.00. This resolution will authorize the City Clerk to advertise the sale of this property pursuant to N.C.

General Statute 160A-269.

Complete text of Resolution No. 85-18 will be found in Resolution Book No. **15** at page **147**.

B. Resolution No. 85-19 - Resolution appointing members to the Zoning Board of Adjustment.

HIGHLIGHTS: This resolution will appoint Pam Nickless, Rudy J. Stenafac, and Jan Bryant to the Zoning Board of Adjustment.

Complete text of Resolution No. 85-19 will be found in Resolution Book No. **15** at page **148**.

C. Resolution No. 85-20 - Resolution appointing members to the Asheville Buncombe Community Relations Council.

HIGHLIGHTS: This resolution will reappoint Gladys Forney and Jesse Ray, Jr. to the Asheville-Buncombe Community Relations Council.

Complete text of Resolution No. 85-20 will be found in ResolutionBook No. **15** at page **149**.

D. Resolution No. 85-21 - Resolution authorizing the City Manager to sign an

agreement with Southern Bell Telephone and Telegraph Company for the use of Southern Bell conduit as part of the City's new telephone system.

HIGHLIGHTS: Approval of an agreement with Southern Bell Telephone and

Telegraph Company to use Southern Bell conduit as part of the new telephone system. The conduit will connect the City Hall building with the Civic Center. There is no charge for the conduit except Southern Bell's charges for being present whenever Continental Telephone Company of North Carolina is working on the conduit. Using the conduit will save the City about \$7,550 which would have been required to make the City's conduit system ready for telephone cable. This will

be a savings to the City of approximately \$7,550.

Complete text of Resolution No. 85-21 will be found in Resolution Book No. **15** at page **150**.

Upon motion of Councilman Frank, seconded by Councilman Bisette, the consent agenda was unanimously adopted.

CLAIMS - DORMA RAINEY (STREETS) - MARJORIE JONES (STREETS) - SHELDON JOHNSON (SEWER) - PEGGY RAMSEY (SEWER)

The City Manager presented claims received from Dorma Rainey, Marjorie Jones, Sheldon Johnson, and Peggy Ramsey.

Mayor McDevitt referred the claims to the Corporation Counsel for investigation and recommendation.

SCHEDULING PUBLIC HEARING - PROVIDING FOR STAGGERED TERMS FOR THE ZONING BOARD OF ADJUSTMENT

Councilman Frank moved to schedule a public hearing relative to amending the Zoning Ordinance to allow for staggered terms for members of the Zoning Board of Adjustments for March 26, 1985. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

COUNCILMAN BISSETTE'S REQUEST - ASHEVILLE CABLEVISION CHANGES

Councilman Bissette read the following statement:

"As you all know, and I expect you have received the same kind of complaints that I think the City of Asheville has received in the last few days regarding the changes in the basic residential service provided by American Cable TV Investors, which does business in Asheville as Asheville Cablevision. These changes effectively reduce the basic services provided to residential customers by removing ESPN, WTBS in Atlanta, WDCA in Washington, and WBTW in Charlotte from the basic service and placing these channels in another service tier with an increased monthly charge. In place of these popular stations on the basic service, Asheville Cablevision has added a combination financial news and religious channel; C-Span, a channel providing 24-hour coverage of the House of Representatives; a weather channel; and WGGG, another religious channel from Greenville, South Carolina. In order to receive ESPN, WTBS, WDCA, and WBTW, subscribers must now pay \$15.65 per month which represents a 62% increase over the current basic rate of \$9.65, which was approved by the Asheville City Council in February of 1984.

I voted for the rate increase in February of 1984 based upon the basic programming services which were provided by Asheville Cablevision at that time. In my view, Asheville Cablevision has breached its understanding with the Asheville City Council regarding the \$9.65 basic rate which was approved based upon certain programming representations made to the City Council at the time the rate increase was requested.

It appears to me, and apparently to many of our citizens, that this recent service change may be an attempt by Asheville Cablevision to circumvent the City Council's rate setting authority. If this attempt goes unchallenged, then the City Council's ability to regulate our cable TV franchise in the future will be seriously limited. In 1967, the City of Asheville granted an exclusive cable TV franchise to the Thoms Broadcasting Company for a period of 35 years. This franchise was assigned to Asheville Cablevision in 1983. By granting this franchise, the City gave to Thoms, and subsequently to its assignee, Asheville Cablevision, the exclusive right to provide cable TV services in the City of Asheville until the year 2002. In effect, the City granted the franchisee a monopoly.

Throughout the history of our country, when monopolies have been granted, the proper governing authorities have been given the right to regulate the rates charged to the public. This is extremely important in monopoly situations because there is no possibility of free and open competition. A monopoly service is literally, in this case, the only game in town.

I am today calling upon Asheville Cablevision to return its basic programming service to the format that existed at the time the last rate increase was approved. In the event Asheville Cablevision refuses to return the pre-existing basic program service, I would call on the City Council, together with the City Attorney, to thoroughly investigate Asheville Cablevision's compliance with all of the terms of the existing franchise agreement. I would suggest that a Council committee be established to review Asheville Cablevision's latest actions regarding the recent program changes, as well as the total service which Asheville Cablevision is providing to the citizens of Asheville under its franchise. I believe that this review should also include a public hearing at which time the citizens of Asheville could

make their feelings known, both to us and to Asheville Cablevision.

As representatives of the people of the City of Asheville, I believe it is our duty and responsibility to take every legal step necessary to be certain that Asheville Cablevision is strictly complying with its responsibilities to the City and to its subscribers. In the event that it is necessary to proceed, I would hope that the Council would seriously consider my request at that time and take action on it as soon as possible. Thank you very much."

Councilman Bissette said he would report back to Council whether or not Asheville Cablevision is willing to accept his request to return to the basic rate service charge.

Mayor McDevitt suggested that Councilman Bissette chair the Council committee relative to the cable television issue.

RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE

Mr. Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Frank, seconded by Vice-Mayor Bratton, the meeting adjourned at 4:55 P.M.

MAYOR CITY CLERK
