

Tuesday - April 23, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, 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 Gordon Myers.

INVOCATION

The invocation was given by Mayor McDevitt.

APPROVAL OF THE MINUTES - APRIL 16, 1985, MEETING

1. Approval of the minutes of the April 16, 1985, meeting.

Vice Mayor Bratton requested the minutes be corrected to reflect that Rabbi Ronald C. Bluming gave the invocation at the April 16 meeting.

Mayor McDevitt announced the approval of the minutes as corrected by Vice Mayor Bratton.

ANNOUNCEMENT - RELATIVE TO KICK OFF FOR BELE CHERE 1985 - JULY 26-28, 1985

2. Ray Kisiah, Director of Parks, Recreation, and Public Facilities and Jim Daniels, Chairman of the Bele Chere Board, announced that Bele Chere 1985 would be held July 26-28, 1985. This announcement was made amid the live "rag time" music provided by Steve Becker. Several staff members associated with the planning activities of Bele Chere distributed balloons to members of City Council.

Mr. Daniels said that for the second consecutive year Mr. J. D. Jackson, Jr. will be the Chairman of the Bele Chere Festival.

Invitations to participate in all the Bele Chere activities were extended to the Council and the public.

PROCLAMATION - "PRIVATE PROPERTY WEEK" - APRIL 28 - MAY 4, 1985

3. Mayor McDevitt proclaimed the week of April 28 - May 4, 1985, as "Private Property Week," and presented the proclamation to Ben McKenzie.

PROCLAMATION - "SPECIAL POPULATIONS WEEK" - APRIL 22-28, 1985

4. Mayor McDevitt proclaimed the week of April 22-28, 1985, as "Special Populations Week," and presented the proclamation to Toni Patterson, a senior at Lucy Herring School and a participant in the Special Olympics.

PROCLAMATION - SECRETARIES WEEK

Mayor McDevitt proclaimed the week of April 22-28, 1985, as "Secretaries Week."

PUBLIC HEARING - REZONING PROPERTY KNOWN AS HEMPHILL KNOLL AT GASHES CREEK AND I-40

ORDINANCE NO. 1510 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (PROPERTY KNOWN AS HEMPHILL KNOLL AT GASHES CREEK AND I-40)

5. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended. (Property known as Hemphill Knoll at Gashes Creek and I-40.)

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Mr. George Beverly, Agent, that Ward 13, Sheet 33, Lot 68, and Ward 13, Sheet 34, Lot 11, be rezoned from R-2 Residential District to OI Office Institutional District. The property is known as Hemphill Knoll at Gashes Creek and I-40. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 68, Sheet 33, Ward 13, and a portion of Lot 11, Sheet 34, Ward 13, be rezoned from R-2 Residential District to OI Office Institutional District. This would leave a 100-foot strip of R-2 buffer on the southern border, abutting the Blue Ridge Parkway and Lot 78, Sheet 33, Ward 13, and on the northwestern margin abutting Lots 37-1/4 and 8-1/4, Sheet 33, Ward 13.

Mayor McDevitt opened the public hearing at 4:31 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.

Verl Emrick, Director of Planning, said the proposal before Council is to rezone a complete 81 acre tract from R-2 - Residential District to OI - Office Institutional District. He said the primary reason for the request was for development of the property, as displayed on the map for view of the Council and the public. He said the Planning and Zoning Commission did consider this request at their March 13 meeting, and the Commission recommended approval of the request upon including a 100' R-2 buffer on the southern and northwestern borders.

Mr. Emrick said letters of protest had been received from Senator Robert Swain, other adjoining property owners, and the Gashes Creek Baptist Church.

Mr. George Beverly, representing the Hemphill heirs, introduced Mr. Charles Newcomer, Project Developer, who, in turn, introduced Mr. Mike Thompson, Architect for the project.

Mr. Newcomer said a 35-40 million dollar project is proposed for the area. He said the project would include a 160-room hotel, an athletic center and restaurant, and 230 condominiums. He said picnic tables, an open area, and jogging trails are proposed for the church side of the property. He said the development would provide approximately 200 full-time jobs. He answered general questions from members of Council relative to height and access.

Mayor McDevitt asked if there were any adjacent property owners or any members of Gashes Creek Baptist Church present who wished to address the Council on this issue.

Mayor McDevitt said Earl McIntire had informed him that he did not know what involvement the State would have at this time beyond driveway permits; however, if the Council requested it, the State would be glad to take a look at what their involvements might be.

Mayor McDevitt closed the public hearing at 4:50 p.m.

Councilman Bissette moved for the adoption of Ordinance No. 1510. This motion was seconded by Vice Mayor Bratton.

Councilman Price said this rezoning request is coming before Council at a very strategic time due to local legislation now pending in Raleigh and a public hearing proposed May 7 relative to height restrictions. She said it was her feeling that this area could best be served by remaining R-2 designation. She said she would have a problem in voting to rezone the whole 81 acre tract. She said she would prefer waiting to vote on this issue until information could be obtained on the traffic situation and other questions.

Councilman Boland said it is difficult for City Council to make a decision due to the concerns citizens have expressed relative to ridges and mountain tops. He said the proposed legislation relative to the 3,000 foot rule makes the issue

more complex.

Councilman Boland offered a substitute motion to remand the issue back to the Planning and Zoning Commission with instructions to evaluate the rezoning as to traffic, ridge law, and the comprehensive plan. This motion was seconded by Councilman Price.

Councilman Bissette said it would be very unfair to the developer to table this issue indefinitely.

A discussion followed relative to the time table anticipated for the comprehensive plan and the 100 day limitation on matters pending before the Council.

Mr. Thompson said, as he understood it, the project would not be affected by the 3,000 foot ridge law.

Mayor McDevitt said the City currently has a local bill pending before the legislature that will exempt the City from the State ridge law and give the City Council authority to set its own limits. He said the General Assembly could act in a matter of weeks, but this was something he could not predict.

Mr. Beverly said a lot of option money had been invested up to this point and that the developer was under some time constraints. He said their original request to the Planning Department had been to rezone the property to C-H - Commercial Highway District. He said the Planning Department had spent a great deal of time studying that and had told him that that would be considered "spot zoning," and advised him to proceed with the O-I - Office Institutional designation for the whole tract.

Mr. Thompson said this matter will come before the Council again under a group development request and that Council's concerns seem to apply more under the group development process than under the rezoning request.

With the consent of Councilman Price, Councilman Boland withdrew his substitute motion.

Councilman Boland then moved to postpone the second reading of Ordinance No. 1510 until May 28 and that the staff furnish the Council with answers relative to their questions regarding access, traffic, and the ridge law. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 5-1, Ordinance No. 1510 passed on first reading with Mayor McDevitt voting "no."

Mayor McDevitt turned the Chair over to Vice Mayor Bratton at 5:31 p.m.

PUBLIC HEARING - REZONING PROPERTY ON ARCO ROAD

ORDINANCE NO. 1511 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (ARCO ROAD)

6. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (Arco Road).

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Attorney Marvin Pope for Mr. Elmer Frink that Ward 8, Sheet 13, portion of Lot 192, be rezoned from R-2 Residential District to CH Commercial Highway District. This property is located on Arco Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 13, a portion of Lot 192, be rezoned from R-2 Residential District to CH Commercial Highway District.

Vice Mayor Bratton opened the public hearing at 5:32 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.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission had reviewed this request at their March meeting and recommended approval of the request to the City Council. By use of a map Mr. Emrick located the property for City Council.

Mr. Emrick said the primary reason for the rezoning request is because the lot is currently split with two zoning designations. One part is zoned C-H - Commercial Highway District and the other part is zoned R-2 - Residential District.

Marvin Pope, Attorney, for Mr. and Mrs. Elmer Frink, showed photographs and a diagram of the property. He said this property is located next to the Beverly Hills Beauty and Barber Shop. He said the Frinks do not have any plans to build on this property.

Walter Fletcher, who owns property adjacent to the Frink's property, spoke in opposition to the rezoning. He said all of the property owners in the area had attended the Planning and Zoning Commission meeting in March and had voiced their objections at that time to the rezoning. He said the residents are concerned about devaluation in property, and also, if the property is rezoned Commercial Highway, it opens up the possibility of a McDonald's or some similar development on the property. He said the majority of residents use Arco Road as an access to Tunnel Road, and development of the property would cause a bottle-neck in traffic.

Councilman Price said she supports Mr. Fletcher's concerns and that this could possibly have a domino effect in the neighborhood.

Mayor McDevitt returned to the meeting at 5:50 p.m.

Mayor McDevitt said he had problems voting for something which will do away with the neighborhood concept.

Vice Mayor Bratton closed the public hearing at 5:51 p.m.

Vice Mayor Bratton said members of Council were furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

For lack of a motion, Ordinance No. 1511 failed on first reading.

Copy of Ordinance No. 1511 will be found in Ordinance Book No. **10**, page **260**.

Mayor McDevitt took over the Chair and presided over the rest of the meeting.

Mayor McDevitt said he wanted Mr. Pope, the Frinks, and Mr. Fletcher to understand the action just taken by Council. He said no motion was made because there was no support for the request; therefore, the request was denied.

PUBLIC HEARING - REZONING PROPERTY AT 800 FAIRVIEW ROAD

ORDINANCE NO. 1512 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (800 FAIRVIEW ROAD - RIVER RIDGE MARKET PLACE)

7. A public hearing was held relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended. (800 Fairview Road - River Ridge Market Place)

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, considered the request of Bob Hughes and Associates that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Industrial District to CH Commercial Highway District. The property is located at 800 Fairview Road (River Ridge Market Place). After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 51, Lot 1, be rezoned from LI Light Industrial District to CH Commercial Highway District.

Mayor McDevitt opened the public hearing at 5:55 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.

Verl Emrick said the Planning and Zoning Commission had reviewed this request at their March 13 meeting, and the Commission recommends approval of the request to City Council. He said the primary reason for the request is to permit residential development of the property behind the motel. He said the Commercial Highway designation will accommodate this additional development potential.

Carroll Hughes, Architect for this project, said this is Phase IV of the River Ridge Development Project.

Councilman Price moved for the adoption of Ordinance No. 1512. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1512 passed on first reading.

PUBLIC HEARING - SITE PLAN FOR PHASE I OF HAYWOOD PLAZA HOTEL

8. A public hearing was held relative to the site plan for Phase I of the proposed Haywood Plaza Hotel to be located at the corner of Haywood Street and Battery Park Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held March 13, 1985, reviewed the site plan of Phase I of the proposed Haywood Plaza Hotel to be located at the corner of Haywood Street and Battery Park Avenue. The plan was prepared by John Rogers, Architect, for Haywood Street Redevelopment Corporation, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council.

Mayor McDevitt opened the public hearing at 5:58 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.

Verl Emrick, Director of Planning, said this project involves the renovation of the old Ivey's Department Store. He said Phase I includes the upper floors and a retailing section on the bottom floor and that the work is now being done internally to remove partitions, etc. Mr. Emrick said Phase II and Phase III may involve the Haywood and Starnes buildings. He said that the site plan meets all the requirements of group development and existing ordinances and recommended approval to City Council.

John Rogers, Architect for the Haywood Street Redevelopment Corporation, Developer, said the new name of the Hotel would now be the Haywood Park Hotel. He said the hotel would include 33 executive suites and the ground floor would be used for a restaurant and retail shops. He said the anticipated project cost is \$1,600,000.

Mayor McDevitt closed the public hearing at 6:05 p.m.

Councilman Frank moved to approve the site plan for Phase I of the Haywood Park Hotel. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 85-62 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE LEASE/PURCHASE AGREEMENTS

9. Consideration was given to a resolution authorizing the City Manager to execute lease/purchase agreements.

Mayor McDevitt said N.C. General Statute section 160A-20 provides for the purchase of personal property by installment contracts which create in the property purchased a security interest to secure payments of the purchase money. The Purchasing Director has received proposals for the lease/purchase financing of motor vehicles, air compressors, front end loader, forklift, and salt and sand spreaders. Twelve (12) proposals were received; however,

only five (5) met the requirements. It is recommended to award this agreement to Southern National Leasing Corporation, Charlotte, North Carolina. Savings to the City over a three-year period will be \$39,924.54 for equipment leased/ purchased for thirty-six (36) months, and \$3,086.99 for equipment leased/ purchased for twenty-four (24) months. This would be a total savings to the City of \$43,011.53 over a cash purchase. Appropriation for all the equipment is included in the FY '85 budget.

Mayor McDevitt said this matter had been discussed during the pre-Council session and during that time the Council had learned that First Union National Bank was actually the low bidder and the reason they were not recommended is because they had included a limitation date of April 15, 1985, in their proposal.

Larry Fisher, Director of Finance, said the City could save over \$40,000 in lease/purchasing this equipment as opposed to buying outright. He said another \$800 could be saved by the City in awarding the bid to First Union National Bank.

Upon inquiry of Mayor McDevitt, Corporation Counsel Bill Slawter said Council could legally award the bid to First Union National Bank.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-62 was unanimously adopted awarding the bid for the lease/ purchase to First Union National Bank.

Complete text of Resolution No. 85-62 will be found in Resolution Book No. **15** at page **195**.

MOTION - SCHEDULING PUBLIC HEARING - WORDING AMENDMENT TO ZONING ORDINANCE - MAY 7, 1985

10. Consideration was given to a motion scheduling a public hearing relative to amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended (wording amendment relative to proposed structural heights in the R-1, R-2, and R-3 Residential Districts) for May 7, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a special meeting held April 10, 1985, considered a recommendation regarding proposed structural heights in the R-1, R-2, and R-3 Residential Districts. After discussion, the Commission voted to recommend the following amendment to City Council: "Amend Section 30-5-2. R-1 Residential District, and Section 30-5-3. R-2 Residential District to provide for the following: A) Within the jurisdiction of this ordinance for the zoning districts specified, no building and/or structure may be constructed with a vertical height in excess of fifty (50) feet or three (3) stories. Exemptions: Governmental, quasi governmental or utility structures to include, but not be limited to, water towers/ reservoirs, radio, telephone or television towers or equipment for the transmission of electricity or communications shall be exempt from the provisions contained herein."

Councilman Price moved to schedule a public hearing relative to the proposed wording amendment to the zoning ordinance for May 7, 1985. This motion was seconded by Councilman Frank and carried unanimously.

MOTION - SCHEDULING PUBLIC HEARING RELATIVE TO SITE PLAN OF SWEET CREEK OFFICE PARK

11. Consideration was given to a motion scheduling a public hearing relative to the site plan of the proposed Sweet Creek Office Park to be located on Sweeten Creek Road for May 14, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed Sweet Creek Office Park to be located on Sweeten Creek Road. The plan was prepared by John Broadbooks, Landscape Architect, for Ken Partin, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance.

Councilman Price moved to schedule a public hearing relative to the site plan of the proposed Sweet Creek Office Park for May 14, 1985. This motion was seconded by Councilman Frank and carried unanimously.

MOTION - APPROVAL OF SALE OF DISPOSAL PARCELS 41 AND 59 IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

12. Consideration was given to a motion approving the sale of Disposal Parcels 41 and 59 in the East End/Valley Street Community Improvement Area.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East End/Valley Street Community Improvement Area.

Parcel Reuse Price Bid Redeveloper

41 Residential \$3,000 \$3,121.99 Johnny Rhodes, Timothy

Burdine & Sara Burdine

59 Residential \$3,100 \$3,100.00 Meredith Mauldin

Lot 41, located at the corner of Martin Luther King, Jr.

Lot 59, located at the corner of Grail Street and Ridge Street.

The above parcels are residential lot sales for single-family structures under the Incentive Housing Program.

Councilman Price moved to approve the sale of Disposal Parcels 41 and 59 in the East End/Valley Street Community Improvement Area. This motion was seconded by Councilman Frank and carried unanimously.

REPORT - COUNCILMAN BISSETTE RELATIVE TO CABLE TELEVISION

Councilman Bissette said the Council Committee, consisting of himself, Councilman Myers, and Attorney Gary Rowe, has met weekly for the past several weeks. He said this Committee has been assisted by Bill Slawter and his staff. He said they have been in touch with the FCC, other city attorneys, and the Institute of Government in gathering information. He said the Council Committee is continuing its review of the City's legal alternatives which he reported to the Council in an executive session. However, he said, a public disclosure of these legal matters would be premature at this time, but that he would anticipate a further report regarding the City's legal attempts within 30 days.

In the meantime, he said, the Council Committee believes that public response is necessary to determine the level of service that is currently being provided by our franchisee, Asheville Cable Television. He said in conjunction with that, a questionnaire has been developed by the Committee, the Cable Television Committee, and UNCA.

He said the Committee would also like to request the Council's approval for the printing and mailing of the questionnaire to residents receiving cable television service in the City of Asheville. He also requested that Council approve a schedule of public hearings to be held relative to cable television services on May 14 at the Civic Center, May 15 at Hall Fletcher School, on May 16 at Haw Creek School. Councilman Bissette said all of the public hearings would be held at 7:30 p.m. He said this would give City Council the opportunity to gauge whether or not Asheville Cablevision is complying with the franchise.

Councilman Bissette moved to request that City Council appropriate \$2,000 for printing and mailing of the questionnaire and approval of the public hearings to be held as listed above. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1513 - BUDGET AMENDMENT

Consideration was given to a budget amendment ordinance to authorize \$2,000 from the Contingency Fund for the printing and mailing of a questionnaire relative to cable television services.

Vice Mayor Bratton moved for the adoption of Ordinance No. 1513. This motion was seconded by Councilman

Boland.

On a roll call vote of 6-0, Ordinance No. 1513 passed an first and final reading.

COUNCILMAN PRICE - REQUEST - CABLE TELEVISION COMMITTEE

Councilman Price requested that the membership of the Cable Television Committee be checked to see whether or not we have full membership.

PETITION - JOE BLY - WATER FOUNTAINS - CITY COUNTY PLAZA/PACK SQUARE

Joe Bly presented a petition to the City Council on behalf of visitors and homefolks of the City, attendees of the Shindig-On-The-Green, and in memory of Fannie B. McCoy for the installation of two (2) new continuously running water fountains in the City County Plaza and for two (2) water fountains on Pack Square.

Mayor McDevitt said Council would look into the request.

CLAIMS - KATHY RIELS (WATER), W.A. ROBBINS (WATER), GEORGE PEBLER (STREETS)

The City Manager presented claims received from Kathy Riels, W. A. Robbins, and George Pebler.

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

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank the meeting adjourned at 6:50 p.m.

MAYOR CITY CLERK
