

Tuesday - May 14, 1985 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, 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: Mayor Larry McDevitt (Mayor McDevitt expected later during the meeting).

INVOCATION

The invocation was given by Councilman Louis Bisette.

APPROVAL OF THE MINUTES - MAY 7, 1985 MEETING

1. Approval of the minutes of the May 7, 1985 meeting.

Vice-Mayor Bratton announced the approval of the minutes as submitted.

PROCLAMATION - "AMERICAN BUSINESS WOMEN'S WEEK"

Vice-Mayor Bratton read a proclamation proclaiming May 12-19, 1985, as "American Business Women's Week."

Vice-Mayor Bratton presented the proclamation to Beverly Brooks.

PUBLIC HEARING - CLOSING A PORTION OF OLD MOUNTAIN STREET AND OLD PINE STREET

RESOLUTION NO. 85-74 - RESOLUTION TO CLOSE A PORTION OF OLD MOUNTAIN STREET AND OLD PINE STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

3. A public hearing was held relative to closing a portion of Old Mountain Street and Old Pine Street.

Vice-Mayor Bratton opened the public hearing at 4:06 p.m.

Vice-Mayor Bratton said a petition has been filed by the Housing Authority of the City of Asheville, asking that a portion of Old Mountain Street and Old Pine Street be permanently closed to public use. These streets are under the authority and control of the City and are not under the authority of the N.C. Department of Transportation.

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

There being no comments relative to the closing of these streets, Vice-Mayor Bratton closed the public hearing at 4:08 p.m.

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

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-74 was unanimously adopted.

Complete text of Resolution No. 85-74 will be found in Resolution Book No. 15 at page 209.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 31 GRANBY STREET AND 18 ARDEN ROAD

ORDINANCE NO. 1515 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON GRANBY STREET AND ARDEN ROAD (JOHN NILSSON PETITION)

4. A public hearing was held relative to rezoning property located at 31 Granby Street and 18 Arden Road.

Vice-Mayor Bratton opened the public hearing at 4:10 p.m.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. John Nilsson, Agent for Asheville Hand Center, that Ward 1, Sheet 8, Lots 141 and 143 be rezoned from R-2 Residential District to OI Office Institutional District. The property is located at 31 Granby Street and 18 Arden Road. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 141 and a portion of Lot 143, be rezoned from R-2 Residential District to OI Office Institutional District, leaving a 30' R-2 Residential District buffer along Granby Street and Arden Road.

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 proposed rezoning is requested for an expansion of an existing building and for parking for the Asheville Hand Center.

Upon inquiry of Councilman Bisette, Mr. Emrick said there were no objections expressed at the Planning and Zoning Commission.

Vice-Mayor Bratton closed the public hearing at 4:12 p.m.

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

Councilman Frank moved for the adoption of Ordinance No. 1515. This motion was seconded by Councilman Myers.

On a roll call vote of 6-0, Ordinance No. 1515 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED BEHIND PEARLMAN'S ON TUNNEL ROAD

ORDINANCE NO. 1516 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON TUNNEL ROAD (STEVE RUSSELL, NCNB, AND M.M. PEARLMAN)

5. A public hearing was held relative to rezoning property located behind Pearlman's on Tunnel Road.

Vice-Mayor Bratton opened the public hearing at 4:15 p.m.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. Steve Russell, Trust Officer NCNB, for Julian Long Estate, and Mr. M. M. Pearlman that Ward 8, Sheet 11, Lots 50 and 51, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located behind Pearlman's on Tunnel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 11, Lots 50 and 51, be rezoned from R-3 Residential District

to CH Commercial Highway District.

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 rezoning is requested to provide an access to the property. He said the property had been landlocked by the State highway improvements in that area.

Vice-Mayor Bratton closed the public hearing at 4:20 p.m.

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

Councilman Bissette moved for the adoption of Ordinance No. 1515. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1516 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 941 FAIRVIEW ROAD

ORDINANCE NO. 1517 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT 941 FAIRVIEW ROAD (JAMES SCHUMACHER PETITION)

6. A public hearing was held relative to rezoning property located at 941 Fairview Road.

Mayor McDevitt took his seat at 4:22 p.m.

Vice-Mayor Bratton opened the public hearing at 4:22 p.m.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, considered the request of Mr. James Schumacher that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to R-3 Residential District. The property is located at 941 Fairview Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 27, Lot 42, be rezoned from LI Light Industrial District to R-3 Residential District.

Verl Emrick, Director of Planning, said the reason for the requested rezoning is to construct a single-family residence.

Vice-Mayor Bratton closed the public hearing at 4:24 p.m.

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

Councilman Boland moved for the adoption of Ordinance No. 1517. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1517 passed on first reading.

ORDINANCE NO. 1514 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED. (WORDING AMENDMENT - STRUCTURAL HEIGHTS IN R-1 AND R-2 RESIDENTIAL DISTRICTS

7. Consideration was given to the second reading of Ordinance No. 1514, an ordinance 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 and R-2 Districts.

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." This ordinance was read on first reading on May 7, 1985.

Mayor McDevitt said this ordinance was previously read on first reading and would not be reread in its entirety unless there was a specific request to so do.

Upon inquiry of Council, Verl Emrick, Director of Planning, said it would be illegal to prohibit the City's Board of Adjustment from granting any variance to developers who want to increase the height of their buildings.

Councilman Price moved to amend Ordinance No. 1514 to change the height restriction from 50 feet to 40 feet. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Gary Rowe and Brainard Rorison spoke in support of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1514, as amended, passed on second reading.

ORDINANCE NO. 1504 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON PERIMETER OF ASHEVILLE MALL (R.L. COLEMAN, JR. PETITION)

8. Consideration was given to the third reading of Ordinance No. 1504, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on perimeter of Asheville Mall (R. L. Coleman, Jr. Petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission reviewed the request at its regular meeting of February 6, 1985, and delayed action requesting the R. L. Coleman Company and the Kenilworth Forest Association to meet to attempt to reach some compromise on several issues which were producing an impasse and report to the Commission on February 27, 1985. At the February 27, 1985, meeting, the Commission voted to approve a portion of the rezoning request. In addition, the Commission voted to provide additional R-3 buffers to assist in protecting the White Pine Drive areas. This ordinance passed on first reading on March 26, 1985, and on second reading on April 2, 1985.

After discussion, Councilman Price moved to amend Ordinance No. 1504 to include "excepting also that portion of Lot 57 described as follows, said portion to also remain zoned R-3 Residential District; 'Beginning at the northeastern corner of Lot 1 as shown on a plat recorded in Plat Book 24 at Page 9 at the Buncombe County Registry; at 71°, 33 minutes, 40.64 feet; south 10° east, 138.02 feet; thence north 26°, 56 minutes west, 138.0 feet to the place of Beginning.' For purposes of further clarification, Lot 57 is that lot lying immediately east of Lot 93, Ward 8, Sheet 10, along the southern margin of

White Pine Drive." This motion was seconded by Councilman Frank and carried unanimously.

It was noted that the above amendment would give Mr. Mosely protection from the Mall. Gerald Gentry, representative of the Kenilworth Forest Association, told members of Council that the residents will not have adequate protection against further commercial encroachment on the property and asked that the rezoning be denied for the benefit of the community as a whole. He said he did not think the rezoning is in the best interest of the community. He said the residents of the Kenilworth Forest Association and the developer, R. L. Coleman, had failed to reach a compromise on the rezoning issue.

Harold Payne, Co-President of the Kenilworth Forest Association told members of Council there are problems stemming from construction of the existing Mall that have not been addressed and that those issues should be settled before expansion is considered. He presented minutes of the Asheville City Council meeting of July 9, 1970, when the Asheville Mall site plan was approved, indicating that the developer had not complied with the stipulations on the approval of the original Mall.

Margaret Curtis, 33 White Pine Drive, spoke in opposition to the rezoning.

John Stevens, Attorney representing the R. L. Coleman Company, said the developer had made as many concessions as possible and that he plans to continue negotiation with the community even after the rezoning. He said Council should take into consideration that the rezoning they are considering today is just the rezoning and some of the issues are issues that will come before Council when the site plan is considered for approval. He said the developer would continue to work with the residents but the developer needs to get on with the rezoning. Mr. Stevens outlined the essentials of the agreement proposed between the Kenilworth Forest Residents and the developer. He said all the concessions made by the developer were contingent upon the Kenilworth Forest Association releasing deed restrictions on certain lots in the area.

Upon inquiry of Councilman Price, Verl Emrick said grading or expansion of parking in the area will not require the approval of the site plan.

Upon inquiry of Mr. Payne, Mayor McDevitt said the present Council has not taken a position on the action taken by Council in 1970 when the approval of the original site plan was given.

After discussion, on a roll call vote of 7-0, Ordinance No. 1504, as amended, passed on third and final reading.

Complete text of Ordinance No. 1504 will be found in Ordinance Book No. 10 at page 254-255.

#### ORDINANCE NO. 1518 - BUDGET ORDINANCE AMENDMENT FOR COMPLETION OF DEPOT STREET IMPLEMENTATION PROJECT

9. Consideration was given to a budget ordinance amendment for completion of the Depot Street Implementation project.

Mayor McDevitt said this will complete the Depot Street Plan Implementation project. Twelve hundred dollars is available for completion of this project in the Community Development Tenth (10th) Year Contingency.

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

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1518. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1518 passed on first and final reading.

Complete text of Ordinance No. 1518 will be found in Ordinance Book No. 10 at page 274.

RESOLUTION NO. 85-75 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS - 1985-86

10. Consideration was given to a resolution authorizing submission of a final statement of Community Development objectives and projected use of funds to the Department of Housing and Urban Development for Community Development Block Grant Entitlement Funds - 1985-86.

Mayor McDevitt said this resolution will authorize the Mayor to execute and file an application with the Department of Housing and Urban Development for Eleventh Year Entitlement Community Development Block Grant Funds for 1985-86. A public hearing was conducted in the City Council Chambers, City Hall Building, Asheville, North Carolina on May 7, 1985, to obtain citizen views on the goals, objectives and needs of the Community Development Block Grant Program for 1985-86. Based on the Department of Housing and Urban Development projections the City's Community Development Block Grant entitlement for 1985-86 will be \$1,382,000.

Logan Delany, Director of Community Development, said a proposed budget had been submitted relative to the entitlement funds for 1985-86.

Upon inquiry of Scott Dedman, with the Pisgah Legal Services, Mr. Delany said support for housing rehabilitation in the City of Asheville had been included in the proposed budget.

Upon inquiry of Councilman Boland, Mr. Delany said in prior years Community Development Funds have been used as "matching funds for housing assistance" for housing rehabilitation.

Mayor McDevitt said members of Council were furnished copies of the resolution and the proposed budget, and it would not be read in its entirety unless there was a specific request to do so.

Vice-Mayor Bratton moved for the adoption of Resolution No. 85-75 with a provision that the word "administrative" be deleted from item 4 on the proposed budget. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 85-75 will be found in Resolution Book No. 15 at page 210.

APPROVAL OF SIGN PERMIT - 562 RIVERSIDE DRIVE

11. Consideration was given to a motion approving a sign permit to erect an off-premises advertising sign at 562 Riverside Drive.

Mayor McDevitt said H & M Outdoor Advertising Company has requested approval of a sign permit to erect an off-premises advertising sign at 562 Riverside Drive. Total square footage of the sign will be 349 square feet. Pursuant to the Zoning Ordinance this sign permit requires the approval of Council since it

will be situated within 600 feet of a limited access highway.

Verl Emrick, Director of Planning, said the property is zoned Heavy Industrial and the sign meets all requirements of the Sign Ordinance.

On a voice vote of 4-3, approval of the sign permit failed with Councilman Bisette, Vice-Mayor Bratton, and Councilman Myers voting "aye" and Councilman Boland, Councilman Price, Councilman Frank, and Mayor McDevitt voting "no."

RESOLUTION NO. 85-76 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AT PUBLIC AUCTION

12. Consideration was given to a resolution authorizing the Purchasing Director to sell surplus motor vehicles at public auction.

Mayor McDevitt said N.C.G.S. Section 160A-270 provides for the sale of surplus personal property at public auction. The Motor Transport Superintendent has declared thirty-two motor vehicles as surplus property. This resolution will authorize the Purchasing Director to dispose of these vehicles by public auction. The sale to take place at the new vehicle maintenance facility, South Charlotte Street, beginning at 10:00 a.m. on Saturday, the 1st day of June, 1985. Sale of surplus vehicles will generate expected revenue of \$20,000.

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

Upon motion of Councilman Price, seconded by Councilman Bisette, Resolution No. 85-76 was unanimously adopted.

Complete text of Resolution No. 85-76 will be found in Resolution Book No. 15 at page 211.

RESOLUTION NO. 85-77 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF CERTAIN PERSONAL PROPERTY VALUED AT LESS THAN \$5,000 BY PRIVATE NEGOTIATION AND SALE (DATA GENERAL COMPUTERS, ETC.)

13. Consideration was given to a resolution authorizing the Purchasing Director to dispose of certain personal property (Data General Computers, etc.).

Mayor McDevitt said N. C. Gen. Stat. Section 160A-266 provides that a municipality may dispose of personal property valued at less than \$5,000 for any one item or group of similar items by private negotiation and sale. The Department of Finance, Data Processing Division, has accumulated assorted obsolete computer equipment composed of two (2) Data General Computers and other assorted peripheral equipment and has declared such property to be nonuseable surplus personal property. The specific requirements for private negotiation and sale are set forth at N. C. Gen. Stat. Section 160A-267. This action will have a net positive effect on this year's revenues of from \$200.00 to \$500.00. This additional revenue has not been included in this year's budget.

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

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-77 was unanimously adopted.

Complete text of Resolution No. 85-77 will be found in Resolution Book No. 15 at page 212.

RESOLUTION NO. 85-78 - RESOLUTION TO NORTH CAROLINA BOARD OF TRANSPORTATION (I-240 EASTBOUND OFF-RAMP INTO US 70)

14. Consideration was given to a resolution to the North Carolina Board of Transportation relative to the completion and extension of the I-240 eastbound off-ramp into US 70.

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

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-78 was unanimously adopted.

Complete text of Resolution No. 85-78 will be found in Resolution Book No. 15 at page 213.

SCHEDULING PUBLIC HEARING - REZONING PROPERTY ON NORTH BEAR CREEK ROAD

15. Consideration was given to a motion to schedule a public hearing to rezone property on North Bear Creek Road for June 4, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held May 1, 1985, considered the petition of Mr. T. F. Dula that Ward 6, Sheet 20, Lot 69¼ be rezoned from LI Light Industrial District to R-3 Residential District. The property is located on North Bear Creek Road. After review and discussion, the Commission voted to recommend to City Council that Ward 6, Sheet 20, Lot 69¼, be rezoned from LI Light Industrial District to R-3 Residential District.

Councilman Boland moved to schedule a public hearing to rezone property on North Bear Creek Road for June 4, 1985. This motion was seconded by Councilman Price and carried unanimously.

SCHEDULING PUBLIC HEARING - SITE PLAN OF PROPOSED WOODBERRY APARTMENTS TO BE LOCATED OFF NEW CURVE STREET

16. Consideration was given to a motion to schedule a public hearing relative to a site plan of the proposed Woodberry Apartments to be located off New Curve Street from May 28, 1985.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held May 1, 1985, reviewed the site plan of the proposed Woodberry Apartments to be located off New Curve Street. The site plan was prepared by Butler Associates, Engineers, for Poff Construction Company, Christiansburg, Virginia, 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 the public hearing relative to the site plan for the proposed Woodberry Apartments to be located off New Curve Street for May 18, 1985. This motion was seconded by Councilman Bisette and carried unanimously.

CITY COUNCIL MEETING - MAY 21, 1985 - ASHEVILLE CIVIC CENTER - BANQUET ROOM

Councilman Bisette moved to schedule the City Council meeting for May 21, 1985, in the Asheville Civic Center Banquet Room. This motion was seconded by Councilman Frank and carried unanimously.



CLAIMS - JOHN COCHRAN (SEWER) - BONNIE REECE (SENIOR OPPORTUNITY CENTER)

The City Manager presented the claims received from John Cochran and Bonnie Reece.

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

LAWSUITS - JANE N. GATEWOOD AND HAW CREEK COMMUNITY ASSOCIATION VS BOARD OF ADJUSTMENTS (APPEAL FROM BOARD OF ADJUSTMENT DECISION)

The City Manager said the City was served with a summons in connection with a lawsuit involving Jane N. Gatewood and Haw Creek Community Association vs the Board of Adjustment involving an appeal from the Board of Adjustment decision.

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

REQUEST FROM R. P. CLOWER - FIRE HYDRANT

Mr. Clower appeared before Council requesting an adjustment in a fire hydrant location on Cisco Road due to the installation of a six-inch water line.

After discussion, Council requested that the City Manager look into the situation and report back to Council.

ADJOURNMENT

Councilman Bissette moved to adjourn the meeting at 7:00 p.m. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

MAYOR CITY CLERK

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