

Tuesday - August 6, 1985 - 4:00 p.m.

Regular Meeting

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

Absent: Councilman Louis Bisette

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - JULY 30, 1985 MEETING

1. Approval of the minutes of the July 30, 1985 meeting.

Councilman Price moved that the minutes of the July 23, 1985, and July 30, 1985, meetings of the Asheville City Council be amended to include the following:

At the regular meeting of the Asheville City Council on July 30, 1985, the minutes of the July 23, 1985 meeting with regard to the appeal of

H. R. Kuykendall were amended so as to provide that Exhibits A through EE, being documents from Mr. Kuykendall's Police Pension File, be attached to the minutes. A list of said Exhibits along with copies of the Exhibits have been attached to the minutes of the July 23, 1985, meeting. In addition, Mr. Kuykendall's Attorney, Scott Jarvis, sent to the City Attorney a letter dated July 29, 1985, attaching three articles from the Professional Medical Journal as identified in said letter. A copy of said letter and the three Profes-

sional Medical Journal Articles have also been attached to the minutes of the July 23, 1985 meeting.

This motion was seconded by Councilman Frank, and carried unanimously.

Upon motion of Councilman Price, seconded by Councilman Myers, the minutes of the July 30, 1985 meeting were approved as amended.

RESOLUTION NO. 85-130 - RESOLUTION OF APPRECIATION TO THE BOARD OF DIRECTORS, VOLUNTEERS, AND THE STAFF OF BELE CHERE 1985

2. Consideration was given to a resolution of appreciation to the Board of Directors, Volunteers, and Staff of Bele Chere 1985.

Mayor McDevitt read the resolution expressing gratitude and appreciation to the 1985 Bele Chere Board of Directors; Leslie Anderson, Coor-

inator of the Festival; Ray Kisiah, Director; and the Staff of the Department of Parks, Recreation and Public Facilities; the Staff of other City departments who worked cooperatively with and during the festival; the many sponsors of and contributors to Bele Chere 1985, and all of the approximately 500 individuals who volunteered their time and talents to make the 1985 Bele Chere Festival a truly outstanding event for the City of Asheville.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-130 was unanimously adopted.

Complete text of Resolution No. 85-130 will be found in Resolution Book No. **15** at page **273**.

Mayor McDevitt presented a copy of the resolution to Jim Daniels, Chairman of the Board of Directors for Bele Chere 1985.

RESOLUTION No. 85-131 - RESOLUTION OF APPRECIATION TO MR. J. D. JACKSON, AS 1985 BELE CHERE FESTIVAL CHAIRMAN

3. Consideration was given to a resolution of appreciation to Mr.

J. D. Jackson as 1985 Bele Chere Festival Chairman.

Mayor McDevitt read the resolution expressing gratitude and sincere thanks to Mr. J. D. Jackson, Bele Chere Festival Chairman for 1984 and 1985, for his generous contribution of himself to his community and for his outstanding leadership in making Bele Chere 1985 a resounding success.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-131 was unanimously adopted.

Complete text of Resolution No. 85-131 will be found in Resolution Book No. **15** at page **274**.

Mayor McDevitt presented the resolution to Mr. Jim Daniels requesting that he forward this resolution to Mr. Jackson.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED "BELVEDERE CONDOMINIUMS" - BEAVERDAM ROAD

4. A public hearing was held relative to the site plan of the proposed "Belvedere Condominiums" to be located on Beaverdam Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, reviewed the site plan of the proposed "Belvedere Condominiums" to be located on Beaverdam Road. The site plan was prepared by McGill Associates, Engineers, for Condominium Builders, Inc., Winston-Salem,

N. C., 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 final approval of the driveway cut by the North Carolina Department of Transportation, compliance with the Erosion Control Ordinance, and contingency that water and sewer are available to the site.

Mayor McDevitt opened the public hearing at 4:15 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 would consist

of 42 units. He said the entrance/exit to the project would be one way onto Beaverdam Road. He said the developers will have to be careful with erosion due to the steep grades being involved in the project. He said the roads will

be private and the developers will be responsible for maintenance of the road. He said fire hydrants for the project had been approved by the Fire Prevention Bureau.

Mayor McDevitt closed the public hearing at 4:20 p.m.

Vice-Mayor Bratton moved to approve the site plan of the proposed "Belvedere Condominiums" to be located on Beaverdam Road subject to the recom-

mendations of the Planning and Zoning Commission. This motion was seconded by Councilman Frank and carried unanimously.

PUBLIC HEARING - SITE PLAN OF THE PROPOSED "HAZELWOOD MOBILE HOME COURT" -

NORTH LOUISIANA AVENUE

5. A public hearing was held relative to the site plan of the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, reviewed the site plan of the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue. The site plan was prepared by Associated Land Technologies, Engineer, for Walter Weiss and Frank McGahren (W & M Investment), Developers, 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 the 6-inch water line being extended to fire hydrant, buffering along adjacent subdivision lots, no extension of roads into subdi-

vision, and compliance with the Erosion Control Ordinance.

Mayor McDevitt opened the public hearing at 4:21 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 project would consist of 57 lots. He said the Planning and Zoning Commission's recommendation of approval was subject to a 6-inch water line being extended to a fire hydrant, heavy buffering along adjacent subdivision lots, and no extension of roads into the subdivision, and compliance with the Erosion Control Ordinance.

Mayor McDevitt closed the public hearing at 4:26 p.m.

Councilman Price moved to approve the site plan of the proposed "Hazelwood Mobile Home Court" to be located on North Louisiana Avenue, subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Frank, and carried unanimously.

PUBLIC HEARING - FINAL PLAT OF PHASE TWO OF THE HAZELWOOD SUBDIVISION - NORTH LOUISIANA AVENUE

6. A public hearing was held relative to the final plat of Phase Two of the Hazelwood Subdivision to be located on North Louisiana Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held April 3, 1985, approved the preliminary plat subject to buffering on Lots 36 through 47 and compliance with the Erosion Control Ordinance. Phase

Two of the Hazelwood Subdivision is to be located on North Louisiana Avenue. This plat was prepared by S. V. Griffith, R.L.S. for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance #424, as amended.

Mayor McDevitt opened the public hearing at 4:27 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 Phase Two of the Hazelwood Subdivision would add 34 lots to the

development.

Mayor McDevitt closed the public hearing at 4:28 p.m.

Councilman Boland moved to approve the final plat of Phase Two of the Hazelwood Subdivision to be located on North Louisiana Avenue, subject to the recommendations of the Planning and Zoning Commission, that buffering on Lots 36 through 47 be required and compliance with the Erosion Control Ordinance. This motion was seconded by Vice-Mayor Bratton, and carried unani-

mously.

RESOLUTION NO. 85-132 - RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ASHEVILLE, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND HAYWOOD STREET REDEVELOPMENT CORPORATION FOR A REDEVELOPMENT PROJECT IN THE HAYWOOD STREET REDEVELOPMENT AREA

7. Consideration was given to a resolution authorizing the Mayor, on behalf of the City of Asheville, to execute an agreement by and between the City of Asheville and Haywood Street Redevelopment Corporation for a redevelopment project in the Haywood Street Redevelopment Area.

Mayor McDevitt said this resolution would authorize the Mayor to execute an agreement by and between the City of Asheville and Haywood Street Redevelopment Corporation for a redevelopment project in the Haywood Street Redevelopment area. This rehabilitation project is for the buildings known as the old Ivey's building and the old Starnes and Haywood buildings in downtown Asheville. This agreement will provide \$4.5 million in downtown redevelopment. City expenditures for public improvements will not exceed \$320,000. Funding will be provided from a variety of sources earmarked for downtown redevelopment.

ment.

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

Bill Johnson, a partner in the Haywood Street Redevelopment Corpor-

ation, thanked members of Council and City staff for and for their efforts in reaching the point of an agreement by and between the City of Asheville and the Haywood Street Redevelopment Corporation.

Chuck Tessier said one of the projects involved in the Haywood Street Redevelopment area already under construction involves the Haywood Park Hotel in the old Ivey's building at the corner of Haywood Street and Battery Park Avenue. He said the Haywood Street Redevelopment Corporation is headed by Robert D. Armstrong and W. R. Johnson. He said the project will be expanded to include the Haywood and Starnes building which will contain a retail and office

complex to include a 200 space private parking deck at the rear of the Haywood building. He said the City's role in this project will be to make public improvements to the alley behind these buildings and on Haywood Street, from College Street to Pack Library, including new paving, signs, lighting, streets, landscaping and underground facilities.

Upon inquiry of Ralph Bishop, Mayor McDevitt said the cost to the City would not be in excess of \$320,000.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution 85-132 was unanimously adopted.

Complete text of Resolution No. 85-132 will be found in Resolution Book No. 15 at page 275.

RESOLUTION NO. 85-133 - RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF ASHEVILLE, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND STEITLER-TESSIER AND ASSOCIATES, INC. FOR A REDEVELOPMENT PROJECT IN THE

HAYWOOD STREET REDEVELOPMENT AREA

8. Consideration was given to a resolution authorizing the Mayor, on behalf of the City of Asheville, to execute an agreement by and between the City of Asheville and Steitler-Tessier and Associates, Inc. for a redevelopment project in the Haywood Street Redevelopment Area.

Mayor McDevitt said this resolution would authorize the Mayor to sign an agreement by and between Steitler-Tessier and Associates, Inc., and the City of Asheville for a redevelopment project in the Haywood Street Redevelopment Area. This project is at the old Asheville Hotel property on the corner of Walnut Street and Haywood Street. This agreement will provide for \$2.5 million in downtown redevelopment. City expenditures will not exceed \$10,000 and the improvements will be included in the Public Works, Street Division budget.

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

Mr. Tessier introduced the project stating that it would involve the Schulman building, formerly the old Asheville Hotel, at the corner of Haywood and Walnut Street. He said this would be developed by Steitler-Tessier and Associates, Inc. and the building will be transformed to a Bed and Breakfast Inn with a restaurant and lounge, retail space and additional parking. He said this would include a second Inn which will have 40 rooms, a restaurant and lounge, several shops and a balcony overlooking the street that will be used for breakfast in the morning and cocktails in the evening. He said the aluminum facade that now covers the front of the building will be removed and the original brick restored. He said the two projects, combined with the improvements of the City is committed to making, are geared to draw people to the area during the day and the night.

Upon inquiry of Ralph Bishop, Mayor McDevitt said the City's role in this project will include providing an access to the Civic Center Parking Garage in the amount of \$10,000.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-133 was unanimously adopted.

Complete text of Resolution No. 85-133 will be found in Resolution Book No. **15** at page **276**.

RESOLUTION NO. 85-134 - RESOLUTION REQUESTING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO CONSIDER AND TO ADOPT A RESOLUTION OF INTENT TO ISSUE URBAN REDEVELOPMENT BONDS IN THE AMOUNT OF TWO MILLION DOLLARS FOR THE OLD ASHEVILLE

HOTEL PROJECT

9. Consideration was given to a resolution requesting the Housing Authority of the City of Asheville to consider and to adopt a resolution of intent to issue urban redevelopment bonds in the amount of two million dollars

for the Old Asheville Hotel Project.

Mayor McDevitt said this resolution is requesting the Housing Authority of the City of Asheville to consider and to adopt on or about September 1, 1985 a resolution of intent to issue urban redevelopment bonds in an amount not to exceed two million dollars for the Old Asheville Hotel Project.

Mayor McDevitt said members of Council were previously 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. 85-134 was unanimously adopted.

Complete text of Resolution No. 85-134 will be found in Resolution Book No. **15** at page **277**.

RESOLUTION NO. 85-135 - RESOLUTION REQUESTING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO CONSIDER AND TO ADOPT A RESOLUTION OF INTENT TO ISSUE URBAN REDEVELOPMENT BONDS IN THE AMOUNT OF FOUR MILLION DOLLARS FOR THE HAYWOOD STREET REDEVELOPMENT CORPORATION REDEVELOPMENT PROJECT

10. Consideration was given to a resolution requesting the Housing Authority of the City of Asheville to consider and to adopt a resolution of intent to issue urban redevelopment bonds in the amount of four million dollars for the Haywood Street Redevelopment Corporation Redevelopment Project.

Mayor McDevitt said this resolution requests the Housing Authority of the City of Asheville to consider and to adopt on or about September 1, 1985, a resolution of intent to issue urban redevelopment bonds in an amount not to exceed four million dollars for the Haywood Street Redevelopment Project.

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

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-135 was unanimously adopted.

Complete text of Resolution No. 85-135 will be found in Resolution Book No. **15** at page **278**.

RESOLUTION NO. 85-136 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE BY AND BETWEEN THE CITY OF ASHEVILLE AND THE CITY OF ASHEVILLE BOARD OF ALCOHOLIC CONTROL FOR A RETAIL OUTLET STORE AT THE CORNER OF SOUTH CHARLOTTE STREET AND BILTMORE AVENUE

11. Consideration was given to a resolution authorizing the City Manager to execute a lease by and between the City of Asheville and the City of Asheville Board of Alcoholic Control for a retail outlet store at the corner of South Charlotte Street and Biltmore Avenue.

Mayor McDevitt said the City of Asheville owns property at the northeast corner of Biltmore Avenue and South Charlotte Street. The City does not need to use this property at this time and desires to enter into a lease of the property with the City of Asheville Board of Alcoholic Control. The Board of Alcoholic Control needs to relocate its outlet store presently located in the Pack Plaza Redevelopment Area. Revenues will be six thousand dollars (\$6,000) per annum for the first five (5) years. For each subsequent five year period, the rent shall be adjusted upward based on the total increase in the Consumer Price Index for the entire prior five (5) year period with such increase measured at each five (5) year anniversary date of the lease term.

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

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-136 was unanimously adopted.

Complete text of Resolution No. 85-136 will be found in Resolution Book No. **15** at page **279**.

RESOLUTION NO. 85-137 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS PROPERTY AT PUBLIC AUCTION

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

Mayor McDevitt said N. C. Stat. sec 160A-270 provides for the sale of surplus property at public auction. Various City departments have items which are surplus. This resolution will authorize the Purchasing Director to sell these items at a public auction. Sale of surplus property will generate expected revenues of \$6,000, which is not currently budgeted.

Mayor McDevitt said the auction would take place at the old Vehicle Maintenance Facility located on the Hunt Place beginning at 10:00 a.m. on Saturday, August 24, 1985.

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

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-137 was unanimously adopted.

Complete text of Resolution No. 85-137 will be found in Resolution Book No. **15** at page **280**.

SCHEDULING PUBLIC HEARING - EXTENDING PRESENT MORATORIUM IN THE HAW CREEK AREA

Councilman Price moved to schedule a public hearing relative to extending the present moratorium in the Haw Creek Area for August 20, 1985. This motion was seconded by Councilman Frank and carried unanimously.

INQUIRY BY BOB MILLER - DOWNTOWN REDEVELOPMENT - OLD BON MARCHE' AND OLD PENNEY'S BUILDING

Upon inquiry of Bob Miller relative to steps being taken to revitalize the Old Bon Marche' and Old Penny's buildings on Haywood Street in downtown Asheville, Mayor McDevitt said the City is taking certain statutory steps in this regard. He requested that Mr. Miller talk with the City Manager about this proposed project.

DECISION RELATIVE TO H. R. KUYKENDALL APPEAL

Mayor McDevitt requested since he and Councilman Myers were absent during the appeal of H. R. Kuykendall upon advice of the Corporation Counsel Slawter, that they be excused from participation and vote on this issue.

Councilman Price moved to excuse Mayor McDevitt and Councilman Myers from participating and voting on the H. R. Kuykendall appeal. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Boland moved that Mr. Kuykendall's appeal from the Board of Trustees of the Asheville Police Pension Board be denied based on the following Findings of Fact and Conclusions of Law;

FINDINGS OF FACT

1. Hartman R. Kuykendall was employed by the Asheville Police Department from

November 5, 1966, through October 26, 1979.

2. While in the course of his duties as a police officer on August 31, 1969,

Mr. Kuykendall was struck by an automobile and sustained an injury to his back.

3. Said injury did not result in surgery, Mr. Kuykendall being diagnosed by

Dr. R. Joe Burlison as having cervical spine strain and being assessed a

fifteen percent (15%) permanent partial disability of the cervical spine

and ten percent (10%) permanent partial disability of the lumbar spine.

4. Mr. Kuykendall thereafter continued his employment with the Asheville

Police Department working as a City jailer, a dispatcher, vehicle maintenance coordinator, taxi inspector and building maintenance coordinator.

5. On July 20, 1979, while working as building maintenance coordinator in the Asheville Police Department, Mr. Kuykendall again injured his back while in the process of moving a counter.

6. Mr. Kuykendall continued to work on the date of said injury and sought medical treatment for his injury three (3) days later.

7. Mr. Kuykendall continued to work through October 26, 1979.

8. On October 31, 1979, Mr. Kuykendall was admitted to Memorial Mission Hospital whereupon he was diagnosed by Dr. William F. Wilson as having HLA-B27 syndrome.

9. Mr. Kuykendall has not worked since October 26, 1979, in the Asheville Police Department.

10. Mr. Kuykendall has been diagnosed by Dr. Louis C. Waller as being permanently and totally disabled as a result of the HLA-B27 syndrome.

11. Mr. Kuykendall has been diagnosed by Dr. David L. Cappiello, as of March 30, 1981, as having zero percent (0%) disability and capable of returning to work.

12. If Mr. Kuykendall is disabled from performing his duties as a policeman, said disability is due to the HLA-B27 syndrome.

CONCLUSIONS OF LAW

The HLA-B27 syndrome affecting Mr. Kuykendall's physical condition is not the natural and proximate result of an accident occurring while in the actual performance of duty as a member of the Asheville Police Department at some definite time and place as required by Section 9 of Chapter 429 of the 1979 North Carolina Session Laws in order to entitle Mr. Kuykendall to in-line-of-duty disability benefits.

This motion was seconded by Councilman Frank, and carried unanimously on a 4-0 vote.

Mr. Kuykendall thanked members of Council for their time and said that his attorney would be in touch with members

of Council.

Corporation Counsel Slawter said that Mr. Kuykendall's attorney, Mr. Scott Jarvis, had contacted him, and said he would not be present for the decision of Mr. Kuykendall's appeal today but did wish that the decision be announced even though he was not present at the meeting.

CLAIMS - MRS. G. WILLIAMSON (SEWER) - SHARON RUFF (WATER)

The City Manager presented claims received from Mrs. G. Williamson and Sharon Ruff.

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

RALPH BISHOP - RIGHT OF REDRESS - OBTAINING PUBLIC RECORDS

Ralph Bishop spoke to members of Council relative to his right to seek redress from members of Council, and also requested information relative to Lla Leet Hudson, in the Management Services Division, as to whether or not she is bonded by the City.
