

Tuesday - October 1, 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; and Acting City Manager William F. Wolcott, Jr; Deputy City Clerk Carol Hensley.

Absent: Councilman Louis Bisette

## INVOCATION

The invocation was given by Councilman Norma Price.

## APPROVAL OF THE MINUTES - SEPTEMBER 24, 1985 MEETING

1. Approval of the minutes of the September 24, 1985 meeting.

Mayor McDevitt noted a typographical error on page 133 of the minutes of the September 24, 1985 meeting.

Mayor McDevitt announced approval of the minutes as amended.

## BLUE AND GREY BARBERSHOPPERS QUARTET - SING

2. Members of the Blue and Grey Barbershoppers Quartet sang two songs for members of Council. This was in connection with the Barbershoppers Quartet Convention being held in Asheville, October 3, 4 & 5, 1985.

## PROCLAMATION - OCTOBER 6 - 12, 1985 - "OSTEOPOROSIS AWARENESS WEEK"

3. Mayor McDevitt read a proclamation proclaiming October 6-12, 1985, as "Osteoporosis Awareness Week".

Mayor McDevitt presented a copy of the proclamation to Lillian G. Williams, Assistant State Director for AARP.

## PROCLAMATION - OCTOBER 6 - 12, 1985 - "EMPLOY THE HANDICAPPED WEEK"

4. Mayor McDevitt proclaimed the week of October 6-12, 1985, as "Employ the Handicapped Week".

## PROCLAMATION - OCTOBER 6 - 12, 1985 - "MENTAL ILLNESS AWARENESS WEEK"

5. Mayor McDevitt read a proclamation proclaiming the week of October 6-12, 1985, as "Mental Illness Awareness Week".

Mayor McDevitt presented a copy of the proclamation to Jack Matthews, Chairperson for the Western Carolina Alliance for the Mentally Ill.

## PROCLAMATION - OCTOBER 6 - 12, 1985 - "MINORITY ENTERPRISE DEVELOPMENT WEEK"

6. Mayor McDevitt read a proclamation proclaiming October 6-12, 1985, as "Minority Enterprise Development Week".

Mayor McDevitt presented a copy of the proclamation to Don Schronce, Coordinator for the Asheville Business Development Center.

## RESOLUTION NO. 85-175 - RESOLUTION OF APPRECIATION TO VERNON FRADY, RETIRING EMPLOYEE OF THE CITY OF ASHEVILLE

7. Consideration was given to a resolution of appreciation to Vernon Frady, retiring employee of the City of Asheville.

Mayor McDevitt read the resolution stating that Vernon Frady was employed by the City of Asheville for more than 30 years in the Parks Maintenance Division and retired on September 16, 1985.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 85-175 was unanimously adopted.

Complete text of Resolution No. 85-175 will be found in Resolution Book No. 15 at page 320.

Mayor McDevitt and members of Council presented a copy of the resolution to Mr. Vernon Frady.

### **PUBLIC HEARING - REZONING PROPERTY LOCATED ON OLD CHUNNS COVE ROAD**

#### **ORDINANCE NO. 1538 - AN ORDINANCE AMENDING NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON OLD CHUNNS COVE ROAD (LARRY BUCKNER PETITION)**

8. A public hearing was held relative to rezoning property located on Old Chunns Cove Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Mr. Larry Buckner, Buckner Associates, that Ward 8, Sheet 25, Lot 26, be rezoned from R-1 Residential District to R-2 Residential District. The property is located on Old Chunns Cove Road. After review and discussion, the Commission voted to recommend to City Council that Ward 8, Sheet 25, Lot 26, be rezoned from R-1

Residential District to R-2 Residential District.

Mayor McDevitt opened the public hearing at 4:33 p.m.

The Deputy 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 at its meeting of August 7, 1985, recommended that the property be rezoned as petitioned. He said no opposition had been received relative to the rezoning. By the use of a map, Mr. Emrick showed members of Council the property requested to be rezoned.

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

Mayor McDevitt 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. 1538. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1538 passed on first reading.

### **PUBLIC HEARING - REZONING PROPERTY LOCATED ON HENDERSONVILLE ROAD - BILTMORE DAIRY FARMS, INC.**

9. A public hearing was held relative to rezoning property located on Hendersonville Road - Biltmore Dairy Farms, Inc.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held August 7, 1985, considered the petition of Attorney Philip Carson for Biltmore Dairy Farms, Inc. that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 52, Lot 169, be rezoned from R-2 Residential District to CH Commercial Highway District.

Mayor McDevitt opened the public hearing at 4:36 p.m.

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

Mayor McDevitt noted that a request had been received from Philip Carson, Attorney for the petitioner, Biltmore Dairy Farms, Inc., requesting that the public hearing be continued for one week.

Councilman Boland moved to continue the public hearing relative to rezoning property located on Hendersonville Road - Biltmore Dairy Farms, Inc. until October 8, 1985, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

### **ORDINANCE NO. 1537 - AN ORDINANCE PROHIBITING SMOKING ON CITY PUBLIC TRANSPORTATION**

10. Consideration was given to the second reading of Ordinance No. 1537, an ordinance prohibiting smoking on City Public Transportation.

Mayor McDevitt said this ordinance will prohibit smoking on Asheville Transit Authority buses for health and cleanliness reasons. This ordinance passed on first reading on September 24, 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 do so.

On a roll call vote of 6-0, Ordinance No. 1537 passed on second reading.

### **ORDINANCE NO. 1539 - AN ORDINANCE CREATING THE ASHEVILLE FAIR HOUSING COMMISSION**

11. Consideration was given to an ordinance creating the Asheville Fair Housing Commission.

Mayor McDevitt said the City Council of the City of Asheville finds it in the public interest to promote fair housing practices in the City. The City Council desires to prevent discriminatory practices against any person in a real estate transaction. The U. S. Department of Housing and Urban Development has for many years encouraged and supported anti-discrimination initiatives through grant programs to the City designed to ensure equal opportunity for all citizens. The City Council of the City of Asheville does desire to create a Commission to be known as the Asheville Fair Housing Commission as authorized in Chapter 776, Sections, 1, 2 and 3 of the General Statutes of North Carolina.

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

A discussion was held relative to the term of office for the Chairman of the Commission. It was determined that a decision relative to the length of term for the Chairman would be discussed at the October 8, 1985 meeting.

Mayor McDevitt answered questions from Ralph Bishop relative to the ordinance.

Councilman Boland moved for the adoption of Ordinance No. 1539. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1539 passed on first reading.

### **RANKIN STREET PARKING BONDS**

12. Consideration was given to action relative to the issuance of the \$885,000 Rankin Street Parking Bonds.

There was introduced in written form the following order authorizing bonds which was read:

**ORDINANCE NO. 1540**

**ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS**

BE IT ORDERED by the Council of the City of Asheville:

Section 1. That, pursuant to The Local Government Bond Act, as amended, the City of Asheville, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said City may now or hereafter have power or authority to contract, and in evidence thereof to issue Rankin Street Parking Bonds in an aggregate principal amount not exceeding \$885,000 for the purpose of providing funds, with any other available funds, for purchase of land and constructing a structure for public parking at the Rankin-College Street intersection in Asheville, North Carolina.

Section 2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

Section 3. That a Sworn Statement of Debt of the City has been filed with the City Clerk and is open to public inspection.

Section 4. That this order shall take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people as provided in North Carolina General Statutes, Sec. 159-60, and that in that event the order will take effect when approved by the voters of the City at a referendum as provided in said Act.

Thereupon, upon motion of Councilman Frank, seconded by Councilman Price, the order entitled: "ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS," as hereinabove set forth, was passed upon its first reading by the following vote:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

Thereupon, upon motion of Vice-Mayor Wilhelmina Bratton, seconded by Councilman Price, the requirement of the Charter that ordinances be read on three separate days was dispensed with by the following vote, being not less than two-thirds of the members of the Council:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

Thereupon, upon motion of Councilman Frank, seconded by Councilman Price, the order entitled: "ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS," as hereinabove set forth, was read a second time and was passed upon its second reading by the following vote:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

There was introduced in written form the following resolution which was read:

**RESOLUTION NO. 85-176 - RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND FILE THE SWORN STATEMENT OF DEBT**

BE IT RESOLVED by the Council of the City of Asheville:

Section 1. That the Director of Finance be and he is hereby designated as the officer who shall prepare and file with the City Clerk the Sworn Statement of Debt of the City of Asheville which is required by The Local Government Bond Act, as amended, to be filed after a Bond Order has been introduced and before the public hearing thereon.

Section 2. That this resolution, being a resolution directing administrative action, shall take effect immediately.

Mayor

City Clerk

Approved as to form:

Corporation Counsel

Upon motion of Vice-Mayor Bratton, seconded by Councilman Price, the foregoing resolution entitled: "RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND FILE THE SWORN STATEMENT OF DEBT" was passed by the following vote:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

Thereupon the Director of Finance filed with the City Clerk, in the presence of the Council, the Sworn Statement of Debt as so required, which statement is attached to and made a part of these minutes.

Thereupon Councilman Price introduced in written form the following resolution which was read:

**RESOLUTION NO. 85-177**

**RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING**

BE IT RESOLVED by the Council of the City of Asheville:

Section 1. That a public hearing upon the order entitled: "ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS" shall be held at 4:00 o'clock p.m., on October 22, 1985, at the City Hall in Asheville, North Carolina, at which the Council shall hear anyone who may wish to be heard on the question of the validity of said order or the advisability of issuing said bonds.

Section 2. That said public hearing may be adjourned from time to time.

Section 3. That the City Clerk be and he is hereby directed to publish said order, together with the appended statement giving notice of said hearing as required by The Local Government Bond Act, as amended, once

in The Asheville Times not later than the sixth day before the date of said public hearing.

Mayor

City Clerk

Approved as to form:

Corporation Counsel

Upon motion of Councilman Price, seconded by Councilman Boland, the foregoing resolution entitled: "RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARINGS" was passed by the following vote:

Ayes: Councilmen: Mary Lloyd Frank, Norma T. Price, Walter R. Boland, Gordon Myers, Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton.

Noes: None

Thereupon the resolution entitled: "RESOLUTION DESIGNATING THE DIRECTOR OF FINANCE TO PREPARE AND FILE THE SWORN STATEMENT OF DEBT," the resolution entitled: "RESOLUTION PROVIDING FOR A PUBLIC HEARING UPON AN ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS AND DIRECTING THE CITY CLERK TO PUBLISH SAID ORDER TOGETHER WITH A STATEMENT GIVING NOTICE OF SAID HEARING," were authenticated by the signatures of the Mayor and the City Clerk, and the Corporation Counsel endorsed upon said resolutions his approval of the forms thereof.

### **SALE OF DISPOSAL PARCELS 113, 105-C, 105-D, AND 127 - EAST RIVERSIDE URBAN RENEWAL AREA**

13. Consideration was given to a motion approving the sale of Disposal Parcels 113, 105-C, 105-D and 127 in the East Riverside Urban Renewal area.

Mayor McDevitt said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal area.

#### Parcel Reuse Price Bid Redeveloper

113 Residential \$1,200.00 \$1,200.00 Burnell Freeman

105-C Residential 3,575.00 3,625.00 R & R Associates

105-D Residential 5,425.00 5,425.00 James & Pamela Vernon

127 Residential 1,800.00 1,850.00 R & R Associates

Lot 113 is a residential lot sale to an adjacent property owner to provide additional garden space. Appropriate landscaping will be done, but no construction is planned.

Lots 105-C and 127 are to be developed with a single family homes for resale.

The eventual purchasers of the completed homes will be able to obtain the Dollar-A-Lot subsidy.

Lot 105-D is a residential lot sale for a single family structure under the Incentive Housing Program.

Councilman Price moved to approve the sale of disposal parcels 113,

105-C, 105-D, and 127 in the East Riverside Urban Renewal area. This motion was seconded by Councilman Frank and carried unanimously.

### **APPROVAL OF THE CONSENT AGENDA**

14. Consideration of a motion approving the consent agenda.

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.

**RESOLUTION NO. 85-178**

**A. Resolution authorizing the Mayor to make application for State sewer grant funds for the City of Asheville Sewer Master Plan Project.**

HIGHLIGHTS: The State has recently appropriated grant funds for eligible sewer projects to counties and municipalities. Such grants are to be made for eligible projects on a 50% matching basis. The recently adopted Sewer Master Plan is such an eligible project.

FISCAL IMPACT: The receipt of this grant (\$749,762) would extend existing sewer construction resources.

Complete text of Resolution No. 85-178 will be found in Resolution Book No. **15** at page **323**.

**B. Motion scheduling a public hearing for rezoning property located on Hazel Mill Road for October 15, 1985.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held September 11, 1985, considered the petition of Attorney S. J. Crow for Trustees of the Theodore Freeman Estate that Ward 6, Sheet 16, Lots 456, and 467, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located on Hazel Mill Road. After review and discussion, the Commission voted to recommend that the petition be denied and the property remain as it is now zoned. However, the petitioner has filed an appeal of the decision of the Planning and Zoning Commission, and has requested the City Council to hold a public hearing relative to the rezoning.

**C. Motion to schedule a public hearing on a site plan of the proposed Sweeten Creek Village Apartments to be located on Sweeten Creek Road for October 15, 1985.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held August 21, 1985, reviewed the site plan of the

proposed Sweeten Creek Village Apartments to be located on Sweeten Creek Road. The site plan was prepared by Mills, Oliver and Webb, Inc., Blacksburg, Virginia, Architects-Engineers, for Fralin and Waldron, Inc., Roanoke, Virginia, 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 following conditions: 1) final approval of entrance off Sweeten Creek Road from North Carolina Department of Transportation; and 2) compliance with the Erosion Control Ordinance.

**RESOLUTION NO. 85-179**

**D. Resolution appointing a member to the Asheville Transit Authority.**

HIGHLIGHTS: The term of Roy Meece expired on February 12, 1985.

This resolution will appoint Mrs. Wanda Winslow as a member of the Asheville Transit Authority.

Complete text of Resolution No. 85-179 will be found in Resolution Book No. **15** at page **324**.

**RESOLUTION NO. 85-180**

**E. Resolution authorizing the barricading of a portion of Booker Street on October 2, 1985.**

HIGHLIGHTS: This resolution will authorize the closing of Booker Street between Caribou Road and West Chapel Road October 2 from 11:00 A.M. until 12:00 Noon for the purpose of a performance by the Asheville High School Band and the ROTC Drill Team at the Venus Lodge Masonic Lodge Hall.

Complete text of Resolution No. 85-180 will be found in Resolution Book No. **15** at page **325**.

Upon motion of Councilman Price, seconded by Councilman Frank, the Consent Agenda was unanimously adopted.

**RESOLUTION 85-181 - RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND NEO CORPORATION FOR THE**



## **REMOVAL OF ASBESTOS IN THE BOILER REPLACEMENT PROJECT**

15. Consideration was given to a resolution authorizing the interim City Manager to execute an agreement by and between the City of Asheville and NEO Corporation for the removal of asbestos in the Boiler Replacement Project.

Mayor McDevitt said the boilers which heat the City Hall Building are old and in need of replacement. It is necessary to execute various

contracts for the construction and repair involving the replacement of the boilers. Part of the construction and repair project involves the removal of asbestos in the boiler room area to enable the replacement of the boiler. The City of Asheville has solicited informal bids from two companies licensed to remove the asbestos in the boiler room area. Those bids have been reviewed, and City staff recommends that City Council award the bid to NEO Corporation as the lowest responsible bidder. This resolution will authorize the interim City Manager to execute an agreement for removal of asbestos in the boiler room area for the Boiler Replacement Project in the City Hall Building.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-181 was unanimously adopted.

Complete text of Resolution No. 85-181 will be found in Resolution Book No. **15** at page **326**.

## **CLAIMS - JUDY STRICKLAND (WATER)**

The Acting City Manager presented a claim received from Judy Strickland.

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

## **LAWSUITS - HARRY BRUMMER vs. CITY OF ASHEVILLE (APPEAL OF BOARD OF ADJUSTMENTS ORDER)**

The Acting City Manager said the City of Asheville was served with a summons in connection with a lawsuit involving Harry Brummer v. City of Asheville relative to an appeal of the Board of Adjustments' order affirming revocation of a zoning permit.

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

## **RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE**

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

## **ADJOURNMENT TO EXECUTIVE SESSION**

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, the meeting adjourned to executive session at 5:35 p.m.

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MAYOR CITY CLERK

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