

Tuesday - October 15, 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, and Louis Bisette; Corporation Counsel William F. Slawter; Acting City Manager Sam Graves; and Deputy City Clerk Carol Hensley.

Absent: Acting City Manager William F. Wolcott, Jr.

INVOCATION

The invocation was given by Vice-Mayor Bratton.

APPROVAL OF THE MINUTES - OCTOBER 8, 1985 MEETING

1. Approval of the minutes of the October 8, 1985 meeting.

Mayor McDevitt suggested that the minutes be amended to delete Mr. Wade Hargrove's summary relative to Asheville Cablevision, from the minutes and insert a verbatim text of Mr. Hargrove's presentation.

Mayor McDevitt announced approval of the minutes as amended.

PROCLAMATION - OCTOBER 20-26 - "NATIONAL LUPUS AWARENESS WEEK"

2. Mayor McDevitt read a proclamation proclaiming October 20-26, as "National Lupus Awareness Week".

Mayor McDevitt presented the proclamation to Mary Proctor, Chairman of the Lupus Support Group.

PROCLAMATION - OCTOBER 19, 1985 - "ST. JUDE CHILDREN'S RESEARCH HOSPITAL DAY"

3. Mayor McDevitt read a proclamation proclaiming October 19 as "St. Jude Children's Research Hospital Day."

Mayor McDevitt presented the proclamation to Dr. Steve Seibert, of the Biltmore Chiropractic Center.

RESOLUTION NO. 85-186 - RESOLUTION RECOGNIZING THE AWARDING OF THE CERTIFICATE OF MERIT FROM THE AMERICAN NATIONAL RED CROSS TO RICKY BATES, RAY SHIPMAN, LARRY BRADLEY, JACK RAMSEY, LEROY LUNSFORD AND H. C. ALDRIDGE, JR.

4. Consideration was given to a resolution recognizing the awarding of the Certificate of Merit from the American National Red Cross to Ricky Bates, Ray Shipman, Larry Bradley, Jack Ramsey, LeRoy Lunsford and H. C. Aldridge, Jr.

Mayor McDevitt said the American National Red Cross annually presents the National Certificate of Merit to persons who have saved or sustained a life by using skills and knowledge learned in volunteer

training offered through the Red Cross in First Aid, Small Craft or Water Safety. This highest award presented by the American National Red Cross has been presented to the above individuals for having saved the life of an individual by administering CPR on or about September 15, 1984.

Mayor McDevitt recognized Mr. John Stovall, Director of Safety Services with the American Red Cross.

Mr. Stovall said this was the highest recognition given by the American National Red Cross, and they were very pleased to be giving these Certificates of Merit to local citizens and employees of the City of Asheville. He introduced Mr. Doug Jones, Chairman of the Safety Committee for the American National Red Cross, who presented the

Certificate of Merits and lapel pins to each of the individuals.

Mayor McDevitt read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-186 was unanimously adopted.

Mayor McDevitt presented each of the individuals with a copy of the resolution.

Complete text of Resolution No. 85-186 will be found in Resolution Book No. **15** at page **332**.

RECOGNITION OF LARRY FISHER, DIRECTOR OF FINANCE - "AWARD OF FINANCIAL REPORTING ACHIEVEMENT"

5. Mayor McDevitt in recognizing Mr. Larry Fisher, Director of Finance for the City of Asheville, said he had received a letter from Mr. David R. Bean, with the Government Finance Officers Association, which read as follows:

August 16, 1985

The Honorable Larry S. McDevitt

Mayor

City of Asheville

P.O. Box 7148

Asheville, NC 28807

Dear Mayor McDevitt:

We are pleased to notify you that your comprehensive annual financial report for the fiscal year ended June 30, 1984 qualifies for a Certi

ificate of Conformance in Financial Reporting. The Certificate of Conformance is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

When a Certificate of Conformance is awarded to a government an Award of Financial Reporting Achievement is also presented to the individual designated by the government as primarily responsible for its having earned the certificate. Enclosed is an Award of Financial Reporting Achievement for:

Larry Fisher Director of Finance

The Certificate of Conformance plaque will be shipped under

separate cover in about six weeks. We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and that appropriate publicity will be given to this notable achievement. A sample news release is enclosed. We suggest that you provide copies of it to the local newspapers and radio and television stations.

We hope that your example will encourage other government officials in their efforts to achieve and maintain an appropriate standard of excellence in financial reporting. If you have any questions regarding this matter, or if we may be of any further assistance, please do not hesitate to contact us.

Sincerely,

GOVERNMENT FINANCE OFFICERS ASSOCIATION

David R. Bean

Assistant Director/Governmental Accounting Programs

DRB/pp

Enclosures

Mayor McDevitt presented the plaque and award to Larry Fisher.

Larry Fisher, Director of Finance, said this was the sixth Certificate of Conformance plaque to be received by the City of Asheville, and he was proud of the recognition.

PUBLIC HEARING - REZONING PROPERTY LOCATED ON HAZEL MILL ROAD

6. A public hearing was held relative to rezoning property located on Hazel Mill Road.

Mayor McDevitt said 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 City Council to hold a public hearing relative to the rezoning.

Mayor McDevitt opened the public hearing at 4:34 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 denied the requested rezoning. He said the

denial was based on the narrowness and curvature of Hazel Mill Road, which could possibly create traffic hazards. He presented a rendering for the proposed use of the property showing that the property would be used for greenhouses.

Mayor McDevitt noted that members of Council should base their decision only on rezoning the property to Commercial Highway District since all the permitted uses in the Commercial Highway District would be allowed.

Upon inquiry of Councilman Boland, Verl Emrick said Hazel Mill Road is primarily zoned R-3 Residential District.

Attorney Jerry Crow, representing the Freeman Estates, spoke in support of the rezoning. He said Hazel Mill Road is slowly gravitating to commercial development. He said the proposed use of the property, being green-

houses, will not generate additional traffic in the area since it is only a storage area except for a couple of times a year. He said the proposed use of the property would be better than the current vacant lot. He said the property would be fenced, landscaped, and buffered.

Mr. Ljungberg, of 240 Hazel Mill Road, spoke in opposition to the requested rezoning. He said if the property is rezoned, it would be strictly commercial property, and the residents in the area were opposed to commercial development. He suggested that the property be used as an office building location.

After discussion, Mayor McDevitt closed the public hearing at 5:05 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance, rezoning the property as requested,

and it would not be read in its entirety.

Councilman Price moved to support the recommendation of the Planning and Zoning Commission to deny the requested rezoning. This motion was seconded by Councilman Boland.

A discussion was held relative to prohibiting the property owner from requesting any rezoning of the property within a one-year time period if Council denies the rezoning.

After discussion, Councilman Price withdrew her motion to support the recommendation of the Planning and Zoning Commission to deny the requested rezoning. Councilman Boland consented to withdrawing the motion.

After calling for a motion relative to adoption of the ordinance, Mayor McDevitt announced that the ordinance died for the lack of a motion for adoption.

PUBLIC HEARING - SITE PLAN - SWEETEN CREEK VILLAGE APARTMENTS - SWEETEN CREEK ROAD

7. A public hearing was held relative to the site plan of the proposed Sweeten Creek Village Apartments to be located on Sweeten Creek Road.

Mayor McDevitt said 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 Develop-

ment 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.

Mayor McDevitt opened the public hearing at 5:16 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 project would consist of a 120-unit complex. He said all zoning and group development require-

ments have been met for the site plan.

He presented a letter from Richard Phillips, with the North Carolina Department of Natural Resources and Community Development, which stated that the State would be responsible for the erosion control on this property. He said the erosion control plans have been submitted and are being reviewed by the North Carolina Department of Natural Resources and Community Development. He also presented a letter to Earl McIntire, with the North Carolina Department of Transportation, requesting approval of the entrance to the project.

Ridgley Robinson, Architect, spoke in support of the site plan.

Upon of inquiry of Councilman Price, Mr. Robinson said the property would be well preserved, and enhanced with landscaping and buffering.

Mayor McDevitt left the meeting at 5:20 p.m.

After discussion, Vice-Mayor Bratton closed the public hearing at 5:25 p.m.

Councilman Bissette moved to approve the site plan of the proposed Sweeten Creek Village Apartments to be located

on Sweeten Creek Road subject to the final approval of the entrance off Sweeten Creek Road with the North Carolina Department of Transportation and compliance with the erosion control ordinance. This motion was seconded by Councilman Price and carried unanimously. (Mayor McDevitt voting "aye" as he was unexcused from the meeting.)

REPORT - REHABILITATION OF APARTMENT HOUSE KNOWN AS 37 EAST CHESTNUT STREET

8. Vice-Mayor Bratton said on January 15, 1985, Council adopted Resolution No. 84-5 authorizing an agreement by and between Keith E. Harwood and wife Deborah Joan Harwood, owners of 37 East Chestnut Street, to rehabilitate the apartment house known as 37 East Chestnut Street. Said agreement provided that Mr. Harwood would report to Council on

April 16, 1985, as to whether or not the apartment house has been brought into compliance with the North Carolina State Building Code and the minimum Housing Code of the City. On April 16, 1985, an amendment was authorized to the agreement to extend the time of completion of rehabilitation to the apartment house until the 16th day of October, 1985, with a report back to Council on October 15, 1985.

Lem Moore, Director of Inspections, said Mr. Harwood had fulfilled all the requirements of the agreement for the rehabilitation of 37 East Chestnut Street. He said his division had issued Certificate of Occupancies for all four units.

ORDINANCE NO. 1541 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED -

PROPERTY LOCATED ON HENDERSONVILLE ROAD (ATTORNEY CARSON FOR BILTMORE DAIRY FARMS, INC.)

9. Consideration was given to the second reading of Ordinance No. 1541, an ordinance amending Ordinance No. 322 known as "An ordinance providing for the zoning of the City of Asheville" as amended, property located on Hendersonville Road (Attorney Carson for Biltmore Dairy Farms, Inc).

Mayor McDevitt returned to the meeting at 5:30 p.m.

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. On October 1, 1985, at the request of Attorney Philip Carson and the petitioner, Biltmore Dairy Farms, Inc., the public hearing was continued until October 8, 1985. This ordinance passed on first reading on October 8, 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.

Upon inquiry of Councilman Bisette, Verl Emrick said he had not received information from the North Carolina Department of Transportation relative to the requested rezoning; however, he would be in contact with the North Carolina Department of Transportation before the third reading of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1541 passed on second reading.

ORDINANCE NO. 1542 - AN ORDINANCE AMENDING SECTION 19A-11 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (GRIEVANCE PROCEDURE)

10. Consideration was given to the second reading of Ordinance No. 1542, an ordinance amending Section 19A-11 of the Code of Ordinances of the City of Asheville.

Mayor McDevitt said a recent Supreme Court decision, Cleveland Board of Education vs. Loudermill, requires the

City to institute pre

termination hearing procedures for any employees being terminated from City employment by the City. These procedures will also be used for employees being demoted or suspended without pay for more than five (5) days. In addition, a number of minor procedural changes are being made in the City's grievance process including: intermediate supervisors in the process; specifying hand delivery or delivery by certified mail of all notices; permitting employees to go the Civil Service Board if the grievance process isn't completed in 30 days; and removing a section making reinstatement actions retroactive to date a grievance is filed. This ordinance passed on first reading on October 8, 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.

David Anders, with the Asheville Firefighters Association, said the ordinance does not entitle an employee to confront or cross-examine adverse witnesses or to present witnesses on his own behalf, unless it is deemed necessary by a department head at a pre-determination hearing. He said he felt that an employee should be allowed to present witnesses and also have a representative available if they so desire. Mr. Anders requested that Council consider amending the ordinance to allow an automatic approval for employees to present witnesses or to be represented at a pre-determination hearing. He presented copies of decisions from the Ninth Circuit Court of Appeals where representatives were allowed at any disciplinary hearing.

Vice-Mayor Bratton, Councilman Boland, Councilman Price and Councilman Bissette all agreed that Mr. Anders had made a reasonable request and employees should have a right to be represented during a pre determination hearing.

Council instructed the City Attorney to check on amending Ordinance No. 1542 to reflect Mr. Anders' request and to check the current law relative to reinstatement provisions.

On a roll call vote of 5-2, Ordinance No. 1542 passed on second reading with Councilman Boland and Vice-Mayor Bratton voting "no".

Mayor McDevitt urged members of Council to have appropriate motions/amendments ready for consideration at next week's meeting.

ORDINANCE NO. 1538 - AN ORDINANCE AMENDING ORDINANCE 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)

11. Consideration was given to the third reading of Ordinance No. 1538, an ordinance amending Ordinance 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).

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. This ordinance passed on first reading on October 1, and on second reading on October 8, 1985.

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

On a roll call vote of 7-0, Ordinance No. 1538 passed on third and final reading.

Complete text of Ordinance No. 1538 will be found in Ordinance Book No. **10** at page **308** and **309**.

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

12. Consideration was given to the third reading of Ordinance No. 1539, 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. This ordinance passed on first reading on October 1, and on second reading on October 8, 1985.

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

Ralph Bishop spoke in opposition to the ordinance stating that this was an invasion of privacy.

On a roll call vote of 7-0, Ordinance No. 1539 passed on third and final reading.

Complete text of Ordinance No. 1539 will be found in Ordinance Book No. **10** at page **310** and **311**.

Vice-Mayor Bratton thanked Mayor McDevitt for his many efforts in getting this ordinance adopted.

RESOLUTION NO. 85-187 - RESOLUTION AUTHORIZING THE BARRICADING OF A PORTION OF EDGEWOOD ROAD ON OCTOBER 19, 1985

13. Consideration was given to a resolution authorizing the barricading of a portion of Edgewood Road on October 19, 1985.

Mayor McDevitt said this resolution will authorize the temporary closing of Edgewood Road from College Heights to University Heights on October 19, 1985, from 9:00 a.m. to 2:00 p.m. for the purpose of a St. Jude Children's Research Hospital Bike-A-Thon.

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 Price, seconded by Councilman Myers, Resolution No. 85-187 was unanimously adopted.

Complete text of Resolution No. 85-187 will be found in Resolution Book No. **13** at page **333**.

RESOLUTION NO. 85-188 - RESOLUTION SUPPORTING PROPOSED CHANGES IN THE FAIR LABOR STANDARDS ACT

14. Consideration was given to a resolution supporting proposed changes in the Fair Labor Standards Act.

Mayor McDevitt said the Supreme Court has ruled that state and local governments must comply with the Fair Labor Standards Act. This will create a great hardship for cities throughout the nation. It is estimated that the cost for Asheville alone will be anywhere from \$200,000 to \$250,000 per year, despite cost-cutting measures that will necessitate the hiring of new employees for jobs in which present city employees have traditionally "moonlighted". This resolution urges our representatives in Congress to support Senate Bill 1570, which would amend the Fair Labor Standards Act to exempt state and local government employees from the overtime provisions, exempt individuals providing services to state and local governments on a volunteer basis from the minimum wage and overtime provisions of the act, and eliminate the retroactive application of the act.

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 Bisette, Resolution No. 85-188 was unanimously adopted.

Complete text of Resolution No. 85-188 will be found in Resolution Book No. **15** at page **334** and **335**.

Mayor McDevitt instructed the Deputy City Clerk to mail a copy of the Resolution to Senators Helms and East and Congressman Hendon.

RESOLUTION NO. 85-189 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DEED OF RELEASE BY AND BETWEEN THE CITY OF ASHEVILLE AND THE DEPARTMENT OF TRANSPORTATION

15. Consideration was given to a resolution authorizing the Mayor to execute a Deed of Release by and between the City of Asheville and the Department of Transportation.

Mayor McDevitt said the City of Asheville has conveyed to the Department of Transportation by a Deed of Correction dated August 13, 1985, a 20' wide right-of-way in which the City of Asheville retained for itself a joint use easement over same for use as fire lane and water line easement. The City has determined that a portion of the 20' easement, which contains no right-of-way, is not needed for use as a fire lane or for utilities. This resolution will authorize the Mayor to execute a Deed of Release between the City and the Department of Transportation.

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 Price, seconded by Councilman Frank, Resolution No. 85-189 was unanimously adopted.

Complete text of Resolution No. 85-189 will be found in Resolution Book No. **15** at page **336**.

RESOLUTION NO. 85-190 - RESOLUTION AUTHORIZING THE SALE OF CERTAIN PROPERTIES ACQUIRED BY THE COUNTY OF BUNCOMBE PURSUANT TO TAX FORECLOSURE

16. Consideration was given to a resolution authorizing the sale of certain properties acquired by the County of Buncombe pursuant to tax foreclosure.

Mayor McDevitt said the City of Asheville and the County of Buncombe entered into an Agreement dated November 5, 1984, to set forth the responsibilities of the City and County with regard to the prior responsibilities of the Buncombe County Board of Tax Supervision. Pursuant to that Agreement, the County is authorized to sell and convey all property heretofore titled in the name of the Buncombe County Board of Tax Supervision to such person or party and for such price on such terms as the Board of County Commissioners shall deem for the best interests of the City of Asheville, subject to the prior approval of the City of those lots within the City. Those properties titled in the name of the Buncombe County Board of Tax Supervision which are within the city limits of the City of Asheville have now been identified. City Council approves the sale of four lots by the County of Buncombe at a price not less than the current tax valuation. Total tax value of the lots would be \$13,900. The City would receive approximately one-half of this as revenue.

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 Price, seconded by Councilman Frank, Resolution No. 85-190 was unanimously adopted.

Complete text of Resolution No. 85-190 will be found in Resolution Book No. **15** at page **337** and **338**.

Mayor McDevitt noted that the lots outlined in the resolution were as follows:

Tax Lot No. Tax Value Location

Ward 9, Sheet 8, Lot 73 \$3,900.00 Fenner Avenue

Ward 6, Sheet 2, Lot 86 \$3,800.00 Toxaway Street

Ward 6, Sheet 2, Lot 63 \$4,000.00 Westwood Place

Hazel Road

Ward 2, Sheet 5, Lot 111 \$2,200.00 Holland

COUNCIL ACTION RELATIVE TO CITY COUNCIL CABLE TELEVISION COMMISSION REPORT

17. Mayor McDevitt said the Commission report was discussed during the Pre-Council meeting at some length with the representatives of Asheville Cablevision and their attorney Max Cogburn.

Councilman Bisette moved that the City Council Cable Television Commission's report be essentially adopted to recommend that the report, the results of the questionnaire, and the summaries of the proceedings of the public hearings be forwarded to Mr. Stephen Rawls, Chief of Cable TV Branch, Mass Media Bureau, Federal Communications Commission, 1919 Main Street Northwest, Washington, DC, with a formal request that an enforcement engineer be sent to Asheville to institute a full investigation

of Asheville Cablevision's signal quality, service interruption problems, and overall operating procedures. Further, that the Asheville City Council notify Asheville Cablevision as soon as possible, pursuant to Section 32 of the franchise agreement of its default, and that the company has 60 days to commence with correcting the problems detailed in the report and that they may complete these corrections within a reasonable time or show cause why the City Council should not exercise its right to revoke and declare forfeited the franchise agreement and all rights of Asheville Cablevision. This motion was seconded by Vice-Mayor Bratton.

Max Cogburn, Attorney for Asheville Cablevision, spoke relative to the Commission's report stating that Asheville Cablevision is committed to doing what needs to be done and that the firm welcomes the F.C.C. investigation and will cooperate in every way. He requested that no further action be taken until the F.C.C. investigation is complete and that the problems outlined in the report could be resolved without formal notification of default. He said Asheville Cablevision would like to see a list of the problems outlined by the City Council Cable Television Commission.

Mike McFee, Acting General Manager for Asheville Cablevision, said it is hopeful that Asheville City Council knows that Asheville Cablevision is willing to work with Council, and that they would support the recommendation of Councilman Bisette. He said Asheville Cablevision would provide City Council with the most recent results of the annual F.C.C. report. He requested that Council take a less formal approach to the problems detailed in the report.

A discussion was held, instituted by Councilman Boland and Attorney Max Cogburn, as to whether the notification of default should be delayed until after the F.C.C. investigation in the event the Federal Communications Commission shows that the company is in compliance with their regulations.

Councilman Bisette said he felt the F.C.C. would deal only with issues involving its own regulations, it would not examine the issues involving the franchise that are detailed in the Commission's report.

Councilman Myers said City Council should address the concerns of all the citizen complaints expressed at the public hearing, the many telephone calls received by City staff and individual Councilmembers, and the many letters received relative to the service problems, picture quality, level of service, and the re-tiering of programming in March of 1983, which was a major voice of concern by the subscribers. He said the City Council Cable Television Commission was told by Asheville Cablevision that they would not return to programming provided by the basic service prior to March

of 1983. He said he felt his action adversely affected many people in this community and City Council should address these concerns.

Ralph Bishop spoke to members of Council relative to the frustration of the subscribers in Asheville Cablevision changing the programming in March, 1983, on basic service.

Mayor McDevitt called for a five minute recess of Council.

Upon inquiry of Mayor McDevitt, Councilman Bissette said he would include in his motion that the City Attorney draft a letter for Council's approval next week relative to notification to Asheville Cablevision of its default, and that the company has 60 days to commence with correcting the problem as detailed in the report.

On a voice vote of 6-1, Councilman Bissette's motion passed with Councilman Boland voting "no".

Councilman Boland, in voting against the motion, said he felt the F.C.C. has the power to investigate the concerns in the Commission's report. He said he felt the F.C.C. investigation would be a first, logical step in a series of events, and if the first step is completed, Council may not need a second step.

Councilman Price, in addressing Attorney Max Cogburn, said one of the problems with Asheville Cablevision is the outages experienced in the West Asheville area.

BIDS - BULK SODIUM CHLORIDE FOR SNOW AND ICE CONTROL

18. Consideration was given to a motion relative to bids received for bulk sodium chloride for snow and ice control.

Mayor McDevitt said sealed bids were received for a term purchase contract to furnish the City's requirements for bulk sodium chloride for snow and ice control for the winter of 1985-86. Five (5) bids were received. It is recommended that the low bidder, Domtar Industries,

Incorporated, Sifto Salt Division, be awarded the contract in the amount of \$20,694.00. Funds in the amount of \$500,000 were appropriated in the 1985-86 Public Works Operating Budget (0380/Materials Line Item), and purchases will be made as required.

Councilman Boland moved to award the bid to the low bidder, Domtar Industries, Inc., Sifto Salt Division, for estimated contract amount of \$20,694. This motion was seconded by Councilman Price and carried unanimously.

The bid summary is as follows:

Bidder Amount

Domtar Industries, Inc. \$20,694.00

Morton Salt Company 21,858.00

International Salt Co. 23,538.00

Diamond Crystal 25,800.00

Cargill Salt Co. 21,900.00

RESOLUTION NO. 85-191 - RESOLUTION GRANTING RIGHT-OF-WAY TO CAROLINA POWER AND LIGHT COMPANY FOR A SERVICE LINE ON DEAVERVIEW PARK PROPERTY

19. Consideration was given to a resolution granting right-of-way to Carolina Power and Light Company for a service line on Deaverview Park property.

Mayor McDevitt said Carolina Power and Light Co. has requested authority to establish one pole, one anchor, and approximately 60' of primary line on property owned by the City of Asheville and known as Deaverview Park. He said this easement is necessary to supply power to the West Congressional Jehovah Witness Church which is under construction on property immediately adjoining Deaverview Park on Johnston Boulevard. The establishment of this right-of-way and its primary electrical service will not interfere in any way with the use of the park area. This resolution will authorize the Mayor to execute a deed granting the easement to Carolina Power and Light Company.

Mayor McDevitt read the resolution.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-191 was unanimously adopted.

Complete text of Resolution No. 85-191 will be found in Resolution Book No. **15** at page **339**.

ORDINANCE NO. 1543 - BUDGET ORDINANCE AMENDMENT APPROPRIATING FUNDING FOR THE MAYOR'S COMMITTEE ON THE EMPLOYMENT OF THE HANDICAPPED

20. Consideration was given to a budget ordinance amendment to provide funding in the amount of \$300 for support for the Mayor's Committee on Employment of the Handicapped. Funding will be provided from the General Fund Contingency.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1543. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1543 passed on first and final reading.

Complete text of Ordinance No. 1543 will be found in Ordinance Book No. **10** at page **317**.

ACTION RELATIVE TO BIDS RECEIVED FOR HAW CREEK SEWER PROJECT

21. Mayor McDevitt said members of Council had discussed bids received for the Haw Creek Sewer Project in depth during the Pre-Council meeting.

After discussion, Councilman Price moved to accept the low bid presented by Huntley Construction Company in the amount of \$131,459 for the Haw Creek Sewer Project. This motion was seconded by Councilman Frank and carried unanimously.

Mayor McDevitt said, if necessary, Council would take further action on the bids in two weeks.

RESOLUTION NO. 85-192 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ELB/MONITOR, INC. FOR TESTING FOR RESIDUAL ASBESTOS IN AREAS WHERE REMOVAL WORK HAS BEEN PERFORMED IN THE CITY BUILDING

22. Consideration was given to a resolution authorizing the Mayor to execute an agreement by and between the City of Asheville and ELB/Monitor, Inc. for testing for residual asbestos in areas where removal work has been performed in the City Building.

Mayor McDevitt said work to remove asbestos from surfaces in the boiler room and adjoining areas of the City Building is being performed. After this removal work has been performed, it is necessary that areas be tested for residual asbestos. The City has solicited informal bids for this testing from three firms qualified to perform the testing. The City staff recommends that City Council award the contract to ELB/Monitor, Inc. as the lowest responsible bidder.

Mayor McDevitt read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Myers, Resolution No. 85-192 was unanimously adopted.

Complete text of Resolution No. 85-192 will be found in Resolution Book No. **15** at page **340**.

SCHEDULING PUBLIC HEARING - CIVIL SERVICE RULE 17 (J) - ADDITIONAL HOLIDAY FOR EMPLOYEES OF THE CITY OF ASHEVILLE - MEMORIAL DAY

23. Councilman Price moved to schedule a public hearing relative to adopting an amendment to Civil Service Rule 17(j) providing for an additional holiday for members of the classified service of the City of Asheville, being Memorial Day, for November 12, 1985, at 4:00 p.m. This motion was seconded by Councilman Frank and carried unanimously.
