

Tuesday - October 22, 1985 - 4:00 p.m.

Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Walter R. Boland, and Louis Bisette; Corporation Counsel William F. Slawter; Acting City Manager, William F. Wolcott, Jr.; and Deputy City Clark, Carol Hensley.

Absent: Councilman Gordon Myers

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - OCTOBER 15, 1985 MEETING

1. Approval of the minutes of the October 15, 1985 meeting.

Mayor McDevitt announced the approval of the minutes with several minor changes.

EXPRESSION OF APPRECIATION TO AGENCIES, BUSINESSES, AND CONCERNED CITIZENS THAT HELPED DURING THE RECENT EMERGENCY AT BEAVER LAKE

Mayor McDevitt recognized the following agencies, businesses, and concerned citizens for their help and assistance during the recent emergency at Beaver Lake. He said although the outcome was a tragedy, with the drowning of Kenneth Bishop, the operation could not have been undertaken without the voluntary assistance of all involved.

Fire Department Personnel, American Red Cross, Asheville Police

Department, Buncombe County EMS, Buncombe County Parks & Recreation, Asheville Area Rescue Squad, Inc., Burger King, Fairview Volunteer Fire Department, French Broad Fire Department, Hardees of Asheville, McDonalds Hamburgers, Pepsi Cola Company of Asheville, Red Diamond Service Station, Skyland Fire Department, Upper Hominy Fire Department, Wendy's Old Fashion Hamburgers, West Buncombe Fire Department, Mr. Grover Blazer, Mr. Herbert Hill, Frank Blankenship, Sr., Daniel Boone, Robert Bayer, Turner Rogers, President of the Lakeview Park Association; the Yancey County Rescue Squad, McDowell County Rescue Squad, Henderson

County Rescue Squad, Jackson County Rescue Squad, and Tri-County ReAct.

Chief Ball of the Asheville Fire Department also expressed his appreciation to all those who helped during the emergency. He said the tremendous response and efforts of all these agencies, businesses, and citizens displayed the compassion for others when emergencies of this nature arise.

PROCLAMATION - "UNITED NATIONS DAY" - OCTOBER 24, 1985

2. Mayor McDevitt read a proclamation proclaiming October 24, 1985, as "United Nations Day".

Mayor McDevitt presented a copy of the proclamation to Richardson Rice,

Vice-President of the Local Chapter for United Nations Association.

RESOLUTION NO. 85-193 - RESOLUTION COMMENDING THE HILLCREST 4-H GARDEN CLUB FOR WINNING THE ACGA/GLAD NATIONAL COMMUNITY GARDENING CONTEST

3. Consideration was given to a resolution commending the Hillcrest 4-H Garden Club for winning The ACGA/GLAD National Community Gardening Contest.

Mayor McDevitt said the Hillcrest Garden Club has been selected as a special population site winner in The ACGA/GLAD National Community Gardening Contest. As a winner in ACGA's Southern region, the Hillcrest Garden Club has been awarded \$100.00 to be used by the Club.

Upon motion of Councilman Bisette, seconded by Councilman Price, Resolution No. 85-193 was unanimously adopted.

Complete text of Resolution No. 85-193 will be found in Resolution Book **15** at Page **341**.

Mayor McDevitt recognized Thomas Youngblood-Peterson, with MAGIC, who presented Mr. Johnny Hayes, Director of the Hillcrest 4-H Club with a check for \$100.00 to be used by the Garden Club to further their activities.

Mayor McDevitt recognized the Hillcrest 4-H Club members that were in attendance at the meeting, and presented a copy of the Resolution to Keisha Battle, President of the Hillcrest 4-H Club.

PUBLIC HEARING - ISSUANCE OF \$885,000 RANKIN STREET PARKING BONDS

ORDINANCE NO. 1540 - ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS

4. Mayor McDevitt announced that this was the date and hour fixed by the Council for the public hearing upon the order entitled: "ORDER AUTHORIZING \$855,000 RANKIN STREET PARKING BONDS" and that the Council would immediately hear anyone who might wish to be heard on the question of the validity of said order or the advisability of issuing said bonds.

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

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

Upon inquiry of Ralph Bishop, Mayor McDevitt said the City would own the property upon which the parking deck would be built prior to construction of the parking deck. He said the parking deck would be in connection with the Haywood-Wall Street Redevelopment Plan. He said in case of default, and the Haywood Street Redevelopment Project is not carried through, the full faith and pledge of the City of Asheville would be pledged for the parking bonds.

Mayor McDevitt closed the public hearing at 4:37 p.m.

The Director of Finance announced that no written statement relating to the question of the issuance of the bonds had been received.

Thereupon, upon motion of Councilman Frank, seconded by Councilman Price, and carried, the order introduced and passed on its first and second readings on October 1, 1985, entitled: "ORDER AUTHORIZING \$885,000 RANKIN STREET PARKING BONDS," was read in full a third time, and passed upon its final reading. The vote upon the final passage of said order was: Ayes: Mayor Larry McDevitt, Vice-Mayor Wilhelmina Bratton, Councilman Mary Lloyd Frank, Councilman Norma Price, Councilman Walter Boland, and Councilman Louis Bisette.

Noes: None

Mayor McDevitt then announced the order entitled "ORDER AUTHORIZING THE \$885,000 RANKIN STREET PARKING BONDS" had been adopted.

The City Clerk was thereupon directed to publish said order once in the Asheville Times, together with the appended statement as required by the Local Government Bond Act, as amended.

Complete text of Ordinance No. 1540 will be found in Ordinance Book **10** at Page **312**.

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.)

5. Consideration was given to the third 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 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, and on second reading on October 15, 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.

Councilman Bissette said Verl Emrick, Director of Planning, had been in contact with the North Carolina Department of Transportation for input relative to this rezoning. He said it was his understanding that the petitioner for the rezoning had said there would be no building constructed on the proposed right-of-way for the widening of Hendersonville Road by the North Carolina Department of Transportation.

Councilman Price said she felt this property could best be used for multi-family dwellings.

Philip Carson, Attorney for Biltmore Dairy Farms, Inc., said the petitioner would be sending a letter to Verl Emrick, Director of Planning, stating that Biltmore Dairy Farms, Inc. would not build anything on the

proposed right-of-way for the widening of Hendersonville Road.

Mayor McDevitt noted that although the letter to Mr. Emrick relative to building on the proposed right-of-way was a good gesture, it was not a condition or a request by Council of the petitioner for the rezoning.

Mr. Carson said he was aware that the letter was not a condition of the rezoning, but was voluntary.

On a roll call of 6-0, Ordinance No. 1541 passed on third and final reading.

Complete text of Ordinance No. 1541 will be found in Ordinance Book **10**

at Page **313** and **314**.

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

6. Consideration was given to the third reading of Ordinance No. 1542, an ordinance amending Section 19A-11 of the Code of Ordinances of the City of Asheville (Grievance Procedure).

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 to 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, and on second reading on October 15, 1985.

Councilman Price moved to postpone the third reading of Ordinance No. 1542 until the October 29, 1985, meeting and that the matter be scheduled on the pre-Council work session agenda for October 29, 1985. This motion was seconded by Councilman Boland and carried unanimously.

ORDINANCE NO. 1544 - BUDGET ORDINANCE AMENDMENT FOR THE PACK PLAZA PROJECT - CULTURAL ARTS CONTRIBUTION

7. Consideration was given to a budget ordinance amendment for the Pack Plaza Project - Cultural Arts Contribution.

Mayor McDevitt said this amendment would appropriate a contribution from the Developer in the amount of \$150,000, this funding was not included in the original project budget.

Councilman Price moved for the adoption of Ordinance No. 1544. This motion was seconded by Councilman Bisette.

On a roll call vote of 6-0, Ordinance No. 1544 passed on first and final reading.

Complete text of Ordinance No. 1544 will be found in Ordinance Book No.

10 at Page 318.

Councilman Price moved to direct the City Staff to accrue interest separately on the Pack Plaza Project - cultural arts contribution - and that a budget amendment be submitted to Council, at a later date, appropriating the accrued interest into this budget line item. This motion was seconded by Councilman Bisette and carried unanimously.

ORDINANCE NO. 1545 - BUDGET ORDINANCE AMENDMENT FOR THE McDOWELL STREET IMPROVEMENT PROJECT

8. Consideration was given to a budget ordinance amendment for the McDowell Street Improvement Project.

Mayor McDevitt said this amendment will appropriate CDBG funds for the City's share of the Municipal Agreement with NCDOT for the McDowell Street Improvement Project. The project includes widening McDowell Street between Asheland Avenue and the Victoria Street tunnel. Local share of this NCDOT project - \$72,990.00. Funds available for this project include anticipated revenue from sale of City property in the R-48 urban renewal area.

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

Councilman Boland moved for the adoption of Ordinance No. 1545. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1545 passed on first and final reading.

Complete text of Ordinance No. 1545 will be found in Ordinance Book No. **10 at Page 319.**

APPROVAL OF THE CONSENT AGENDA

9. Consideration was given to 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.

A. Motion to schedule a public hearing relative to rezoning property

located at #4 Clairmont Avenue for November 12, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting

held October 2, 1985, considered the petition of Mr. Tim Wilson that Ward 9, Sheet 6, Lot 35, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at #4 Clairmont Avenue. After review and discussion, the Commission voted to recommend to City Council that Lot 35 and Lot 34, Sheet 6, Ward 9, be rezoned from R-3 Residential District to CH Commercial

Highway District.

FISCAL IMPACT: None

B. Motion to schedule a public hearing for Phase Three of the Hazelwood

Subdivision to be located on North Louisiana Avenue for November 12, 1985.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting

held October 2, 1985, approved the final plat of Phase Three of the Hazelwood Subdivision 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 No. 424, as amended. The Commission approved the preliminary plat subject to compliance with the Erosion

Control Ordinance.

FISCAL IMPACT: None

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

COUNCIL MEETING OF NOVEMBER 5, 1985 - CANCELLED

Councilman Price moved that the regular meeting scheduled for November 5, 1985, for the Asheville City Council be cancelled. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - DIANA HUMPHREYS (STREET) - MAXINE McCOLLUM (WATER)

The Acting City Manager presented claims received from Diana Humphreys and Maxine McCollum.

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

LAWSUITS - GRANT COLBERTS AUTO MARKET VS. ASHEVILLE POLICE DEPARTMENT (SMALL CLAIMS ACTION - WRONGFUL ACT) - ALFRED FULTON ROBERTS VS. CITY (WRONGFUL ACT - LEAKAGE IN WATER LINES)

The Acting City Manager said the City was served with summonses in connection with lawsuits involving Grant Colberts Auto Market vs. Asheville Police Department and Alfred Fulton Roberts, et al, vs. City.

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

DISCUSSION RELATIVE TO BIDS RECEIVED FOR THE HAW CREEK SEWER PROJECT - BILL HOBSON

Bill Hobson, with Hobson Construction Company, spoke to members of Council relative to the bids recently received for the Haw Creek Sewer Project. He said he understood that the low bidder, Huntley Construction Company, made an error in his bid, and that Council had accepted that bid. He said he also understood that Huntley Construction Company had rejected acceptance of the bid. He requested that Council accept the second low

bidder for the Haw Creek Sewer Project rather than rebidding the project. He said he understood the change-over in the Water & Sewer Department, and that the bid specifications had been changed several times before being let to bids.

Mr. Latham, with Associated General Contractors for the Carolina's, said he represented contractors bidding on municipal contracts in the Carolina's. He said, in his opinion, it would not be fair to contractors bidding on the project for City Council to rebid the contract when they have a reputable

second low bidder. He said the second low bidder is responsive and is within the budget. He said the main concern of rebidding the project would be that the contractors who presented bids have already revealed their bids which have been made public. He said if the project is rebid, he would request that the bid specifications be modified.

Mayor McDevitt told Mr. Hobson and Mr. Latham that Council would take their comments into consideration.

RALPH BISHOP - PRESS CONTROL - ACTING CITY MANAGER APPOINTMENT

Mr. Ralph Bishop read an article to members of Council relative to the news media and press being controlled, and relative to Sam Graves being appointed as Acting City Manager while Mr. Wolcott, the Interim City Manager was on vacation last week.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 5:10 p.m.

MAYOR CITY CLERK
